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**SUBSTITUTE SENATE BILL 5790**

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**State of Washington**

**62nd Legislature**

**2011 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala, and Shin)

READ FIRST TIME 02/21/11.

1        AN ACT Relating to crime-related boards and commissions; amending  
2 RCW 9.95.003, 9.95.005, 9.95.007, 9.95.140, 9.95.280, 9.95.300,  
3 9.96.050, 71.05.385, 72.09.585, 9.94A.850, 9.94A.480, 9.94A.863,  
4 13.50.010, 9.94A.74501, 9.94A.855, 9.94A.870, 9.94A.875, 9A.52.025,  
5 10.98.140, 10.98.160, 72.09.350, and 72.66.016; reenacting and amending  
6 RCW 9.94A.030, 70.96A.350, and 43.15.020; adding a new section to  
7 chapter 43.280 RCW; adding a new section to chapter 9.94A RCW; creating  
8 a new section; decodifying RCW 4.24.5502; repealing RCW 13.40.005,  
9 9.94A.860, 9.94A.8671, 9.94A.8672, 9.94A.8673, 9.94A.8674, 9.94A.8675,  
10 9.94A.8676, 9.94A.8677, and 9.94A.8678; providing an effective date;  
11 and declaring an emergency.

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

13        NEW SECTION. **Sec. 1.** A new section is added to chapter 43.280 RCW  
14 to read as follows:

15        (1) The office of crime victims advocacy shall establish, staff,  
16 and maintain a sex offender policy board. In addition to the office of  
17 crime victims advocacy, the board shall consist of members as set forth  
18 in this subsection. Unless the member is specifically named in this

1 section, the following organizations shall designate a person to sit on  
2 the board:

3 (a) The Washington association of sheriffs and police chiefs;  
4 (b) The Washington association of prosecuting attorneys;  
5 (c) The Washington association of criminal defense lawyers;  
6 (d) The chair of the indeterminate sentence review board or his or  
7 her designee;

8 (e) The Washington association for the treatment of sex abusers;  
9 (f) The secretary of the department of corrections or his or her  
10 designee;

11 (g) The Washington state superior court judges' association;  
12 (h) The assistant secretary of the juvenile rehabilitation  
13 administration or his or her designee;

14 (i) The Washington association of sexual assault programs;  
15 (j) The director of the special commitment center or his or her  
16 designee;

17 (k) A representative of the criminal justice division in the  
18 attorney general's office; and

19 (1) The Washington state association of counties.  
20 (2) The board shall choose its chair by majority vote from its  
21 members. The chair's term shall be two years.

22 (3) The Washington institute for public policy shall act as an  
23 advisor to the board.

24 (4) The board shall meet at least quarterly, or more frequently  
25 when relevant issues arise. To the extent practicable, board decisions  
26 are by consensus.

27 (5) The board's duties shall consist of:

28 (a) Responding to requests from the governor or the legislature to  
29 undertake projects to assist policymakers in making informed judgments  
30 about issues relating to sex offender policy. The board shall decide  
31 which requests can be acted upon within appropriated resources;

32 (b) Conducting case reviews of sex offense incidents as requested  
33 by the governor or members of the legislature to understand performance  
34 of Washington's sex offender prevention and response systems; and

35 (c) Responding to legislative mandates to review specific issues  
36 related to sex offender management in the state.

37 (6) The board shall report by December 1st of each year to the  
38 governor and the legislature with:

1 (a) A staff review of new research and evidence-based practices  
2 relating to the risk assessment, treatment, and monitoring of sex  
3 offenders in the community;

4 (b) A reporting of the board's activities as directed in subsection  
5 (5) of this section, including relevant background, policy options  
6 discussed, and the pros and cons of those various options; and

7 (c) Recommendations formulated by the board as well as any relevant  
8 minority reports.

9 (7) Members of the board shall receive no compensation for their  
10 services as members of the board, but may be reimbursed for travel and  
11 other expenses in accordance with state law.

12 **Sec. 2.** RCW 9.95.003 and 2007 c 362 s 1 are each amended to read  
13 as follows:

14 (1) The board is created within the department. The board shall  
15 consist of a (~~chairman~~) chair and four other members, each of whom  
16 shall be appointed by the governor with the consent of the senate.  
17 Each member shall hold office for a term of five years, and until his  
18 or her successor is appointed and qualified. The terms shall expire on  
19 April 15th of the expiration year. Vacancies in the membership of the  
20 board shall be filled by appointment by the governor with the consent  
21 of the senate. In the event of the inability of any member to act, the  
22 governor shall appoint some competent person to act in his stead during  
23 the continuance of such inability. The members shall not be removable  
24 during their respective terms except for cause determined by the  
25 superior court of Thurston county. The governor in appointing the  
26 members shall designate one of them to serve as (~~chairman~~) chair at  
27 the governor's pleasure. The appointed (~~chairman~~) chair shall serve  
28 as a fully participating board member (~~and as the director of the~~  
29 ~~agency~~)).

30 (2) The department shall provide administrative and staff support  
31 for the board. The secretary may employ a senior administrative  
32 officer and such other personnel as may be necessary to assist the  
33 board in carrying out its duties.

34 (3) The members of the board and (~~its officers and employees~~)  
35 staff assigned to the board shall not engage in any other business or  
36 profession or hold any other public office without the prior approval  
37 of the executive ethics board indicating compliance with RCW 42.52.020,

1 42.52.030, 42.52.040 and 42.52.120; nor shall they, at the time of  
2 appointment or employment or during their incumbency, serve as the  
3 representative of any political party on an executive committee or  
4 other governing body thereof, or as an executive officer or employee of  
5 any political committee or association. The members of the board shall  
6 each severally receive salaries fixed by the governor in accordance  
7 with the provisions of RCW 43.03.040, and in addition shall receive  
8 travel expenses incurred in the discharge of their official duties in  
9 accordance with RCW 43.03.050 and 43.03.060.

10 ~~((The board may employ, and fix, with the approval of the governor,  
11 the compensation of and prescribe the duties of a senior administrative  
12 officer and such officers, employees, and assistants as may be  
13 necessary, and provide necessary quarters, supplies, and equipment.))~~

14 NEW SECTION. **Sec. 3.** (1) The indeterminate sentence review board  
15 is transferred to the department of corrections.

16 (2)(a) All reports, documents, surveys, books, records, files,  
17 papers, or written materials in the possession of the indeterminate  
18 sentence review board shall be delivered to the custody of the  
19 department of corrections. All cabinets, furniture, office equipment,  
20 motor vehicles, and other tangible property employed by the  
21 indeterminate sentence review board shall be made available to the  
22 department of corrections. All funds, credits, or other assets held by  
23 the indeterminate sentence review board shall be assigned to the  
24 department of corrections.

25 (b) Any appropriations made to the indeterminate sentence review  
26 board shall, on the effective date of this section, be transferred and  
27 credited to the department of corrections.

28 (c) If any question arises as to the transfer of any personnel,  
29 funds, books, documents, records, papers, files, equipment, or other  
30 tangible property used or held in the exercise of the powers and the  
31 performance of the duties and functions transferred, the director of  
32 financial management shall make a determination as to the proper  
33 allocation and certify the same to the state agencies concerned.

34 (3) All employees of the indeterminate sentence review board are  
35 transferred to the jurisdiction of the department of corrections. All  
36 employees classified under chapter 41.06 RCW, the state civil service  
37 law, are assigned to the department of corrections to perform their

1 usual duties upon the same terms as formerly, without any loss of  
2 rights, subject to any action that may be appropriate thereafter in  
3 accordance with the laws and rules governing state civil service.

4 (4) All rules and all pending business before the indeterminate  
5 sentence review board shall be continued and acted upon by the  
6 department of corrections. All existing contracts and obligations  
7 shall remain in full force and shall be performed by the department of  
8 corrections.

9 (5) The transfer of the powers, duties, functions, and personnel of  
10 the indeterminate sentence review board shall not affect the validity  
11 of any act performed before the effective date of this section.

12 (6) If apportionments of budgeted funds are required because of the  
13 transfers directed by this section, the director of financial  
14 management shall certify the apportionments to the agencies affected,  
15 the state auditor, and the state treasurer. Each of these shall make  
16 the appropriate transfer and adjustments in funds and appropriation  
17 accounts and equipment records in accordance with the certification.

18 (7) All classified employees of the indeterminate sentence review  
19 board assigned to the department of corrections under this act whose  
20 positions are within an existing bargaining unit description at the  
21 department of corrections shall become a part of the existing  
22 bargaining unit at the department of corrections and shall be  
23 considered an appropriate inclusion or modification of the existing  
24 bargaining unit under the provisions of chapter 41.80 RCW.

25 (8) Notwithstanding any provision of this act and despite the  
26 transfer of the indeterminate sentence review board to the department  
27 of corrections, the members of the indeterminate sentence review board  
28 will possess and shall exercise independent judgment when making any  
29 decisions concerning offenders. These decisions include, but are not  
30 limited to, decisions concerning offenders' release, revocation,  
31 reinstatement, or the imposition of conditions of supervision.

32 **Sec. 4.** RCW 9.95.005 and 2001 2nd sp.s. c 12 s 318 are each  
33 amended to read as follows:

34 The board shall meet at major state correctional institutions at  
35 such times as may be necessary for a full and complete study of the  
36 cases of all convicted persons whose durations of confinement are to be

1 determined by it; whose community custody supervision is under the  
2 board's authority; or whose applications for parole come before it.  
3 Other times and places of meetings may also be fixed by the board.

4 The superintendents of the different institutions shall provide  
5 suitable quarters for the board (~~((and—assistants))~~) while in the  
6 discharge of their duties.

7 **Sec. 5.** RCW 9.95.007 and 1986 c 224 s 5 are each amended to read  
8 as follows:

9 The board may meet and transact business in panels. Each board  
10 panel shall consist of at least two members of the board. In all  
11 matters concerning the internal affairs of the board and policy-making  
12 decisions, a majority of the full board must concur in such matters.  
13 The (~~((chairman))~~) chair of the board with the consent of a majority of  
14 the board may designate any two members to exercise all the powers and  
15 duties of the board in connection with any hearing before the board.  
16 If the two members so designated cannot unanimously agree as to the  
17 disposition of the hearing assigned to them, such hearing shall be  
18 reheard by the full board. All actions of the full board shall be by  
19 concurrence of a majority of the sitting board members.

20 **Sec. 6.** RCW 9.95.140 and 2009 c 28 s 29 are each amended to read  
21 as follows:

22 (1) The board shall cause a complete record to be kept of every  
23 prisoner under the jurisdiction of the board released on parole or  
24 community custody. Such records shall be organized in accordance with  
25 the most modern methods of filing and indexing so that there will be  
26 always immediately available complete information about each such  
27 prisoner. Subject to information sharing provisions related to  
28 (~~((mentally ill))~~) offenders(~~((7))~~) with mental illness and the end of  
29 sentence review committee, (~~((and the department of corrections,7))~~) the  
30 board may make rules as to the privacy of such records and their use by  
31 others than the board and (~~((its))~~) the department staff assigned to  
32 perform board-related duties. Sex offenders convicted of crimes  
33 committed before July 1, 1984, who are under the board's jurisdiction  
34 shall be subject to the determinations of the end of sentence review  
35 committee regarding risk level and subject to sex offender registration  
36 and community notification. The board and the department staff

1 assigned to perform board-related duties shall be immune from liability  
2 for the release of information concerning sex offenders as provided in  
3 RCW 4.24.550.

4 The superintendents of state correctional facilities and all  
5 officers and employees thereof and all other public officials shall at  
6 all times cooperate with the board and furnish to the board(~~(, its~~  
7 ~~officers, and employees)) and staff assigned to perform board-related  
8 duties such information as may be necessary to enable it to perform its  
9 functions, and such superintendents and other employees shall at all  
10 times give the members of the board(~~(, its officers, and employees))  
11 and staff assigned to perform board-related duties free access to all  
12 prisoners confined in the state correctional facilities.~~~~

13 (2) Offenders sentenced under RCW 9.94A.507 shall be subject to the  
14 determinations of the end of sentence review committee regarding risk  
15 level and subject to sex offender registration and community  
16 notification.

17 (3) The end of sentence review committee shall make law enforcement  
18 notifications for offenders under board jurisdiction on the same basis  
19 that it notifies law enforcement regarding offenders sentenced under  
20 chapter 9.94A RCW for crimes committed after July 1, 1984.

21 **Sec. 7.** RCW 9.95.280 and 2001 2nd sp.s. c 12 s 344 are each  
22 amended to read as follows:

23 The secretary, upon recommendation by the board, may deputize any  
24 person (regularly employed by another state) to act as an officer and  
25 agent of this state in effecting the return of any person convicted of  
26 a crime committed before July 1, 1984, who has violated the terms and  
27 conditions of parole or probation as granted by this state. In any  
28 matter relating to the return of such a person, any agent so deputized  
29 shall have all the powers of a police officer of this state.

30 **Sec. 8.** RCW 9.95.300 and 2001 2nd sp.s. c 12 s 346 are each  
31 amended to read as follows:

32 The secretary, upon recommendation by the board, may enter into  
33 contracts with similar officials of any other state or states for the  
34 purpose of sharing an equitable portion of the cost of effecting the  
35 return of any person who has violated the terms and conditions of  
36 parole, probation, or community custody as granted by this state.

1       **Sec. 9.** RCW 9.96.050 and 2009 c 325 s 4 are each amended to read  
2 as follows:

3       (1)(a) When an offender on parole has performed all obligations of  
4 his or her release, including any and all legal financial obligations,  
5 for such time as shall satisfy the indeterminate sentence review board  
6 that his or her final release is not incompatible with the best  
7 interests of society and the welfare of the paroled individual, the  
8 board may make a final order of discharge and issue a certificate of  
9 discharge to the offender.

10       (b) The board retains the jurisdiction to issue a certificate of  
11 discharge after the expiration of the offender's or parolee's maximum  
12 statutory sentence. If not earlier granted and any and all legal  
13 financial obligations have been paid, the board shall issue a final  
14 order of discharge three years from the date of parole unless the  
15 parolee is on suspended or revoked status at the expiration of the  
16 three years.

17       (c) The discharge, regardless of when issued, shall have the effect  
18 of restoring all civil rights not already restored by RCW 29A.08.520,  
19 and the certification of discharge shall so state.

20       (d) This restoration of civil rights shall not restore the right to  
21 receive, possess, own, or transport firearms.

22       (e) The board shall issue a certificate of discharge to the  
23 offender in person or by mail to the offender's last known address.

24       (2) (~~The board shall send to the department of corrections~~) A  
25 copy of every signed certificate of discharge for offender sentences  
26 under the authority of the department of corrections shall be placed in  
27 the department's files.

28       (3) The discharge provided for in this section shall be considered  
29 as a part of the sentence of the convicted person and shall not in any  
30 manner be construed as affecting the powers of the governor to pardon  
31 any such person.

32       **Sec. 10.** RCW 71.05.385 and 2009 c 320 s 2 are each amended to read  
33 as follows:

34       (1) A mental health service provider shall release to the persons  
35 authorized under subsection (2) of this section, upon request:

36       (a) The fact, place, and date of an involuntary commitment, the

1 fact and date of discharge or release, and the last known address of a  
2 person who has been committed under this chapter.

3 (b) Information related to mental health services, in the format  
4 determined under subsection (9) of this section, concerning a person  
5 who:

6 (i) Is currently committed to the custody or supervision of the  
7 department of corrections or the indeterminate sentence review board  
8 under chapter 9.94A or 9.95 RCW;

9 (ii) Has been convicted or found not guilty by reason of insanity  
10 of a serious violent offense; or

11 (iii) Was charged with a serious violent offense and such charges  
12 were dismissed under RCW 10.77.086.

13 Legal counsel may release such information to the persons  
14 authorized under subsection (2) of this section on behalf of the mental  
15 health service provider, provided that nothing in this subsection shall  
16 require the disclosure of attorney work product or attorney-client  
17 privileged information.

18 (2) The information subject to release under subsection (1) of this  
19 section shall be released to law enforcement officers, personnel of a  
20 county or city jail, designated mental health professionals, public  
21 health officers, therapeutic court personnel, or personnel of the  
22 department of corrections, (~~or personnel of~~) including the  
23 indeterminate sentence review board and personnel assigned to perform  
24 board-related duties, when such information is requested during the  
25 course of business and for the purpose of carrying out the  
26 responsibilities of the requesting person's office. No mental health  
27 service provider or person employed by a mental health service  
28 provider, or its legal counsel, shall be liable for information  
29 released to or used under the provisions of this section or rules  
30 adopted under this section except under RCW 71.05.440.

31 (3) A person who requests information under subsection (1)(b) of  
32 this section must comply with the following restrictions:

33 (a) Information must be requested only for the purposes permitted  
34 by this subsection and for the purpose of carrying out the  
35 responsibilities of the requesting person's office. Appropriate  
36 purposes for requesting information under this section include:

37 (i) Completing presentence investigations or risk assessment  
38 reports;

1 (ii) Assessing a person's risk to the community;  
2 (iii) Assessing a person's risk of harm to self or others when  
3 confined in a city or county jail;  
4 (iv) Planning for and provision of supervision of an offender,  
5 including decisions related to sanctions for violations of conditions  
6 of community supervision; and  
7 (v) Responding to an offender's failure to report for department of  
8 corrections supervision.

9 (b) Information shall not be requested under this section unless  
10 the requesting person has reasonable suspicion that the individual who  
11 is the subject of the information:

12 (i) Has engaged in activity indicating that a crime or a violation  
13 of community custody or parole has been committed or, based upon his or  
14 her current or recent past behavior, is likely to be committed in the  
15 near future; or

16 (ii) Is exhibiting signs of a deterioration in mental functioning  
17 which may make the individual appropriate for civil commitment under  
18 this chapter.

19 (c) Any information received under this section shall be held  
20 confidential and subject to the limitations on disclosure outlined in  
21 this chapter, except:

22 (i) Such information may be shared with other persons who have the  
23 right to request similar information under subsection (2) of this  
24 section, solely for the purpose of coordinating activities related to  
25 the individual who is the subject of the information in a manner  
26 consistent with the official responsibilities of the persons involved;

27 (ii) Such information may be shared with a prosecuting attorney  
28 acting in an advisory capacity for a person who receives information  
29 under this section. A prosecuting attorney under this subsection shall  
30 be subject to the same restrictions and confidentiality limitations as  
31 the person who requested the information; and

32 (iii) As provided in RCW 72.09.585.

33 (4) A request for information related to mental health services  
34 under this section shall not require the consent of the subject of the  
35 records. Such request shall be provided in writing, except to the  
36 extent authorized in subsection (5) of this section. A written request  
37 may include requests made by e-mail or facsimile so long as the

1 requesting person is clearly identified. The request must specify the  
2 information being requested.

3 (5) In the event of an emergency situation that poses a significant  
4 risk to the public or the offender, a mental health service provider,  
5 or its legal counsel, shall release information related to mental  
6 health services delivered to the offender and, if known, information  
7 regarding where the offender is likely to be found to the department of  
8 corrections or law enforcement upon request. The initial request may  
9 be written or oral. All oral requests must be subsequently confirmed  
10 in writing. Information released in response to an oral request is  
11 limited to a statement as to whether the offender is or is not being  
12 treated by the mental health service provider and the address or  
13 information about the location or whereabouts of the offender.

14 (6) Disclosure under this section to state or local law enforcement  
15 authorities is mandatory for the purposes of the health insurance  
16 portability and accountability act.

17 (7) Whenever federal law or federal regulations restrict the  
18 release of information contained in the treatment records of any  
19 patient who receives treatment for alcoholism or drug dependency, the  
20 release of the information may be restricted as necessary to comply  
21 with federal law and regulations.

22 (8) This section does not modify the terms and conditions of  
23 disclosure of information related to sexually transmitted diseases  
24 under chapter 70.24 RCW.

25 (9) In collaboration with interested organizations, the department  
26 shall develop a standard form for requests for information related to  
27 mental health services made under this section and a standard format  
28 for information provided in response to such requests. Consistent with  
29 the goals of the health information privacy provisions of the federal  
30 health insurance portability and accountability act, in developing the  
31 standard form for responsive information, the department shall design  
32 the form in such a way that the information disclosed is limited to the  
33 minimum necessary to serve the purpose for which the information is  
34 requested.

35 **Sec. 11.** RCW 72.09.585 and 2004 c 166 s 5 are each amended to read  
36 as follows:

37 (1) When the department is determining an offender's risk

1 management level, the department shall inquire of the offender and  
2 shall be told whether the offender is subject to court-ordered  
3 treatment for mental health services or chemical dependency services.  
4 The department shall request and the offender shall provide an  
5 authorization to release information form that meets applicable state  
6 and federal requirements and shall provide the offender with written  
7 notice that the department will request the offender's mental health  
8 and substance abuse treatment information. An offender's failure to  
9 inform the department of court-ordered treatment is a violation of the  
10 conditions of supervision if the offender is in the community and an  
11 infraction if the offender is in confinement, and the violation or  
12 infraction is subject to sanctions.

13 (2) When an offender discloses that he or she is subject to court-  
14 ordered mental health services or chemical dependency treatment, the  
15 department shall provide the mental health services provider or  
16 chemical dependency treatment provider with a written request for  
17 information and any necessary authorization to release information  
18 forms. The written request shall comply with rules adopted by the  
19 department of social and health services or protocols developed jointly  
20 by the department and the department of social and health services. A  
21 single request shall be valid for the duration of the offender's  
22 supervision in the community. Disclosures of information related to  
23 mental health services made pursuant to a department request shall not  
24 require consent of the offender.

25 (3) The information received by the department under RCW 71.05.445  
26 or (~~(71.34.225)~~) 71.34.345 may be released to the indeterminate  
27 sentence review board as relevant to carry out its responsibility of  
28 planning and ensuring community protection with respect to persons  
29 under its jurisdiction. Further disclosure by the indeterminate  
30 sentence review board is subject to the limitations set forth in  
31 subsections (5) and (6) of this section and must be consistent with the  
32 written policy of the indeterminate sentence review board. The  
33 decision to disclose or not shall not result in civil liability for the  
34 indeterminate sentence review board or (~~(its employees)~~) staff assigned  
35 to perform board-related duties provided that the decision was reached  
36 in good faith and without gross negligence.

37 (4) The information received by the department under RCW 71.05.445  
38 or (~~(71.34.225)~~) 71.34.345 may be used to meet the statutory duties of

1 the department to provide evidence or report to the court. Disclosure  
2 to the public of information provided to the court by the department  
3 related to mental health services shall be limited in accordance with  
4 RCW 9.94A.500 or this section.

5 (5) The information received by the department under RCW 71.05.445  
6 or (~~(71.34.225)~~) 71.34.345 may be disclosed by the department to other  
7 state and local agencies as relevant to plan for and provide offenders  
8 transition, treatment, and supervision services, or as relevant and  
9 necessary to protect the public and counteract the danger created by a  
10 particular offender, and in a manner consistent with the written policy  
11 established by the secretary. The decision to disclose or not shall  
12 not result in civil liability for the department or its employees so  
13 long as the decision was reached in good faith and without gross  
14 negligence. The information received by a state or local agency from  
15 the department shall remain confidential and subject to the limitations  
16 on disclosure set forth in chapters 70.02, 71.05, and 71.34 RCW and,  
17 subject to these limitations, may be released only as relevant and  
18 necessary to counteract the danger created by a particular offender.

19 (6) The information received by the department under RCW 71.05.445  
20 or (~~(71.34.225)~~) 71.34.345 may be disclosed by the department to  
21 individuals only with respect to offenders who have been determined by  
22 the department to have a high risk of reoffending by a risk assessment,  
23 as defined in RCW 9.94A.030, only as relevant and necessary for those  
24 individuals to take reasonable steps for the purpose of self-  
25 protection, or as provided in RCW 72.09.370(2). The information may  
26 not be disclosed for the purpose of engaging the public in a system of  
27 supervision, monitoring, and reporting offender behavior to the  
28 department. The department must limit the disclosure of information  
29 related to mental health services to the public to descriptions of an  
30 offender's behavior, risk he or she may present to the community, and  
31 need for mental health treatment, including medications, and shall not  
32 disclose or release to the public copies of treatment documents or  
33 records, except as otherwise provided by law. All disclosure of  
34 information to the public must be done in a manner consistent with the  
35 written policy established by the secretary. The decision to disclose  
36 or not shall not result in civil liability for the department or its  
37 employees so long as the decision was reached in good faith and without

1 gross negligence. Nothing in this subsection prevents any person from  
2 reporting to law enforcement or the department behavior that he or she  
3 believes creates a public safety risk.

4 NEW SECTION. **Sec. 12.** RCW 4.24.5502 is decodified.

5 NEW SECTION. **Sec. 13.** The following acts or parts of acts are  
6 each repealed:

7 (1) RCW 13.40.005 (Juvenile disposition standards commission--  
8 Abolished--References to commission--Transfer of powers, duties, and  
9 functions) and 1995 c 269 s 301;

10 (2) RCW 9.94A.860 (Sentencing guidelines commission--Membership--  
11 Appointments--Terms of office--Expenses and compensation) and 2001 2nd  
12 sp.s. c 12 s 311, 1996 c 232 s 3, 1993 c 11 s 1, 1988 c 157 s 2, 1984  
13 c 287 s 10, & 1981 c 137 s 6;

14 (3) RCW 9.94A.8671 (Sex offender policy board--Findings--Intent)  
15 and 2008 c 249 s 1;

16 (4) RCW 9.94A.8672 (Sex offender policy board--Establishment) and  
17 2008 c 249 s 2;

18 (5) RCW 9.94A.8673 (Sex offender policy board--Membership) and 2008  
19 c 249 s 3;

20 (6) RCW 9.94A.8674 (Sex offender policy board--Terms--Vacancies)  
21 and 2008 c 249 s 4;

22 (7) RCW 9.94A.8675 (Sex offender policy board--Authority) and 2008  
23 c 249 s 5;

24 (8) RCW 9.94A.8676 (Sex offender policy board--Duties) and 2008 c  
25 249 s 6;

26 (9) RCW 9.94A.8677 (Sex offender policy board--Travel expenses) and  
27 2008 c 249 s 7; and

28 (10) RCW 9.94A.8678 (Sex offender policy board--Meeting  
29 attendance--Member replacement) and 2008 c 249 s 8.

30 **Sec. 14.** RCW 9.94A.850 and 2009 c 375 s 8 are each amended to read  
31 as follows:

32 (1) At such times as the governor or the legislature may request  
33 and within amounts appropriated, the governor may convene a sentencing  
34 guidelines commission ((is)), established ((as an agency of state  
35 government.

1       ~~(2) The legislature finds that the commission, having accomplished~~  
2 ~~its original statutory directive to implement this chapter, and having~~  
3 ~~expertise in sentencing practice and policies, shall)) within the~~  
4 ~~office of financial management to:~~

5       (a) Evaluate state sentencing policy, to include whether the  
6 sentencing ranges and standards are consistent with and further:

7       (i) The purposes of this chapter as defined in RCW 9.94A.010; and

8       (ii) The intent of the legislature to emphasize confinement for the  
9 violent offender and alternatives to confinement for the nonviolent  
10 offender.

11       ~~((The commission shall provide the governor and the legislature~~  
12 ~~with its evaluation and recommendations under this subsection not later~~  
13 ~~than December 1, 1996, and every two years thereafter;))~~

14       (b) Recommend to the legislature revisions or modifications to the  
15 standard sentence ranges, state sentencing policy, prosecuting  
16 standards, and other standards. ~~((If implementation of the revisions~~  
17 ~~or modifications would result in exceeding the capacity of correctional~~  
18 ~~facilities, then the commission shall accompany its recommendation with~~  
19 ~~an additional list of standard sentence ranges which are consistent~~  
20 ~~with correction capacity;))~~

21       (c) ~~((Study the existing criminal code and from time to time make~~  
22 ~~recommendations to the legislature for modification;~~

23       ~~(d)(i) Serve as a clearinghouse and information center for the~~  
24 ~~collection, preparation, analysis, and dissemination of information on~~  
25 ~~state and local adult and juvenile sentencing practices; (ii) develop~~  
26 ~~and maintain a computerized adult and juvenile sentencing information~~  
27 ~~system by individual superior court judge consisting of offender,~~  
28 ~~offense, history, and sentence information entered from judgment and~~  
29 ~~sentence forms for all adult felons; and (iii) conduct ongoing research~~  
30 ~~regarding adult and juvenile sentencing guidelines, use of total~~  
31 ~~confinement and alternatives to total confinement, plea bargaining, and~~  
32 ~~other matters relating to the improvement of the adult criminal justice~~  
33 ~~system and the juvenile justice system;~~

34       ~~(e) Assume the powers and duties of the juvenile disposition~~  
35 ~~standards commission after June 30, 1996;~~

36       ~~(f)) Evaluate the effectiveness of existing disposition standards~~  
37 ~~and related statutes in implementing policies set forth in RCW~~  
38 ~~13.40.010 ((generally, specifically review the guidelines relating to~~

1 the confinement of minor and first-time offenders as well as the use of  
2 diversion, and review the application of current and proposed juvenile  
3 sentencing standards and guidelines for potential adverse impacts on  
4 the sentencing outcomes of racial and ethnic minority youth;

5 (g) Solicit the comments and suggestions of the juvenile justice  
6 community concerning disposition standards, and make recommendations to  
7 the legislature regarding revisions or modifications of the standards.  
8 The evaluations shall be submitted to the legislature on December 1 of  
9 each odd-numbered year. The department of social and health services  
10 shall provide the commission with available data concerning the  
11 implementation of the disposition standards and related statutes and  
12 their effect on the performance of the department's responsibilities  
13 relating to juvenile offenders, and with recommendations for  
14 modification of the disposition standards. The administrative office  
15 of the courts shall provide the commission with available data on  
16 diversion, including the use of youth court programs, and dispositions  
17 of juvenile offenders under chapter 13.40 RCW; and

18 (h) Not later than December 1, 1997, and at least every two years  
19 thereafter, based on available information, report to the governor and  
20 the legislature on:

21 (i) Racial disproportionality in juvenile and adult sentencing,  
22 and, if available, the impact that diversions, such as youth courts,  
23 have on racial disproportionality in juvenile prosecution,  
24 adjudication, and sentencing;

25 (ii) The capacity of state and local juvenile and adult facilities  
26 and resources; and

27 (iii) Recidivism information on adult and juvenile offenders.

28 (3) Each of the commission's recommended standard sentence ranges  
29 shall include one or more of the following: Total confinement, partial  
30 confinement, community supervision, community restitution, and a fine.

31 (4) The standard sentence ranges of total and partial confinement  
32 under this chapter, except as provided in RCW 9.94A.517, are subject to  
33 the following limitations:

34 (a) If the maximum term in the range is one year or less, the  
35 minimum term in the range shall be no less than one-third of the  
36 maximum term in the range, except that if the maximum term in the range  
37 is ninety days or less, the minimum term may be less than one-third of  
38 the maximum;

1 ~~(b) If the maximum term in the range is greater than one year, the~~  
2 ~~minimum term in the range shall be no less than seventy-five percent of~~  
3 ~~the maximum term in the range, except that for murder in the second~~  
4 ~~degree in seriousness level XIV under RCW 9.94A.510, the minimum term~~  
5 ~~in the range shall be no less than fifty percent of the maximum term in~~  
6 ~~the range; and~~

7 ~~(c) The maximum term of confinement in a range may not exceed the~~  
8 ~~statutory maximum for the crime as provided in RCW 9A.20.021.~~

9 ~~(5) The commission shall exercise its duties under this section in~~  
10 ~~conformity with chapter 34.05 RCW)).~~

11 (2) The commission shall consist of twenty voting members appointed  
12 by the governor, one of whom the governor shall designate as chair.

13 (3) The voting membership consists of the following:

14 (a) The head of the state agency having general responsibility for  
15 adult correction programs, as an ex officio member;

16 (b) The director of financial management or designee, as an ex  
17 officio member;

18 (c) The chair of the indeterminate sentence review board, as an ex  
19 officio member;

20 (d) The head of the state agency, or the agency head's designee,  
21 having responsibility for juvenile corrections programs, as an ex  
22 officio member;

23 (e) Two prosecuting attorneys;

24 (f) Two attorneys with particular expertise in defense work;

25 (g) Four persons who are superior court judges;

26 (h) One person who is the chief law enforcement officer of a county  
27 or city;

28 (i) Four members of the public who are not prosecutors, defense  
29 attorneys, judges, or law enforcement officers, one of whom is a victim  
30 of crime or a crime victims' advocate;

31 (j) One person who is an elected official of a county government,  
32 other than a prosecuting attorney or sheriff;

33 (k) One person who is an elected official of a city government;

34 (l) One person who is an administrator of juvenile court services.

35 In making the appointments, the governor shall endeavor to assure  
36 that the commission membership includes adequate representation and  
37 expertise relating to both the adult criminal justice system and the  
38 juvenile justice system. In making the appointments, the governor

1 shall seek the recommendations of Washington prosecutors in respect to  
2 the prosecuting attorney members, of the Washington state bar  
3 association in respect to the defense attorney members, of the  
4 association of superior court judges in respect to the members who are  
5 judges, of the Washington association of sheriffs and police chiefs in  
6 respect to the member who is a law enforcement officer, of the  
7 Washington state association of counties in respect to the member who  
8 is a county official, of the association of Washington cities in  
9 respect to the member who is a city official, of the office of crime  
10 victims advocacy and other organizations of crime victims in respect to  
11 the member who is a victim of crime or a crime victims' advocate, and  
12 of the Washington association of juvenile court administrators in  
13 respect to the member who is an administrator of juvenile court  
14 services.

15 (4) The speaker of the house of representatives and the president  
16 of the senate may each appoint two nonvoting members to the commission,  
17 one from each of the two largest caucuses in each house.

18 (5) The members of the commission shall be reimbursed for travel  
19 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative  
20 members shall be reimbursed by their respective houses as provided  
21 under RCW 44.04.120. Members shall be compensated in accordance with  
22 RCW 43.03.250.

23 NEW SECTION. Sec. 15. A new section is added to chapter 9.94A RCW  
24 to read as follows:

25 The standard sentence ranges of total and partial confinement under  
26 this chapter, except as provided in RCW 9.94A.517, are subject to the  
27 following limitations:

28 (1) If the maximum term in the range is one year or less, the  
29 minimum term in the range shall be no less than one-third of the  
30 maximum term in the range, except that if the maximum term in the range  
31 is ninety days or less, the minimum term may be less than one-third of  
32 the maximum;

33 (2) If the maximum term in the range is greater than one year, the  
34 minimum term in the range shall be no less than seventy-five percent of  
35 the maximum term in the range, except that for murder in the second  
36 degree in seriousness level XIV under RCW 9.94A.510, the minimum term

1 in the range shall be no less than fifty percent of the maximum term in  
2 the range; and

3 (3) The maximum term of confinement in a range may not exceed the  
4 statutory maximum for the crime as provided in RCW 9A.20.021.

5 **Sec. 16.** RCW 9.94A.480 and 2002 c 290 s 16 are each amended to  
6 read as follows:

7 (1) A current, newly created or reworked judgment and sentence  
8 document for each felony sentencing shall record any and all  
9 recommended sentencing agreements or plea agreements and the sentences  
10 for any and all felony crimes kept as public records under RCW  
11 9.94A.475 shall contain the clearly printed name and legal signature of  
12 the sentencing judge. The judgment and sentence document as defined in  
13 this section shall also provide additional space for the sentencing  
14 judge's reasons for going either above or below the presumptive  
15 sentence range for any and all felony crimes covered as public records  
16 under RCW 9.94A.475. Both the sentencing judge and the prosecuting  
17 attorney's office shall each retain or receive a completed copy of each  
18 sentencing document as defined in this section for their own records.

19 (2) The (~~sentencing guidelines commission~~) department shall be  
20 sent a completed copy of the judgment and sentence document upon  
21 conviction for each felony sentencing under subsection (1) of this  
22 section and shall compile a yearly and cumulative judicial record of  
23 each sentencing judge in regards to his or her sentencing practices for  
24 any and all felony crimes involving:

25 (a) Any violent offense as defined in this chapter;

26 (b) Any most serious offense as defined in this chapter;

27 (c) Any felony with any deadly weapon special verdict under RCW  
28 (~~9.94A.602~~) 9.94A.825;

29 (d) Any felony with any deadly weapon enhancements under RCW  
30 9.94A.533 (3) or (4), or both; and/or

31 (e) The felony crimes of possession of a machine gun, possessing a  
32 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
33 possession of a firearm in the first or second degree, and/or use of a  
34 machine gun in a felony.

35 (3) The (~~sentencing guidelines commission~~) department shall  
36 compare each individual judge's sentencing practices to the standard or  
37 presumptive sentence range for any and all felony crimes listed in

1 subsection (2) of this section for the appropriate offense level as  
2 defined in RCW 9.94A.515 or 9.94A.518, offender score as defined in RCW  
3 9.94A.525, and any applicable deadly weapon enhancements as defined in  
4 RCW 9.94A.533 (3) or (4), or both. These comparative records shall be  
5 retained and made available to the public for review in a current,  
6 newly created or reworked official published document by the  
7 (~~sentencing guidelines commission~~) department.

8 (4) Any and all felony sentences which are either above or below  
9 the standard or presumptive sentence range in subsection (3) of this  
10 section shall also mark whether the prosecuting attorney in the case  
11 also recommended a similar sentence, if any, which was either above or  
12 below the presumptive sentence range and shall also indicate if the  
13 sentence was in conjunction with an approved alternative sentencing  
14 option including a first-time offender waiver, sex offender sentencing  
15 alternative, or other prescribed sentencing option.

16 (5) If any completed judgment and sentence document as defined in  
17 subsection (1) of this section is not sent to the (~~sentencing~~  
18 ~~guidelines commission~~) department as required in subsection (2) of  
19 this section, the (~~sentencing guidelines commission~~) department shall  
20 have the authority and shall undertake reasonable and necessary steps  
21 to assure that all past, current, and future sentencing documents as  
22 defined in subsection (1) of this section are received by the  
23 (~~sentencing guidelines commission~~) department.

24 **Sec. 17.** RCW 9.94A.863 and 2009 c 431 s 2 are each amended to read  
25 as follows:

26 The (~~sentencing guidelines commission~~) department shall review  
27 the monetary threshold amounts differentiating the various degrees of  
28 property crimes in Washington state to determine whether such amounts  
29 should be modified. The (~~sentencing guidelines commission~~)  
30 department shall report to the legislature with its recommendations by  
31 November 1, 2014, and every five years thereafter.

32 **Sec. 18.** RCW 13.50.010 and 2010 c 150 s 3 are each amended to read  
33 as follows:

- 34 (1) For purposes of this chapter:
- 35 (a) "Juvenile justice or care agency" means any of the following:
- 36 Police, diversion units, court, prosecuting attorney, defense attorney,

1 detention center, attorney general, the legislative children's  
2 oversight committee, the office of the family and children's ombudsman,  
3 the department of social and health services and its contracting  
4 agencies, schools; persons or public or private agencies having  
5 children committed to their custody; and any placement oversight  
6 committee created under RCW 72.05.415;

7 (b) "Official juvenile court file" means the legal file of the  
8 juvenile court containing the petition or information, motions,  
9 memorandums, briefs, findings of the court, and court orders;

10 (c) "Records" means the official juvenile court file, the social  
11 file, and records of any other juvenile justice or care agency in the  
12 case;

13 (d) "Social file" means the juvenile court file containing the  
14 records and reports of the probation counselor.

15 (2) Each petition or information filed with the court may include  
16 only one juvenile and each petition or information shall be filed under  
17 a separate docket number. The social file shall be filed separately  
18 from the official juvenile court file.

19 (3) It is the duty of any juvenile justice or care agency to  
20 maintain accurate records. To this end:

21 (a) The agency may never knowingly record inaccurate information.  
22 Any information in records maintained by the department of social and  
23 health services relating to a petition filed pursuant to chapter 13.34  
24 RCW that is found by the court to be false or inaccurate shall be  
25 corrected or expunged from such records by the agency;

26 (b) An agency shall take reasonable steps to assure the security of  
27 its records and prevent tampering with them; and

28 (c) An agency shall make reasonable efforts to insure the  
29 completeness of its records, including action taken by other agencies  
30 with respect to matters in its files.

31 (4) Each juvenile justice or care agency shall implement procedures  
32 consistent with the provisions of this chapter to facilitate inquiries  
33 concerning records.

34 (5) Any person who has reasonable cause to believe information  
35 concerning that person is included in the records of a juvenile justice  
36 or care agency and who has been denied access to those records by the  
37 agency may make a motion to the court for an order authorizing that  
38 person to inspect the juvenile justice or care agency record concerning

1 that person. The court shall grant the motion to examine records  
2 unless it finds that in the interests of justice or in the best  
3 interests of the juvenile the records or parts of them should remain  
4 confidential.

5 (6) A juvenile, or his or her parents, or any person who has  
6 reasonable cause to believe information concerning that person is  
7 included in the records of a juvenile justice or care agency may make  
8 a motion to the court challenging the accuracy of any information  
9 concerning the moving party in the record or challenging the continued  
10 possession of the record by the agency. If the court grants the  
11 motion, it shall order the record or information to be corrected or  
12 destroyed.

13 (7) The person making a motion under subsection (5) or (6) of this  
14 section shall give reasonable notice of the motion to all parties to  
15 the original action and to any agency whose records will be affected by  
16 the motion.

17 (8) The court may permit inspection of records by, or release of  
18 information to, any clinic, hospital, or agency which has the subject  
19 person under care or treatment. The court may also permit inspection  
20 by or release to individuals or agencies, including juvenile justice  
21 advisory committees of county law and justice councils, engaged in  
22 legitimate research for educational, scientific, or public purposes.  
23 The court shall release to the (~~sentencing guidelines commission~~)  
24 department of corrections records needed for its research and data-  
25 gathering functions (~~under RCW 9.94A.850 and other statutes~~). Access  
26 to records or information for research purposes shall be permitted only  
27 if the anonymity of all persons mentioned in the records or information  
28 will be preserved. Each person granted permission to inspect juvenile  
29 justice or care agency records for research purposes shall present a  
30 notarized statement to the court stating that the names of juveniles  
31 and parents will remain confidential.

32 (9) Juvenile detention facilities shall release records to the  
33 (~~sentencing guidelines commission under RCW 9.94A.850~~) department of  
34 corrections upon request. The commission shall not disclose the names  
35 of any juveniles or parents mentioned in the records without the named  
36 individual's written permission.

37 (10) Requirements in this chapter relating to the court's authority

1 to compel disclosure shall not apply to the legislative children's  
2 oversight committee or the office of the family and children's  
3 ombudsman.

4 (11) For the purpose of research only, the administrative office of  
5 the courts shall maintain an electronic research copy of all records in  
6 the judicial information system related to juveniles. Access to the  
7 research copy is restricted to the Washington state center for court  
8 research. The Washington state center for court research shall  
9 maintain the confidentiality of all confidential records and shall  
10 preserve the anonymity of all persons identified in the research copy.  
11 The research copy may not be subject to any records retention schedule  
12 and must include records destroyed or removed from the judicial  
13 information system pursuant to RCW 13.50.050 (17) and (18) and  
14 13.50.100(3).

15 (12) The court shall release to the Washington state office of  
16 public defense records needed to implement the agency's oversight,  
17 technical assistance, and other functions as required by RCW 2.70.020.  
18 Access to the records used as a basis for oversight, technical  
19 assistance, or other agency functions is restricted to the Washington  
20 state office of public defense. The Washington state office of public  
21 defense shall maintain the confidentiality of all confidential  
22 information included in the records.

23 **Sec. 19.** RCW 9.94A.030 and 2010 c 274 s 401, 2010 c 267 s 9, 2010  
24 c 227 s 11, and 2010 c 224 s 1 are each reenacted and amended to read  
25 as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply throughout this chapter.

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

30 (2) "Collect," or any derivative thereof, "collect and remit," or  
31 "collect and deliver," when used with reference to the department,  
32 means that the department, either directly or through a collection  
33 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
34 and enforcing the offender's sentence with regard to the legal  
35 financial obligation, receiving payment thereof from the offender, and,  
36 consistent with current law, delivering daily the entire payment to the  
37 superior court clerk without depositing it in a departmental account.

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

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

6           ~~((5))~~ (4) "Community custody" means that portion of an offender's  
7 sentence of confinement in lieu of earned release time or imposed as  
8 part of a sentence under this chapter and served in the community  
9 subject to controls placed on the offender's movement and activities by  
10 the department.

11           ~~((6))~~ (5) "Community protection zone" means the area within eight  
12 hundred eighty feet of the facilities and grounds of a public or  
13 private school.

14           ~~((7))~~ (6) "Community restitution" means compulsory service,  
15 without compensation, performed for the benefit of the community by the  
16 offender.

17           ~~((8))~~ (7) "Confinement" means total or partial confinement.

18           ~~((9))~~ (8) "Conviction" means an adjudication of guilt pursuant to  
19 Title 10 or 13 RCW and includes a verdict of guilty, a finding of  
20 guilty, and acceptance of a plea of guilty.

21           ~~((10))~~ (9) "Crime-related prohibition" means an order of a court  
22 prohibiting conduct that directly relates to the circumstances of the  
23 crime for which the offender has been convicted, and shall not be  
24 construed to mean orders directing an offender affirmatively to  
25 participate in rehabilitative programs or to otherwise perform  
26 affirmative conduct. However, affirmative acts necessary to monitor  
27 compliance with the order of a court may be required by the department.

28           ~~((11))~~ (10) "Criminal history" means the list of a defendant's  
29 prior convictions and juvenile adjudications, whether in this state, in  
30 federal court, or elsewhere.

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

35           (b) A conviction may be removed from a defendant's criminal history  
36 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or  
37 a similar out-of-state statute, or if the conviction has been vacated  
38 pursuant to a governor's pardon.

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

6 ~~((+12+))~~ (11) "Criminal street gang" means any ongoing  
7 organization, association, or group of three or more persons, whether  
8 formal or informal, having a common name or common identifying sign or  
9 symbol, having as one of its primary activities the commission of  
10 criminal acts, and whose members or associates individually or  
11 collectively engage in or have engaged in a pattern of criminal street  
12 gang activity. This definition does not apply to employees engaged in  
13 concerted activities for their mutual aid and protection, or to the  
14 activities of labor and bona fide nonprofit organizations or their  
15 members or agents.

16 ~~((+13+))~~ (12) "Criminal street gang associate or member" means any  
17 person who actively participates in any criminal street gang and who  
18 intentionally promotes, furthers, or assists in any criminal act by the  
19 criminal street gang.

20 ~~((+14+))~~ (13) "Criminal street gang-related offense" means any  
21 felony or misdemeanor offense, whether in this state or elsewhere, that  
22 is committed for the benefit of, at the direction of, or in association  
23 with any criminal street gang, or is committed with the intent to  
24 promote, further, or assist in any criminal conduct by the gang, or is  
25 committed for one or more of the following reasons:

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

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

29 (c) To exact revenge or retribution for the gang or any member of  
30 the gang;

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

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

36 (f) To provide the gang with any advantage in, or any control or  
37 dominance over any criminal market sector, including, but not limited  
38 to, manufacturing, delivering, or selling any controlled substance

1 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
2 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
3 RCW); human trafficking (RCW 9A.40.100); or promoting pornography  
4 (chapter 9.68 RCW).

5 ~~((+15+))~~ (14) "Day fine" means a fine imposed by the sentencing  
6 court that equals the difference between the offender's net daily  
7 income and the reasonable obligations that the offender has for the  
8 support of the offender and any dependents.

9 ~~((+16+))~~ (15) "Day reporting" means a program of enhanced  
10 supervision designed to monitor the offender's daily activities and  
11 compliance with sentence conditions, and in which the offender is  
12 required to report daily to a specific location designated by the  
13 department or the sentencing court.

14 ~~((+17+))~~ (16) "Department" means the department of corrections.

15 ~~((+18+))~~ (17) "Determinate sentence" means a sentence that states  
16 with exactitude the number of actual years, months, or days of total  
17 confinement, of partial confinement, of community custody, the number  
18 of actual hours or days of community restitution work, or dollars or  
19 terms of a legal financial obligation. The fact that an offender  
20 through earned release can reduce the actual period of confinement  
21 shall not affect the classification of the sentence as a determinate  
22 sentence.

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

35 ~~((+20+))~~ (19) "Domestic violence" has the same meaning as defined  
36 in RCW 10.99.020 and 26.50.010.

37 ~~((+21+))~~ (20) "Drug offender sentencing alternative" is a

1 sentencing option available to persons convicted of a felony offense  
2 other than a violent offense or a sex offense and who are eligible for  
3 the option under RCW 9.94A.660.

4 ~~((+22+))~~ (21) "Drug offense" means:

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

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

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

14 ~~((+23+))~~ (22) "Earned release" means earned release from  
15 confinement as provided in RCW 9.94A.728.

16 ~~((+24+))~~ (23) "Escape" means:

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

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

26 ~~((+25+))~~ (24) "Felony traffic offense" means:

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

36 ~~((+26+))~~ (25) "Fine" means a specific sum of money ordered by the  
37 sentencing court to be paid by the offender to the court over a  
38 specific period of time.

1        ~~((+27+))~~ (26) "First-time offender" means any person who has no  
2 prior convictions for a felony and is eligible for the first-time  
3 offender waiver under RCW 9.94A.650.

4        ~~((+28+))~~ (27) "Home detention" means a program of partial  
5 confinement available to offenders wherein the offender is confined in  
6 a private residence subject to electronic surveillance.

7        ~~((+29+))~~ (28) "Legal financial obligation" means a sum of money  
8 that is ordered by a superior court of the state of Washington for  
9 legal financial obligations which may include restitution to the  
10 victim, statutorily imposed crime victims' compensation fees as  
11 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
12 drug funds, court-appointed attorneys' fees, and costs of defense,  
13 fines, and any other financial obligation that is assessed to the  
14 offender as a result of a felony conviction. Upon conviction for  
15 vehicular assault while under the influence of intoxicating liquor or  
16 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
17 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
18 legal financial obligations may also include payment to a public agency  
19 of the expense of an emergency response to the incident resulting in  
20 the conviction, subject to RCW 38.52.430.

21        ~~((+30+))~~ (29) "Minor child" means a biological or adopted child of  
22 the offender who is under age eighteen at the time of the offender's  
23 current offense.

24        ~~((+31+))~~ (30) "Most serious offense" means any of the following  
25 felonies or a felony attempt to commit any of the following felonies:

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

29        (b) Assault in the second degree;

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

31        (d) Child molestation in the second degree;

32        (e) Controlled substance homicide;

33        (f) Extortion in the first degree;

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

35        (h) Indecent liberties;

36        (i) Kidnapping in the second degree;

37        (j) Leading organized crime;

38        (k) Manslaughter in the first degree;

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

1 more; provided that the out-of-state felony offense must be comparable  
2 to a felony offense under Title 9 or 9A RCW and the out-of-state  
3 definition of sexual motivation must be comparable to the definition of  
4 sexual motivation contained in this section.

5 ~~((+32+))~~ (31) "Nonviolent offense" means an offense which is not a  
6 violent offense.

7 ~~((+33+))~~ (32) "Offender" means a person who has committed a felony  
8 established by state law and is eighteen years of age or older or is  
9 less than eighteen years of age but whose case is under superior court  
10 jurisdiction under RCW 13.04.030 or has been transferred by the  
11 appropriate juvenile court to a criminal court pursuant to RCW  
12 13.40.110. In addition, for the purpose of community custody  
13 requirements under this chapter, "offender" also means a misdemeanor or  
14 gross misdemeanor probationer convicted of an offense included in RCW  
15 9.94A.501(1) and ordered by a superior court to probation under the  
16 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or  
17 9.95.210. Throughout this chapter, the terms "offender" and  
18 "defendant" are used interchangeably.

19 ~~((+34+))~~ (33) "Partial confinement" means confinement for no more  
20 than one year in a facility or institution operated or utilized under  
21 contract by the state or any other unit of government, or, if home  
22 detention or work crew has been ordered by the court or home detention  
23 has been ordered by the department as part of the parenting program, in  
24 an approved residence, for a substantial portion of each day with the  
25 balance of the day spent in the community. Partial confinement  
26 includes work release, home detention, work crew, and a combination of  
27 work crew and home detention.

28 ~~((+35+))~~ (34) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

11 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
12 of a child in the first degree, child molestation in the first degree,  
13 rape in the second degree, rape of a child in the second degree, or  
14 indecent liberties by forcible compulsion; (B) any of the following  
15 offenses with a finding of sexual motivation: Murder in the first  
16 degree, murder in the second degree, homicide by abuse, kidnapping in  
17 the first degree, kidnapping in the second degree, assault in the first  
18 degree, assault in the second degree, assault of a child in the first  
19 degree, assault of a child in the second degree, or burglary in the  
20 first degree; or (C) an attempt to commit any crime listed in this  
21 subsection (~~(+36+)~~) (35)(b)(i); and

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

34 (~~(+37+)~~) (36) "Predatory" means: (a) The perpetrator of the crime  
35 was a stranger to the victim, as defined in this section; (b) the  
36 perpetrator established or promoted a relationship with the victim  
37 prior to the offense and the victimization of the victim was a  
38 significant reason the perpetrator established or promoted the

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

19 ~~((+38+))~~ (37) "Private school" means a school regulated under  
20 chapter 28A.195 or 28A.205 RCW.

21 ~~((+39+))~~ (38) "Public school" has the same meaning as in RCW  
22 28A.150.010.

23 ~~((+40+))~~ (39) "Repetitive domestic violence offense" means any:

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

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

28 (iii) Domestic violence violation of a protection order under  
29 chapter 26.09, 26.10, 26.26, or 26.50 RCW that is not a felony offense;

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

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

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

1       (~~(41)~~) (40) "Restitution" means a specific sum of money ordered  
2 by the sentencing court to be paid by the offender to the court over a  
3 specified period of time as payment of damages. The sum may include  
4 both public and private costs.

5       (~~(42)~~) (41) "Risk assessment" means the application of the risk  
6 instrument recommended to the department by the Washington state  
7 institute for public policy as having the highest degree of predictive  
8 accuracy for assessing an offender's risk of reoffense.

9       (~~(43)~~) (42) "Serious traffic offense" means:

10       (a) Nonfelony driving while under the influence of intoxicating  
11 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
12 while under the influence of intoxicating liquor or any drug (RCW  
13 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
14 attended vehicle (RCW 46.52.020(5)); or

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

18       (~~(44)~~) (43) "Serious violent offense" is a subcategory of violent  
19 offense and means:

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

21       (ii) Homicide by abuse;

22       (iii) Murder in the second degree;

23       (iv) Manslaughter in the first degree;

24       (v) Assault in the first degree;

25       (vi) Kidnapping in the first degree;

26       (vii) Rape in the first degree;

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

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

30       (b) 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 serious  
32 violent offense under (a) of this subsection.

33       (~~(45)~~) (44) "Sex offense" means:

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

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

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

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

3 (v) A felony violation of RCW 9A.44.132(1) (failure to register) if  
4 the person has been convicted of violating RCW 9A.44.132(1) (failure to  
5 register) on at least one prior occasion;

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

9 (c) A felony with a finding of sexual motivation under RCW  
10 9.94A.835 or 13.40.135; or

11 (d) 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 sex  
13 offense under (a) of this subsection.

14 (~~(46)~~) (45) "Sexual motivation" means that one of the purposes  
15 for which the defendant committed the crime was for the purpose of his  
16 or her sexual gratification.

17 (~~(47)~~) (46) "Standard sentence range" means the sentencing  
18 court's discretionary range in imposing a nonappealable sentence.

19 (~~(48)~~) (47) "Statutory maximum sentence" means the maximum length  
20 of time for which an offender may be confined as punishment for a crime  
21 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
22 the crime, or other statute defining the maximum penalty for a crime.

23 (~~(49)~~) (48) "Stranger" means that the victim did not know the  
24 offender twenty-four hours before the offense.

25 (~~(50)~~) (49) "Total confinement" means confinement inside the  
26 physical boundaries of a facility or institution operated or utilized  
27 under contract by the state or any other unit of government for twenty-  
28 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

29 (~~(51)~~) (50) "Transition training" means written and verbal  
30 instructions and assistance provided by the department to the offender  
31 during the two weeks prior to the offender's successful completion of  
32 the work ethic camp program. The transition training shall include  
33 instructions in the offender's requirements and obligations during the  
34 offender's period of community custody.

35 (~~(52)~~) (51) "Victim" means any person who has sustained  
36 emotional, psychological, physical, or financial injury to person or  
37 property as a direct result of the crime charged.

38 (~~(53)~~) (52) "Violent offense" means:

1 (a) Any of the following felonies:  
2 (i) Any felony defined under any law as a class A felony or an  
3 attempt to commit a class A felony;  
4 (ii) Criminal solicitation of or criminal conspiracy to commit a  
5 class A felony;  
6 (iii) Manslaughter in the first degree;  
7 (iv) Manslaughter in the second degree;  
8 (v) Indecent liberties if committed by forcible compulsion;  
9 (vi) Kidnapping in the second degree;  
10 (vii) Arson in the second degree;  
11 (viii) Assault in the second degree;  
12 (ix) Assault of a child in the second degree;  
13 (x) Extortion in the first degree;  
14 (xi) Robbery in the second degree;  
15 (xii) Drive-by shooting;  
16 (xiii) Vehicular assault, when caused by the operation or driving  
17 of a vehicle by a person while under the influence of intoxicating  
18 liquor or any drug or by the operation or driving of a vehicle in a  
19 reckless manner; and  
20 (xiv) Vehicular homicide, when proximately caused by the driving of  
21 any vehicle by any person while under the influence of intoxicating  
22 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
23 any vehicle in a reckless manner;  
24 (b) Any conviction for a felony offense in effect at any time prior  
25 to July 1, 1976, that is comparable to a felony classified as a violent  
26 offense in (a) of this subsection; and  
27 (c) Any federal or out-of-state conviction for an offense that  
28 under the laws of this state would be a felony classified as a violent  
29 offense under (a) or (b) of this subsection.  
30 ((+54+)) (53) "Work crew" means a program of partial confinement  
31 consisting of civic improvement tasks for the benefit of the community  
32 that complies with RCW 9.94A.725.  
33 ((+55+)) (54) "Work ethic camp" means an alternative incarceration  
34 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
35 lower the cost of corrections by requiring offenders to complete a  
36 comprehensive array of real-world job and vocational experiences,  
37 character-building work ethics training, life management skills

1 development, substance abuse rehabilitation, counseling, literacy  
2 training, and basic adult education.

3 ~~((+56+))~~ (55) "Work release" means a program of partial confinement  
4 available to offenders who are employed or engaged as a student in a  
5 regular course of study at school.

6 **Sec. 20.** RCW 9.94A.74501 and 2001 c 35 s 3 are each amended to  
7 read as follows:

8 (1) The ~~((sentencing guidelines commission))~~ department of  
9 corrections shall serve as the state council for interstate adult  
10 offender supervision as required under article IV of RCW 9.94A.745, the  
11 interstate compact for adult offender supervision. ~~((To assist the~~  
12 ~~commission in performing its functions as the state council,))~~ The  
13 department of corrections shall provide staffing and support services.  
14 The ~~((commission))~~ department of corrections may form a subcommittee,  
15 including members representing the legislative, judicial, and executive  
16 branches of state government, and victims' groups ~~((, and the secretary~~  
17 ~~of corrections,))~~ to perform the functions of the state council. Any  
18 such subcommittee shall include representation of both houses and at  
19 least two of the four largest political caucuses in the legislature.

20 (2) The ~~((commission,))~~ department or a subcommittee if formed for  
21 that purpose, shall:

22 (a) Review department operations and procedures under RCW  
23 9.94A.745, and recommend policies to the compact administrator,  
24 including policies to be pursued in the administrator's capacity as the  
25 state's representative on the interstate commission created under  
26 article III of RCW 9.94A.745;

27 (b) Report annually to the legislature on interstate supervision  
28 operations and procedures under RCW 9.94A.745, including  
29 recommendations for policy changes; and

30 (c) Not later than December 1, 2004, report to the legislature on  
31 the effectiveness of its functioning as the state council under article  
32 IV of RCW 9.94A.745, and recommend any legislation it deems  
33 appropriate.

34 (3) The ~~((commission, or a subcommittee if formed for that~~  
35 ~~purpose,))~~ secretary shall appoint ~~((one of its members, or))~~ an  
36 employee of the department ~~((designated by the secretary)),~~ or a  
37 subcommittee if formed for that purpose shall appoint one of its

1 members, to represent the state at meetings of the interstate  
2 commission created under article III of RCW 9.94A.745 when the compact  
3 administrator cannot attend.

4 **Sec. 21.** RCW 9.94A.855 and 2005 c 282 s 20 are each amended to  
5 read as follows:

6 The (~~commission~~) department shall appoint a research staff of  
7 sufficient size and with sufficient resources to accomplish its duties.  
8 The (~~commission~~) department may request from (~~the office of~~  
9 ~~financial management, the indeterminate sentence review board,~~) the  
10 administrative office of the courts, the department of corrections, and  
11 the department of social and health services such data, information,  
12 and data processing assistance as it may need to accomplish its duties,  
13 and such services shall be provided without cost to the (~~commission~~)  
14 department. (~~The commission shall adopt its own bylaws.~~

15 ~~The salary for a full-time executive officer, if any, shall be~~  
16 ~~fixed by the governor pursuant to RCW 43.03.040.)~~

17 **Sec. 22.** RCW 9.94A.870 and 1999 c 143 s 13 are each amended to  
18 read as follows:

19 If the governor finds that an emergency exists in that the  
20 population of a state residential correctional facility exceeds its  
21 reasonable, maximum capacity, then the governor may (~~do any one or~~)  
22 ~~more of the following:~~

23 ~~(1) Call the sentencing guidelines commission into an emergency~~  
24 ~~meeting for the purpose of evaluating the standard ranges and other~~  
25 ~~standards. The commission may adopt any revision or amendment to the~~  
26 ~~standard ranges or other standards that it believes appropriate to deal~~  
27 ~~with the emergency situation. The revision or amendment shall be~~  
28 ~~adopted in conformity with chapter 34.05 RCW and shall take effect on~~  
29 ~~the date prescribed by the commission. The legislature shall approve~~  
30 ~~or modify the commission's revision or amendment at the next~~  
31 ~~legislative session after the revision or amendment takes effect.~~  
32 ~~Failure of the legislature to act shall be deemed as approval of the~~  
33 ~~revision or amendment;~~

34 ~~(2) call the clemency and pardons board into an emergency meeting~~  
35 ~~for the purpose of recommending whether the governor's commutation or~~  
36 ~~pardon power should be exercised to meet the present emergency.~~

1           **Sec. 23.** RCW 9.94A.875 and 1984 c 209 s 9 are each amended to read  
2 as follows:

3           If the governor finds that an emergency exists in that the  
4 populations of county jails exceed their reasonable, maximum capacity  
5 in a significant manner as a result of increases in the sentenced felon  
6 population due to implementation of chapter 9.94A RCW, the governor may  
7 ~~((do any one or more of the following):~~

8           ~~(1) Call the sentencing guidelines commission into an emergency~~  
9 ~~meeting for the purpose of evaluating the standard ranges and other~~  
10 ~~standards. The commission may adopt any revision or amendment to the~~  
11 ~~standard ranges or other standards that it believes appropriate to deal~~  
12 ~~with the emergency situation. The revision or amendment shall be~~  
13 ~~adopted in conformity with chapter 34.05 RCW and shall take effect on~~  
14 ~~the date prescribed by the commission. The legislature shall approve~~  
15 ~~or modify the commission's revision or amendment at the next~~  
16 ~~legislative session after the revision or amendment takes effect.~~  
17 ~~Failure of the legislature to act shall be deemed as approval of the~~  
18 ~~revision or amendment. The commission shall also analyze how~~  
19 ~~alternatives to total confinement are being provided and used and may~~  
20 ~~recommend other emergency measures that may relieve the overcrowding.~~

21           ~~(2))~~ call the clemency and pardons board into an emergency meeting  
22 for the purpose of recommending whether the governor's commutation or  
23 pardon power should be exercised to meet the present emergency.

24           **Sec. 24.** RCW 9A.52.025 and 1989 2nd ex.s. c 1 s 1 are each amended  
25 to read as follows:

26           (1) A person is guilty of residential burglary if, with intent to  
27 commit a crime against a person or property therein, the person enters  
28 or remains unlawfully in a dwelling other than a vehicle.

29           (2) Residential burglary is a class B felony. In establishing  
30 sentencing guidelines and disposition standards, ~~((the sentencing~~  
31 ~~guidelines commission and))~~ the juvenile disposition standards  
32 commission shall consider residential burglary as a more serious  
33 offense than second degree burglary.

34           **Sec. 25.** RCW 10.98.140 and 1987 c 462 s 4 are each amended to read  
35 as follows:

36           (1) The section, the department, and the office of financial

1 management shall be the primary sources of information for criminal  
2 justice forecasting. The information maintained by these agencies  
3 shall be complete, accurate, and sufficiently timely to support state  
4 criminal justice forecasting.

5 (2) The office of financial management shall be the official state  
6 agency for the sentenced felon jail forecast. This forecast shall  
7 provide at least a six-year projection and shall be published by  
8 December 1 of every even-numbered year beginning with 1986. The office  
9 of financial management shall seek advice regarding the assumptions in  
10 the forecast from criminal justice agencies and associations.

11 (3) The (~~sentencing guidelines commission~~) department of  
12 corrections shall keep records on all sentencings above or below the  
13 standard range defined by chapter 9.94A RCW. As a minimum, the records  
14 shall include the name of the offender, the crimes for which the  
15 offender was sentenced, the name and county of the sentencing judge,  
16 and the deviation from the standard range. Such records shall be made  
17 available to public officials upon request.

18 **Sec. 26.** RCW 10.98.160 and 2005 c 282 s 25 are each amended to  
19 read as follows:

20 In the development and modification of the procedures, definitions,  
21 and reporting capabilities of the section, the department, the office  
22 of financial management, and the responsible agencies and persons shall  
23 consider the needs of other criminal justice agencies such as the  
24 administrative office of the courts, local law enforcement agencies,  
25 local jails, (~~the sentencing guidelines commission,~~) the  
26 indeterminate sentence review board, the clemency board, prosecuting  
27 attorneys, and affected state agencies such as the office of financial  
28 management and legislative committees dealing with criminal justice  
29 issues. The Washington integrated justice information board shall  
30 review and provide recommendations to state justice agencies and the  
31 courts for development and modification of the statewide justice  
32 information network.

33 **Sec. 27.** RCW 70.96A.350 and 2009 c 479 s 50 and 2009 c 445 s 1 are  
34 each reenacted and amended to read as follows:

35 (1) The criminal justice treatment account is created in the state  
36 treasury. Moneys in the account may be expended solely for: (a)

1 Substance abuse treatment and treatment support services for offenders  
2 with an addiction or a substance abuse problem that, if not treated,  
3 would result in addiction, against whom charges are filed by a  
4 prosecuting attorney in Washington state; (b) the provision of drug and  
5 alcohol treatment services and treatment support services for  
6 nonviolent offenders within a drug court program; (c) the  
7 administrative and overhead costs associated with the operation of a  
8 drug court; and (d) during the 2007-2009 biennium, operation of the  
9 integrated crisis response and intensive case management pilots  
10 contracted with the department of social and health services division  
11 of alcohol and substance abuse. Moneys in the account may be spent  
12 only after appropriation.

13 (2) For purposes of this section:

14 (a) "Treatment" means services that are critical to a participant's  
15 successful completion of his or her substance abuse treatment program,  
16 but does not include the following services: Housing other than that  
17 provided as part of an inpatient substance abuse treatment program,  
18 vocational training, and mental health counseling; and

19 (b) "Treatment support" means transportation to or from inpatient  
20 or outpatient treatment services when no viable alternative exists, and  
21 child care services that are necessary to ensure a participant's  
22 ability to attend outpatient treatment sessions.

23 (3) Revenues to the criminal justice treatment account consist of:

24 (a) Funds transferred to the account pursuant to this section; and (b)  
25 any other revenues appropriated to or deposited in the account.

26 (4)(a) For the fiscal biennium beginning July 1, 2003, the state  
27 treasurer shall transfer eight million nine hundred fifty thousand  
28 dollars from the general fund into the criminal justice treatment  
29 account, divided into eight equal quarterly payments. For the fiscal  
30 year beginning July 1, 2005, and each subsequent fiscal year, the state  
31 treasurer shall transfer eight million two hundred fifty thousand  
32 dollars from the general fund to the criminal justice treatment  
33 account, divided into four equal quarterly payments. For the fiscal  
34 year beginning July 1, 2006, and each subsequent fiscal year, the  
35 amount transferred shall be increased on an annual basis by the  
36 implicit price deflator as published by the federal bureau of labor  
37 statistics.

1 (b) In each odd-numbered year, the legislature shall appropriate  
2 the amount transferred to the criminal justice treatment account in (a)  
3 of this subsection to the division of alcohol and substance abuse for  
4 the purposes of subsection (5) of this section.

5 (5) Moneys appropriated to the division of alcohol and substance  
6 abuse from the criminal justice treatment account shall be distributed  
7 as specified in this subsection. The department shall serve as the  
8 fiscal agent for purposes of distribution. Until July 1, 2004, the  
9 department may not use moneys appropriated from the criminal justice  
10 treatment account for administrative expenses and shall distribute all  
11 amounts appropriated under subsection (4)(b) of this section in  
12 accordance with this subsection. Beginning in July 1, 2004, the  
13 department may retain up to three percent of the amount appropriated  
14 under subsection (4)(b) of this section for its administrative costs.

15 (a) Seventy percent of amounts appropriated to the division from  
16 the account shall be distributed to counties pursuant to the  
17 distribution formula adopted under this section. The division of  
18 alcohol and substance abuse, in consultation with the department of  
19 corrections, (~~the sentencing guidelines commission,~~) the Washington  
20 state association of counties, the Washington state association of drug  
21 court professionals, the superior court judges' association, the  
22 Washington association of prosecuting attorneys, representatives of the  
23 criminal defense bar, representatives of substance abuse treatment  
24 providers, and any other person deemed by the division to be necessary,  
25 shall establish a fair and reasonable methodology for distribution to  
26 counties of moneys in the criminal justice treatment account. County  
27 or regional plans submitted for the expenditure of formula funds must  
28 be approved by the panel established in (b) of this subsection.

29 (b) Thirty percent of the amounts appropriated to the division from  
30 the account shall be distributed as grants for purposes of treating  
31 offenders against whom charges are filed by a county prosecuting  
32 attorney. The division shall appoint a panel of representatives from  
33 the Washington association of prosecuting attorneys, the Washington  
34 association of sheriffs and police chiefs, the superior court judges'  
35 association, the Washington state association of counties, the  
36 Washington defender's association or the Washington association of  
37 criminal defense lawyers, the department of corrections, the Washington  
38 state association of drug court professionals, substance abuse

1 treatment providers, and the division. The panel shall review county  
2 or regional plans for funding under (a) of this subsection and grants  
3 approved under this subsection. The panel shall attempt to ensure that  
4 treatment as funded by the grants is available to offenders statewide.

5 (6) The county alcohol and drug coordinator, county prosecutor,  
6 county sheriff, county superior court, a substance abuse treatment  
7 provider appointed by the county legislative authority, a member of the  
8 criminal defense bar appointed by the county legislative authority,  
9 and, in counties with a drug court, a representative of the drug court  
10 shall jointly submit a plan, approved by the county legislative  
11 authority or authorities, to the panel established in subsection (5)(b)  
12 of this section, for disposition of all the funds provided from the  
13 criminal justice treatment account within that county. The funds shall  
14 be used solely to provide approved alcohol and substance abuse  
15 treatment pursuant to RCW 70.96A.090, treatment support services, and  
16 for the administrative and overhead costs associated with the operation  
17 of a drug court.

18 (a) No more than ten percent of the total moneys received under  
19 subsections (4) and (5) of this section by a county or group of  
20 counties participating in a regional agreement shall be spent on the  
21 administrative and overhead costs associated with the operation of a  
22 drug court.

23 (b) No more than ten percent of the total moneys received under  
24 subsections (4) and (5) of this section by a county or group of  
25 counties participating in a regional agreement shall be spent for  
26 treatment support services.

27 (7) Counties are encouraged to consider regional agreements and  
28 submit regional plans for the efficient delivery of treatment under  
29 this section.

30 (8) Moneys allocated under this section shall be used to  
31 supplement, not supplant, other federal, state, and local funds used  
32 for substance abuse treatment.

33 (9) Counties must meet the criteria established in RCW  
34 2.28.170(3)(b).

35 (10) The authority under this section to use funds from the  
36 criminal justice treatment account for the administrative and overhead  
37 costs associated with the operation of a drug court expires June 30,  
38 2013.

1       **Sec. 28.** RCW 72.09.350 and 1993 c 459 s 1 are each amended to read  
2 as follows:

3       (1) The department of corrections and the University of Washington  
4 may enter into a collaborative arrangement to provide improved services  
5 for (~~mentally ill~~) offenders with mental illness with a focus on  
6 prevention, treatment, and reintegration into society. The  
7 participants in the collaborative arrangement may develop a strategic  
8 plan within sixty days after May 17, 1993, to address the management of  
9 (~~mentally ill~~) offenders with mental illness within the correctional  
10 system, facilitating their reentry into the community and the mental  
11 health system, and preventing the inappropriate incarceration of  
12 (~~mentally ill~~) individuals with mental illness. The collaborative  
13 arrangement may also specify the establishment and maintenance of a  
14 corrections mental health center located at McNeil Island corrections  
15 center. The collaborative arrangement shall require that an advisory  
16 panel of key stakeholders be established and consulted throughout the  
17 development and implementation of the center. The stakeholders  
18 advisory panel shall include a broad array of interest groups drawn  
19 from representatives of mental health, criminal justice, and  
20 correctional systems. The stakeholders advisory panel shall include,  
21 but is not limited to, membership from: The department of corrections,  
22 the department of social and health services mental health division and  
23 division of juvenile rehabilitation, regional support networks, local  
24 and regional law enforcement agencies, (~~the sentencing guidelines~~  
25 ~~commission,~~) county and city jails, mental health advocacy groups for  
26 (~~the mentally ill, developmentally disabled~~) individuals with mental  
27 illness, individuals with developmental disabilities, and traumatically  
28 brain-injured, and the general public. The center established by the  
29 department of corrections and University of Washington, in consultation  
30 with the stakeholder advisory groups, shall have the authority to:

31       (a) Develop new and innovative treatment approaches for corrections  
32 mental health clients;

33       (b) Improve the quality of mental health services within the  
34 department and throughout the corrections system;

35       (c) Facilitate mental health staff recruitment and training to meet  
36 departmental, county, and municipal needs;

37       (d) Expand research activities within the department in the area of

1 treatment services, the design of delivery systems, the development of  
2 organizational models, and training for corrections mental health care  
3 professionals;

4 (e) Improve the work environment for correctional employees by  
5 developing the skills, knowledge, and understanding of how to work with  
6 offenders with special chronic mental health challenges;

7 (f) Establish a more positive rehabilitative environment for  
8 offenders;

9 (g) Strengthen multidisciplinary mental health collaboration  
10 between the University of Washington, other groups committed to the  
11 intent of this section, and the department of corrections;

12 (h) Strengthen department linkages between institutions of higher  
13 education, public sector mental health systems, and county and  
14 municipal corrections;

15 (i) Assist in the continued formulation of corrections mental  
16 health policies;

17 (j) Develop innovative and effective recruitment and training  
18 programs for correctional personnel working with (~~mentally ill~~)  
19 offenders with mental illness;

20 (k) Assist in the development of a coordinated continuum of mental  
21 health care capable of providing services from corrections entry to  
22 community return; and

23 (l) Evaluate all current and innovative approaches developed within  
24 this center in terms of their effective and efficient achievement of  
25 improved mental health of inmates, development and utilization of  
26 personnel, the impact of these approaches on the functioning of  
27 correctional institutions, and the relationship of the corrections  
28 system to mental health and criminal justice systems. Specific  
29 attention should be paid to evaluating the effects of programs on the  
30 reintegration of (~~mentally ill~~) offenders with mental illness into  
31 the community and the prevention of inappropriate incarceration of  
32 (~~mentally ill~~) persons with mental illness.

33 (2) The corrections mental health center may conduct research,  
34 training, and treatment activities for the (~~mentally ill~~) offender  
35 with mental illness within selected sites operated by the department.  
36 The department shall provide support services for the center such as  
37 food services, maintenance, perimeter security, classification,  
38 offender supervision, and living unit functions. The University of

1 Washington may develop, implement, and evaluate the clinical,  
2 treatment, research, and evaluation components of the mentally ill  
3 offender center. The institute of (~~{for}~~) for public policy and  
4 management may be consulted regarding the development of the center and  
5 in the recommendations regarding public policy. As resources permit,  
6 training within the center shall be available to state, county, and  
7 municipal agencies requiring the services. Other state colleges, state  
8 universities, and mental health providers may be involved in activities  
9 as required on a subcontract basis. Community mental health  
10 organizations, research groups, and community advocacy groups may be  
11 critical components of the center's operations and involved as  
12 appropriate to annual objectives. (~~Mentally ill~~) Clients with mental  
13 illness may be drawn from throughout the department's population and  
14 transferred to the center as clinical need, available services, and  
15 department jurisdiction permits.

16 (3) The department shall prepare a report of the center's progress  
17 toward the attainment of stated goals and provide the report to the  
18 legislature annually.

19 **Sec. 29.** RCW 72.66.016 and 1983 c 255 s 8 are each amended to read  
20 as follows:

21 (1) A furlough shall not be granted to a resident if the furlough  
22 would commence prior to the time the resident has served the minimum  
23 amounts of time provided under this section:

24 (a) If his or her minimum term of imprisonment is longer than  
25 twelve months, he or she shall have served at least six months of the  
26 term;

27 (b) If his or her minimum term of imprisonment is less than twelve  
28 months, he or she shall have served at least ninety days and shall have  
29 no longer than six months left to serve on his or her minimum term;

30 (c) If he or she is serving a mandatory minimum term of  
31 confinement, he or she shall have served all but the last six months of  
32 such term.

33 (2) A person convicted and sentenced for a violent offense as  
34 defined in RCW 9.94A.030 is not eligible for furlough until the person  
35 has served at least one-half of the minimum term (~~as established by~~  
36 ~~the board of prison terms and paroles or the sentencing guidelines~~  
37 ~~commission~~)).

1       **Sec. 30.** RCW 43.15.020 and 2010 1st sp.s. c 7 s 136 and 2010 c 271  
2 s 704 are each reenacted and amended to read as follows:

3       The lieutenant governor serves as president of the senate and is  
4 responsible for making appointments to, and serving on, the committees  
5 and boards as set forth in this section.

6       (1) The lieutenant governor serves on the following boards and  
7 committees:

8       (a) Capitol furnishings preservation committee, RCW 27.48.040;

9       (b) Washington higher education facilities authority, RCW  
10 28B.07.030;

11       (c) Productivity board, also known as the employee involvement and  
12 recognition board, RCW 41.60.015;

13       (d) State finance committee, RCW 43.33.010;

14       (e) State capitol committee, RCW 43.34.010;

15       (f) Washington health care facilities authority, RCW 70.37.030;

16       (g) State medal of merit nominating committee, RCW 1.40.020;

17       (h) Medal of valor committee, RCW 1.60.020; and

18       (i) Association of Washington generals, RCW 43.15.030.

19       (2) The lieutenant governor, and when serving as president of the  
20 senate, appoints members to the following boards and committees:

21       (a) Civil legal aid oversight committee, RCW 2.53.010;

22       (b) Office of public defense advisory committee, RCW 2.70.030;

23       (c) Washington state gambling commission, RCW 9.46.040;

24       (d) ~~((Sentencing guidelines commission, RCW 9.94A.860;~~

25 ~~(+e))~~ State building code council, RCW 19.27.070;

26 ~~((+f))~~ (e) Financial education public-private partnership, RCW  
27 28A.300.450;

28 ~~((+g))~~ (f) Joint administrative rules review committee, RCW  
29 34.05.610;

30 ~~((+h))~~ (g) Capital projects advisory review board, RCW 39.10.220;

31 ~~((+i))~~ (h) Select committee on pension policy, RCW 41.04.276;

32 ~~((+j))~~ (i) Legislative ethics board, RCW 42.52.310;

33 ~~((+k))~~ (j) Washington citizens' commission on salaries, RCW  
34 43.03.305;

35 ~~((+l))~~ (k) Legislative oral history committee, RCW 44.04.325;

36 ~~((+m))~~ (l) State council on aging, RCW 43.20A.685;

37 ~~((+n))~~ (m) State investment board, RCW 43.33A.020;

1       (~~(o)~~) (n) Capitol campus design advisory committee, RCW  
2 43.34.080;  
3       (~~(p)~~) (o) Washington state arts commission, RCW 43.46.015;  
4       (~~(q)~~) (p) Information services board, RCW 43.105.032;  
5       (~~(r)~~) (q) Council for children and families, RCW 43.121.020;  
6       (~~(s)~~) (r) PNWER-Net working subgroup under chapter 43.147 RCW;  
7       (~~(t)~~) (s) Community economic revitalization board, RCW  
8 43.160.030;  
9       (~~(u)~~) (t) Washington economic development finance authority, RCW  
10 43.163.020;  
11       (~~(v)~~) (u) Life sciences discovery fund authority, RCW 43.350.020;  
12       (~~(w)~~) (v) Legislative children's oversight committee, RCW  
13 44.04.220;  
14       (~~(x)~~) (w) Joint legislative audit and review committee, RCW  
15 44.28.010;  
16       (~~(y)~~) (x) Joint committee on energy supply and energy  
17 conservation, RCW 44.39.015;  
18       (~~(z)~~) (y) Legislative evaluation and accountability program  
19 committee, RCW 44.48.010;  
20       (~~(aa)~~) (z) Agency council on coordinated transportation, RCW  
21 47.06B.020;  
22       (~~(bb)~~) (aa) Manufactured housing task force, RCW 59.22.090;  
23       (~~(cc)~~) (bb) Washington horse racing commission, RCW 67.16.014;  
24       (~~(dd)~~) (cc) Correctional industries board of directors, RCW  
25 72.09.080;  
26       (~~(ee)~~) (dd) Joint committee on veterans' and military affairs,  
27 RCW 73.04.150;  
28       (~~(ff)~~) (ee) Joint legislative committee on water supply during  
29 drought, RCW 90.86.020;  
30       (~~(gg)~~) (ff) Statute law committee, RCW 1.08.001; and  
31       (~~(hh)~~) (gg) Joint legislative oversight committee on trade  
32 policy, RCW 44.55.020.

33       NEW SECTION.   **Sec. 31.** This act is necessary for the immediate  
34 preservation of the public peace, health, or safety, or support of the  
35 state government and its existing public institutions, and takes effect

1 July 1, 2011.

--- END ---