
HOUSE BILL 1139

State of Washington

69th Legislature

2025 Regular Session

By Representative Low

Prefiled 12/30/24.

1 AN ACT Relating to promoting public safety and deterring unlawful
2 firearm possession by increasing criminal penalties for unlawful
3 possession of a firearm; amending RCW 10.31.100, 9.94A.030,
4 9.94A.030, 9.94A.525, and 9.94A.525; reenacting and amending RCW
5 9.94A.515; creating a new section; providing an effective date; and
6 providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that the unlawful
9 possession of firearms by individuals with a history of violent
10 criminal behavior presents a significant threat to public safety.
11 Classifying certain instances of unlawful possession of firearms as
12 violent offenses, adjusting sentencing levels, and mandating jail
13 booking for violations seeks to reduce recidivism, deters unlawful
14 firearm possession, and enhances penalties for such offenses.

15 **Sec. 2.** RCW 10.31.100 and 2023 c 462 s 702 are each amended to
16 read as follows:

17 A police officer having probable cause to believe that a person
18 has committed or is committing a felony shall have the authority to
19 arrest the person without a warrant. A police officer may arrest a
20 person without a warrant for committing a misdemeanor or gross

1 misdemeanor only when the offense is committed in the presence of an
2 officer, except as provided in subsections (1) through (11) of this
3 section.

4 (1) Any police officer having probable cause to believe that a
5 person has committed or is committing a misdemeanor or gross
6 misdemeanor, involving physical harm or threats of harm to any person
7 or property or the unlawful taking of property or involving the use
8 or possession of cannabis, or involving the acquisition, possession,
9 or consumption of alcohol by a person under the age of twenty-one
10 years under RCW 66.44.270, or involving criminal trespass under RCW
11 9A.52.070 or 9A.52.080, shall have the authority to arrest the
12 person.

13 (2) A police officer shall arrest and take into custody, pending
14 release on bail, personal recognizance, or court order, a person
15 without a warrant when the officer has probable cause to believe
16 that:

17 (a) A domestic violence protection order, a sexual assault
18 protection order, a stalking protection order, or a vulnerable adult
19 protection order has been issued, of which the person has knowledge,
20 under chapter 7.105 RCW, or an order has been issued, of which the
21 person has knowledge, under RCW 26.44.063, or chapter 9A.40, 9A.46,
22 9A.88, 10.99, 26.09, 26.26A, 26.26B, or 74.34 RCW, or any of the
23 former chapters 7.90, 7.92, and 26.50 RCW, restraining the person and
24 the person has violated the terms of the order restraining the person
25 from acts or threats of violence, or restraining the person from
26 going onto the grounds of, or entering, a residence, workplace,
27 school, or day care, or prohibiting the person from knowingly coming
28 within, or knowingly remaining within, a specified distance of a
29 location, a protected party's person, or a protected party's vehicle,
30 or requiring the person to submit to electronic monitoring, or, in
31 the case of an order issued under RCW 26.44.063, imposing any other
32 restrictions or conditions upon the person;

33 (b) An extreme risk protection order has been issued against the
34 person under chapter 7.105 RCW or former RCW 7.94.040, the person has
35 knowledge of the order, and the person has violated the terms of the
36 order prohibiting the person from having in the person's custody or
37 control, purchasing, possessing, accessing, or receiving a firearm or
38 concealed pistol license;

39 (c) A foreign protection order, as defined in RCW 26.52.010, or a
40 Canadian domestic violence protection order, as defined in RCW

1 26.55.010, has been issued of which the person under restraint has
2 knowledge and the person under restraint has violated a provision of
3 the foreign protection order or the Canadian domestic violence
4 protection order prohibiting the person under restraint from
5 contacting or communicating with another person, or excluding the
6 person under restraint from a residence, workplace, school, or day
7 care, or prohibiting the person from knowingly coming within, or
8 knowingly remaining within, a specified distance of a location, a
9 protected party's person, or a protected party's vehicle, or a
10 violation of any provision for which the foreign protection order or
11 the Canadian domestic violence protection order specifically
12 indicates that a violation will be a crime; (~~or~~)

13 (d) The person is eighteen years or older and within the
14 preceding four hours has assaulted a family or household member or
15 intimate partner as defined in RCW 10.99.020 and the officer
16 believes: (i) A felonious assault has occurred; (ii) an assault has
17 occurred which has resulted in bodily injury to the victim, whether
18 the injury is observable by the responding officer or not; or (iii)
19 that any physical action has occurred which was intended to cause
20 another person reasonably to fear imminent serious bodily injury or
21 death. Bodily injury means physical pain, illness, or an impairment
22 of physical condition. When the officer has probable cause to believe
23 that family or household members or intimate partners have assaulted
24 each other, the officer is not required to arrest both persons. The
25 officer shall arrest the person whom the officer believes to be the
26 primary aggressor. In making this determination, the officer shall
27 make every reasonable effort to consider: (A) The intent to protect
28 victims of domestic violence under RCW 10.99.010; (B) the comparative
29 extent of injuries inflicted or serious threats creating fear of
30 physical injury; and (C) the history of domestic violence of each
31 person involved, including whether the conduct was part of an ongoing
32 pattern of abuse; or

33 (e) The person has unlawfully possessed a firearm in violation of
34 RCW 9.41.040 (1) or (2).

35 (3) Any police officer having probable cause to believe that a
36 person has committed or is committing a violation of any of the
37 following traffic laws shall have the authority to arrest the person:

38 (a) RCW 46.52.010, relating to duty on striking an unattended car
39 or other property;

1 (b) RCW 46.52.020, relating to duty in case of injury to, or
2 death of, a person or damage to an attended vehicle;

3 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
4 racing of vehicles;

5 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
6 influence of intoxicating liquor or drugs;

7 (e) RCW 46.61.503 or 46.25.110, relating to persons having
8 alcohol or THC in their system;

9 (f) RCW 46.20.342, relating to driving a motor vehicle while
10 operator's license is suspended or revoked;

11 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
12 negligent manner.

13 (4) A law enforcement officer investigating at the scene of a
14 motor vehicle accident may arrest the driver of a motor vehicle
15 involved in the accident if the officer has probable cause to believe
16 that the driver has committed, in connection with the accident, a
17 violation of any traffic law or regulation.

18 (5) (a) A law enforcement officer investigating at the scene of a
19 motor vessel accident may arrest the operator of a motor vessel
20 involved in the accident if the officer has probable cause to believe
21 that the operator has committed, in connection with the accident, a
22 criminal violation of chapter 79A.60 RCW.

23 (b) A law enforcement officer investigating at the scene of a
24 motor vessel accident may issue a citation for an infraction to the
25 operator of a motor vessel involved in the accident if the officer
26 has probable cause to believe that the operator has committed, in
27 connection with the accident, a violation of any boating safety law
28 of chapter 79A.60 RCW.

29 (6) Any police officer having probable cause to believe that a
30 person has committed or is committing a violation of RCW 79A.60.040
31 shall have the authority to arrest the person.

32 (7) An officer may act upon the request of a law enforcement
33 officer, in whose presence a traffic infraction was committed, to
34 stop, detain, arrest, or issue a notice of traffic infraction to the
35 driver who is believed to have committed the infraction. The request
36 by the witnessing officer shall give an officer the authority to take
37 appropriate action under the laws of the state of Washington.

38 (8) Any police officer having probable cause to believe that a
39 person has committed or is committing any act of indecent exposure,
40 as defined in RCW 9A.88.010, may arrest the person.

1 (9) A police officer may arrest and take into custody, pending
2 release on bail, personal recognizance, or court order, a person
3 without a warrant when the officer has probable cause to believe that
4 an antiharassment protection order has been issued of which the
5 person has knowledge under chapter 7.105 RCW or former chapter 10.14
6 RCW and the person has violated the terms of that order.

7 (10) Any police officer having probable cause to believe that a
8 person has, within twenty-four hours of the alleged violation,
9 committed a violation of RCW 9A.50.020 may arrest such person.

10 (11) A police officer having probable cause to believe that a
11 person illegally possesses or illegally has possessed a firearm or
12 other dangerous weapon on private or public elementary or secondary
13 school premises shall have the authority to arrest the person.

14 For purposes of this subsection, the term "firearm" has the
15 meaning defined in RCW 9.41.010 and the term "dangerous weapon" has
16 the meaning defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

17 (12) A law enforcement officer having probable cause to believe
18 that a person has committed a violation under RCW 77.15.160(5) may
19 issue a citation for an infraction to the person in connection with
20 the violation.

21 (13) A law enforcement officer having probable cause to believe
22 that a person has committed a criminal violation under RCW 77.15.809
23 or 77.15.811 may arrest the person in connection with the violation.

24 (14) Except as specifically provided in subsections (2), (3),
25 (4), and (7) of this section, nothing in this section extends or
26 otherwise affects the powers of arrest prescribed in Title 46 RCW.

27 (15) No police officer may be held criminally or civilly liable
28 for making an arrest pursuant to subsection (2) or (9) of this
29 section if the police officer acts in good faith and without malice.

30 (16)(a) Except as provided in (b) of this subsection, a police
31 officer shall arrest and keep in custody, until release by a judicial
32 officer on bail, personal recognizance, or court order, a person
33 without a warrant when the officer has probable cause to believe that
34 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
35 local ordinance and the police officer: (i) Has knowledge that the
36 person has a prior offense as defined in RCW 46.61.5055 within ten
37 years; or (ii) has knowledge, based on a review of the information
38 available to the officer at the time of arrest, that the person is
39 charged with or is awaiting arraignment for an offense that would

1 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
2 conviction.

3 (b) A police officer is not required to keep in custody a person
4 under (a) of this subsection if the person requires immediate medical
5 attention and is admitted to a hospital.

6 **Sec. 3.** RCW 9.94A.030 and 2022 c 231 s 11 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

37 (9) "Conviction" means an adjudication of guilt pursuant to Title
38 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
39 and acceptance of a plea of guilty.

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

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

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

17 (b) A conviction may be removed from a defendant's criminal
18 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
19 9.95.240, or a similar out-of-state statute, or if the conviction has
20 been vacated pursuant to a governor's pardon. However, when a
21 defendant is charged with a recidivist offense, "criminal history"
22 includes a vacated prior conviction for the sole purpose of
23 establishing that such vacated prior conviction constitutes an
24 element of the present recidivist offense as provided in RCW
25 9.94A.640(4)(b) and 9.96.060(~~((7))~~) (8)(c).

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

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

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

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

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

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

14 (c) To exact revenge or retribution for the gang or any member of
15 the gang;

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

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

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

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

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

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

39 (18) "Determinate sentence" means a sentence that states with
40 exactitude the number of actual years, months, or days of total

1 confinement, of partial confinement, of community custody, the number
2 of actual hours or days of community restitution work, or dollars or
3 terms of a legal financial obligation. The fact that an offender
4 through earned release can reduce the actual period of confinement
5 shall not affect the classification of the sentence as a determinate
6 sentence.

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

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

21 (b) "Domestic violence" also means: (i) Physical harm, bodily
22 injury, assault, or the infliction of fear of imminent physical harm,
23 bodily injury, or assault, sexual assault, or stalking, as defined in
24 RCW 9A.46.110, of one intimate partner by another intimate partner as
25 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
26 assault, or the infliction of fear of imminent physical harm, bodily
27 injury, or assault, sexual assault, or stalking, as defined in RCW
28 9A.46.110, of one family or household member by another family or
29 household member as defined in RCW 10.99.020.

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

33 (22) "Drug offense" means:

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

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

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

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

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

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

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

24 (25) "Escape" means:

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

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

34 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

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

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

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

3 (a) Any felony defined under any law as a class A felony or
4 criminal solicitation of or criminal conspiracy to commit a class A
5 felony;

6 (b) Assault in the second degree;

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

8 (d) Child molestation in the second degree;

9 (e) Controlled substance homicide;

10 (f) Extortion in the first degree;

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

12 (h) Indecent liberties;

13 (i) Kidnapping in the second degree;

14 (j) Leading organized crime;

15 (k) Manslaughter in the first degree;

16 (l) Manslaughter in the second degree;

17 (m) Promoting prostitution in the first degree;

18 (n) Rape in the third degree;

19 (o) Sexual exploitation;

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

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

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

30 (s) Any other felony with a deadly weapon verdict under RCW
31 9.94A.825;

32 (t) Any felony offense in effect at any time prior to December 2,
33 1993, that is comparable to a most serious offense under this
34 subsection, or any federal or out-of-state conviction for an offense
35 that under the laws of this state would be a felony classified as a
36 most serious offense under this subsection;

37 (u) (i) A prior conviction for indecent liberties under RCW
38 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
39 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
40 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW

1 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
2 until July 1, 1988;

3 (ii) A prior conviction for indecent liberties under RCW
4 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
5 if: (A) The crime was committed against a child under the age of 14;
6 or (B) the relationship between the victim and perpetrator is
7 included in the definition of indecent liberties under RCW
8 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
9 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
10 1993, through July 27, 1997;

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

17 (33) "Nonviolent offense" means an offense which is not a violent
18 offense.

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

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

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

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

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

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

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

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

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

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

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

1 subsection only when the offender was 18 years of age or older when
2 the offender committed the offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (45) "Serious traffic offense" means:

29 (a) Nonfelony driving while under the influence of intoxicating
30 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
31 while under the influence of intoxicating liquor or any drug (RCW
32 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
33 attended vehicle (RCW 46.52.020(5)); or

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

37 (46) "Serious violent offense" is a subcategory of violent
38 offense and means:

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

40 (ii) Homicide by abuse;

1 (iii) Murder in the second degree;
2 (iv) Manslaughter in the first degree;
3 (v) Assault in the first degree;
4 (vi) Kidnapping in the first degree;
5 (vii) Rape in the first degree;
6 (viii) Assault of a child in the first degree; or
7 (ix) An attempt, criminal solicitation, or criminal conspiracy to
8 commit one of these felonies; or

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

12 (47) "Sex offense" means:

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

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

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

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

21 (v) A felony violation of RCW 9A.44.132(1) (failure to register
22 as a sex offender) if the person has been convicted of violating RCW
23 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
24 prior to June 10, 2010, on at least one prior occasion;

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

28 (c) A felony with a finding of sexual motivation under RCW
29 9.94A.835 or 13.40.135; or

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

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

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

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

1 defining the crime, or other statute defining the maximum penalty for
2 a crime.

3 (51) "Stranger" means that the victim did not know the offender
4 24 hours before the offense.

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

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

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

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

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

36 (57) "Victim of sexual assault" means any person who is a victim
37 of a sexual assault offense, nonconsensual sexual conduct, or
38 nonconsensual sexual penetration and as a result suffers physical,
39 emotional, financial, or psychological impacts. Sexual assault

1 offenses include, but are not limited to, the offenses defined in
2 chapter 9A.44 RCW.

3 (58) "Violent offense" means:

4 (a) Any of the following felonies:

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

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

9 (iii) Manslaughter in the first degree;

10 (iv) Manslaughter in the second degree;

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

12 (vi) Kidnapping in the second degree;

13 (vii) Arson in the second degree;

14 (viii) Assault in the second degree;

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

16 (x) Extortion in the first degree;

17 (xi) Robbery in the second degree;

18 (xii) Drive-by shooting;

19 (xiii) Vehicular assault, when caused by the operation or driving
20 of a vehicle by a person while under the influence of intoxicating
21 liquor or any drug or by the operation or driving of a vehicle in a
22 reckless manner; (~~and~~)

23 (xiv) Vehicular homicide, when proximately caused by the driving
24 of any vehicle by any person while under the influence of
25 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
26 the operation of any vehicle in a reckless manner; and

27 (xv) Unlawful possession of a firearm in the first degree;

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

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

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

37 (60) "Work ethic camp" means an alternative incarceration program
38 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
39 the cost of corrections by requiring offenders to complete a
40 comprehensive array of real-world job and vocational experiences,

1 character-building work ethics training, life management skills
2 development, substance abuse rehabilitation, counseling, literacy
3 training, and basic adult education.

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

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

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

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

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

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

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

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

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

34 (7) "Community restitution" means compulsory service, without
35 compensation, performed for the benefit of the community by the
36 offender.

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

1 (9) "Conviction" means an adjudication of guilt pursuant to Title
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
3 and acceptance of a plea of guilty.

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

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

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

20 (b) A conviction may be removed from a defendant's criminal
21 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
22 9.95.240, or a similar out-of-state statute, or if the conviction has
23 been vacated pursuant to a governor's pardon. However, when a
24 defendant is charged with a recidivist offense, "criminal history"
25 includes a vacated prior conviction for the sole purpose of
26 establishing that such vacated prior conviction constitutes an
27 element of the present recidivist offense as provided in RCW
28 9.94A.640(4)(b) and 9.96.060(~~(7)~~) (8)(c).

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

34 (12) "Criminal street gang" means any ongoing organization,
35 association, or group of three or more persons, whether formal or
36 informal, having a common name or common identifying sign or symbol,
37 having as one of its primary activities the commission of criminal
38 acts, and whose members or associates individually or collectively
39 engage in or have engaged in a pattern of criminal street gang
40 activity. This definition does not apply to employees engaged in

1 concerted activities for their mutual aid and protection, or to the
2 activities of labor and bona fide nonprofit organizations or their
3 members or agents.

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

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

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

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

17 (c) To exact revenge or retribution for the gang or any member of
18 the gang;

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

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

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

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

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

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

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

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

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

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

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

36 (22) "Drug offender sentencing alternative for driving under the
37 influence" is a sentencing option available to persons convicted of
38 felony driving while under the influence of intoxicating liquor or
39 any drug under RCW 46.61.502(6), or felony physical control of a

1 vehicle while under the influence of intoxicating liquor or any drug
2 under RCW 46.61.504(6) who are eligible under RCW 9.94A.661.

3 (23) "Drug offense" means:

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

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

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

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

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

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

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

33 (26) "Escape" means:

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

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

4 (27) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

34 (c) A private residence where the individual stays as a transient
35 invitee.

36 (32) "Legal financial obligation" means a sum of money that is
37 ordered by a superior court of the state of Washington for legal
38 financial obligations which may include restitution to the victim,
39 statutorily imposed crime victims' compensation fees as assessed
40 pursuant to RCW 7.68.035, court costs, county or interlocal drug

1 funds, court-appointed attorneys' fees, and costs of defense, fines,
2 and any other financial obligation that is assessed to the offender
3 as a result of a felony conviction. Upon conviction for vehicular
4 assault while under the influence of intoxicating liquor or any drug,
5 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
6 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
7 financial obligations may also include payment to a public agency of
8 the expense of an emergency response to the incident resulting in the
9 conviction, subject to RCW 38.52.430.

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

12 (a) Any felony defined under any law as a class A felony or
13 criminal solicitation of or criminal conspiracy to commit a class A
14 felony;

15 (b) Assault in the second degree;

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

17 (d) Child molestation in the second degree;

18 (e) Controlled substance homicide;

19 (f) Extortion in the first degree;

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

21 (h) Indecent liberties;

22 (i) Kidnapping in the second degree;

23 (j) Leading organized crime;

24 (k) Manslaughter in the first degree;

25 (l) Manslaughter in the second degree;

26 (m) Promoting prostitution in the first degree;

27 (n) Rape in the third degree;

28 (o) Sexual exploitation;

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

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

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

39 (s) Any other felony with a deadly weapon verdict under RCW
40 9.94A.825;

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

6 (u)(i) A prior conviction for indecent liberties under RCW
7 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
8 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
9 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
10 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
11 until July 1, 1988;

12 (ii) A prior conviction for indecent liberties under RCW
13 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
14 if: (A) The crime was committed against a child under the age of 14;
15 or (B) the relationship between the victim and perpetrator is
16 included in the definition of indecent liberties under RCW
17 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
18 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
19 1993, through July 27, 1997;

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

26 (34) "Nonviolent offense" means an offense which is not a violent
27 offense.

28 (35) "Offender" means a person who has committed a felony
29 established by state law and is 18 years of age or older or is less
30 than 18 years of age but whose case is under superior court
31 jurisdiction under RCW 13.04.030 or has been transferred by the
32 appropriate juvenile court to a criminal court pursuant to RCW
33 13.40.110. In addition, for the purpose of community custody
34 requirements under this chapter, "offender" also means a misdemeanor
35 or gross misdemeanor probationer ordered by a superior court to
36 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
37 supervised by the department pursuant to RCW 9.94A.501 and
38 9.94A.5011. Throughout this chapter, the terms "offender" and
39 "defendant" are used interchangeably.

1 (36) "Partial confinement" means confinement for no more than one
2 year in a facility or institution operated or utilized under contract
3 by the state or any other unit of government, or, if home detention,
4 electronic monitoring, or work crew has been ordered by the court or
5 home detention has been ordered by the department as part of the
6 parenting program or the graduated reentry program, in an approved
7 residence, for a substantial portion of each day with the balance of
8 the day spent in the community. Partial confinement includes work
9 release, home detention, work crew, electronic monitoring, and a
10 combination of work crew, electronic monitoring, and home detention.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
40 9A.56.070);

1 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
2 9A.56.075);
3 (xix) Extortion 1 (RCW 9A.56.120);
4 (xx) Extortion 2 (RCW 9A.56.130);
5 (xxi) Intimidating a Witness (RCW 9A.72.110);
6 (xxii) Tampering with a Witness (RCW 9A.72.120);
7 (xxiii) Reckless Endangerment (RCW 9A.36.050);
8 (xxiv) Coercion (RCW 9A.36.070);
9 (xxv) Harassment (RCW 9A.46.020); or
10 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
11 (b) That at least one of the offenses listed in (a) of this
12 subsection shall have occurred after July 1, 2008;
13 (c) That the most recent committed offense listed in (a) of this
14 subsection occurred within three years of a prior offense listed in
15 (a) of this subsection; and
16 (d) Of the offenses that were committed in (a) of this
17 subsection, the offenses occurred on separate occasions or were
18 committed by two or more persons.
19 (38) "Persistent offender" is an offender who:
20 (a) (i) Has been convicted in this state of any felony considered
21 a most serious offense; and
22 (ii) Has, before the commission of the offense under (a) of this
23 subsection, been convicted as an offender on at least two separate
24 occasions, whether in this state or elsewhere, of felonies that under
25 the laws of this state would be considered most serious offenses and
26 would be included in the offender score under RCW 9.94A.525; provided
27 that of the two or more previous convictions, at least one conviction
28 must have occurred before the commission of any of the other most
29 serious offenses for which the offender was previously convicted; or
30 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
31 of a child in the first degree, child molestation in the first
32 degree, rape in the second degree, rape of a child in the second
33 degree, or indecent liberties by forcible compulsion; (B) any of the
34 following offenses with a finding of sexual motivation: Murder in the
35 first degree, murder in the second degree, homicide by abuse,
36 kidnapping in the first degree, kidnapping in the second degree,
37 assault in the first degree, assault in the second degree, assault of
38 a child in the first degree, assault of a child in the second degree,
39 or burglary in the first degree; or (C) an attempt to commit any
40 crime listed in this subsection (38) (b) (i); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (46) "Serious traffic offense" means:

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

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

3 (iii) Reckless driving (RCW 46.61.500);

4 (iv) Negligent driving if the conviction is the result of a
5 charge that was originally filed as a violation of RCW 46.61.502 or
6 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
7 46.61.522 while under the influence of intoxicating liquor or any
8 drug (RCW 46.61.5249);

9 (v) Reckless endangerment if the conviction is the result of a
10 charge that was originally filed as a violation of RCW 46.61.502 or
11 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
12 46.61.522 while under the influence of intoxicating liquor or any
13 drug (RCW 9A.36.050); or

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

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

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

21 (47) "Serious violent offense" is a subcategory of violent
22 offense and means:

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

24 (ii) Homicide by abuse;

25 (iii) Murder in the second degree;

26 (iv) Manslaughter in the first degree;

27 (v) Assault in the first degree;

28 (vi) Kidnapping in the first degree;

29 (vii) Rape in the first degree;

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

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

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

36 (48) "Sex offense" means:

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

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

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

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

6 (v) A felony violation of RCW 9A.44.132(1) (failure to register
7 as a sex offender) if the person has been convicted of violating RCW
8 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
9 prior to June 10, 2010, on at least one prior occasion;

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

13 (c) A felony with a finding of sexual motivation under RCW
14 9.94A.835 or 13.40.135; or

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

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

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

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

28 (52) "Stranger" means that the victim did not know the offender
29 24 hours before the offense.

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

34 (54) "Transition training" means written and verbal instructions
35 and assistance provided by the department to the offender during the
36 two weeks prior to the offender's successful completion of the work
37 ethic camp program. The transition training shall include
38 instructions in the offender's requirements and obligations during
39 the offender's period of community custody.

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

4 (56) "Victim of domestic violence" means an intimate partner or
5 household member who has been subjected to the infliction of physical
6 harm or sexual and psychological abuse by an intimate partner or
7 household member as part of a pattern of assaultive, coercive, and
8 controlling behaviors directed at achieving compliance from or
9 control over that intimate partner or household member. Domestic
10 violence includes, but is not limited to, the offenses listed in RCW
11 10.99.020 and 26.50.010 committed by an intimate partner or household
12 member against a victim who is an intimate partner or household
13 member.

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

22 (58) "Victim of sexual assault" means any person who is a victim
23 of a sexual assault offense, nonconsensual sexual conduct, or
24 nonconsensual sexual penetration and as a result suffers physical,
25 emotional, financial, or psychological impacts. Sexual assault
26 offenses include, but are not limited to, the offenses defined in
27 chapter 9A.44 RCW.

28 (59) "Violent offense" means:

29 (a) Any of the following felonies:

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

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

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

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

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

39 (viii) Assault in the second degree;

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

1 (x) Extortion in the first degree;
2 (xi) Robbery in the second degree;
3 (xii) Drive-by shooting;
4 (xiii) Vehicular assault, when caused by the operation or driving
5 of a vehicle by a person while under the influence of intoxicating
6 liquor or any drug or by the operation or driving of a vehicle in a
7 reckless manner; (~~and~~)
8 (xiv) Vehicular homicide, when proximately caused by the driving
9 of any vehicle by any person while under the influence of
10 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
11 the operation of any vehicle in a reckless manner; and
12 (xv) Unlawful possession of a firearm in the first degree;
13 (b) Any conviction for a felony offense in effect at any time
14 prior to July 1, 1976, that is comparable to a felony classified as a
15 violent offense in (a) of this subsection; and
16 (c) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as a
18 violent offense under (a) or (b) of this subsection.
19 (60) "Work crew" means a program of partial confinement
20 consisting of civic improvement tasks for the benefit of the
21 community that complies with RCW 9.94A.725.
22 (61) "Work ethic camp" means an alternative incarceration program
23 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
24 the cost of corrections by requiring offenders to complete a
25 comprehensive array of real-world job and vocational experiences,
26 character-building work ethics training, life management skills
27 development, substance abuse rehabilitation, counseling, literacy
28 training, and basic adult education.
29 (62) "Work release" means a program of partial confinement
30 available to offenders who are employed or engaged as a student in a
31 regular course of study at school.

32 **Sec. 5.** RCW 9.94A.515 and 2024 c 301 s 29 and 2024 c 55 s 1 are
33 each reenacted and amended to read as follows:

34 TABLE 2

35 CRIMES INCLUDED WITHIN EACH
36 SERIOUSNESS LEVEL

37 XVI Aggravated Murder 1 (RCW 10.95.020)

1 XV Homicide by abuse (RCW 9A.32.055)
2 Malicious explosion 1 (RCW
3 70.74.280(1))
4 Murder 1 (RCW 9A.32.030)
5 XIV Murder 2 (RCW 9A.32.050)
6 Trafficking 1 (RCW 9A.40.100(1))
7 XIII Malicious explosion 2 (RCW
8 70.74.280(2))
9 Malicious placement of an explosive 1
10 (RCW 70.74.270(1))
11 XII Assault 1 (RCW 9A.36.011)
12 Assault of a Child 1 (RCW 9A.36.120)
13 Malicious placement of an imitation
14 device 1 (RCW 70.74.272(1)(a))
15 Promoting Commercial Sexual Abuse
16 of a Minor (RCW 9.68A.101)
17 Rape 1 (RCW 9A.44.040)
18 Rape of a Child 1 (RCW 9A.44.073)
19 Trafficking 2 (RCW 9A.40.100(3))
20 XI Manslaughter 1 (RCW 9A.32.060)
21 Rape 2 (RCW 9A.44.050)
22 Rape of a Child 2 (RCW 9A.44.076)
23 Vehicular Homicide, by being under the
24 influence of intoxicating liquor or
25 any drug (RCW 46.61.520)
26 Vehicular Homicide, by the operation of
27 any vehicle in a reckless manner
28 (RCW 46.61.520)
29 X Child Molestation 1 (RCW 9A.44.083)
30 Criminal Mistreatment 1 (RCW
31 9A.42.020)
32 Indecent Liberties (with forcible
33 compulsion) (RCW
34 9A.44.100(1)(a))
35 Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW
4 70.74.280(3))
5 Sexually Violent Predator Escape (RCW
6 9A.76.115)
7 IX Abandonment of Dependent Person 1
8 (RCW 9A.42.060)
9 Assault of a Child 2 (RCW 9A.36.130)
10 Explosive devices prohibited (RCW
11 70.74.180)
12 Hit and Run—Death (RCW
13 46.52.020(4)(a))
14 Homicide by Watercraft, by being under
15 the influence of intoxicating liquor
16 or any drug (RCW 79A.60.050)
17 Inciting Criminal Profiteering (RCW
18 9A.82.060(1)(b))
19 Malicious placement of an explosive 2
20 (RCW 70.74.270(2))
21 Robbery 1 (RCW 9A.56.200)
22 Sexual Exploitation (RCW 9.68A.040)
23 VIII Arson 1 (RCW 9A.48.020)
24 Commercial Sexual Abuse of a Minor
25 (RCW 9.68A.100)
26 Homicide by Watercraft, by the
27 operation of any vessel in a reckless
28 manner (RCW 79A.60.050)
29 Manslaughter 2 (RCW 9A.32.070)
30 Promoting Prostitution 1 (RCW
31 9A.88.070)
32 Theft of Ammonia (RCW 69.55.010)
33 Unlawful Possession of a Firearm 1
34 (RCW 9.41.040(1))

1 VII Air bag diagnostic systems (causing
2 bodily injury or death) (RCW
3 46.37.660(2)(b))
4 Air bag replacement requirements
5 (causing bodily injury or death)
6 (RCW 46.37.660(1)(b))
7 Burglary 1 (RCW 9A.52.020)
8 Child Molestation 2 (RCW 9A.44.086)
9 Civil Disorder Training (RCW
10 9A.48.120)
11 Custodial Sexual Misconduct 1 (RCW
12 9A.44.160)
13 Dealing in depictions of minor engaged
14 in sexually explicit conduct 1
15 (RCW 9.68A.050(1))
16 Drive-by Shooting (RCW 9A.36.045)
17 False Reporting 1 (RCW
18 9A.84.040(2)(a))
19 Homicide by Watercraft, by disregard
20 for the safety of others (RCW
21 79A.60.050)
22 Indecent Liberties (without forcible
23 compulsion) (RCW 9A.44.100(1)
24 (b) and (c))
25 Introducing Contraband 1 (RCW
26 9A.76.140)
27 Malicious placement of an explosive 3
28 (RCW 70.74.270(3))
29 Manufacture or import counterfeit,
30 nonfunctional, damaged, or
31 previously deployed air bag
32 (causing bodily injury or death)
33 (RCW 46.37.650(1)(b))
34 Negligently Causing Death By Use of a
35 Signal Preemption Device (RCW
36 46.37.675)

1 Sell, install, or reinstall counterfeit,
2 nonfunctional, damaged, or
3 previously deployed airbag (RCW
4 46.37.650(2)(b))

5 Sending, bringing into state depictions
6 of minor engaged in sexually
7 explicit conduct 1 (RCW
8 9.68A.060(1))

9 ~~((Unlawful Possession of a Firearm in
10 the first degree (RCW
11 9.41.040(1))))~~

12 Use of a Machine Gun or Bump-fire
13 Stock in Commission of a Felony
14 (RCW 9.41.225)

15 Vehicular Homicide, by disregard for
16 the safety of others (RCW
17 46.61.520)

18 VI Bail Jumping with Murder 1 (RCW
19 9A.76.170(3)(a))

20 Bribery (RCW 9A.68.010)

21 Incest 1 (RCW 9A.64.020(1))

22 Intimidating a Judge (RCW 9A.72.160)

23 Intimidating a Juror/Witness (RCW
24 9A.72.110, 9A.72.130)

25 Malicious placement of an imitation
26 device 2 (RCW 70.74.272(1)(b))

27 Possession of Depictions of a Minor
28 Engaged in Sexually Explicit
29 Conduct 1 (RCW 9.68A.070(1))

30 Rape of a Child 3 (RCW 9A.44.079)

31 Theft of a Firearm (RCW 9A.56.300)

32 Theft from a Vulnerable Adult 1 (RCW
33 9A.56.400(1))

34 Unlawful Storage of Ammonia (RCW
35 69.55.020)

1 V Abandonment of Dependent Person 2
2 (RCW 9A.42.070)
3 Advancing money or property for
4 extortionate extension of credit
5 (RCW 9A.82.030)
6 Air bag diagnostic systems (RCW
7 46.37.660(2)(c))
8 Air bag replacement requirements
9 (RCW 46.37.660(1)(c))
10 Bail Jumping with class A Felony
11 (RCW 9A.76.170(3)(b))
12 Child Molestation 3 (RCW 9A.44.089)
13 Criminal Mistreatment 2 (RCW
14 9A.42.030)
15 Custodial Sexual Misconduct 2 (RCW
16 9A.44.170)
17 Dealing in Depictions of Minor
18 Engaged in Sexually Explicit
19 Conduct 2 (RCW 9.68A.050(2))
20 Domestic Violence Court Order
21 Violation (RCW 7.105.450,
22 10.99.040, 10.99.050, 26.09.300,
23 26.26B.050, or 26.52.070)
24 Extortion 1 (RCW 9A.56.120)
25 Extortionate Extension of Credit (RCW
26 9A.82.020)
27 Extortionate Means to Collect
28 Extensions of Credit (RCW
29 9A.82.040)
30 Incest 2 (RCW 9A.64.020(2))
31 Kidnapping 2 (RCW 9A.40.030)
32 Manufacture or import counterfeit,
33 nonfunctional, damaged, or
34 previously deployed air bag (RCW
35 46.37.650(1)(c))
36 Perjury 1 (RCW 9A.72.020)

1 Persistent prison misbehavior (RCW
2 9.94.070)
3 Possession of a Stolen Firearm (RCW
4 9A.56.310)
5 Rape 3 (RCW 9A.44.060)
6 Rendering Criminal Assistance 1 (RCW
7 9A.76.070)
8 Sell, install, or reinstall counterfeit,
9 nonfunctional, damaged, or
10 previously deployed airbag (RCW
11 46.37.650(2)(c))
12 Sending, Bringing into State Depictions
13 of Minor Engaged in Sexually
14 Explicit Conduct 2 (RCW
15 9.68A.060(2))
16 Sexual Misconduct with a Minor 1
17 (RCW 9A.44.093)
18 Sexually Violating Human Remains
19 (RCW 9A.44.105)
20 Stalking (RCW 9A.46.110)
21 Taking Motor Vehicle Without
22 Permission 1 (RCW 9A.56.070)
23 Unlawful Possession of a Firearm 2
24 (RCW 9.41.040(2))
25 IV Arson 2 (RCW 9A.48.030)
26 Assault 2 (RCW 9A.36.021)
27 Assault 3 (of a Peace Officer with a
28 Projectile Stun Gun) (RCW
29 9A.36.031(1)(h))
30 Assault 4 (third domestic violence
31 offense) (RCW 9A.36.041(3))
32 Assault by Watercraft (RCW
33 79A.60.060)
34 Bribing a Witness/Bribe Received by
35 Witness (RCW 9A.72.090,
36 9A.72.100)

1 Cheating 1 (RCW 9.46.1961)
2 Commercial Bribery (RCW 9A.68.060)
3 Counterfeiting (RCW 9.16.035(4))
4 Driving While Under the Influence
5 (RCW 46.61.502(6))
6 Endangerment with a Controlled
7 Substance (RCW 9A.42.100)
8 Escape 1 (RCW 9A.76.110)
9 Hate Crime (RCW 9A.36.080)
10 Hit and Run—Injury (RCW
11 46.52.020(4)(b))
12 Hit and Run with Vessel—Injury
13 Accident (RCW 79A.60.200(3))
14 Identity Theft 1 (RCW 9.35.020(2))
15 Indecent Exposure to Person Under Age
16 14 (subsequent sex offense) (RCW
17 9A.88.010)
18 Influencing Outcome of Sporting Event
19 (RCW 9A.82.070)
20 Physical Control of a Vehicle While
21 Under the Influence (RCW
22 46.61.504(6))
23 Possession of Depictions of a Minor
24 Engaged in Sexually Explicit
25 Conduct 2 (RCW 9.68A.070(2))
26 Residential Burglary (RCW 9A.52.025)
27 Robbery 2 (RCW 9A.56.210)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Threats to Bomb (RCW 9.61.160)
30 Trafficking in Catalytic Converters 1
31 (RCW 9A.82.190)
32 Trafficking in Stolen Property 1 (RCW
33 9A.82.050)

1 Unlawful factoring of a credit card or
2 payment card transaction (RCW
3 9A.56.290(4)(b))
4 Unlawful transaction of health coverage
5 as a health care service contractor
6 (RCW 48.44.016(3))
7 Unlawful transaction of health coverage
8 as a health maintenance
9 organization (RCW 48.46.033(3))
10 Unlawful transaction of insurance
11 business (RCW 48.15.023(3))
12 Unlicensed practice as an insurance
13 professional (RCW 48.17.063(2))
14 Use of Proceeds of Criminal
15 Profiteering (RCW 9A.82.080 (1)
16 and (2))
17 Vehicle Prowling 2 (third or subsequent
18 offense) (RCW 9A.52.100(3))
19 Vehicular Assault, by being under the
20 influence of intoxicating liquor or
21 any drug, or by the operation or
22 driving of a vehicle in a reckless
23 manner (RCW 46.61.522)
24 Viewing of Depictions of a Minor
25 Engaged in Sexually Explicit
26 Conduct 1 (RCW 9.68A.075(1))
27 III Animal Cruelty 1 (RCW 16.52.205)
28 Assault 3 (Except Assault 3 of a Peace
29 Officer With a Projectile Stun Gun)
30 (RCW 9A.36.031 except subsection
31 (1)(h))
32 Assault of a Child 3 (RCW 9A.36.140)
33 Bail Jumping with class B or C Felony
34 (RCW 9A.76.170(3)(c))
35 Burglary 2 (RCW 9A.52.030)

1 Communication with a Minor for
2 Immoral Purposes (RCW
3 9.68A.090)
4 Criminal Gang Intimidation (RCW
5 9A.46.120)
6 Custodial Assault (RCW 9A.36.100)
7 Cyber Harassment (RCW
8 9A.90.120(2)(b))
9 Escape 2 (RCW 9A.76.120)
10 Extortion 2 (RCW 9A.56.130)
11 False Reporting 2 (RCW
12 9A.84.040(2)(b))
13 Harassment (RCW 9A.46.020)
14 Hazing (RCW 28B.10.901(2)(b))
15 Intimidating a Public Servant (RCW
16 9A.76.180)
17 Introducing Contraband 2 (RCW
18 9A.76.150)
19 Malicious Injury to Railroad Property
20 (RCW 81.60.070)
21 Manufacture of Untraceable Firearm
22 with Intent to Sell (RCW 9.41.190)
23 Manufacture or Assembly of an
24 Undetectable Firearm or
25 Untraceable Firearm (RCW
26 9.41.325)
27 Mortgage Fraud (RCW 19.144.080)
28 Negligently Causing Substantial Bodily
29 Harm By Use of a Signal
30 Preemption Device (RCW
31 46.37.674)
32 Organized Retail Theft 1 (RCW
33 9A.56.350(2))
34 Perjury 2 (RCW 9A.72.030)

1 Possession of Incendiary Device (RCW
2 9.40.120)

3 Possession of Machine Gun, Bump-Fire
4 Stock, Undetectable Firearm, or
5 Short-Barreled Shotgun or Rifle
6 (RCW 9.41.190)

7 Promoting Prostitution 2 (RCW
8 9A.88.080)

9 Retail Theft with Special Circumstances
10 1 (RCW 9A.56.360(2))

11 Securities Act violation (RCW
12 21.20.400)

13 Tampering with a Witness (RCW
14 9A.72.120)

15 Telephone Harassment (subsequent
16 conviction or threat of death)
17 (RCW 9.61.230(2))

18 Theft of Livestock 2 (RCW 9A.56.083)

19 Theft with the Intent to Resell 1 (RCW
20 9A.56.340(2))

21 Trafficking in Catalytic Converters 2
22 (RCW 9A.82.200)

23 Trafficking in Stolen Property 2 (RCW
24 9A.82.055)

25 Unlawful Hunting of Big Game 1
26 (RCW 77.15.410(3)(b))

27 Unlawful Imprisonment (RCW
28 9A.40.040)

29 Unlawful Misbranding of Fish or
30 Shellfish 1 (RCW 77.140.060(3))

31 ~~((Unlawful possession of firearm in the
32 second degree (RCW 9.41.040(2))))~~

33 Unlawful Taking of Endangered Fish or
34 Wildlife 1 (RCW 77.15.120(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,
2 or Wildlife 1 (RCW
3 77.15.260(3)(b))
4 Unlawful Use of a Nondesignated
5 Vessel (RCW 77.15.530(4))
6 Vehicular Assault, by the operation or
7 driving of a vehicle with disregard
8 for the safety of others (RCW
9 46.61.522)
10 II Commercial Fishing Without a License
11 1 (RCW 77.15.500(3)(b))
12 Computer Trespass 1 (RCW 9A.90.040)
13 Counterfeiting (RCW 9.16.035(3))
14 Electronic Data Service Interference
15 (RCW 9A.90.060)
16 Electronic Data Tampering 1 (RCW
17 9A.90.080)
18 Electronic Data Theft (RCW
19 9A.90.100)
20 Engaging in Fish Dealing Activity
21 Unlicensed 1 (RCW 77.15.620(3))
22 Escape from Community Custody
23 (RCW 72.09.310)
24 Failure to Register as a Sex Offender
25 (second or subsequent offense)
26 (RCW 9A.44.130 prior to June 10,
27 2010, and RCW 9A.44.132)
28 Health Care False Claims (RCW
29 48.80.030)
30 Identity Theft 2 (RCW 9.35.020(3))
31 Improperly Obtaining Financial
32 Information (RCW 9.35.010)
33 Malicious Mischief 1 (RCW 9A.48.070)
34 Organized Retail Theft 2 (RCW
35 9A.56.350(3))

1 Possession of Stolen Property 1 (RCW
2 9A.56.150)
3 Possession of a Stolen Vehicle (RCW
4 9A.56.068)
5 Possession, sale, or offering for sale of
6 seven or more unmarked catalytic
7 converters (RCW 9A.82.180(5))
8 Retail Theft with Special Circumstances
9 2 (RCW 9A.56.360(3))
10 Scrap Processing, Recycling, or
11 Supplying Without a License
12 (second or subsequent offense)
13 (RCW 19.290.100)
14 Theft 1 (RCW 9A.56.030)
15 Theft of a Motor Vehicle (RCW
16 9A.56.065)
17 Theft of Rental, Leased, Lease-
18 purchased, or Loaned Property
19 (valued at \$5,000 or more) (RCW
20 9A.56.096(5)(a))
21 Theft with the Intent to Resell 2 (RCW
22 9A.56.340(3))
23 Trafficking in Insurance Claims (RCW
24 48.30A.015)
25 Unlawful factoring of a credit card or
26 payment card transaction (RCW
27 9A.56.290(4)(a))
28 Unlawful Participation of Non-Indians
29 in Indian Fishery (RCW
30 77.15.570(2))
31 Unlawful Practice of Law (RCW
32 2.48.180)
33 Unlawful Purchase or Use of a License
34 (RCW 77.15.650(3)(b))

1 Unlawful Trafficking in Fish, Shellfish,
2 or Wildlife 2 (RCW
3 77.15.260(3)(a))
4 Unlicensed Practice of a Profession or
5 Business (RCW 18.130.190(7))
6 Voyeurism 1 (RCW 9A.44.115)
7 I Attempting to Elude a Pursuing Police
8 Vehicle (RCW 46.61.024)
9 False Verification for Welfare (RCW
10 74.08.055)
11 Forgery (RCW 9A.60.020)
12 Fraudulent Creation or Revocation of a
13 Mental Health Advance Directive
14 (RCW 9A.60.060)
15 Malicious Mischief 2 (RCW 9A.48.080)
16 Mineral Trespass (RCW 78.44.330)
17 Possession of Stolen Property 2 (RCW
18 9A.56.160)
19 Reckless Burning 1 (RCW 9A.48.040)
20 Spotlighting Big Game 1 (RCW
21 77.15.450(3)(b))
22 Suspension of Department Privileges 1
23 (RCW 77.15.670(3)(b))
24 Taking Motor Vehicle Without
25 Permission 2 (RCW 9A.56.075)
26 Theft 2 (RCW 9A.56.040)
27 Theft from a Vulnerable Adult 2 (RCW
28 9A.56.400(2))
29 Theft of Rental, Leased, Lease-
30 purchased, or Loaned Property
31 (valued at \$750 or more but less
32 than \$5,000) (RCW
33 9A.56.096(5)(b))
34 Transaction of insurance business
35 beyond the scope of licensure
36 (RCW 48.17.063)

1 Unlawful Fish and Shellfish Catch
2 Accounting (RCW 77.15.630(3)(b))
3 Unlawful Issuance of Checks or Drafts
4 (RCW 9A.56.060)
5 Unlawful Possession of Fictitious
6 Identification (RCW 9A.56.320)
7 Unlawful Possession of Instruments of
8 Financial Fraud (RCW 9A.56.320)
9 Unlawful Possession of Payment
10 Instruments (RCW 9A.56.320)
11 Unlawful Possession of a Personal
12 Identification Device (RCW
13 9A.56.320)
14 Unlawful Production of Payment
15 Instruments (RCW 9A.56.320)
16 Unlawful Releasing, Planting,
17 Possessing, or Placing Deleterious
18 Exotic Wildlife (RCW
19 77.15.250(2)(b))
20 Unlawful Trafficking in Food Stamps
21 (RCW 9.91.142)
22 Unlawful Use of Food Stamps (RCW
23 9.91.144)
24 Unlawful Use of Net to Take Fish 1
25 (RCW 77.15.580(3)(b))
26 Vehicle Prowl 1 (RCW 9A.52.095)
27 Violating Commercial Fishing Area or
28 Time 1 (RCW 77.15.550(3)(b))

29 **Sec. 6.** RCW 9.94A.525 and 2023 c 415 s 2 are each amended to
30 read as follows:

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

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

35 (1) (a) A prior conviction is a conviction which exists before the
36 date of sentencing for the offense for which the offender score is

1 being computed. Convictions entered or sentenced on the same date as
2 the conviction for which the offender score is being computed shall
3 be deemed "other current offenses" within the meaning of RCW
4 9.94A.589.

5 (b) For the purposes of this section, adjudications of guilt
6 pursuant to Title 13 RCW which are not murder in the first or second
7 degree or class A felony sex offenses may not be included in the
8 offender score.

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

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

18 (c) Except as provided in (e) of this subsection, class C prior
19 felony convictions other than sex offenses shall not be included in
20 the offender score if, since the last date of release from
21 confinement (including full-time residential treatment) pursuant to a
22 felony conviction, if any, or entry of judgment and sentence, the
23 offender had spent five consecutive years in the community without
24 committing any crime that subsequently results in a conviction.

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

32 (e) If the present conviction is felony driving while under the
33 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
34 felony physical control of a vehicle while under the influence of
35 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
36 crimes for the offense as defined by RCW 46.61.5055(14) shall be
37 included in the offender score, and prior convictions for felony
38 driving while under the influence of intoxicating liquor or any drug
39 (RCW 46.61.502(6)) or felony physical control of a vehicle while
40 under the influence of intoxicating liquor or any drug (RCW

1 46.61.504(6)) shall always be included in the offender score. All
2 other convictions of the defendant shall be scored according to this
3 section.

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

10 (g) This subsection applies to both prior adult convictions and
11 prior juvenile adjudications.

12 (3) Out-of-state convictions for offenses shall be classified
13 according to the comparable offense definitions and sentences
14 provided by Washington law. Federal convictions for offenses shall be
15 classified according to the comparable offense definitions and
16 sentences provided by Washington law. Neither out-of-state or federal
17 convictions which would have been presumptively adjudicated in
18 juvenile court under Washington law may be included in the offender
19 score unless they are comparable to murder in the first or second
20 degree or a class A felony sex offense. If there is no clearly
21 comparable offense under Washington law or the offense is one that is
22 usually considered subject to exclusive federal jurisdiction, the
23 offense shall be scored as a class C felony equivalent if it was a
24 felony under the relevant federal statute.

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

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

31 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),
32 to encompass the same criminal conduct, shall be counted as one
33 offense, the offense that yields the highest offender score. The
34 current sentencing court shall determine with respect to other prior
35 adult offenses for which sentences were served concurrently or prior
36 juvenile offenses for which sentences were served consecutively,
37 whether those offenses shall be counted as one offense or as separate
38 offenses using the "same criminal conduct" analysis found in RCW
39 9.94A.589(1) (a), and if the court finds that they shall be counted as
40 one offense, then the offense that yields the highest offender score

1 shall be used. The current sentencing court may presume that such
2 other prior offenses were not the same criminal conduct from
3 sentences imposed on separate dates, or in separate counties or
4 jurisdictions, or in separate complaints, indictments, or
5 informations;

6 (ii) In the case of multiple prior convictions for offenses
7 committed before July 1, 1986, for the purpose of computing the
8 offender score, count all convictions or adjudications served
9 concurrently as one offense. Use the conviction for the offense that
10 yields the highest offender score.

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

17 (6) If the present conviction is one of the anticipatory offenses
18 of criminal attempt, solicitation, or conspiracy, count each prior
19 conviction as if the present conviction were for a completed offense.
20 When these convictions are used as criminal history, score them the
21 same as a completed crime.

22 (7) If the present conviction is for a nonviolent offense and not
23 covered by subsection (11), (12), or (13) of this section, count one
24 point for each adult prior felony conviction and one point for each
25 juvenile prior violent felony conviction which is scorable under
26 subsection (1)(b) of this section.

27 (8) If the present conviction is for a violent offense and not
28 covered in subsection (9), (10), (11), (12), or (13) of this section,
29 count two points for each prior adult violent felony conviction and
30 juvenile violent felony conviction which is scorable under subsection
31 (1)(b) of this section, and one point for each prior adult nonviolent
32 felony conviction.

33 (9) If the present conviction is for a serious violent offense,
34 count three points for prior adult convictions and juvenile
35 convictions which are scorable under subsection (1)(b) of this
36 section for crimes in this category, two points for each prior adult
37 and scorable juvenile violent conviction (not already counted), and
38 one point for each prior adult nonviolent felony conviction.

1 (10) If the present conviction is for Burglary 1, count prior
2 convictions as in subsection (8) of this section; however count two
3 points for each prior Burglary 2 or residential burglary conviction.

4 (11) If the present conviction is for a felony traffic offense
5 count two points for each prior conviction for Vehicular Homicide or
6 Vehicular Assault; for each felony offense count one point for each
7 adult prior conviction and 1/2 point for each juvenile prior
8 conviction which is scorable under subsection (1)(b) of this section;
9 for each serious traffic offense, other than those used for an
10 enhancement pursuant to RCW 46.61.520(2), count one point for each
11 adult prior conviction and 1/2 point for each juvenile prior
12 conviction which is scorable under subsection (1)(b) of this section;
13 count one point for each adult prior conviction for operation of a
14 vessel while under the influence of intoxicating liquor or any drug.

15 (12) If the present conviction is for homicide by watercraft or
16 assault by watercraft count two points for each adult prior
17 conviction for homicide by watercraft or assault by watercraft; for
18 each felony offense count one point for each adult prior conviction
19 and 1/2 point for each juvenile prior conviction which would be
20 scorable under subsection (1)(b) of this section; count one point for
21 each adult prior conviction for driving under the influence of
22 intoxicating liquor or any drug, actual physical control of a motor
23 vehicle while under the influence of intoxicating liquor or any drug,
24 or operation of a vessel while under the influence of intoxicating
25 liquor or any drug.

26 (13) If the present conviction is for manufacture of
27 methamphetamine count three points for each adult prior manufacture
28 of methamphetamine conviction. If the present conviction is for a
29 drug offense and the offender has a criminal history that includes a
30 sex offense or serious violent offense, count three points for each
31 adult prior felony drug offense conviction. All other felonies are
32 scored as in subsection (8) of this section if the current drug
33 offense is violent, or as in subsection (7) of this section if the
34 current drug offense is nonviolent.

35 (14) If the present conviction is for Escape from Community
36 Custody, RCW 72.09.310, count only adult prior escape convictions in
37 the offender score. Count prior escape convictions as one point.

38 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
39 Escape 2, RCW 9A.76.120, count adult prior convictions as one point

1 and juvenile prior convictions which are scorable under subsection
2 (1)(b) of this section as 1/2 point.

3 (16) If the present conviction is for Burglary 2 or residential
4 burglary, count priors as in subsection (7) of this section; however,
5 count two points for each prior Burglary 1 conviction, and two points
6 for each prior Burglary 2 or residential burglary conviction.

7 (17) If the present conviction is for a sex offense, count priors
8 as in subsections (7) through (11) and (13) through (16) of this
9 section; however count three points for each adult prior sex offense
10 conviction and juvenile prior class A felony sex offense
11 adjudication.

12 (18) If the present conviction is for failure to register as a
13 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in
14 subsections (7) through (11) and (13) through (16) of this section;
15 however count three points for each adult prior sex offense
16 conviction and juvenile prior sex offense conviction which is
17 scorable under subsection (1)(b) of this section, excluding adult
18 prior convictions for failure to register as a sex offender under RCW
19 9A.44.130 or 9A.44.132, which shall count as one point.

20 (19) If the present conviction is for an offense committed while
21 the offender was under community custody, add one point. For purposes
22 of this subsection, community custody includes community placement or
23 postrelease supervision, as defined in chapter 9.94B RCW.

24 (20) If the present conviction is for Theft of a Motor Vehicle,
25 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
26 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
27 priors as in subsections (7) through (18) of this section; however
28 count one point for prior convictions of Vehicle Prowling 2, and
29 three points for each adult prior Theft 1 (of a motor vehicle), Theft
30 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor
31 vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft
32 of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor
33 Vehicle Without Permission 1, or Taking a Motor Vehicle Without
34 Permission 2 conviction.

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

39 (a) Count two points for each adult prior conviction where
40 domestic violence as defined in RCW 9.94A.030 was pleaded and proven

1 after August 1, 2011, for any of the following offenses: A felony
2 violation of a no-contact or protection order (RCW 7.105.450 or
3 former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),
4 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),
5 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful
6 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2
7 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW
8 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or
9 Arson 2 (RCW 9A.48.030);

10 (b) Count two points for each adult prior conviction where
11 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
12 after July 23, 2017, for any of the following offenses: Assault of a
13 child in the first degree, RCW 9A.36.120; Assault of a child in the
14 second degree, RCW 9A.36.130; Assault of a child in the third degree,
15 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
16 9A.42.020; or Criminal Mistreatment in the second degree, RCW
17 9A.42.030; and

18 (c) Count one point for each adult prior conviction for a
19 repetitive domestic violence offense as defined in RCW 9.94A.030,
20 where domestic violence as defined in RCW 9.94A.030, was pleaded and
21 proven after August 1, 2011.

22 (22) If the present conviction is for unlawful possession of a
23 firearm 1 (RCW 9.41.040(1)) or unlawful possession of a firearm 2
24 (RCW 9.41.040(2)), count two points for each prior juvenile
25 adjudication and adult conviction for unlawful possession of a
26 firearm 1 or unlawful possession of a firearm 2.

27 (23) The fact that a prior conviction was not included in an
28 offender's offender score or criminal history at a previous
29 sentencing shall have no bearing on whether it is included in the
30 criminal history or offender score for the current offense. Prior
31 convictions that were not counted in the offender score or included
32 in criminal history under repealed or previous versions of the
33 sentencing reform act shall be included in criminal history and shall
34 count in the offender score if the current version of the sentencing
35 reform act requires including or counting those convictions. Prior
36 convictions that were not included in criminal history or in the
37 offender score shall be included upon any resentencing to ensure
38 imposition of an accurate sentence.

1 **Sec. 7.** RCW 9.94A.525 and 2024 c 306 s 6 are each amended to
2 read as follows:

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

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

7 (1)(a) A prior conviction is a conviction which exists before the
8 date of sentencing for the offense for which the offender score is
9 being computed. Convictions entered or sentenced on the same date as
10 the conviction for which the offender score is being computed shall
11 be deemed "other current offenses" within the meaning of RCW
12 9.94A.589.

13 (b) For the purposes of this section, adjudications of guilt
14 pursuant to Title 13 RCW which are not murder in the first or second
15 degree or class A felony sex offenses may not be included in the
16 offender score.

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

19 (b) Class B prior felony convictions other than sex offenses
20 shall not be included in the offender score, if since the last date
21 of release from confinement (including full-time residential
22 treatment) pursuant to a felony conviction, if any, or entry of
23 judgment and sentence, the offender had spent 10 consecutive years in
24 the community without committing any crime that subsequently results
25 in a conviction.

26 (c) Except as provided in (e) of this subsection, class C prior
27 felony convictions other than sex offenses shall not be included in
28 the offender score if, since the last date of release from
29 confinement (including full-time residential treatment) pursuant to a
30 felony conviction, if any, or entry of judgment and sentence, the
31 offender had spent five consecutive years in the community without
32 committing any crime that subsequently results in a conviction.

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

1 (e) If the present conviction is felony driving while under the
2 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
3 felony physical control of a vehicle while under the influence of
4 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
5 crimes for the offense as defined by RCW 46.61.5055(14) shall be
6 included in the offender score, and prior convictions for felony
7 driving while under the influence of intoxicating liquor or any drug
8 (RCW 46.61.502(6)) or felony physical control of a vehicle while
9 under the influence of intoxicating liquor or any drug (RCW
10 46.61.504(6)) shall always be included in the offender score. All
11 other convictions of the defendant shall be scored according to this
12 section.

13 (f) Prior convictions for a repetitive domestic violence offense,
14 as defined in RCW 9.94A.030, shall not be included in the offender
15 score if, since the last date of release from confinement or entry of
16 judgment and sentence, the offender had spent 10 consecutive years in
17 the community without committing any crime that subsequently results
18 in a conviction.

19 (g) This subsection applies to both prior adult convictions and
20 prior juvenile adjudications.

21 (3) Out-of-state convictions for offenses shall be classified
22 according to the comparable offense definitions and sentences
23 provided by Washington law. Federal convictions for offenses shall be
24 classified according to the comparable offense definitions and
25 sentences provided by Washington law. Neither out-of-state or federal
26 convictions which would have been presumptively adjudicated in
27 juvenile court under Washington law may be included in the offender
28 score unless they are comparable to murder in the first or second
29 degree or a class A felony sex offense. If there is no clearly
30 comparable offense under Washington law or the offense is one that is
31 usually considered subject to exclusive federal jurisdiction, the
32 offense shall be scored as a class C felony equivalent if it was a
33 felony under the relevant federal statute.

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

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

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

16 (ii) In the case of multiple prior convictions for offenses
17 committed before July 1, 1986, for the purpose of computing the
18 offender score, count all convictions or adjudications served
19 concurrently as one offense. Use the conviction for the offense that
20 yields the highest offender score.

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

27 (6) If the present conviction is one of the anticipatory offenses
28 of criminal attempt, solicitation, or conspiracy, count each prior
29 conviction as if the present conviction were for a completed offense.
30 When these convictions are used as criminal history, score them the
31 same as a completed crime.

32 (7) If the present conviction is for a nonviolent offense and not
33 covered by subsection (11), (12), or (13) of this section, count one
34 point for each adult prior felony conviction and one point for each
35 juvenile prior violent felony conviction which is scorable under
36 subsection (1)(b) of this section.

37 (8) If the present conviction is for a violent offense and not
38 covered in subsection (9), (10), (11), (12), or (13) of this section,
39 count two points for each prior adult violent felony conviction and
40 juvenile violent felony conviction which is scorable under subsection

1 (1)(b) of this section, and one point for each prior adult nonviolent
2 felony conviction.

3 (9) If the present conviction is for a serious violent offense,
4 count three points for prior adult convictions and juvenile
5 convictions which are scorable under subsection (1)(b) of this
6 section for crimes in this category, two points for each prior adult
7 and scorable juvenile violent conviction (not already counted), and
8 one point for each prior adult nonviolent felony conviction.

9 (10) If the present conviction is for Burglary 1, count prior
10 convictions as in subsection (8) of this section; however count two
11 points for each prior Burglary 2 or residential burglary conviction.

12 (11) If the present conviction is for a felony traffic offense
13 count two points for each prior conviction for Vehicular Homicide or
14 Vehicular Assault; for each felony offense count one point for each
15 adult prior conviction and 1/2 point for each juvenile prior
16 conviction which is scorable under subsection (1)(b) of this section;
17 for each serious traffic offense, other than those used for an
18 enhancement pursuant to RCW 46.61.520(2), count one point for each
19 adult prior conviction and 1/2 point for each juvenile prior
20 conviction which is scorable under subsection (1)(b) of this section;
21 count one point for each adult prior conviction for operation of a
22 vessel while under the influence of intoxicating liquor or any drug;
23 count one point for a deferred prosecution granted under chapter
24 10.05 RCW for a second or subsequent violation of RCW 46.61.502 or
25 46.61.504, or an equivalent local ordinance.

26 (12) If the present conviction is for homicide by watercraft or
27 assault by watercraft count two points for each adult prior
28 conviction for homicide by watercraft or assault by watercraft; for
29 each felony offense count one point for each adult prior conviction
30 and 1/2 point for each juvenile prior conviction which would be
31 scorable under subsection (1)(b) of this section; count one point for
32 each adult prior conviction for driving under the influence of
33 intoxicating liquor or any drug, actual physical control of a motor
34 vehicle while under the influence of intoxicating liquor or any drug,
35 or operation of a vessel while under the influence of intoxicating
36 liquor or any drug.

37 (13) If the present conviction is for manufacture of
38 methamphetamine count three points for each adult prior manufacture
39 of methamphetamine conviction. If the present conviction is for a
40 drug offense and the offender has a criminal history that includes a

1 sex offense or serious violent offense, count three points for each
2 adult prior felony drug offense conviction. All other felonies are
3 scored as in subsection (8) of this section if the current drug
4 offense is violent, or as in subsection (7) of this section if the
5 current drug offense is nonviolent.

6 (14) If the present conviction is for Escape from Community
7 Custody, RCW 72.09.310, count only adult prior escape convictions in
8 the offender score. Count prior escape convictions as one point.

9 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
10 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
11 and juvenile prior convictions which are scorable under subsection
12 (1)(b) of this section as 1/2 point.

13 (16) If the present conviction is for Burglary 2 or residential
14 burglary, count priors as in subsection (7) of this section; however,
15 count two points for each prior Burglary 1 conviction, and two points
16 for each prior Burglary 2 or residential burglary conviction.

17 (17) If the present conviction is for a sex offense, count priors
18 as in subsections (7) through (11) and (13) through (16) of this
19 section; however, count three points for each adult prior sex offense
20 conviction and juvenile prior class A felony sex offense
21 adjudication.

22 (18) If the present conviction is for failure to register as a
23 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in
24 subsections (7) through (11) and (13) through (16) of this section;
25 however, count three points for each adult prior sex offense
26 conviction and juvenile prior sex offense conviction which is
27 scorable under subsection (1)(b) of this section, excluding adult
28 prior convictions for failure to register as a sex offender under RCW
29 9A.44.130 or 9A.44.132, which shall count as one point.

30 (19) If the present conviction is for an offense committed while
31 the offender was under community custody, add one point. For purposes
32 of this subsection, community custody includes community placement or
33 postrelease supervision, as defined in chapter 9.94B RCW.

34 (20) If the present conviction is for Theft of a Motor Vehicle,
35 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
36 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
37 priors as in subsections (7) through (18) of this section; however
38 count one point for prior convictions of Vehicle Prowling 2, and
39 three points for each adult prior Theft 1 (of a motor vehicle), Theft
40 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor

1 vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft
2 of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor
3 Vehicle Without Permission 1, or Taking a Motor Vehicle Without
4 Permission 2 conviction.

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

9 (a) Count two points for each adult prior conviction where
10 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
11 after August 1, 2011, for any of the following offenses: A felony
12 violation of a no-contact or protection order (RCW 7.105.450 or
13 former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),
14 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),
15 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful
16 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2
17 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW
18 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or
19 Arson 2 (RCW 9A.48.030);

20 (b) Count two points for each adult prior conviction where
21 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
22 after July 23, 2017, for any of the following offenses: Assault of a
23 child in the first degree, RCW 9A.36.120; Assault of a child in the
24 second degree, RCW 9A.36.130; Assault of a child in the third degree,
25 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
26 9A.42.020; or Criminal Mistreatment in the second degree, RCW
27 9A.42.030; and

28 (c) Count one point for each adult prior conviction for a
29 repetitive domestic violence offense as defined in RCW 9.94A.030,
30 where domestic violence as defined in RCW 9.94A.030, was pleaded and
31 proven after August 1, 2011.

32 (22) If the present conviction is for unlawful possession of a
33 firearm 1 (RCW 9.41.040(1)) or unlawful possession of a firearm 2
34 (RCW 9.41.040(2)), count two points for each prior juvenile
35 adjudication and adult conviction for unlawful possession of a
36 firearm 1 or unlawful possession of a firearm 2.

37 (23) The fact that a prior conviction was not included in an
38 offender's offender score or criminal history at a previous
39 sentencing shall have no bearing on whether it is included in the
40 criminal history or offender score for the current offense. Prior

1 convictions that were not counted in the offender score or included
2 in criminal history under repealed or previous versions of the
3 sentencing reform act shall be included in criminal history and shall
4 count in the offender score if the current version of the sentencing
5 reform act requires including or counting those convictions. Prior
6 convictions that were not included in criminal history or in the
7 offender score shall be included upon any resentencing to ensure
8 imposition of an accurate sentence.

9 NEW SECTION. **Sec. 8.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 9.** Sections 3 and 6 of this act expire
14 January 1, 2026.

15 NEW SECTION. **Sec. 10.** Sections 4 and 7 of this act take effect
16 January 1, 2026.

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