

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE SENATE BILL 5064

63rd Legislature
2014 Regular Session

Passed by the Senate March 10, 2014
YEAS 48 NAYS 1

President of the Senate

Passed by the House March 7, 2014
YEAS 74 NAYS 23

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE SENATE BILL 5064** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE SENATE BILL 5064

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senators Hargrove and Kline)

READ FIRST TIME 02/07/14.

1 AN ACT Relating to persons sentenced for offenses committed prior
2 to reaching eighteen years of age; amending RCW 9.94A.510, 9.94A.540,
3 9.94A.6332, 9.95.425, 9.95.430, 9.95.435, 9.95.440, and 10.95.030;
4 reenacting and amending RCW 9.94A.729; adding a new section to chapter
5 9.94A RCW; adding new sections to chapter 10.95 RCW; creating a new
6 section; prescribing penalties; providing an effective date; providing
7 an expiration date; and declaring an emergency.

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

9 **Sec. 1.** RCW 9.94A.510 and 2002 c 290 s 10 are each amended to read
10 as follows:

11

12

13

TABLE 1
Sentencing Grid

14

SERIOUSNESS

15

LEVEL

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
<u>XVI Life sentence without parole/death penalty for offenders at or over the age of eighteen.</u>										
<u>For offenders under the age of eighteen, a term of twenty-five years to life.</u>										
XV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548
XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	220	234	244	254	265	275	295	316	357	397
XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397
XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318
XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
	12	14	17	20	29	43	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m

0-60	0-90	2-	2-	3-	4-	12+	14-	17-	22-
Days	Days	5	6	8	12	14	18	22	29

Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent standard sentence ranges in months, or in days if so designated. 12+ equals one year and one day.

Sec. 2. RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read as follows:

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

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

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

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

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

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

(2) During such minimum terms of total confinement, no offender subject to the provisions of this section is eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave of absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection

1 shall not apply: (a) In the case of an offender in need of emergency
2 medical treatment; (b) for the purpose of commitment to an inpatient
3 treatment facility in the case of an offender convicted of the crime of
4 rape in the first degree; or (c) for an extraordinary medical placement
5 when authorized under RCW 9.94A.728(~~(+4)~~) (3).

6 (3)(a) Subsection (1)~~(a) through (d)~~ of this section shall not be
7 applied in sentencing of juveniles tried as adults pursuant to RCW
8 13.04.030(1)(e)(i).

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

11 **Sec. 3.** RCW 9.94A.6332 and 2010 c 224 s 11 are each amended to
12 read as follows:

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

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

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

21 (3) If the offender was sentenced under the parenting sentencing
22 alternative, any sanctions shall be imposed by the department or by the
23 court pursuant to RCW 9.94A.655.

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

26 (5) If the offender was released pursuant to section 10 of this
27 act, any sanctions shall be imposed by the board pursuant to RCW
28 9.95.435.

29 (6) If the offender was sentenced pursuant to RCW 10.95.030(3) or
30 section 11 of this act, any sanctions shall be imposed by the board
31 pursuant to RCW 9.95.435.

32 (7) In any other case, if the offender is being supervised by the
33 department, any sanctions shall be imposed by the department pursuant
34 to RCW 9.94A.737. If a probationer is being supervised by the
35 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon
36 receipt of a violation hearing report from the department, the court

1 retains any authority that those statutes provide to respond to a
2 probationer's violation of conditions.

3 ~~((+6+))~~ (8) If the offender is not being supervised by the
4 department, any sanctions shall be imposed by the court pursuant to RCW
5 9.94A.6333.

6 **Sec. 4.** RCW 9.94A.729 and 2013 2nd sp.s. c 14 s 2 and 2013 c 266
7 s 1 are each reenacted and amended to read as follows:

8 (1)(a) The term of the sentence of an offender committed to a
9 correctional facility operated by the department may be reduced by
10 earned release time in accordance with procedures that shall be
11 developed and adopted by the correctional agency having jurisdiction in
12 which the offender is confined. The earned release time shall be for
13 good behavior and good performance, as determined by the correctional
14 agency having jurisdiction. The correctional agency shall not credit
15 the offender with earned release credits in advance of the offender
16 actually earning the credits.

17 (b) Any program established pursuant to this section shall allow an
18 offender to earn early release credits for presentence incarceration.
19 If an offender is transferred from a county jail to the department, the
20 administrator of a county jail facility shall certify to the department
21 the amount of time spent in custody at the facility and the number of
22 days of early release credits lost or not earned. The department may
23 approve a jail certification from a correctional agency that calculates
24 early release time based on the actual amount of confinement time
25 served by the offender before sentencing when an erroneous calculation
26 of confinement time served by the offender before sentencing appears on
27 the judgment and sentence. The department must adjust an offender's
28 rate of early release listed on the jail certification to be consistent
29 with the rate applicable to offenders in the department's facilities.
30 However, the department is not authorized to adjust the number of
31 presentence early release days that the jail has certified as lost or
32 not earned.

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

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

2 (a) In the case of an offender sentenced pursuant to RCW
3 10.95.030(3) or section 11 of this act, the aggregate earned release
4 time may not exceed ten percent of the sentence.

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

9 ~~((b))~~ (c) In the case of an offender convicted of a serious
10 violent offense, or a sex offense that is a class A felony, committed
11 on or after July 1, 2003, the aggregate earned release time may not
12 exceed ten percent of the sentence.

13 ~~((e))~~ (d) An offender is qualified to earn up to fifty percent of
14 aggregate earned release time if he or she:

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

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

18 (A) A sex offense;

19 (B) A violent offense;

20 (C) A crime against persons as defined in RCW 9.94A.411;

21 (D) A felony that is domestic violence as defined in RCW 10.99.020;

22 (E) A violation of RCW 9A.52.025 (residential burglary);

23 (F) A violation of, or an attempt, solicitation, or conspiracy to
24 violate, RCW 69.50.401 by manufacture or delivery or possession with
25 intent to deliver methamphetamine; or

26 (G) A violation of, or an attempt, solicitation, or conspiracy to
27 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

28 (iii) Has no prior conviction for the offenses listed in ~~((e))~~
29 (d)(ii) of this subsection;

30 (iv) Participates in programming or activities as directed by the
31 offender's individual reentry plan as provided under RCW 72.09.270 to
32 the extent that such programming or activities are made available by
33 the department; and

34 (v) Has not committed a new felony after July 22, 2007, while under
35 community custody.

36 ~~((d))~~ (e) In no other case shall the aggregate earned release
37 time exceed one-third of the total sentence.

1 (4) The department shall perform a risk assessment of each offender
2 who may qualify for earned early release under subsection (3)((+e+))
3 (d) of this section utilizing the risk assessment tool recommended by
4 the Washington state institute for public policy. Subsection
5 (3)((+e+)) (d) of this section does not apply to offenders convicted
6 after July 1, 2010.

7 (5)(a) A person who is eligible for earned early release as
8 provided in this section and who will be supervised by the department
9 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
10 community custody in lieu of earned release time;

11 (b) The department shall, as a part of its program for release to
12 the community in lieu of earned release, require the offender to
13 propose a release plan that includes an approved residence and living
14 arrangement. All offenders with community custody terms eligible for
15 release to community custody in lieu of earned release shall provide an
16 approved residence and living arrangement prior to release to the
17 community;

18 (c) The department may deny transfer to community custody in lieu
19 of earned release time if the department determines an offender's
20 release plan, including proposed residence location and living
21 arrangements, may violate the conditions of the sentence or conditions
22 of supervision, place the offender at risk to violate the conditions of
23 the sentence, place the offender at risk to reoffend, or present a risk
24 to victim safety or community safety. The department's authority under
25 this section is independent of any court-ordered condition of sentence
26 or statutory provision regarding conditions for community custody;

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

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

34 (ii) Provide rental vouchers to the offender for a period not to
35 exceed three months if rental assistance will result in an approved
36 release plan.

37 A voucher must be provided in conjunction with additional
38 transition support programming or services that enable an offender to

1 participate in services including, but not limited to, substance abuse
2 treatment, mental health treatment, sex offender treatment, educational
3 programming, or employment programming;

4 (e) The department shall maintain a list of housing providers that
5 meets the requirements of RCW 72.09.285. If more than two voucher
6 recipients will be residing per dwelling unit, as defined in RCW
7 59.18.030, rental vouchers for those recipients may only be paid to a
8 housing provider on the department's list;

9 (f) For each offender who is the recipient of a rental voucher, the
10 department shall gather data as recommended by the Washington state
11 institute for public policy in order to best demonstrate whether rental
12 vouchers are effective in reducing recidivism.

13 (6) An offender serving a term of confinement imposed under RCW
14 9.94A.670(5)(a) is not eligible for earned release credits under this
15 section.

16 **Sec. 5.** RCW 9.95.425 and 2009 c 28 s 30 are each amended to read
17 as follows:

18 (1) Whenever the board or a community corrections officer of this
19 state has reason to believe an offender released under RCW 9.95.420,
20 10.95.030(3), or section 10 of this act has violated a condition of
21 community custody or the laws of this state, any community corrections
22 officer may arrest or cause the arrest and detention of the offender
23 pending a determination by the board whether sanctions should be
24 imposed or the offender's community custody should be revoked. The
25 community corrections officer shall report all facts and circumstances
26 surrounding the alleged violation to the board, with recommendations.

27 (2) If the board or the department causes the arrest or detention
28 of an offender for a violation that does not amount to a new crime and
29 the offender is arrested or detained by local law enforcement or in a
30 local jail, the board or department, whichever caused the arrest or
31 detention, shall be financially responsible for local costs. Jail bed
32 costs shall be allocated at the rate established under RCW 9.94A.740.

33 **Sec. 6.** RCW 9.95.430 and 2001 2nd sp.s. c 12 s 308 are each
34 amended to read as follows:

35 Any offender released under RCW 9.95.420, 10.95.030(3), or section
36 10 of this act who is arrested and detained in physical custody by the

1 authority of a community corrections officer, or upon the written order
2 of the board, shall not be released from custody on bail or personal
3 recognizance, except upon approval of the board and the issuance by the
4 board of an order reinstating the offender's release on the same or
5 modified conditions. All chiefs of police, marshals of cities and
6 towns, sheriffs of counties, and all police, prison, and peace officers
7 and constables shall execute any such order in the same manner as any
8 ordinary criminal process.

9 **Sec. 7.** RCW 9.95.435 and 2007 c 363 s 3 are each amended to read
10 as follows:

11 (1) If an offender released by the board under RCW 9.95.420,
12 10.95.030(3), or section 10 of this act violates any condition or
13 requirement of community custody, the board may transfer the offender
14 to a more restrictive confinement status to serve up to the remaining
15 portion of the sentence, less credit for any period actually spent in
16 community custody or in detention awaiting disposition of an alleged
17 violation and subject to the limitations of subsection (2) of this
18 section.

19 (2) Following the hearing specified in subsection (3) of this
20 section, the board may impose sanctions such as work release, home
21 detention with electronic monitoring, work crew, community restitution,
22 inpatient treatment, daily reporting, curfew, educational or counseling
23 sessions, supervision enhanced through electronic monitoring, or any
24 other sanctions available in the community, or may suspend the release
25 and sanction up to sixty days' confinement in a local correctional
26 facility for each violation, or revoke the release to community custody
27 whenever an offender released by the board under RCW 9.95.420,
28 10.95.030(3), or section 10 of this act violates any condition or
29 requirement of community custody.

30 (3) If an offender released by the board under RCW 9.95.420,
31 10.95.030(3), or section 10 of this act is accused of violating any
32 condition or requirement of community custody, he or she is entitled to
33 a hearing before the board or a designee of the board prior to the
34 imposition of sanctions. The hearing shall be considered as offender
35 disciplinary proceedings and shall not be subject to chapter 34.05 RCW.
36 The board shall develop hearing procedures and a structure of graduated
37 sanctions consistent with the hearing procedures and graduated

1 sanctions developed pursuant to RCW 9.94A.737. The board may suspend
2 the offender's release to community custody and confine the offender in
3 a correctional institution owned, operated by, or operated under
4 contract with the state prior to the hearing unless the offender has
5 been arrested and confined for a new criminal offense.

6 (4) The hearing procedures required under subsection (3) of this
7 section shall be developed by rule and include the following:

8 (a) Hearings shall be conducted by members or designees of the
9 board unless the board enters into an agreement with the department to
10 use the hearing officers established under RCW 9.94A.737;

11 (b) The board shall provide the offender with findings and
12 conclusions which include the evidence relied upon, and the reasons the
13 particular sanction was imposed. The board shall notify the offender
14 of the right to appeal the sanction and the right to file a personal
15 restraint petition under court rules after the final decision of the
16 board;

17 (c) The hearing shall be held unless waived by the offender, and
18 shall be electronically recorded. For offenders not in total
19 confinement, the hearing shall be held within thirty days of service of
20 notice of the violation, but not less than twenty-four hours after
21 notice of the violation. For offenders in total confinement, the
22 hearing shall be held within thirty days of service of notice of the
23 violation, but not less than twenty-four hours after notice of the
24 violation. The board or its designee shall make a determination
25 whether probable cause exists to believe the violation or violations
26 occurred. The determination shall be made within forty-eight hours of
27 receipt of the allegation;

28 (d) The offender shall have the right to: (i) Be present at the
29 hearing; (ii) have the assistance of a person qualified to assist the
30 offender in the hearing, appointed by the presiding hearing officer if
31 the offender has a language or communications barrier; (iii) testify or
32 remain silent; (iv) call witnesses and present documentary evidence;
33 (v) question witnesses who appear and testify; and (vi) be represented
34 by counsel if revocation of the release to community custody upon a
35 finding of violation is a probable sanction for the violation. The
36 board may not revoke the release to community custody of any offender
37 who was not represented by counsel at the hearing, unless the offender
38 has waived the right to counsel; and

1 (e) The sanction shall take effect if affirmed by the presiding
2 hearing officer.

3 (5) Within seven days after the presiding hearing officer's
4 decision, the offender may appeal the decision to the full board or to
5 a panel of three reviewing examiners designated by the chair of the
6 board or by the chair's designee. The sanction shall be reversed or
7 modified if a majority of the panel finds that the sanction was not
8 reasonably related to any of the following: (a) The crime of
9 conviction; (b) the violation committed; (c) the offender's risk of
10 reoffending; or (d) the safety of the community.

11 (6) For purposes of this section, no finding of a violation of
12 conditions may be based on unconfirmed or unconfirmable allegations.

13 **Sec. 8.** RCW 9.95.440 and 2008 c 231 s 45 are each amended to read
14 as follows:

15 In the event the board suspends the release status of an offender
16 released under RCW 9.95.420, 10.95.030(3), or section 10 of this act by
17 reason of an alleged violation of a condition of release, or pending
18 disposition of a new criminal charge, the board may nullify the
19 suspension order and reinstate release under previous conditions or any
20 new conditions the board determines advisable under RCW 9.94A.704.
21 Before the board may nullify a suspension order and reinstate release,
22 it shall determine that the best interests of society and the offender
23 shall be served by such reinstatement rather than return to
24 confinement.

25 **Sec. 9.** RCW 10.95.030 and 2010 c 94 s 3 are each amended to read
26 as follows:

27 (1) Except as provided in subsections (2) and (3) of this section,
28 any person convicted of the crime of aggravated first degree murder
29 shall be sentenced to life imprisonment without possibility of release
30 or parole. A person sentenced to life imprisonment under this section
31 shall not have that sentence suspended, deferred, or commuted by any
32 judicial officer and the indeterminate sentence review board or its
33 successor may not parole such prisoner nor reduce the period of
34 confinement in any manner whatsoever including but not limited to any
35 sort of good-time calculation. The department of social and health

1 services or its successor or any executive official may not permit such
2 prisoner to participate in any sort of release or furlough program.

3 (2) If, pursuant to a special sentencing proceeding held under RCW
4 10.95.050, the trier of fact finds that there are not sufficient
5 mitigating circumstances to merit leniency, the sentence shall be
6 death. In no case, however, shall a person be sentenced to death if
7 the person had an intellectual disability at the time the crime was
8 committed, under the definition of intellectual disability set forth in
9 (a) of this subsection. A diagnosis of intellectual disability shall
10 be documented by a licensed psychiatrist or licensed psychologist
11 designated by the court, who is an expert in the diagnosis and
12 evaluation of intellectual disabilities. The defense must establish an
13 intellectual disability by a preponderance of the evidence and the
14 court must make a finding as to the existence of an intellectual
15 disability.

16 (a) "Intellectual disability" means the individual has: (i)
17 Significantly subaverage general intellectual functioning; (ii)
18 existing concurrently with deficits in adaptive behavior; and (iii)
19 both significantly subaverage general intellectual functioning and
20 deficits in adaptive behavior were manifested during the developmental
21 period.

22 (b) "General intellectual functioning" means the results obtained
23 by assessment with one or more of the individually administered general
24 intelligence tests developed for the purpose of assessing intellectual
25 functioning.

26 (c) "Significantly subaverage general intellectual functioning"
27 means intelligence quotient seventy or below.

28 (d) "Adaptive behavior" means the effectiveness or degree with
29 which individuals meet the standards of personal independence and
30 social responsibility expected for his or her age.

31 (e) "Developmental period" means the period of time between
32 conception and the eighteenth birthday.

33 (3)(a)(i) Any person convicted of the crime of aggravated first
34 degree murder for an offense committed prior to the person's sixteenth
35 birthday shall be sentenced to a maximum term of life imprisonment and
36 a minimum term of total confinement of twenty-five years.

37 (ii) Any person convicted of the crime of aggravated first degree
38 murder for an offense committed when the person is at least sixteen

1 years old but less than eighteen years old shall be sentenced to a
2 maximum term of life imprisonment and a minimum term of total
3 confinement of no less than twenty-five years. A minimum term of life
4 may be imposed, in which case the person will be ineligible for parole
5 or early release.

6 (b) In setting a minimum term, the court must take into account
7 mitigating factors that account for the diminished culpability of youth
8 as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but
9 not limited to, the age of the individual, the youth's childhood and
10 life experience, the degree of responsibility the youth was capable of
11 exercising, and the youth's chances of becoming rehabilitated.

12 (c) A person sentenced under this subsection shall serve the
13 sentence in a facility or institution operated, or utilized under
14 contract, by the state. During the minimum term of total confinement,
15 the person shall not be eligible for community custody, earned release
16 time, furlough, home detention, partial confinement, work crew, work
17 release, or any other form of early release authorized under RCW
18 9.94A.728, or any other form of authorized leave or absence from the
19 correctional facility while not in the direct custody of a corrections
20 officer. The provisions of this subsection shall not apply: (i) In
21 the case of an offender in need of emergency medical treatment; or (ii)
22 for an extraordinary medical placement when authorized under RCW
23 9.94A.728(3).

24 (d) Any person sentenced pursuant to this subsection shall be
25 subject to community custody under the supervision of the department of
26 corrections and the authority of the indeterminate sentence review
27 board. As part of any sentence under this subsection, the court shall
28 require the person to comply with any conditions imposed by the board.

29 (e) No later than five years prior to the expiration of the
30 person's minimum term, the department of corrections shall conduct an
31 assessment of the offender and identify programming and services that
32 would be appropriate to prepare the offender for return to the
33 community. To the extent possible, the department shall make
34 programming available as identified by the assessment.

35 (f) No later than one hundred eighty days prior to the expiration
36 of the person's minimum term, the department of corrections shall
37 conduct, and the offender shall participate in, an examination of the
38 person, incorporating methodologies that are recognized by experts in

1 the prediction of dangerousness, and including a prediction of the
2 probability that the person will engage in future criminal behavior if
3 released on conditions to be set by the board. The board may consider
4 a person's failure to participate in an evaluation under this
5 subsection in determining whether to release the person. The board
6 shall order the person released, under such affirmative and other
7 conditions as the board determines appropriate, unless the board
8 determines by a preponderance of the evidence that, despite such
9 conditions, it is more likely than not that the person will commit new
10 criminal law violations if released. If the board does not order the
11 person released, the board shall set a new minimum term not to exceed
12 five additional years. The board shall give public safety
13 considerations the highest priority when making all discretionary
14 decisions regarding the ability for release and conditions of release.

15 (g) In a hearing conducted under (f) of this subsection, the board
16 shall provide opportunities for victims and survivors of victims of any
17 crimes for which the offender has been convicted to present statements
18 as set forth in RCW 7.69.032. The procedures for victim and survivor
19 of victim input shall be developed by rule. To facilitate victim and
20 survivor of victim involvement, county prosecutor's offices shall
21 ensure that any victim impact statements and known contact information
22 for victims of record and survivors of victims are forwarded as part of
23 the judgment and sentence.

24 (h) An offender released by the board is subject to the supervision
25 of the department of corrections for a period of time to be determined
26 by the board. The department shall monitor the offender's compliance
27 with conditions of community custody imposed by the court, department,
28 or board, and promptly report any violations to the board. Any
29 violation of conditions of community custody established or modified by
30 the board are subject to the provisions of RCW 9.95.425 through
31 9.95.440.

32 NEW SECTION. Sec. 10. A new section is added to chapter 9.94A RCW
33 to read as follows:

34 (1) Notwithstanding any other provision of this chapter, any person
35 convicted of one or more crimes committed prior to the person's
36 eighteenth birthday may petition the indeterminate sentence review
37 board for early release after serving no less than twenty years of

1 total confinement, provided the person has not been convicted for any
2 crime committed subsequent to the person's eighteenth birthday, the
3 person has not committed a major violation in the twelve months prior
4 to filing the petition for early release, and the current sentence was
5 not imposed under RCW 10.95.030 or 9.94A.507.

6 (2) When an offender who will be eligible to petition under this
7 section has served fifteen years, the department shall conduct an
8 assessment of the offender and identify programming and services that
9 would be appropriate to prepare the offender for return to the
10 community. To the extent possible, the department shall make
11 programming available as identified by the assessment.

12 (3) No later than one hundred eighty days from receipt of the
13 petition for early release, the department shall conduct, and the
14 offender shall participate in, an examination of the person,
15 incorporating methodologies that are recognized by experts in the
16 prediction of dangerousness, and including a prediction of the
17 probability that the person will engage in future criminal behavior if
18 released on conditions to be set by the board. The board may consider
19 a person's failure to participate in an evaluation under this
20 subsection in determining whether to release the person. The board
21 shall order the person released under such affirmative and other
22 conditions as the board determines appropriate, unless the board
23 determines by a preponderance of the evidence that, despite such
24 conditions, it is more likely than not that the person will commit new
25 criminal law violations if released. The board shall give public
26 safety considerations the highest priority when making all
27 discretionary decisions regarding the ability for release and
28 conditions of release.

29 (4) In a hearing conducted under subsection (3) of this section,
30 the board shall provide opportunities for victims and survivors of
31 victims of any crimes for which the offender has been convicted to
32 present statements as set forth in RCW 7.69.032. The procedures for
33 victim and survivor of victim input shall be developed by rule. To
34 facilitate victim and survivor of victim involvement, county
35 prosecutor's offices shall ensure that any victim impact statements and
36 known contact information for victims of record and survivors of
37 victims are forwarded as part of the judgment and sentence.

1 (5) An offender released by the board is subject to the supervision
2 of the department for a period of time to be determined by the board.
3 The department shall monitor the offender's compliance with conditions
4 of community custody imposed by the court, department, or board, and
5 promptly report any violations to the board. Any violation of
6 conditions of community custody established or modified by the board
7 are subject to the provisions of RCW 9.95.425 through 9.95.440.

8 (6) An offender whose petition for release is denied may file a new
9 petition for release five years from the date of denial or at an
10 earlier date as may be set by the board.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 10.95 RCW
12 to read as follows:

13 (1) A person, who was sentenced prior to June 1, 2014, to a term of
14 life without the possibility of parole for an offense committed prior
15 to their eighteenth birthday, shall be returned to the sentencing court
16 or the sentencing court's successor for sentencing consistent with RCW
17 10.95.030. Release and supervision of a person who receives a minimum
18 term of less than life will be governed by RCW 10.95.030.

19 (2) The court shall provide an opportunity for victims and
20 survivors of victims of any crimes for which the offender has been
21 convicted to present a statement personally or by representation.

22 (3) The court's order setting a minimum term is subject to review
23 to the same extent as a minimum term decision by the parole board
24 before July 1, 1986.

25 (4) A resentencing under this section shall not reopen the
26 defendant's conviction to challenges that would otherwise be barred by
27 RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

28 NEW SECTION. **Sec. 12.** A new section is added to chapter 10.95 RCW
29 to read as follows:

30 Sections 1 through 9 of this act apply to all sentencing hearings
31 conducted on or after June 1, 2014, regardless of the date of an
32 offender's underlying offense.

33 NEW SECTION. **Sec. 13.** (1) The legislature shall convene a task
34 force to examine juvenile sentencing reform, with the following voting
35 members:

1 (a) The president of the senate shall appoint one member from each
2 of the two largest caucuses of the senate;

3 (b) The speaker of the house of representatives shall appoint one
4 member from each of the two largest caucuses in the house of
5 representatives;

6 (c) A representative from the governor's office;

7 (d) The assistant secretary of the department of social and health
8 services overseeing the juvenile justice and rehabilitation
9 administration or his or her designee;

10 (e) The secretary of the department of corrections or his or her
11 designee;

12 (f) A superior court judge from the superior court judges
13 association family and juvenile law subcommittee, who is familiar with
14 cases involving the transfer of youth to the adult criminal justice
15 system and sentencing of youth in the adult criminal justice system;

16 (g) A representative of the Washington association of prosecuting
17 attorneys;

18 (h) A representative of the Washington association of criminal
19 defense lawyers or the Washington defender association;

20 (i) A representative from the Washington coalition of crime victim
21 advocates;

22 (j) A representative from the juvenile court administrator's
23 association;

24 (k) A representative from the Washington association of sheriffs
25 and police chiefs;

26 (l) A representative from law enforcement who works with juveniles;
27 and

28 (m) A representative from the sentencing guidelines commission.

29 (2) The task force shall choose two cochairs from among its
30 legislative members.

31 (3) The task force shall undertake a thorough review of juvenile
32 sentencing as it relates to the intersection of the adult and juvenile
33 justice systems and make recommendations for reform that promote
34 improved outcomes for youth, public safety, and taxpayer resources.
35 The review shall include, but is not limited to:

36 (a) The process and circumstances for transferring a juvenile to
37 adult jurisdiction, including discretionary and mandatory decline
38 hearings and automatic transfer to adult jurisdiction;

1 (b) Sentencing standards, term lengths, sentencing enhancements,
2 and stacking provisions that apply once a juvenile is transferred to
3 adult jurisdiction; and

4 (c) The appropriate custody, treatment, and resources for declined
5 youth who will complete their term of confinement prior to reaching age
6 twenty-one.

7 (4) Staff support for the task force must be provided by the senate
8 committee services and the house of representatives office of program
9 research.

10 (5) Legislative members of the task force may be reimbursed for
11 travel expenses in accordance with RCW 44.04.120. Nonlegislative
12 members, except those representing an employer or organization, are
13 entitled to be reimbursed for travel expenses as provided in RCW
14 43.03.050 and 43.03.060.

15 (6) The expenses of the task force shall be paid jointly by the
16 senate and the house of representatives. Task force expenditures are
17 subject to approval by the senate facilities and operations committee
18 and the house executive rules committee, or their successor committees.

19 (7) The task force shall report its findings and recommendations to
20 the governor and the appropriate committees of the legislature by
21 December 1, 2014.

22 NEW SECTION. **Sec. 14.** Section 13 of this act expires June 1,
23 2015.

24 NEW SECTION. **Sec. 15.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 16.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 June 1, 2014.

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