

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6639

61st Legislature
2010 Regular Session

Passed by the Senate March 9, 2010
YEAS 45 NAYS 1

President of the Senate

Passed by the House March 3, 2010
YEAS 77 NAYS 21

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6639** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6639

AS AMENDED BY THE HOUSE

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Human Services & Corrections (originally sponsored by Senators Brown, Stevens, Gordon, and Shin; by request of Department of Corrections)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to creating alternatives to total confinement for
2 nonviolent offenders with minor children; amending RCW 9.94A.030,
3 9.94A.501, 9.94A.505, 9.94A.701, 9.94A.729, 9.94A.734, 9.94A.190,
4 9.94A.6332, and 9.94A.633; reenacting and amending RCW 9.94A.728; and
5 adding new sections to chapter 9.94A RCW.

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

7 **Sec. 1.** RCW 9.94A.030 and 2009 c 375 s 4 are each amended to read
8 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, and,

1 consistent with current law, delivering daily the entire payment to the
2 superior court clerk without depositing it in a departmental account.

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

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

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

13 (6) "Community protection zone" means the area within eight hundred
14 eighty feet of the facilities and grounds of a public or private
15 school.

16 (7) "Community restitution" means compulsory service, without
17 compensation, performed for the benefit of the community by the
18 offender.

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

20 (9) "Conviction" means an adjudication of guilt pursuant to Title
21 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
22 acceptance of a plea of guilty.

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

30 (11) "Criminal history" means the list of a defendant's prior
31 convictions and juvenile adjudications, whether in this state, in
32 federal court, or elsewhere.

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

37 (b) A conviction may be removed from a defendant's criminal history

1 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
2 a similar out-of-state statute, or if the conviction has been vacated
3 pursuant to a governor's pardon.

4 (c) The determination of a defendant's criminal history is distinct
5 from the determination of an offender score. A prior conviction that
6 was not included in an offender score calculated pursuant to a former
7 version of the sentencing reform act remains part of the defendant's
8 criminal history.

9 (12) "Criminal street gang" means any ongoing organization,
10 association, or group of three or more persons, whether formal or
11 informal, having a common name or common identifying sign or symbol,
12 having as one of its primary activities the commission of criminal
13 acts, and whose members or associates individually or collectively
14 engage in or have engaged in a pattern of criminal street gang
15 activity. This definition does not apply to employees engaged in
16 concerted activities for their mutual aid and protection, or to the
17 activities of labor and bona fide nonprofit organizations or their
18 members or agents.

19 (13) "Criminal street gang associate or member" means any person
20 who actively participates in any criminal street gang and who
21 intentionally promotes, furthers, or assists in any criminal act by the
22 criminal street gang.

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

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

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

32 (c) To exact revenge or retribution for the gang or any member of
33 the gang;

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

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

1 (f) To provide the gang with any advantage in, or any control or
2 dominance over any criminal market sector, including, but not limited
3 to, manufacturing, delivering, or selling any controlled substance
4 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
5 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
6 RCW); human trafficking (RCW 9A.40.100); or promoting pornography
7 (chapter 9.68 RCW).

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

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

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

18 (18) "Determinate sentence" means a sentence that states with
19 exactitude the number of actual years, months, or days of total
20 confinement, of partial confinement, of community custody, the number
21 of actual hours or days of community restitution work, or dollars or
22 terms of a legal financial obligation. The fact that an offender
23 through earned release can reduce the actual period of confinement
24 shall not affect the classification of the sentence as a determinate
25 sentence.

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

1 (20) "Drug offender sentencing alternative" is a sentencing option
2 available to persons convicted of a felony offense other than a violent
3 offense or a sex offense and who are eligible for the option under RCW
4 9.94A.660.

5 (21) "Drug offense" means:

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

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

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

15 (22) "Earned release" means earned release from confinement as
16 provided in RCW 9.94A.728.

17 (23) "Escape" means:

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

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

27 (24) "Felony traffic offense" means:

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

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

37 (25) "Fine" means a specific sum of money ordered by the sentencing

1 court to be paid by the offender to the court over a specific period of
2 time.

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

6 (27) "Home detention" means a program of partial confinement
7 available to offenders wherein the offender is confined in a private
8 residence subject to electronic surveillance.

9 (28) "Legal financial obligation" means a sum of money that is
10 ordered by a superior court of the state of Washington for legal
11 financial obligations which may include restitution to the victim,
12 statutorily imposed crime victims' compensation fees as assessed
13 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
14 court-appointed attorneys' fees, and costs of defense, fines, and any
15 other financial obligation that is assessed to the offender as a result
16 of a felony conviction. Upon conviction for vehicular assault while
17 under the influence of intoxicating liquor or any drug, RCW
18 46.61.522(1)(b), or vehicular homicide while under the influence of
19 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
20 obligations may also include payment to a public agency of the expense
21 of an emergency response to the incident resulting in the conviction,
22 subject to RCW 38.52.430.

23 (29) "Minor child" means a biological or adopted child of the
24 offender who is under age eighteen at the time of the offender's
25 current offense.

26 (30) "Most serious offense" means any of the following felonies or
27 a felony attempt to commit any of the following felonies:

28 (a) Any felony defined under any law as a class A felony or
29 criminal solicitation of or criminal conspiracy to commit a class A
30 felony;

31 (b) Assault in the second degree;

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

33 (d) Child molestation in the second degree;

34 (e) Controlled substance homicide;

35 (f) Extortion in the first degree;

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

37 (h) Indecent liberties;

38 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;
2 (k) Manslaughter in the first degree;
3 (l) Manslaughter in the second degree;
4 (m) Promoting prostitution in the first degree;
5 (n) Rape in the third degree;
6 (o) Robbery in the second degree;
7 (p) Sexual exploitation;
8 (q) Vehicular assault, when caused by the operation or driving of
9 a vehicle by a person while under the influence of intoxicating liquor
10 or any drug or by the operation or driving of a vehicle in a reckless
11 manner;
12 (r) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;
16 (s) Any other class B felony offense with a finding of sexual
17 motivation;
18 (t) Any other felony with a deadly weapon verdict under RCW
19 9.94A.825;
20 (u) Any felony offense in effect at any time prior to December 2,
21 1993, that is comparable to a most serious offense under this
22 subsection, or any federal or out-of-state conviction for an offense
23 that under the laws of this state would be a felony classified as a
24 most serious offense under this subsection;
25 (v)(i) A prior conviction for indecent liberties under RCW
26 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
27 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
28 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
29 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
30 (ii) A prior conviction for indecent liberties under RCW
31 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
32 if: (A) The crime was committed against a child under the age of
33 fourteen; or (B) the relationship between the victim and perpetrator is
34 included in the definition of indecent liberties under RCW
35 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
36 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
37 through July 27, 1997;

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

7 ~~((+30+))~~ (31) "Nonviolent offense" means an offense which is not a
8 violent offense.

9 ~~((+31+))~~ (32) "Offender" means a person who has committed a felony
10 established by state law and is eighteen years of age or older or is
11 less than eighteen years of age but whose case is under superior court
12 jurisdiction under RCW 13.04.030 or has been transferred by the
13 appropriate juvenile court to a criminal court pursuant to RCW
14 13.40.110. In addition, for the purpose of community custody
15 requirements under this chapter, "offender" also means a misdemeanor or
16 gross misdemeanor probationer convicted of an offense included in RCW
17 9.94A.501(1) and ordered by a superior court to probation under the
18 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
19 9.95.210. Throughout this chapter, the terms "offender" and
20 "defendant" are used interchangeably.

21 ~~((+32+))~~ (33) "Partial confinement" means confinement for no more
22 than one year in a facility or institution operated or utilized under
23 contract by the state or any other unit of government, or, if home
24 detention or work crew has been ordered by the court or home detention
25 has been ordered by the department as part of the parenting program, in
26 an approved residence, for a substantial portion of each day with the
27 balance of the day spent in the community. Partial confinement
28 includes work release, home detention, work crew, and a combination of
29 work crew and home detention.

30 ~~((+33+))~~ (34) "Pattern of criminal street gang activity" means:

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

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

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

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

1 (~~(+34+)~~) (35) "Persistent offender" is an offender who:

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

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

12 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
13 of a child in the first degree, child molestation in the first degree,
14 rape in the second degree, rape of a child in the second degree, or
15 indecent liberties by forcible compulsion; (B) any of the following
16 offenses with a finding of sexual motivation: Murder in the first
17 degree, murder in the second degree, homicide by abuse, kidnapping in
18 the first degree, kidnapping in the second degree, assault in the first
19 degree, assault in the second degree, assault of a child in the first
20 degree, assault of a child in the second degree, or burglary in the
21 first degree; or (C) an attempt to commit any crime listed in this
22 subsection (~~(+34+)~~) (35)(b)(i); and

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

35 (~~(+35+)~~) (36) "Predatory" means: (a) The perpetrator of the crime
36 was a stranger to the victim, as defined in this section; (b) the
37 perpetrator established or promoted a relationship with the victim
38 prior to the offense and the victimization of the victim was a

1 significant reason the perpetrator established or promoted the
2 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
3 volunteer, or other person in authority in any public or private school
4 and the victim was a student of the school under his or her authority
5 or supervision. For purposes of this subsection, "school" does not
6 include home-based instruction as defined in RCW 28A.225.010; (ii) a
7 coach, trainer, volunteer, or other person in authority in any
8 recreational activity and the victim was a participant in the activity
9 under his or her authority or supervision; or (iii) a pastor, elder,
10 volunteer, or other person in authority in any church or religious
11 organization, and the victim was a member or participant of the
12 organization under his or her authority.

13 ~~((+36+))~~ (37) "Private school" means a school regulated under
14 chapter 28A.195 or 28A.205 RCW.

15 ~~((+37+))~~ (38) "Public school" has the same meaning as in RCW
16 28A.150.010.

17 ~~((+38+))~~ (39) "Restitution" means a specific sum of money ordered
18 by the sentencing court to be paid by the offender to the court over a
19 specified period of time as payment of damages. The sum may include
20 both public and private costs.

21 ~~((+39+))~~ (40) "Risk assessment" means the application of the risk
22 instrument recommended to the department by the Washington state
23 institute for public policy as having the highest degree of predictive
24 accuracy for assessing an offender's risk of reoffense.

25 ~~((+40+))~~ (41) "Serious traffic offense" means:

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

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

34 ~~((+41+))~~ (42) "Serious violent offense" is a subcategory of violent
35 offense and means:

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

37 (ii) Homicide by abuse;

38 (iii) Murder in the second degree;

1 (iv) Manslaughter in the first degree;
2 (v) Assault in the first degree;
3 (vi) Kidnapping in the first degree;
4 (vii) Rape in the first degree;
5 (viii) Assault of a child in the first degree; or
6 (ix) An attempt, criminal solicitation, or criminal conspiracy to
7 commit one of these felonies; or
8 (b) Any federal or out-of-state conviction for an offense that
9 under the laws of this state would be a felony classified as a serious
10 violent offense under (a) of this subsection.
11 ~~((42))~~ (43) "Sex offense" means:
12 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
13 RCW 9A.44.130(12);
14 (ii) A violation of RCW 9A.64.020;
15 (iii) A felony that is a violation of chapter 9.68A RCW other than
16 RCW 9.68A.080; or
17 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
18 criminal solicitation, or criminal conspiracy to commit such crimes;
19 (b) Any conviction for a felony offense in effect at any time prior
20 to July 1, 1976, that is comparable to a felony classified as a sex
21 offense in (a) of this subsection;
22 (c) A felony with a finding of sexual motivation under RCW
23 9.94A.835 or 13.40.135; or
24 (d) Any federal or out-of-state conviction for an offense that
25 under the laws of this state would be a felony classified as a sex
26 offense under (a) of this subsection.
27 ~~((43))~~ (44) "Sexual motivation" means that one of the purposes
28 for which the defendant committed the crime was for the purpose of his
29 or her sexual gratification.
30 ~~((44))~~ (45) "Standard sentence range" means the sentencing
31 court's discretionary range in imposing a nonappealable sentence.
32 ~~((45))~~ (46) "Statutory maximum sentence" means the maximum length
33 of time for which an offender may be confined as punishment for a crime
34 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
35 the crime, or other statute defining the maximum penalty for a crime.
36 ~~((46))~~ (47) "Stranger" means that the victim did not know the
37 offender twenty-four hours before the offense.

1 ~~((47))~~ (48) "Total confinement" means confinement inside the
2 physical boundaries of a facility or institution operated or utilized
3 under contract by the state or any other unit of government for twenty-
4 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

5 ~~((48))~~ (49) "Transition training" means written and verbal
6 instructions and assistance provided by the department to the offender
7 during the two weeks prior to the offender's successful completion of
8 the work ethic camp program. The transition training shall include
9 instructions in the offender's requirements and obligations during the
10 offender's period of community custody.

11 ~~((49))~~ (50) "Victim" means any person who has sustained
12 emotional, psychological, physical, or financial injury to person or
13 property as a direct result of the crime charged.

14 ~~((50))~~ (51) "Violent offense" means:

15 (a) Any of the following felonies:

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

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

20 (iii) Manslaughter in the first degree;

21 (iv) Manslaughter in the second degree;

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

23 (vi) Kidnapping in the second degree;

24 (vii) Arson in the second degree;

25 (viii) Assault in the second degree;

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

27 (x) Extortion in the first degree;

28 (xi) Robbery in the second degree;

29 (xii) Drive-by shooting;

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

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

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

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

7 ~~((+51+))~~ (52) "Work crew" means a program of partial confinement
8 consisting of civic improvement tasks for the benefit of the community
9 that complies with RCW 9.94A.725.

10 ~~((+52+))~~ (53) "Work ethic camp" means an alternative incarceration
11 program as provided in RCW 9.94A.690 designed to reduce recidivism and
12 lower the cost of corrections by requiring offenders to complete a
13 comprehensive array of real-world job and vocational experiences,
14 character-building work ethics training, life management skills
15 development, substance abuse rehabilitation, counseling, literacy
16 training, and basic adult education.

17 ~~((+53+))~~ (54) "Work release" means a program of partial confinement
18 available to offenders who are employed or engaged as a student in a
19 regular course of study at school.

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

22 (1) An offender is eligible for the parenting sentencing
23 alternative if:

24 (a) The high end of the standard sentence range for the current
25 offense is greater than one year;

26 (b) The offender has no prior or current conviction for a felony
27 that is a sex offense or a violent offense;

28 (c) The offender has not been found by the United States attorney
29 general to be subject to a deportation detainer or order and does not
30 become subject to a deportation order during the period of the
31 sentence;

32 (d) The offender signs any release of information waivers required
33 to allow information regarding current or prior child welfare cases to
34 be shared with the department and the court; and

35 (e) The offender has physical custody of his or her minor child or
36 is a legal guardian or custodian with physical custody of a child under
37 the age of eighteen at the time of the current offense.

1 (2) To assist the court in making its determination, the court may
2 order the department to complete either a risk assessment report or a
3 chemical dependency screening report as provided in RCW 9.94A.500, or
4 both reports prior to sentencing.

5 (3) If the court is considering this alternative, the court shall
6 request that the department contact the children's administration of
7 the Washington state department of social and health services to
8 determine if the agency has an open child welfare case or prior
9 substantiated referral of abuse or neglect involving the offender or if
10 the agency is aware of any substantiated case of abuse or neglect with
11 a tribal child welfare agency involving the offender.

12 (a) If the offender has an open child welfare case, the department
13 will provide the release of information waiver and request that the
14 children's administration or the tribal child welfare agency provide a
15 report to the court. The children's administration shall provide a
16 report within seven business days of the request that includes, at the
17 minimum, the following:

18 (i) Legal status of the child welfare case;

19 (ii) Length of time the children's administration has been involved
20 with the offender;

21 (iii) Legal status of the case and permanent plan;

22 (iv) Any special needs of the child;

23 (v) Whether or not the offender has been cooperative with services
24 ordered by a juvenile court under a child welfare case; and

25 (vi) If the offender has been convicted of a crime against a child.

26 (b) If a report is required from a tribal child welfare agency, the
27 department shall attempt to obtain information that is similar to what
28 is required for the report provided by the children's administration in
29 a timely manner.

30 (c) If the offender does not have an open child welfare case with
31 the children's administration or with a tribal child welfare agency but
32 has prior involvement, the department will obtain information from the
33 children's administration on the number and type of past substantiated
34 referrals of abuse or neglect and report that information to the court.
35 If the children's administration has never had any substantiated
36 referrals or an open case with the offender, the department will inform
37 the court.

1 (4) If the sentencing court determines that the offender is
2 eligible for a sentencing alternative under this section and that the
3 sentencing alternative is appropriate and should be imposed, the court
4 shall waive imposition of a sentence within the standard sentence range
5 and impose a sentence consisting of twelve months of community custody.
6 The court shall consider the offender's criminal history when
7 determining if the alternative is appropriate.

8 (5) When a court imposes a sentence of community custody under this
9 section:

10 (a) The court may impose conditions as provided in RCW 9.94A.703
11 and may impose other affirmative conditions as the court considers
12 appropriate.

13 (b) The department may impose conditions as authorized in RCW
14 9.94A.704 that may include, but are not limited to:

- 15 (i) Parenting classes;
- 16 (ii) Chemical dependency treatment;
- 17 (iii) Mental health treatment;
- 18 (iv) Vocational training;
- 19 (v) Offender change programs;
- 20 (vi) Life skills classes.

21 (c) The department shall report to the court if the offender
22 commits any violations of his or her sentence conditions.

23 (6) The department shall provide the court with quarterly progress
24 reports regarding the offender's progress in required programming,
25 treatment, and other supervision conditions. When an offender has an
26 open child welfare case, the department will seek to coordinate
27 services with the children's administration.

28 (7)(a) The court may bring any offender sentenced under this
29 section back into court at any time during the period of community
30 custody on its own initiative to evaluate the offender's progress in
31 treatment, or to determine if any violations of the conditions of the
32 sentence have occurred.

33 (b) If the offender is brought back to court, the court may modify
34 the conditions of community custody or impose sanctions under (c) of
35 this subsection.

36 (c) The court may order the offender to serve a term of total
37 confinement within the standard range of the offender's current offense

1 at any time during the period of community custody, if the offender
2 violates the conditions or requirements of the sentence or if the
3 offender is failing to make satisfactory progress in treatment.

4 (d) An offender ordered to serve a term of total confinement under
5 (c) of this subsection shall receive credit for any time previously
6 served in confinement under this section.

7 **Sec. 3.** RCW 9.94A.501 and 2009 c 376 s 2 are each amended to read
8 as follows:

9 (1) The department shall supervise every offender convicted of a
10 misdemeanor or gross misdemeanor offense who is sentenced to probation
11 in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for
12 an offense included in (a) and (b) of this subsection. The superior
13 court shall order probation for:

14 (a) Offenders convicted of fourth degree assault, violation of a
15 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,
16 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,
17 and who also have a prior conviction for one or more of the following:

- 18 (i) A violent offense;
- 19 (ii) A sex offense;
- 20 (iii) A crime against a person as provided in RCW 9.94A.411;
- 21 (iv) Fourth degree assault; or
- 22 (v) Violation of a domestic violence court order; and

23 (b) Offenders convicted of:

- 24 (i) Sexual misconduct with a minor second degree;
- 25 (ii) Custodial sexual misconduct second degree;
- 26 (iii) Communication with a minor for immoral purposes; and
- 27 (iv) Failure to register pursuant to RCW 9A.44.130.

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

31 (3) The department shall supervise every felony offender sentenced
32 to community custody whose risk assessment, conducted pursuant to
33 subsection (6) of this section, classifies the offender as one who is
34 at a high risk to reoffend.

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

1 (a) Has a current conviction for a sex offense or a serious violent
2 offense as defined in RCW 9.94A.030;

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

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

7 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, section 2 of this
8 act, or 9.94A.670; or

9 (e) Is subject to supervision pursuant to RCW 9.94A.745.

10 (5) The department is not authorized to, and may not, supervise any
11 offender sentenced to a term of community custody or any probationer
12 unless the offender or probationer is one for whom supervision is
13 required under subsection (1), (2), (3), or (4) of this section.

14 (6) The department shall conduct a risk assessment for every felony
15 offender sentenced to a term of community custody who may be subject to
16 supervision under this section.

17 **Sec. 4.** RCW 9.94A.505 and 2009 c 389 s 1 are each amended to read
18 as follows:

19 (1) When a person is convicted of a felony, the court shall impose
20 punishment as provided in this chapter.

21 (2)(a) The court shall impose a sentence as provided in the
22 following sections and as applicable in the case:

23 (i) Unless another term of confinement applies, a sentence within
24 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

25 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

26 (iii) RCW 9.94A.570, relating to persistent offenders;

27 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

28 (v) RCW 9.94A.650, relating to the first-time offender waiver;

29 (vi) RCW 9.94A.660, relating to the drug offender sentencing
30 alternative;

31 (vii) RCW 9.94A.670, relating to the special sex offender
32 sentencing alternative;

33 (viii) Section 2 of this act, relating to the parenting sentencing
34 alternative;

35 (ix) RCW 9.94A.507, relating to certain sex offenses;

36 (~~(ix)~~) (x) RCW 9.94A.535, relating to exceptional sentences;

1 (~~(x)~~) (xi) RCW 9.94A.589, relating to consecutive and concurrent
2 sentences;

3 (~~(xi)~~) (xii) RCW 9.94A.603, relating to felony driving while
4 under the influence of intoxicating liquor or any drug and felony
5 physical control of a vehicle while under the influence of intoxicating
6 liquor or any drug.

7 (b) If a standard sentence range has not been established for the
8 offender's crime, the court shall impose a determinate sentence which
9 may include not more than one year of confinement; community
10 restitution work; a term of community custody under RCW 9.94A.702 not
11 to exceed one year; and/or other legal financial obligations. The
12 court may impose a sentence which provides more than one year of
13 confinement and a community custody term under RCW 9.94A.701 if the
14 court finds reasons justifying an exceptional sentence as provided in
15 RCW 9.94A.535.

16 (3) If the court imposes a sentence requiring confinement of thirty
17 days or less, the court may, in its discretion, specify that the
18 sentence be served on consecutive or intermittent days. A sentence
19 requiring more than thirty days of confinement shall be served on
20 consecutive days. Local jail administrators may schedule court-ordered
21 intermittent sentences as space permits.

22 (4) If a sentence imposed includes payment of a legal financial
23 obligation, it shall be imposed as provided in RCW 9.94A.750,
24 9.94A.753, 9.94A.760, and 43.43.7541.

25 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
26 court may not impose a sentence providing for a term of confinement or
27 community custody that exceeds the statutory maximum for the crime as
28 provided in chapter 9A.20 RCW.

29 (6) The sentencing court shall give the offender credit for all
30 confinement time served before the sentencing if that confinement was
31 solely in regard to the offense for which the offender is being
32 sentenced.

33 (7) The court shall order restitution as provided in RCW 9.94A.750
34 and 9.94A.753.

35 (8) As a part of any sentence, the court may impose and enforce
36 crime-related prohibitions and affirmative conditions as provided in
37 this chapter.

1 (9) In any sentence of partial confinement, the court may require
2 the offender to serve the partial confinement in work release, in a
3 program of home detention, on work crew, or in a combined program of
4 work crew and home detention.

5 **Sec. 5.** RCW 9.94A.701 and 2009 c 375 s 5 are each amended to read
6 as follows:

7 (1) If an offender is sentenced to the custody of the department
8 for one of the following crimes, the court shall, in addition to the
9 other terms of the sentence, sentence the offender to community custody
10 for three years:

11 (a) A sex offense not sentenced under RCW 9.94A.507;

12 (b) A serious violent offense; or

13 (c) A violation of RCW 9A.44.130(11)(a) committed on or after June
14 7, 2006, when a court sentences the person to a term of confinement of
15 one year or less.

16 (2) A court shall, in addition to the other terms of the sentence,
17 sentence an offender to community custody for eighteen months when the
18 court sentences the person to the custody of the department for a
19 violent offense that is not considered a serious violent offense.

20 (3) A court shall, in addition to the other terms of the sentence,
21 sentence an offender to community custody for one year when the court
22 sentences the person to the custody of the department for:

23 (a) Any crime against persons under RCW 9.94A.411(2);

24 (b) An offense involving the unlawful possession of a firearm under
25 RCW 9.41.040, where the offender is a criminal street gang member or
26 associate; or

27 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed on
28 or after July 1, 2000.

29 (4) If an offender is sentenced under the drug offender sentencing
30 alternative, the court shall impose community custody as provided in
31 RCW 9.94A.660.

32 (5) If an offender is sentenced under the special ((~~sexual~~[sex]))
33 sex offender sentencing alternative, the court shall impose community
34 custody as provided in RCW 9.94A.670.

35 (6) If an offender is sentenced to a work ethic camp, the court
36 shall impose community custody as provided in RCW 9.94A.690.

1 (7) If an offender is sentenced under the parenting sentencing
2 alternative, the court shall impose a term of community custody as
3 provided in section 2 of this act.

4 (8) If a sex offender is sentenced as a nonpersistent offender
5 pursuant to RCW 9.94A.507, the court shall impose community custody as
6 provided in that section.

7 ~~((+8))~~ (9) The term of community custody specified by this section
8 shall be reduced by the court whenever an offender's standard range
9 term of confinement in combination with the term of community custody
10 exceeds the statutory maximum for the crime as provided in RCW
11 9A.20.021.

12 **Sec. 6.** RCW 9.94A.728 and 2009 c 455 s 2, 2009 c 441 s 1, and 2009
13 c 399 s 1 are each reenacted and amended to read as follows:

14 No person serving a sentence imposed pursuant to this chapter and
15 committed to the custody of the department shall leave the confines of
16 the correctional facility or be released prior to the expiration of the
17 sentence except as follows:

18 (1) An offender may earn early release time as authorized by RCW
19 9.94A.729;

20 (2) An offender may leave a correctional facility pursuant to an
21 authorized furlough or leave of absence. In addition, offenders may
22 leave a correctional facility when in the custody of a corrections
23 officer or officers;

24 (3)(a) The secretary may authorize an extraordinary medical
25 placement for an offender when all of the following conditions exist:

26 (i) The offender has a medical condition that is serious and is
27 expected to require costly care or treatment;

28 (ii) The offender poses a low risk to the community because he or
29 she is currently physically incapacitated due to age or the medical
30 condition or is expected to be so at the time of release; and

31 (iii) It is expected that granting the extraordinary medical
32 placement will result in a cost savings to the state.

33 (b) An offender sentenced to death or to life imprisonment without
34 the possibility of release or parole is not eligible for an
35 extraordinary medical placement.

36 (c) The secretary shall require electronic monitoring for all
37 offenders in extraordinary medical placement unless the electronic

1 monitoring equipment interferes with the function of the offender's
2 medical equipment or results in the loss of funding for the offender's
3 medical care, in which case, an alternative type of monitoring shall be
4 utilized. The secretary shall specify who shall provide the monitoring
5 services and the terms under which the monitoring shall be performed.

6 (d) The secretary may revoke an extraordinary medical placement
7 under this subsection at any time.

8 (e) Persistent offenders are not eligible for extraordinary medical
9 placement;

10 (4) The governor, upon recommendation from the clemency and pardons
11 board, may grant an extraordinary release for reasons of serious health
12 problems, senility, advanced age, extraordinary meritorious acts, or
13 other extraordinary circumstances;

14 (5) No more than the final six months of the offender's term of
15 confinement may be served in partial confinement designed to aid the
16 offender in finding work and reestablishing himself or herself in the
17 community or no more than the final twelve months of the offender's
18 term of confinement may be served in partial confinement as part of the
19 parenting program in section 8 of this act. This is in addition to
20 that period of earned early release time that may be exchanged for
21 partial confinement pursuant to RCW 9.94A.729(5)(d);

22 (6) The governor may pardon any offender;

23 (7) The department may release an offender from confinement any
24 time within ten days before a release date calculated under this
25 section;

26 (8) An offender may leave a correctional facility prior to
27 completion of his or her sentence if the sentence has been reduced as
28 provided in RCW 9.94A.870; and

29 (9) Notwithstanding any other provisions of this section, an
30 offender sentenced for a felony crime listed in RCW 9.94A.540 as
31 subject to a mandatory minimum sentence of total confinement shall not
32 be released from total confinement before the completion of the listed
33 mandatory minimum sentence for that felony crime of conviction unless
34 allowed under RCW 9.94A.540.

35 **Sec. 7.** RCW 9.94A.729 and 2009 c 455 s 3 are each amended to read
36 as follows:

37 (1)(a) The term of the sentence of an offender committed to a

1 correctional facility operated by the department may be reduced by
2 earned release time in accordance with procedures that shall be
3 developed and adopted by the correctional agency having jurisdiction in
4 which the offender is confined. The earned release time shall be for
5 good behavior and good performance, as determined by the correctional
6 agency having jurisdiction. The correctional agency shall not credit
7 the offender with earned release credits in advance of the offender
8 actually earning the credits.

9 (b) Any program established pursuant to this section shall allow
10 an offender to earn early release credits for presentence
11 incarceration. If an offender is transferred from a county jail to the
12 department, the administrator of a county jail facility shall certify
13 to the department the amount of time spent in custody at the facility
14 and the amount of earned release time. The department may approve a
15 jail certification from a correctional agency that calculates earned
16 release time based on the actual amount of confinement time served by
17 the offender before sentencing when an erroneous calculation of
18 confinement time served by the offender before sentencing appears on
19 the judgment and sentence.

20 (2) An offender who has been convicted of a felony committed after
21 July 23, 1995, that involves any applicable deadly weapon enhancements
22 under RCW 9.94A.533 (3) or (4), or both, shall not receive any good
23 time credits or earned release time for that portion of his or her
24 sentence that results from any deadly weapon enhancements.

25 (3) An offender may earn early release time as follows:

26 (a) In the case of an offender convicted of a serious violent
27 offense, or a sex offense that is a class A felony, committed on or
28 after July 1, 1990, and before July 1, 2003, the aggregate earned
29 release time may not exceed fifteen percent of the sentence.

30 (b) In the case of an offender convicted of a serious violent
31 offense, or a sex offense that is a class A felony, committed on or
32 after July 1, 2003, the aggregate earned release time may not exceed
33 ten percent of the sentence.

34 (c) An offender is qualified to earn up to fifty percent of
35 aggregate earned release time if he or she:

36 (i) Is not classified as an offender who is at a high risk to
37 reoffend as provided in subsection (4) of this section;

38 (ii) Is not confined pursuant to a sentence for:

1 (A) A sex offense;
2 (B) A violent offense;
3 (C) A crime against persons as defined in RCW 9.94A.411;
4 (D) A felony that is domestic violence as defined in RCW 10.99.020;
5 (E) A violation of RCW 9A.52.025 (residential burglary);
6 (F) A violation of, or an attempt, solicitation, or conspiracy to
7 violate, RCW 69.50.401 by manufacture or delivery or possession with
8 intent to deliver methamphetamine; or
9 (G) A violation of, or an attempt, solicitation, or conspiracy to
10 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
11 (iii) Has no prior conviction for the offenses listed in (c)(ii) of
12 this subsection;
13 (iv) Participates in programming or activities as directed by the
14 offender's individual reentry plan as provided under RCW 72.09.270 to
15 the extent that such programming or activities are made available by
16 the department; and
17 (v) Has not committed a new felony after July 22, 2007, while under
18 community custody.
19 (d) In no other case shall the aggregate earned release time exceed
20 one-third of the total sentence.
21 (4) The department shall perform a risk assessment of each offender
22 who may qualify for earned early release under subsection (3)(c) of
23 this section utilizing the risk assessment tool recommended by the
24 Washington state institute for public policy. Subsection (3)(c) of
25 this section does not apply to offenders convicted after July 1, 2010.
26 (5)(a) A person who is eligible for earned early release as
27 provided in this section and who is convicted of a sex offense, a
28 violent offense, any crime against persons under RCW 9.94A.411(2), or
29 a felony offense under chapter 69.50 or 69.52 RCW, shall be transferred
30 to community custody in lieu of earned release time;
31 (b) The department shall, as a part of its program for release to
32 the community in lieu of earned release, require the offender to
33 propose a release plan that includes an approved residence and living
34 arrangement. All offenders with community custody terms eligible for
35 release to community custody in lieu of earned release shall provide an
36 approved residence and living arrangement prior to release to the
37 community;

1 (c) The department may deny transfer to community custody in lieu
2 of earned release time if the department determines an offender's
3 release plan, including proposed residence location and living
4 arrangements, may violate the conditions of the sentence or conditions
5 of supervision, place the offender at risk to violate the conditions of
6 the sentence, place the offender at risk to reoffend, or present a risk
7 to victim safety or community safety. The department's authority under
8 this section is independent of any court-ordered condition of sentence
9 or statutory provision regarding conditions for community custody;

10 (d) If the department is unable to approve the offender's release
11 plan, the department may do one or more of the following:

12 (i) Transfer an offender to partial confinement in lieu of earned
13 early release for a period not to exceed three months. The three
14 months in partial confinement is in addition to that portion of the
15 offender's term of confinement that may be served in partial
16 confinement as provided in RCW 9.94A.728(5);

17 (ii) Provide rental vouchers to the offender for a period not to
18 exceed three months if rental assistance will result in an approved
19 release plan. The voucher must be provided in conjunction with
20 additional transition support programming or services that enable an
21 offender to participate in services including, but not limited to,
22 substance abuse treatment, mental health treatment, sex offender
23 treatment, educational programming, or employment programming;

24 (e) For each offender who is the recipient of a rental voucher, the
25 department shall include, concurrent with the data that the department
26 otherwise obtains and records, the housing status of the offender for
27 the duration of the offender's supervision.

28 (6) An offender serving a term of confinement imposed under RCW
29 9.94A.670(5)(a) is not eligible for earned release credits under this
30 section.

31 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A RCW
32 to read as follows:

33 For offenders not sentenced under section 2 of this act, but
34 otherwise eligible under this section, no more than the final twelve
35 months of the offender's term of confinement may be served in partial
36 confinement as home detention as part of the parenting program
37 developed by the department.

1 (1) The secretary may transfer an offender from a correctional
2 facility to home detention in the community if it is determined that
3 the parenting program is an appropriate placement and when all of the
4 following conditions exist:

5 (a) The offender is serving a sentence in which the high end of the
6 range is greater than one year;

7 (b) The offender has no current conviction for a felony that is a
8 sex offense or a violent offense;

9 (c) The offender has not been found by the United States attorney
10 general to be subject to a deportation detainer or order and does not
11 become subject to a deportation order during the period of the
12 sentence;

13 (d) The offender signs any release of information waivers required
14 to allow information regarding current or prior child welfare cases to
15 be shared with the department and the court;

16 (e) The offender:

17 (i) Has physical or legal custody of a minor child;

18 (ii) Has a proven, established, ongoing, and substantial
19 relationship with his or her minor child that existed prior to the
20 commission of the current offense; or

21 (iii) Is a legal guardian of a child that was under the age of
22 eighteen at the time of the current offense; and

23 (f) The department determines that such a placement is in the best
24 interests of the child.

25 (2) When the department is considering partial confinement as part
26 of the parenting program for an offender, the department shall inquire
27 of the individual and the children's administration with the Washington
28 state department of social and health services whether the agency has
29 an open child welfare case or prior substantiated referral for abuse or
30 neglect involving the offender. If the children's administration or a
31 tribal jurisdiction has an open child welfare case, the department will
32 seek input from the children's administration or the involved tribal
33 jurisdiction as to: (a) The status of the child welfare case; and (b)
34 recommendations regarding placement of the offender and services
35 required of the department and the court governing the individual's
36 child welfare case. The department and its officers, agents, and
37 employees are not liable for the acts of offenders participating in the

1 parenting program unless the department or its officers, agents, and
2 employees acted with willful and wanton disregard.

3 (3) All offenders placed on home detention as part of the parenting
4 program shall provide an approved residence and living arrangement
5 prior to transfer to home detention.

6 (4) While in the community on home detention as part of the
7 parenting program, the department shall:

8 (a) Require the offender to be placed on electronic home
9 monitoring;

10 (b) Require the offender to participate in programming and
11 treatment that the department determines is needed;

12 (c) Assign a community corrections officer who will monitor the
13 offender's compliance with conditions of partial confinement and
14 programming requirements; and

15 (d) If the offender has an open child welfare case with the
16 children's administration, collaborate and communicate with the
17 identified social worker in the provision of services.

18 (5) The department has the authority to return any offender serving
19 partial confinement in the parenting program to total confinement if
20 the offender is not complying with sentence requirements.

21 **Sec. 9.** RCW 9.94A.734 and 2007 c 199 s 9 are each amended to read
22 as follows:

23 (1) Home detention may not be imposed for offenders convicted of
24 the following offenses, unless imposed as partial confinement in the
25 department's parenting program under section 8 of this act:

26 (a) A violent offense;

27 (b) Any sex offense;

28 (c) Any drug offense;

29 (d) Reckless burning in the first or second degree as defined in
30 RCW 9A.48.040 or 9A.48.050;

31 (e) Assault in the third degree as defined in RCW 9A.36.031;

32 (f) Assault of a child in the third degree;

33 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

34 (h) Harassment as defined in RCW 9A.46.020.

35 Home detention may be imposed for offenders convicted of possession of
36 a controlled substance under RCW 69.50.4013 or forged prescription for
37 a controlled substance under RCW 69.50.403 if the offender fulfills the

1 participation conditions set forth in this section and is monitored for
2 drug use by a treatment alternatives to street crime program or a
3 comparable court or agency-referred program.

4 (2) Home detention may be imposed for offenders convicted of
5 burglary in the second degree as defined in RCW 9A.52.030 or
6 residential burglary conditioned upon the offender:

7 (a) Successfully completing twenty-one days in a work release
8 program;

9 (b) Having no convictions for burglary in the second degree or
10 residential burglary during the preceding two years and not more than
11 two prior convictions for burglary or residential burglary;

12 (c) Having no convictions for a violent felony offense during the
13 preceding two years and not more than two prior convictions for a
14 violent felony offense;

15 (d) Having no prior charges of escape; and

16 (e) Fulfilling the other conditions of the home detention program.

17 (3) Home detention may be imposed for offenders convicted of taking
18 a motor vehicle without permission in the second degree as defined in
19 RCW 9A.56.075, theft of a motor vehicle as defined under RCW 9A.56.065,
20 or possession of a stolen motor vehicle as defined under RCW 9A.56.068
21 conditioned upon the offender:

22 (a) Having no convictions for taking a motor vehicle without
23 permission, theft of a motor vehicle or possession of a stolen motor
24 vehicle during the preceding five years and not more than two prior
25 convictions for taking a motor vehicle without permission, theft of a
26 motor vehicle or possession of a stolen motor vehicle;

27 (b) Having no convictions for a violent felony offense during the
28 preceding two years and not more than two prior convictions for a
29 violent felony offense;

30 (c) Having no prior charges of escape; and

31 (d) Fulfilling the other conditions of the home detention program.

32 (4) Participation in a home detention program shall be conditioned
33 upon:

34 (a) The offender obtaining or maintaining current employment or
35 attending a regular course of school study at regularly defined hours,
36 or the offender performing parental duties to offspring or minors
37 normally in the custody of the offender;

38 (b) Abiding by the rules of the home detention program; and

1 (c) Compliance with court-ordered legal financial obligations. The
2 home detention program may also be made available to offenders whose
3 charges and convictions do not otherwise disqualify them if medical or
4 health-related conditions, concerns or treatment would be better
5 addressed under the home detention program, or where the health and
6 welfare of the offender, other inmates, or staff would be jeopardized
7 by the offender's incarceration. Participation in the home detention
8 program for medical or health-related reasons is conditioned on the
9 offender abiding by the rules of the home detention program and
10 complying with court-ordered restitution.

11 **Sec. 10.** RCW 9.94A.190 and 2009 c 28 s 5 are each amended to read
12 as follows:

13 (1) A sentence that includes a term or terms of confinement
14 totaling more than one year shall be served in a facility or
15 institution operated, or utilized under contract, by the state, or in
16 home detention pursuant to section 8 of this act. Except as provided
17 in subsection (3) or (5) of this section, a sentence of not more than
18 one year of confinement shall be served in a facility operated,
19 licensed, or utilized under contract, by the county, or if home
20 detention or work crew has been ordered by the court, in the residence
21 of either the offender or a member of the offender's immediate family.

22 (2) If a county uses a state partial confinement facility for the
23 partial confinement of a person sentenced to confinement for not more
24 than one year, the county shall reimburse the state for the use of the
25 facility as provided in this subsection. The office of financial
26 management shall set the rate of reimbursement based upon the average
27 per diem cost per offender in the facility. The office of financial
28 management shall determine to what extent, if any, reimbursement shall
29 be reduced or eliminated because of funds provided by the legislature
30 to the department for the purpose of covering the cost of county use of
31 state partial confinement facilities. The office of financial
32 management shall reestablish reimbursement rates each even-numbered
33 year.

34 (3) A person who is sentenced for a felony to a term of not more
35 than one year, and who is committed or returned to incarceration in a
36 state facility on another felony conviction, either under the
37 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter

1 shall serve all terms of confinement, including a sentence of not more
2 than one year, in a facility or institution operated, or utilized under
3 contract, by the state, consistent with the provisions of RCW
4 9.94A.589.

5 (4) Notwithstanding any other provision of this section, a sentence
6 imposed pursuant to RCW 9.94A.660 which has a standard sentence range
7 of over one year, regardless of length, shall be served in a facility
8 or institution operated, or utilized under contract, by the state.

9 (5) Sentences imposed pursuant to RCW 9.94A.507 shall be served in
10 a facility or institution operated, or utilized under contract, by the
11 state.

12 **Sec. 11.** RCW 9.94A.6332 and 2009 c 375 s 14 are each amended to
13 read as follows:

14 The procedure for imposing sanctions for violations of sentence
15 conditions or requirements is as follows:

16 (1) If the offender was sentenced under the drug offender
17 sentencing alternative, any sanctions shall be imposed by the
18 department or the court pursuant to RCW 9.94A.660.

19 (2) If the offender was sentenced under the special (~~sexual~~
20 ~~{sex}~~) sex offender sentencing alternative, any sanctions shall be
21 imposed by the department or the court pursuant to RCW 9.94A.670.

22 (3) If the offender was sentenced under the parenting sentencing
23 alternative, any sanctions shall be imposed by the department or by the
24 court pursuant to section 2 of this act.

25 (4) If a sex offender was sentenced pursuant to RCW 9.94A.507, any
26 sanctions shall be imposed by the board pursuant to RCW 9.95.435.

27 ((+4)) (5) In any other case, if the offender is being supervised
28 by the department, any sanctions shall be imposed by the department
29 pursuant to RCW 9.94A.737. If a probationer is being supervised by the
30 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon
31 receipt of a violation hearing report from the department, the court
32 retains any authority that those statutes provide to respond to a
33 probationer's violation of conditions.

34 ((+5)) (6) If the offender is not being supervised by the
35 department, any sanctions shall be imposed by the court pursuant to RCW
36 9.94A.6333.

1 **Sec. 12.** RCW 9.94A.633 and 2009 c 375 s 12 are each amended to
2 read as follows:

3 (1)(a) An offender who violates any condition or requirement of a
4 sentence may be sanctioned with up to sixty days' confinement for each
5 violation.

6 (b) In lieu of confinement, an offender may be sanctioned with work
7 release, home detention with electronic monitoring, work crew,
8 community restitution, inpatient treatment, daily reporting, curfew,
9 educational or counseling sessions, supervision enhanced through
10 electronic monitoring, or any other sanctions available in the
11 community.

12 (2) If an offender was under community custody pursuant to one of
13 the following statutes, the offender may be sanctioned as follows:

14 (a) If the offender was transferred to community custody in lieu of
15 earned early release in accordance with RCW 9.94A.728(2), the offender
16 may be transferred to a more restrictive confinement status to serve up
17 to the remaining portion of the sentence, less credit for any period
18 actually spent in community custody or in detention awaiting
19 disposition of an alleged violation.

20 (b) If the offender was sentenced under the drug offender
21 sentencing alternative set out in RCW 9.94A.660, the offender may be
22 sanctioned in accordance with that section.

23 (c) If the offender was sentenced under the parenting sentencing
24 alternative set out in section 2 of this act, the offender may be
25 sanctioned in accordance with that section.

26 (d) If the offender was sentenced under the special (~~sexual~~
27 ~~{sex}~~) sex offender sentencing alternative set out in RCW 9.94A.670,
28 the suspended sentence may be revoked and the offender committed to
29 serve the original sentence of confinement.

30 (~~(d)~~) (e) If the offender was sentenced to a work ethic camp
31 pursuant to RCW 9.94A.690, the offender may be reclassified to serve
32 the unexpired term of his or her sentence in total confinement.

33 (~~(e)~~) (f) If a sex offender was sentenced pursuant to RCW
34 9.94A.507, the offender may be transferred to a more restrictive
35 confinement status to serve up to the remaining portion of the
36 sentence, less credit for any period actually spent in community
37 custody or in detention awaiting disposition of an alleged violation.

1 (3) If a probationer is being supervised by the department pursuant
2 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be
3 sanctioned pursuant to subsection (1) of this section. The department
4 shall have authority to issue a warrant for the arrest of an offender
5 who violates a condition of community custody, as provided in RCW
6 9.94A.716. Any sanctions shall be imposed by the department pursuant
7 to RCW 9.94A.737. The department shall provide a copy of the violation
8 hearing report to the sentencing court in a timely manner. Nothing in
9 this subsection is intended to limit the power of the sentencing court
10 to respond to a probationer's violation of conditions.

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