
SENATE BILL 6143

State of Washington 64th Legislature 2015 3rd Special Session

By Senator Hargrove

Read first time 06/29/15.

1 AN ACT Relating to the sentencing of offenders; amending RCW
2 9.94A.030, 9.94A.501, 9.94A.505, 9.94A.506, 9.94A.585, 9.94A.702,
3 9.94A.171, 9.94A.860, 46.61.502, 46.61.504, 46.61.5055, 9.94A.515,
4 and 46.61.5054; reenacting and amending RCW 9.94A.515 and 9.94A.701;
5 adding a new section to chapter 43.88 RCW; adding new sections to
6 chapter 9.94A RCW; adding new sections to chapter 43.131 RCW;
7 creating new sections; prescribing penalties; providing effective
8 dates; and declaring an emergency.

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

10 NEW SECTION. **Sec. 1.** (1) The legislature finds that:
11 (a) Washington has the highest property crime rate in the
12 country.
13 (b) Washington's crime victims' compensation program does not
14 provide victims with financial assistance for expenses associated
15 with property crime.
16 (c) Funding for programs that notify victims when offenders are
17 released from jail in three large counties is set to expire in 2016.
18 (d) In recent years, an increasing number of individuals
19 convicted of property crimes have been sentenced to prison.
20 Supervision paired with treatment including, but not limited to,
21 mental health, chemical dependency, and cognitive behavioral

1 treatment and services, which can have a significant impact on
2 reducing the likelihood of reoffending, is not available as a
3 sentencing option for most people convicted of property offenses.

4 (e) Supervision practices in Washington are promising and the
5 department of corrections continues to refine its approach to
6 community supervision, but there is an opportunity to further
7 strengthen the quality of supervision and extend it to property crime
8 offenders.

9 (f) Pretrial detainees take up a significant portion of county
10 jail space and a portion of these individuals will be rearrested upon
11 release. Only a fraction of counties in Washington utilize risk
12 assessments to inform decision making regarding pretrial release.

13 (g) Sustained policy development in juvenile and criminal justice
14 would benefit from a more concerted, consistent, and visible form of
15 governance.

16 (2) It is the intent of the legislature to respond to the
17 findings of the Washington state justice reinvestment task force,
18 which are outlined in subsection (1) of this section, by changing
19 sentencing policy to require supervision of certain people convicted
20 of property offenses; by providing treatment, if needed, and programs
21 to reduce recidivism; and by providing additional support to local
22 governments and victims of property crime. The legislature adopts
23 this act with the goal of reducing property crime by at least fifteen
24 percent by fiscal year 2021.

25 **Sec. 2.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to
26 read as follows:

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

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

31 (2) "Collect," or any derivative thereof, "collect and remit," or
32 "collect and deliver," when used with reference to the department,
33 means that the department, either directly or through a collection
34 agreement authorized by RCW 9.94A.760, is responsible for monitoring
35 and enforcing the offender's sentence with regard to the legal
36 financial obligation, receiving payment thereof from the offender,
37 and, consistent with current law, delivering daily the entire payment
38 to the superior court clerk without depositing it in a departmental
39 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) "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
10 by the department.

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

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

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

21 (10) "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
28 department.

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

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

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

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

6 (12) "Criminal street gang" means any ongoing organization,
7 association, or group of three or more persons, whether formal or
8 informal, having a common name or common identifying sign or symbol,
9 having as one of its primary activities the commission of criminal
10 acts, and whose members or associates individually or collectively
11 engage in or have engaged in a pattern of criminal street gang
12 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) "Criminal street gang associate or member" means any person
17 who actively participates in any criminal street gang and who
18 intentionally promotes, furthers, or assists in any criminal act by
19 the criminal street gang.

20 (14) "Criminal street gang-related offense" means any felony or
21 misdemeanor offense, whether in this state or elsewhere, that is
22 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
25 is 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,
28 prestige, 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
39 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
40 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88

1 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
2 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
3 9.68 RCW).

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

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

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

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

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

34 (20) "Domestic violence" has the same meaning as defined in RCW
35 10.99.020 and 26.50.010.

36 (21) "Drug offender sentencing alternative" is a sentencing
37 option available to persons convicted of a felony offense other than
38 a violent offense or a sex offense and who are eligible for the
39 option under RCW 9.94A.660.

40 (22) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession
2 of a controlled substance (RCW 69.50.4013) or forged prescription for
3 a controlled substance (RCW 69.50.403);

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

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

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

12 (24) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
14 the first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or
17 willful failure to be available for supervision by the department
18 while in community custody (RCW 72.09.310); or

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

22 (25) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
24 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
25 run injury-accident (RCW 46.52.020(4)), felony driving while under
26 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
27 or felony physical control of a vehicle while under the influence of
28 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

32 (26) "Fine" means a specific sum of money ordered by the
33 sentencing court to be paid by the offender to the court over a
34 specific period of time.

35 (27) "First-time offender" means any person who has no prior
36 convictions for a felony and is eligible for the first-time offender
37 waiver under RCW 9.94A.650.

38 (28) "Home detention" means a program of partial confinement
39 available to offenders wherein the offender is confined in a private
40 residence subject to electronic surveillance.

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

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

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

8 (c) A private residence where the individual stays as a transient
9 invitee.

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

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

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

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

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

40 (j) Leading organized crime;

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

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

4 (33) "Nonviolent offense" means an offense which is not a violent
5 offense.

6 (34) "Offender" means a person who has committed a felony
7 established by state law and is eighteen years of age or older or is
8 less than eighteen years of age but whose case is under superior
9 court jurisdiction under RCW 13.04.030 or has been transferred by the
10 appropriate juvenile court to a criminal court pursuant to RCW
11 13.40.110. In addition, for the purpose of community custody
12 requirements under this chapter, "offender" also means a misdemeanor
13 or gross misdemeanor probationer ordered by a superior court to
14 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
15 supervised by the department pursuant to RCW 9.94A.501 and
16 9.94A.5011. Throughout this chapter, the terms "offender" and
17 "defendant" are used interchangeably.

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

27 (36) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

1 the laws of this state would be considered most serious offenses and
2 would be included in the offender score under RCW 9.94A.525; provided
3 that of the two or more previous convictions, at least one conviction
4 must have occurred before the commission of any of the other most
5 serious offenses for which the offender was previously convicted; or

6 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
7 of a child in the first degree, child molestation in the first
8 degree, rape in the second degree, rape of a child in the second
9 degree, or indecent liberties by forcible compulsion; (B) any of the
10 following offenses with a finding of sexual motivation: Murder in the
11 first degree, murder in the second degree, homicide by abuse,
12 kidnapping in the first degree, kidnapping in the second degree,
13 assault in the first degree, assault in the second degree, assault of
14 a child in the first degree, assault of a child in the second degree,
15 or burglary in the first degree; or (C) an attempt to commit any
16 crime listed in this subsection (37)(b)(i); and

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

29 (38) "Predatory" means: (a) The perpetrator of the crime was a
30 stranger to the victim, as defined in this section; (b) the
31 perpetrator established or promoted a relationship with the victim
32 prior to the offense and the victimization of the victim was a
33 significant reason the perpetrator established or promoted the
34 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
35 volunteer, or other person in authority in any public or private
36 school and the victim was a student of the school under his or her
37 authority or supervision. For purposes of this subsection, "school"
38 does not include home-based instruction as defined in RCW
39 28A.225.010; (ii) a coach, trainer, volunteer, or other person in
40 authority in any recreational activity and the victim was a

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

13 (39) "Private school" means a school regulated under chapter
14 28A.195 or 28A.205 RCW.

15 (40) "Property offense" means:

16 (a)(i) Counterfeiting (RCW 9.16.035(4));

17 (ii) Identity Theft 1 (RCW 9.35.020(2));

18 (iii) Theft of Livestock 1 (RCW 9A.56.080);

19 (iv) Trafficking in Stolen Property 1 (RCW 9A.82.050);

20 (v) Unlawful Factoring of a Credit Card or Payment Card
21 Transaction (RCW 9A.56.290(4)(b));

22 (vi) Burglary 2 (RCW 9A.52.030);

23 (vii) Organized Retail Theft 1 (RCW 9A.56.350(2));

24 (viii) Retail Theft with Special Circumstances 1 (RCW
25 9A.56.360(2));

26 (ix) Theft of Livestock 2 (RCW 9A.56.083);

27 (x) Theft with the Intent to Resell 1 (RCW 9A.56.340(2));

28 (xi) Trafficking in Stolen Property 2 (RCW 9A.82.055);

29 (xii) Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b));

30 (xiii) Commercial Fishing Without a License 1 (RCW
31 77.15.500(3)(b));

32 (xiv) Counterfeiting (RCW 9.16.035(3));

33 (xv) Engaging in Fish Dealing Activity Unlicensed 1 (RCW
34 77.15.620(3)(b));

35 (xvi) Health Care False Claims (RCW 48.80.030);

36 (xvii) Identity Theft 2 (RCW 9.35.020(3));

37 (xviii) Malicious Mischief 1 (RCW 9A.48.070);

38 (xix) Organized Retail Theft 2 (RCW 9A.56.350(3));

39 (xx) Possession of Stolen Property 1 (RCW 9A.56.150);

40 (xxi) Possession of a Stolen Vehicle (RCW 9A.56.068);

1 (xxii) Retail Theft with Special Circumstances 2 (RCW
2 9A.56.360(3));
3 (xxiii) Scrap Processing, Recycling, or Supplying Without a
4 License (second or subsequent offense) (RCW 19.290.100(2)(b));
5 (xxiv) Theft 1 (RCW 9A.56.030);
6 (xxv) Theft of a Motor Vehicle (RCW 9A.56.065);
7 (xxvi) Theft of Rental, Leased, Lease-purchased, or Loaned
8 Property (valued at five thousand dollars or more) (RCW
9 9A.56.096(5)(a));
10 (xxvii) Theft with the Intent to Resell 2 (RCW 9A.56.340(3));
11 (xxviii) Trafficking in Insurance Claims (RCW 48.30A.015);
12 (xxix) Unlawful Factoring of a Credit Card or Payment Card
13 Transaction (RCW 9A.56.290(4)(a));
14 (xxx) False Verification for Welfare (RCW 74.08.055);
15 (xxxii) Forgery (RCW 9A.60.020);
16 (xxxiii) Malicious Mischief 2 (RCW 9A.48.080);
17 (xxxiiii) Possession of Stolen Property 2 (RCW 9A.56.160);
18 (xxxv) Reckless Burning 1 (RCW 9A.48.040);
19 (xxxvi) Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075);
20 (xxxvii) Theft 2 (RCW 9A.56.040);
21 (xxxviii) Theft of Rental, Leased, Lease-purchased, or Loaned
22 Property (valued at seven hundred fifty dollars or more but less than
23 five thousand dollars) (RCW 9A.56.096(5)(b));
24 (xxxix) Unlawful Issuance of Checks or Drafts (RCW 9A.56.060);
25 (xl) Unlawful Possession of Fictitious Identification (RCW
26 9A.56.320(4));
27 (xli) Unlawful Possession of Instruments of Financial Fraud (RCW
28 9A.56.320(5));
29 (xlii) Unlawful Possession of Payment Instruments (RCW
30 9A.56.320(2));
31 (xliii) Unlawful Possession of a Personal Identification Device
32 (RCW 9A.56.320(3));
33 (xliv) Unlawful Production of Payment Instruments (RCW
34 9A.56.320(1));
35 (xlv) Unlawful Trafficking in Food Stamps (RCW 9.91.142);
36 (xlvi) Unlawful Use of Food Stamps (RCW 9.91.144);
37 (xlvii) Taking Motor Vehicle without Permission 1 (RCW 9A.56.070);
38 (b) An attempt, criminal solicitation, or criminal conspiracy to
39 commit a property offense under (a) of this subsection; or

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

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

5 ~~((41))~~ (42) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

21 ~~((42))~~ (43) "Restitution" means a specific sum of money ordered
22 by the sentencing court to be paid by the offender to the court over
23 a specified period of time as payment of damages. The sum may include
24 both public and private costs.

25 ~~((43))~~ (44) "Risk assessment" means the application of the risk
26 instrument recommended to the department by the Washington state
27 institute for public policy as having the highest degree of
28 predictive accuracy for assessing an offender's risk of reoffense.

29 ~~((44))~~ (45) "Serious traffic offense" means:

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

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

38 ~~((45))~~ (46) "Serious violent offense" is a subcategory of
39 violent offense and means:

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

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

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

13 (~~(46)~~) (47) "Sex offense" means:

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

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

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

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

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

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

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

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

33 (~~(47)~~) (48) "Sexual motivation" means that one of the purposes
34 for which the defendant committed the crime was for the purpose of
35 his or her sexual gratification.

36 (~~(48)~~) (49) "Standard sentence range" means the sentencing
37 court's discretionary range in imposing a nonappealable sentence.

38 (~~(49)~~) (50) "Statutory maximum sentence" means the maximum
39 length of time for which an offender may be confined as punishment
40 for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the

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

3 ~~((+50+))~~ (51) "Stranger" means that the victim did not know the
4 offender twenty-four hours before the offense.

5 ~~((+51+))~~ (52) "Total confinement" means confinement inside the
6 physical boundaries of a facility or institution operated or utilized
7 under contract by the state or any other unit of government for
8 twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

9 ~~((+52+))~~ (53) "Transition training" means written and verbal
10 instructions and assistance provided by the department to the
11 offender during the two weeks prior to the offender's successful
12 completion of the work ethic camp program. The transition training
13 shall include instructions in the offender's requirements and
14 obligations during the offender's period of community custody.

15 ~~((+53+))~~ (54) "Victim" means any person who has sustained
16 emotional, psychological, physical, or financial injury to person or
17 property as a direct result of the crime charged.

18 ~~((+54+))~~ (55) "Violent offense" means:

19 (a) Any of the following felonies:

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

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

24 (iii) Manslaughter in the first degree;

25 (iv) Manslaughter in the second degree;

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

27 (vi) Kidnapping in the second degree;

28 (vii) Arson in the second degree;

29 (viii) Assault in the second degree;

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

31 (x) Extortion in the first degree;

32 (xi) Robbery in the second degree;

33 (xii) Drive-by shooting;

34 (xiii) Vehicular assault, when caused by the operation or driving
35 of a vehicle by a person while under the influence of intoxicating
36 liquor or any drug or by the operation or driving of a vehicle in a
37 reckless manner; and

38 (xiv) Vehicular homicide, when proximately caused by the driving
39 of any vehicle by any person while under the influence of

1 intoxicating liquor or any drug as defined by RCW 46.61.502, or by
2 the operation of any vehicle in a reckless manner;

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

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

9 ~~((+55+))~~ (56) "Work crew" means a program of partial confinement
10 consisting of civic improvement tasks for the benefit of the
11 community that complies with RCW 9.94A.725.

12 ~~((+56+))~~ (57) "Work ethic camp" means an alternative
13 incarceration program as provided in RCW 9.94A.690 designed to reduce
14 recidivism and lower the cost of corrections by requiring offenders
15 to complete a comprehensive array of real-world job and vocational
16 experiences, character-building work ethics training, life management
17 skills development, substance abuse rehabilitation, counseling,
18 literacy training, and basic adult education.

19 ~~((+57+))~~ (58) "Work release" means a program of partial
20 confinement available to offenders who are employed or engaged as a
21 student in a regular course of study at school.

22 **Sec. 3.** RCW 9.94A.501 and 2015 c 134 s 1 are each amended to
23 read as follows:

24 (1) The department shall supervise the following offenders who
25 are sentenced to probation in superior court, pursuant to RCW
26 9.92.060, 9.95.204, or 9.95.210:

27 (a) Offenders convicted of:

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

29 (ii) Custodial sexual misconduct second degree;

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

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

32 (b) Offenders who have:

33 (i) A current conviction for a repetitive domestic violence
34 offense where domestic violence has been plead and proven after
35 August 1, 2011; and

36 (ii) A prior conviction for a repetitive domestic violence
37 offense or domestic violence felony offense where domestic violence
38 has been plead and proven after August 1, 2011.

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

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

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

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

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

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

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

21 (e) Has a current conviction for a domestic violence felony
22 offense where domestic violence has been plead and proven after
23 August 1, 2011, and a prior conviction for a repetitive domestic
24 violence offense or domestic violence felony offense where domestic
25 violence has been plead and proven after August 1, 2011;

26 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
27 9.94A.670;

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

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

32 (i) Until June 30, 2022, has a current conviction for a property
33 offense as defined in RCW 9.94A.030, and has an offender score of two
34 points or more.

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

39 (6) The department is not authorized to, and may not, supervise
40 any offender sentenced to a term of community custody or any

1 probationer unless the offender or probationer is one for whom
2 supervision is required under this section or RCW 9.94A.5011.

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

6 (8) The period of time the department is authorized to supervise
7 an offender under this section may not exceed the duration of
8 community custody ordered pursuant to a sentencing alternative or
9 specified under RCW 9.94B.050, 9.94A.701 (1), (2), or (3), or
10 9.94A.702, except in cases where the court has imposed an exceptional
11 term of community custody under RCW 9.94A.535. The period of time the
12 department is authorized to supervise an offender under this section
13 may be reduced by the earned award of positive achievement time
14 pursuant to section 18 of this act.

15 **Sec. 4.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to
16 read as follows:

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

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

21 (i) Unless another term of confinement applies, a sentence within
22 the standard sentence range established in RCW 9.94A.510 ~~((\oplus))~~,
23 9.94A.517, or section 7 of this act;

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

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

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

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

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

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

32 (viii) RCW 9.94A.655, relating to the parenting sentencing
33 alternative;

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

35 (x) RCW 9.94A.535, relating to exceptional sentences;

36 (xi) RCW 9.94A.589, relating to consecutive and concurrent
37 sentences;

38 (xii) RCW 9.94A.603, relating to felony driving while under the
39 influence of intoxicating liquor or any drug and felony physical

1 control of a vehicle while under the influence of intoxicating liquor
2 or any drug.

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

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

18 (4) If a sentence imposed includes payment of a legal financial
19 obligation, it shall be imposed as provided in RCW 9.94A.750,
20 9.94A.753, 9.94A.760, and 43.43.7541.

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

25 (6) The sentencing court shall give the offender credit for all
26 confinement time served before the sentencing if that confinement was
27 solely in regard to the offense for which the offender is being
28 sentenced.

29 (7) The court shall order restitution as provided in RCW
30 9.94A.750 and 9.94A.753.

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

34 (9) In any sentence of partial confinement, the court may require
35 the offender to serve the partial confinement in work release, in a
36 program of home detention, on work crew, or in a combined program of
37 work crew and home detention.

38 **Sec. 5.** RCW 9.94A.506 and 2011 1st sp.s. c 40 s 26 are each
39 amended to read as follows:

1 The standard sentence ranges of total and partial confinement
2 under this chapter, except as provided in RCW 9.94A.517 and section 7
3 of this act, are subject to the following limitations:

4 (1) If the maximum term in the range is one year or less, the
5 minimum term in the range shall be no less than one-third of the
6 maximum term in the range, except that if the maximum term in the
7 range is ninety days or less, the minimum term may be less than one-
8 third of the maximum;

9 (2) If the maximum term in the range is greater than one year,
10 the minimum term in the range shall be no less than seventy-five
11 percent of the maximum term in the range, except that for murder in
12 the second degree in seriousness level XIV under RCW 9.94A.510, the
13 minimum term in the range shall be no less than fifty percent of the
14 maximum term in the range; and

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

17 **Sec. 6.** RCW 9.94A.515 and 2013 c 322 s 26, 2013 c 290 s 8, 2013
18 c 267 s 2, and 2013 c 153 s 2 are each reenacted and amended to read
19 as follows:

20 TABLE 2

21 CRIMES INCLUDED WITHIN
22 EACH SERIOUSNESS LEVEL

23	XVI	Aggravated Murder 1 (RCW
24		10.95.020)
25	XV	Homicide by abuse (RCW 9A.32.055)
26		Malicious explosion 1 (RCW
27		70.74.280(1))
28		Murder 1 (RCW 9A.32.030)
29	XIV	Murder 2 (RCW 9A.32.050)
30		Trafficking 1 (RCW 9A.40.100(1))
31	XIII	Malicious explosion 2 (RCW
32		70.74.280(2))
33		Malicious placement of an explosive 1
34		(RCW 70.74.270(1))
35	XII	Assault 1 (RCW 9A.36.011)
36		Assault of a Child 1 (RCW 9A.36.120)

1 Malicious placement of an imitation
2 device 1 (RCW 70.74.272(1)(a))
3 Promoting Commercial Sexual Abuse
4 of a Minor (RCW 9.68A.101)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Trafficking 2 (RCW 9A.40.100(~~(2)~~))
8 (3))
9 XI Manslaughter 1 (RCW 9A.32.060)
10 Rape 2 (RCW 9A.44.050)
11 Rape of a Child 2 (RCW 9A.44.076)
12 Vehicular Homicide, by being under
13 the influence of intoxicating liquor
14 or any drug (RCW 46.61.520)
15 X Child Molestation 1 (RCW 9A.44.083)
16 Criminal Mistreatment 1 (RCW
17 9A.42.020)
18 Indecent Liberties (with forcible
19 compulsion) (RCW
20 9A.44.100(1)(a))
21 Kidnapping 1 (RCW 9A.40.020)
22 Leading Organized Crime (RCW
23 9A.82.060(1)(a))
24 Malicious explosion 3 (RCW
25 70.74.280(3))
26 Sexually Violent Predator Escape
27 (RCW 9A.76.115)
28 IX Abandonment of Dependent Person 1
29 (RCW 9A.42.060)
30 Assault of a Child 2 (RCW 9A.36.130)
31 Explosive devices prohibited (RCW
32 70.74.180)
33 Hit and Run—Death (RCW
34 46.52.020(4)(a))

1 Homicide by Watercraft, by being
2 under the influence of intoxicating
3 liquor or any drug (RCW
4 79A.60.050)

5 Inciting Criminal Profiteering (RCW
6 9A.82.060(1)(b))

7 Malicious placement of an explosive 2
8 (RCW 70.74.270(2))

9 Robbery 1 (RCW 9A.56.200)

10 Sexual Exploitation (RCW 9.68A.040)

11 VIII Arson 1 (RCW 9A.48.020)

12 Commercial Sexual Abuse of a Minor
13 (RCW 9.68A.100)

14 Homicide by Watercraft, by the
15 operation of any vessel in a
16 reckless manner (RCW
17 79A.60.050)

18 Manslaughter 2 (RCW 9A.32.070)

19 Promoting Prostitution 1 (RCW
20 9A.88.070)

21 Theft of Ammonia (RCW 69.55.010)

22 Vehicular Homicide, by the operation
23 of any vehicle in a reckless
24 manner (RCW 46.61.520)

25 VII Burglary 1 (RCW 9A.52.020)

26 Child Molestation 2 (RCW 9A.44.086)

27 Civil Disorder Training (RCW
28 9A.48.120)

29 Dealing in depictions of minor engaged
30 in sexually explicit conduct 1
31 (RCW 9.68A.050(1))

32 Drive-by Shooting (RCW 9A.36.045)

33 Homicide by Watercraft, by disregard
34 for the safety of others (RCW
35 79A.60.050)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1)
3 (b) and (c))
4 Introducing Contraband 1 (RCW
5 9A.76.140)
6 Malicious placement of an explosive 3
7 (RCW 70.74.270(3))
8 Negligently Causing Death By Use of a
9 Signal Preemption Device (RCW
10 46.37.675)
11 Sending, bringing into state depictions
12 of minor engaged in sexually
13 explicit conduct 1 (RCW
14 9.68A.060(1))
15 Unlawful Possession of a Firearm in
16 the first degree (RCW
17 9.41.040(1))
18 Use of a Machine Gun in Commission
19 of a Felony (RCW 9.41.225)
20 Vehicular Homicide, by disregard for
21 the safety of others (RCW
22 46.61.520)
23 VI Bail Jumping with Murder 1 (RCW
24 9A.76.170(3)(a))
25 Bribery (RCW 9A.68.010)
26 Incest 1 (RCW 9A.64.020(1))
27 Intimidating a Judge (RCW 9A.72.160)
28 Intimidating a Juror/Witness (RCW
29 9A.72.110, 9A.72.130)
30 Malicious placement of an imitation
31 device 2 (RCW 70.74.272(1)(b))
32 Possession of Depictions of a Minor
33 Engaged in Sexually Explicit
34 Conduct 1 (RCW 9.68A.070(1))
35 Rape of a Child 3 (RCW 9A.44.079)
36 Theft of a Firearm (RCW 9A.56.300)

1 Unlawful Storage of Ammonia (RCW
2 69.55.020)

3 V Abandonment of Dependent Person 2
4 (RCW 9A.42.070)

5 Advancing money or property for
6 extortionate extension of credit
7 (RCW 9A.82.030)

8 Bail Jumping with class A Felony
9 (RCW 9A.76.170(3)(b))

10 Child Molestation 3 (RCW 9A.44.089)

11 Criminal Mistreatment 2 (RCW
12 9A.42.030)

13 Custodial Sexual Misconduct 1 (RCW
14 9A.44.160)

15 Dealing in Depictions of Minor
16 Engaged in Sexually Explicit
17 Conduct 2 (RCW 9.68A.050(2))

18 Domestic Violence Court Order
19 Violation (RCW 10.99.040,
20 10.99.050, 26.09.300, 26.10.220,
21 26.26.138, 26.50.110, 26.52.070,
22 or 74.34.145)

23 Driving While Under the Influence
24 (RCW 46.61.502(6))

25 Extortion 1 (RCW 9A.56.120)

26 Extortionate Extension of Credit (RCW
27 9A.82.020)

28 Extortionate Means to Collect
29 Extensions of Credit (RCW
30 9A.82.040)

31 Incest 2 (RCW 9A.64.020(2))

32 Kidnapping 2 (RCW 9A.40.030)

33 Perjury 1 (RCW 9A.72.020)

34 Persistent prison misbehavior (RCW
35 9.94.070)

1 Physical Control of a Vehicle While
2 Under the Influence (RCW
3 46.61.504(6))
4 Possession of a Stolen Firearm (RCW
5 9A.56.310)
6 Rape 3 (RCW 9A.44.060)
7 Rendering Criminal Assistance 1
8 (RCW 9A.76.070)
9 Sending, Bringing into State
10 Depictions of Minor Engaged in
11 Sexually Explicit Conduct 2
12 (RCW 9.68A.060(2))
13 Sexual Misconduct with a Minor 1
14 (RCW 9A.44.093)
15 Sexually Violating Human Remains
16 (RCW 9A.44.105)
17 Stalking (RCW 9A.46.110)
18 ~~((Taking Motor Vehicle Without
19 Permission 1 (RCW 9A.56.070)))~~
20 IV Arson 2 (RCW 9A.48.030)
21 Assault 2 (RCW 9A.36.021)
22 Assault 3 (of a Peace Officer with a
23 Projectile Stun Gun) (RCW
24 9A.36.031(1)(h))
25 Assault by Watercraft (RCW
26 79A.60.060)
27 Bribing a Witness/Bribe Received by
28 Witness (RCW 9A.72.090,
29 9A.72.100)
30 Cheating 1 (RCW 9.46.1961)
31 Commercial Bribery (RCW
32 9A.68.060)
33 ~~((Counterfeiting (RCW 9.16.035(4))))~~
34 Endangerment with a Controlled
35 Substance (RCW 9A.42.100)

1 Escape 1 (RCW 9A.76.110)
2 Hit and Run—Injury (RCW
3 46.52.020(4)(b))
4 Hit and Run with Vessel—Injury
5 Accident (RCW 79A.60.200(3))
6 ~~((Identity Theft 1 (RCW 9.35.020(2))))~~
7 Indecent Exposure to Person Under
8 Age Fourteen (subsequent sex
9 offense) (RCW 9A.88.010)
10 Influencing Outcome of Sporting Event
11 (RCW 9A.82.070)
12 Malicious Harassment (RCW
13 9A.36.080)
14 Possession of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 2 (RCW 9.68A.070(2))
17 Residential Burglary (RCW
18 9A.52.025)
19 Robbery 2 (RCW 9A.56.210)
20 ~~((Theft of Livestock 1 (RCW
21 9A.56.080)))~~
22 Threats to Bomb (RCW 9.61.160)
23 ~~((Trafficking in Stolen Property 1
24 (RCW 9A.82.050)~~
25 ~~Unlawful factoring of a credit card or
26 payment card transaction (RCW
27 9A.56.290(4)(b))))~~
28 Unlawful transaction of health
29 coverage as a health care service
30 contractor (RCW 48.44.016(3))
31 Unlawful transaction of health
32 coverage as a health maintenance
33 organization (RCW 48.46.033(3))
34 Unlawful transaction of insurance
35 business (RCW 48.15.023(3))

1 Unlicensed practice as an insurance
2 professional (RCW 48.17.063(2))
3 Use of Proceeds of Criminal
4 Profiteering (RCW 9A.82.080 (1)
5 and (2))
6 Vehicle Prowling 2 (third or
7 subsequent offense) (RCW
8 9A.52.100(3))
9 Vehicular Assault, by being under the
10 influence of intoxicating liquor or
11 any drug, or by the operation or
12 driving of a vehicle in a reckless
13 manner (RCW 46.61.522)
14 Viewing of Depictions of a Minor
15 Engaged in Sexually Explicit
16 Conduct 1 (RCW 9.68A.075(1))
17 Willful Failure to Return from
18 Furlough (RCW 72.66.060)
19 III Animal Cruelty 1 (Sexual Conduct or
20 Contact) (RCW 16.52.205(3))
21 Assault 3 (Except Assault 3 of a Peace
22 Officer With a Projectile Stun
23 Gun) (RCW 9A.36.031 except
24 subsection (1)(h))
25 Assault of a Child 3 (RCW 9A.36.140)
26 Bail Jumping with class B or C Felony
27 (RCW 9A.76.170(3)(c))
28 ~~((Burglary 2 (RCW 9A.52.030))~~
29 Communication with a Minor for
30 Immoral Purposes (RCW
31 9.68A.090)
32 Criminal Gang Intimidation (RCW
33 9A.46.120)
34 Custodial Assault (RCW 9A.36.100)

1 Cyberstalking (subsequent conviction
2 or threat of death) (RCW
3 9.61.260(3))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW
10 9A.76.150)
11 Malicious Injury to Railroad Property
12 (RCW 81.60.070)
13 Mortgage Fraud (RCW 19.144.080)
14 Negligently Causing Substantial
15 Bodily Harm By Use of a Signal
16 Preemption Device (RCW
17 46.37.674)
18 ~~((Organized Retail Theft 1 (RCW~~
19 ~~9A.56.350(2))))~~
20 Perjury 2 (RCW 9A.72.030)
21 Possession of Incendiary Device (RCW
22 9.40.120)
23 Possession of Machine Gun or Short-
24 Barreled Shotgun or Rifle (RCW
25 9.41.190)
26 Promoting Prostitution 2 (RCW
27 9A.88.080)
28 ~~((Retail Theft with Special~~
29 ~~Circumstances 1 (RCW~~
30 ~~9A.56.360(2))))~~
31 Securities Act violation (RCW
32 21.20.400)
33 Tampering with a Witness (RCW
34 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death)
3 (RCW 9.61.230(2))
4 ~~((Theft of Livestock 2 (RCW
5 9A.56.083)
6 Theft with the Intent to Resell 1 (RCW
7 9A.56.340(2))
8 Trafficking in Stolen Property 2 (RCW
9 9A.82.055)
10 Unlawful Hunting of Big Game 1
11 (RCW 77.15.410(3)(b))))
12 Unlawful Imprisonment (RCW
13 9A.40.040)
14 Unlawful Misbranding of Food Fish or
15 Shellfish 1 (RCW 69.04.938(3))
16 Unlawful possession of firearm in the
17 second degree (RCW 9.41.040(2))
18 Unlawful Taking of Endangered Fish
19 or Wildlife 1 (RCW
20 77.15.120(3)(b))
21 Unlawful Trafficking in Fish, Shellfish,
22 or Wildlife 1 (RCW
23 77.15.260(3)(b))
24 Unlawful Use of a Nondesignated
25 Vessel (RCW 77.15.530(4))
26 Vehicular Assault, by the operation or
27 driving of a vehicle with disregard
28 for the safety of others (RCW
29 46.61.522)
30 Willful Failure to Return from Work
31 Release (RCW 72.65.070)
32 II ~~((Commercial Fishing Without a
33 License 1 (RCW
34 77.15.500(3)(b))))
35 Computer Trespass 1 (RCW
36 9A.52.110)~~~~

1 ~~((Counterfeiting (RCW 9.16.035(3))~~
2 ~~Engaging in Fish-Dealing Activity~~
3 ~~Unlicensed 1 (RCW~~
4 ~~77.15.620(3)))~~
5 ~~Escape from Community Custody~~
6 ~~(RCW 72.09.310)~~
7 ~~Failure to Register as a Sex Offender~~
8 ~~(second or subsequent offense)~~
9 ~~(RCW 9A.44.132)~~
10 ~~((Health Care False Claims (RCW~~
11 ~~48.80.030)~~
12 ~~Identity Theft 2 (RCW 9.35.020(3)))~~
13 ~~Improperly Obtaining Financial~~
14 ~~Information (RCW 9.35.010)~~
15 ~~((Malicious Mischief 1 (RCW~~
16 ~~9A.48.070)~~
17 ~~Organized Retail Theft 2 (RCW~~
18 ~~9A.56.350(3))~~
19 ~~Possession of Stolen Property 1 (RCW~~
20 ~~9A.56.150)~~
21 ~~Possession of a Stolen Vehicle (RCW~~
22 ~~9A.56.068)~~
23 ~~Retail Theft with Special~~
24 ~~Circumstances 2 (RCW~~
25 ~~9A.56.360(3))~~
26 ~~Scrap Processing, Recycling, or~~
27 ~~Supplying Without a License~~
28 ~~(second or subsequent offense)~~
29 ~~(RCW 19.290.100)~~
30 ~~Theft 1 (RCW 9A.56.030)~~
31 ~~Theft of a Motor Vehicle (RCW~~
32 ~~9A.56.065)~~
33 ~~Theft of Rental, Leased, or Lease-~~
34 ~~purchased Property (valued at one~~
35 ~~thousand five hundred dollars or~~
36 ~~more) (RCW 9A.56.096(5)(a))~~

1 Theft with the Intent to Resell 2 (RCW
2 9A.56.340(3))
3 Trafficking in Insurance Claims (RCW
4 48.30A.015)
5 Unlawful factoring of a credit card or
6 payment card transaction (RCW
7 9A.56.290(4)(a)))
8 Unlawful Participation of Non-Indians
9 in Indian Fishery (RCW
10 77.15.570(2))
11 Unlawful Practice of Law (RCW
12 2.48.180)
13 Unlawful Purchase or Use of a License
14 (RCW 77.15.650(3)(b))
15 Unlawful Trafficking in Fish, Shellfish,
16 or Wildlife 2 (RCW
17 77.15.260(3)(a))
18 Unlicensed Practice of a Profession or
19 Business (RCW 18.130.190(7))
20 Voyeurism (RCW 9A.44.115)
21 I Attempting to Elude a Pursuing Police
22 Vehicle (RCW 46.61.024)
23 ~~((False Verification for Welfare (RCW
24 74.08.055)
25 Forgery (RCW 9A.60.020)))
26 Fraudulent Creation or Revocation of a
27 Mental Health Advance Directive
28 (RCW 9A.60.060)
29 ~~((Malicious Mischief 2 (RCW
30 9A.48.080)))
31 Mineral Trespass (RCW 78.44.330)
32 ~~((Possession of Stolen Property 2
33 (RCW 9A.56.160)
34 Reckless Burning 1 (RCW
35 9A.48.040)))~~~~~~

1 Spotlighting Big Game 1 (RCW
2 77.15.450(3)(b))
3 Suspension of Department Privileges 1
4 (RCW 77.15.670(3)(b))
5 ~~((Taking Motor Vehicle Without
6 Permission 2 (RCW 9A.56.075)
7 Theft 2 (RCW 9A.56.040)
8 Theft of Rental, Leased, or Lease-
9 purchased Property (valued at two
10 hundred fifty dollars or more but
11 less than one thousand five
12 hundred dollars) (RCW
13 9A.56.096(5)(b))))~~
14 Transaction of insurance business
15 beyond the scope of licensure
16 (RCW 48.17.063)
17 Unlawful Fish and Shellfish Catch
18 Accounting (RCW
19 77.15.630(3)(b))
20 ~~((Unlawful Issuance of Checks or
21 Drafts—(RCW 9A.56.060)
22 Unlawful Possession of Fictitious
23 Identification (RCW 9A.56.320)
24 Unlawful Possession of Instruments of
25 Financial Fraud (RCW 9A.56.320)
26 Unlawful Possession of Payment
27 Instruments (RCW 9A.56.320)
28 Unlawful Possession of a Personal
29 Identification Device (RCW
30 9A.56.320)
31 Unlawful Production of Payment
32 Instruments (RCW 9A.56.320)
33 Unlawful Release of Deleterious
34 Exotic Wildlife (RCW
35 77.15.250(2)(b))~~

1 Unlawful Trafficking in Food Stamps
 2 (RCW 9.91.142)
 3 Unlawful Use of Food Stamps (RCW
 4 9.91.144)))
 5 Unlawful Use of Net to Take Fish 1
 6 (RCW 77.15.580(3)(b))
 7 Unlawful Use of Prohibited Aquatic
 8 Animal Species (RCW
 9 77.15.253(3))
 10 Unlawfully Releasing, Planting,
 11 Possessing, or Placing Deleterious
 12 Exotic Wildlife (RCW
 13 77.15.250(2)(b)
 14 Vehicle Prowl 1 (RCW 9A.52.095)
 15 Violating Commercial Fishing Area or
 16 Time 1 (RCW 77.15.550(3)(b))

17 NEW SECTION. Sec. 7.
 18 (1)

19 TABLE 5 - PROPERTY OFFENSE SENTENCING GRID

Seriousness Level	Offender Score									
	0	1	2	3	4	5	6	7	8	9 or more
4	15-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-24 months	24-30 months	30-36.5 months	36.5-42 months
3	10-90 days	15-180 days	20-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-24 months	24-30 months
2	0-90 days	10-120 days	15-180 days	20-180 days	30-240 days	30-300 days	12+-14 months	12+-16 months	14-18 months	16-20 months
1	0-60 days	0-90 days	10-120 days	20-180 days	30-240 days	30-300 days	30-300 days	12+-14 months	12+-16 months	14-18 months

32 References to months represent the standard sentence range. 12+
 33 equals one year and one day.

1 (2) The court may utilize any other sanctions or alternatives as
2 authorized by law, including but not limited to the special drug
3 offender sentencing alternative under RCW 9.94A.660 or drug court
4 under RCW 2.28.170.

5 (3) Nothing in this section creates an entitlement for a criminal
6 defendant to any specific sanction, alternative, sentence option, or
7 substance abuse treatment.

8 NEW SECTION. **Sec. 8.**

9 TABLE 6 - PROPERTY OFFENSES
10 INCLUDED WITHIN EACH SERIOUSNESS LEVEL

11	IV	Counterfeiting (RCW 9.16.035(4))
12		Identity Theft 1 (RCW 9.35.020(2))
13		Theft of Livestock 1 (RCW 9A.56.080)
14		Trafficking in Stolen Property 1 (RCW
15		9A.82.050)
16		Unlawful Factoring of a Credit Card or
17		Payment Card Transaction (RCW
18		9A.56.290(4)(b))
19	III	Burglary 2 (RCW 9A.52.030)
20		Organized Retail Theft 1 (RCW
21		9A.56.350(2))
22		Possession of Stolen Vehicle (RCW
23		9A.56.068)
24		Retail Theft with Special Circumstances 1
25		(RCW 9A.56.360(2))
26		Taking Motor Vehicle without Permission 1
27		(RCW 9A.56.070)
28		Theft of Livestock 2 (RCW 9A.56.083)
29		Theft of Motor Vehicle (RCW 9A.56.065)
30		Theft with the Intent to Resell 1 (RCW
31		9A.56.340(2))
32		Trafficking in Stolen Property 2 (RCW
33		9A.82.055)
34		Unlawful Hunting of Big Game 1 (RCW
35		77.15.410(3)(b))

1 II Commercial Fishing Without a License 1
2 (RCW 77.15.500(3)(b))
3 Counterfeiting (RCW 9.16.035(3))
4 Engaging in Fish Dealing Activity
5 Unlicensed 1 (RCW 77.15.620(3)(b))
6 Health Care False Claims (RCW 48.80.030)
7 Identity Theft 2 (RCW 9.35.020(3))
8 Malicious Mischief 1 (RCW 9A.48.070)
9 Organized Retail Theft 2 (RCW
10 9A.56.350(3))
11 Possession of Stolen Property 1 (RCW
12 9A.56.150)
13 Retail Theft with Special Circumstances 2
14 (RCW 9A.56.360(3))
15 Scrap Processing, Recycling, or Supplying
16 Without a License (second or
17 subsequent offense) (RCW
18 19.290.100(2)(b))
19 Theft 1 (RCW 9A.56.030)
20 Theft of Rental, Leased, or Lease-
21 purchased, or Loaned Property (valued
22 at five thousand dollars or more) (RCW
23 9A.56.096(5)(a))
24 Theft with the Intent to Resell 2 (RCW
25 9A.56.340(3))
26 Trafficking in Insurance Claims (RCW
27 48.30A.015)
28 Unlawful Factoring of a Credit Card or
29 Payment Card Transaction (RCW
30 9A.56.290(4)(a))
31 I False Verification for Welfare (RCW
32 74.08.055)
33 Forgery (RCW 9A.60.020)
34 Malicious Mischief 2 (RCW 9A.48.080)

1 Possession of Stolen Property 2 (RCW
2 9A.56.160)
3 Reckless Burning 1 (RCW 9A.48.040)
4 Taking Motor Vehicle without Permission 2
5 (RCW 9A.56.075)
6 Theft 2 (RCW 9A.56.040)
7 Theft of Rental, Leased, Lease-purchased,
8 or Loan Property (valued at seven
9 hundred fifty dollars or more but less
10 than five thousand dollars) (RCW
11 9A.56.096(5)(b))
12 Unlawful Issuance of Checks or Drafts
13 (RCW 9A.56.060)
14 Unlawful Possession of Fictitious
15 Identification (RCW 9A.56.320(4))
16 Unlawful Possession of Instruments of
17 Financial Fraud (RCW 9A.56.320(5))
18 Unlawful Possession of Payment
19 Instruments (RCW 9A.56.320(2))
20 Unlawful Possession of a Personal
21 Identification Device (RCW
22 9A.56.320(3))
23 Unlawful Production of Payment
24 Instruments (RCW 9A.56.320(1))
25 Unlawful Trafficking in Food Stamps
26 (RCW 9.91.142)
27 Unlawful Use of Food Stamps (RCW
28 9.91.144)

29 **Sec. 9.** RCW 9.94A.585 and 2002 c 290 s 19 are each amended to
30 read as follows:

31 (1) A sentence within the standard sentence range, under RCW
32 9.94A.510 ~~((or))~~, 9.94A.517, or section 7 of this act, for an offense
33 shall not be appealed. For purposes of this section, a sentence
34 imposed on a first-time offender under RCW 9.94A.650 shall also be
35 deemed to be within the standard sentence range for the offense and
36 shall not be appealed.

1 (2) A sentence outside the standard sentence range for the
2 offense is subject to appeal by the defendant or the state. The
3 appeal shall be to the court of appeals in accordance with rules
4 adopted by the supreme court.

5 (3) Pending review of the sentence, the sentencing court or the
6 court of appeals may order the defendant confined or placed on
7 conditional release, including bond.

8 (4) To reverse a sentence which is outside the standard sentence
9 range, the reviewing court must find: (a) Either that the reasons
10 supplied by the sentencing court are not supported by the record
11 which was before the judge or that those reasons do not justify a
12 sentence outside the standard sentence range for that offense; or (b)
13 that the sentence imposed was clearly excessive or clearly too
14 lenient.

15 (5) A review under this section shall be made solely upon the
16 record that was before the sentencing court. Written briefs shall not
17 be required and the review and decision shall be made in an expedited
18 manner according to rules adopted by the supreme court.

19 (6) The court of appeals shall issue a written opinion in support
20 of its decision whenever the judgment of the sentencing court is
21 reversed and may issue written opinions in any other case where the
22 court believes that a written opinion would provide guidance to
23 sentencing courts and others in implementing this chapter and in
24 developing a common law of sentencing within the state.

25 (7) The department may petition for a review of a sentence
26 committing an offender to the custody or jurisdiction of the
27 department. The review shall be limited to errors of law. Such
28 petition shall be filed with the court of appeals no later than
29 ninety days after the department has actual knowledge of terms of the
30 sentence. The petition shall include a certification by the
31 department that all reasonable efforts to resolve the dispute at the
32 superior court level have been exhausted.

33 **Sec. 10.** RCW 9.94A.701 and 2010 c 267 s 11 and 2010 c 224 s 5
34 are each reenacted and amended to read as follows:

35 (1) If an offender is sentenced to the custody of the department
36 for one of the following crimes, the court shall, in addition to the
37 other terms of the sentence, sentence the offender to community
38 custody for three years:

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

1 (b) A serious violent offense.

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

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

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

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

14 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed
15 on or after July 1, 2000; (~~or~~)

16 (d) A felony violation of RCW 9A.44.132(1) (failure to register)
17 that is the offender's first violation for a felony failure to
18 register; or

19 (e) Any property offense, as defined in RCW 9.94A.030 if the
20 offender has an offender score of two points or more.

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

24 (5) If an offender is sentenced under the special sex offender
25 sentencing alternative, the court shall impose community custody as
26 provided in RCW 9.94A.670.

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

29 (7) If an offender is sentenced under the parenting sentencing
30 alternative, the court shall impose a term of community custody as
31 provided in RCW 9.94A.655.

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

35 (9) The term of community custody specified by this section shall
36 be reduced by the court whenever an offender's standard range term of
37 confinement in combination with the term of community custody exceeds
38 the statutory maximum for the crime as provided in RCW 9A.20.021.

39 (10) The department is not liable for tortious actions of a
40 supervised offender unless reckless disregard of a known and

1 immediate risk by the department is proven. In any case, the
2 department is liable for only its degree of fault as determined by a
3 fact finder.

4 **Sec. 11.** RCW 9.94A.702 and 2010 c 267 s 12 are each amended to
5 read as follows:

6 (1) If an offender is sentenced to a term of confinement for one
7 year or less for one of the following offenses, the court may impose
8 up to one year of community custody:

9 (a) A sex offense;

10 (b) A violent offense;

11 (c) A crime against a person under RCW 9.94A.411;

12 (d) A felony violation of chapter 69.50 or 69.52 RCW, or an
13 attempt, conspiracy, or solicitation to commit such a crime; or

14 (e) A felony violation of RCW 9A.44.132(1) (failure to register).

15 (2) If an offender is sentenced to a term of confinement for one
16 year or less for a property offense, as defined in RCW 9.94A.030, and
17 the offender has an offender score of two points or more, the court
18 shall impose one year of community custody.

19 (3) If an offender is sentenced to a first-time offender waiver,
20 the court may impose community custody as provided in RCW 9.94A.650.

21 **Sec. 12.** RCW 9.94A.171 and 2011 1st sp.s. c 40 s 1 are each
22 amended to read as follows:

23 (1) A term of confinement ordered in a sentence pursuant to this
24 chapter shall be tolled by any period of time during which the
25 offender has absented himself or herself from confinement without the
26 prior approval of the entity in whose custody the offender has been
27 placed. A term of partial confinement shall be tolled during any
28 period of time spent in total confinement pursuant to a new
29 conviction.

30 (2) Any term of community custody shall be tolled by any period
31 of time during which the offender has absented himself or herself
32 from supervision without prior approval of the entity under whose
33 supervision the offender has been placed.

34 (3)(a) For offenders other than sex offenders serving a sentence
35 for a sex offense as defined in RCW 9.94A.030, any period of
36 community custody shall be tolled during any period of time the
37 offender is in confinement for any reason unless the offender is
38 detained pursuant to RCW 9.94A.740 or 9.94A.631 for the period of

1 time prior to the hearing or for confinement pursuant to sanctions
2 imposed for violation of sentence conditions, in which case, the
3 period of community custody shall not toll. However, sanctions that
4 result in the imposition of the remaining sentence or the original
5 sentence will continue to toll the period of community custody. In
6 addition, inpatient treatment ordered by the court in lieu of jail
7 time shall not toll the period of community custody.

8 (b) For sex offenders serving a sentence for a sex offense as
9 defined in RCW 9.94A.030, any period of community custody shall be
10 tolled during any period of time the sex offender is in confinement
11 for any reason.

12 (c) For offenders serving a sentence for a property offense, as
13 defined in RCW 9.94A.030, any period of community custody shall be
14 tolled during any period of time the offender is in confinement for
15 any reason.

16 (4) For terms of confinement or community custody, the date for
17 the tolling of the sentence shall be established by the entity
18 responsible for the confinement or supervision.

19 (5) For the purposes of this section, "tolling" means the period
20 of time in which community custody or confinement time is paused and
21 for which the offender does not receive credit towards the term
22 ordered.

23 **Sec. 13.** RCW 9.94A.860 and 2011 1st sp.s. c 40 s 36 are each
24 amended to read as follows:

25 (1)(a) ~~The sentencing guidelines commission is hereby created((~~
26 ~~located within the office of financial management))~~. The commission
27 shall be colocated with the caseload forecast council. Except as
28 provided in RCW 9.94A.875, the commission shall serve to advise the
29 governor and the legislature as necessary on issues relating to adult
30 and juvenile sentencing.

31 (b) Subject to funds appropriated specifically for this purpose,
32 the commission shall, in conjunction with the caseload forecast
33 council, monitor and report to the governor and the legislature on
34 the effectiveness of this act in reducing property crimes in
35 Washington state and prepare racial and ethnic impact analyses as
36 specified in section 17 of this act.

37 (c) The commission may meet, as necessary, to accomplish these
38 purposes (~~within funds appropriated~~)).

1 (d) The commission may request assistance from other state
2 agencies including, but not limited to, the caseload forecast
3 council, the department, the department of social and health
4 services, and other agencies.

5 (2) The commission consists of ~~((twenty))~~ eighteen voting
6 members, one of whom the governor shall designate as chairperson.
7 With the exception of ex officio voting members, the voting members
8 of the commission shall be appointed by the governor, or his or her
9 designee, subject to confirmation by the senate.

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

11 ~~((head of the state agency having general responsibility~~
12 ~~for adult correction programs))~~ secretary of the department, as an ex
13 officio member;

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

16 ~~((The chair of the indeterminate sentence review board, as an~~
17 ~~ex officio member;~~

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

21 ~~((e))~~ (d) Two prosecuting attorneys;

22 ~~((f))~~ (e) Two attorneys with particular expertise in defense
23 work;

24 ~~((g) Four))~~ (f) Two persons who are superior court judges;

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

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

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

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

35 ~~((l))~~ (k) One person who is an administrator of juvenile court
36 services.

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

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

15 (4)(a) All voting members of the commission, except ex officio
16 voting members, shall serve terms of three years and until their
17 successors are appointed and confirmed.

18 (b) The governor shall stagger the terms of the members appointed
19 under subsection (3)(j), (k), and (l) of this section by appointing
20 one of them for a term of one year, one for a term of two years, and
21 one for a term of three years.

22 (5) The speaker of the house of representatives and the president
23 of the senate may each appoint two nonvoting members to the
24 commission, one from each of the two largest caucuses in each house.
25 The members so appointed shall serve two-year terms, or until they
26 cease to be members of the house from which they were appointed,
27 whichever occurs first.

28 (6) The executive director of the caseload forecast council or
29 his or her designee shall be an ex officio, nonvoting member of the
30 commission.

31 (7) The members of the commission may be reimbursed for travel
32 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative
33 members may be reimbursed by their respective houses as provided
34 under RCW 44.04.120. Except for the reimbursement of travel expenses,
35 members shall not be compensated.

36 NEW SECTION. **Sec. 14.** (1) Subject to appropriation, the
37 department of commerce shall establish a law enforcement grant
38 program. To be eligible for a grant, local law enforcement agencies
39 shall submit proposals to the department of commerce that focus on

1 increasing the capacity of the law enforcement agency to address
2 property crime within their jurisdiction through one of the following
3 strategies:

4 (a) Focusing on intervention and enforcement through the use of
5 increased staffing resources, including with overtime funds, to
6 target property crime with evidence driven approaches;

7 (b) Increasing technological capacity to support intervention and
8 enforcement with the purchase of technology for crime prevention and
9 criminal justice problem solving. Technology shall include, but not
10 be limited to, crime mapping software, global positioning systems
11 technology, and smart phone tools;

12 (c) Enhancing analytical capacity through the development or
13 expansion of analytical capabilities that focus on crime mapping,
14 analysis of crime trends, and developing data driven strategies that
15 focus on property crime reduction through the employment of civilian
16 crime analysts;

17 (d) Engaging with community partners in order to develop projects
18 that focus on preventing property crime in the community. Community
19 partners may include, but are not limited to, public and private
20 service providers, the courts, and probation services;

21 (e) Increasing direct services to property crime victims through
22 local law enforcement efforts.

23 (2) Preference shall be given to grant applicants that can
24 demonstrate a commitment to regional, multijurisdictional strategies
25 and that can clearly outline a comprehensive plan for municipalities
26 to work with law enforcement, community-based organizations, and
27 government agencies to address property crime.

28 (3) The department of commerce shall utilize an advisory
29 committee to evaluate grant applications and monitor the
30 effectiveness of grant projects in terms of property crime reduction.
31 The advisory committee shall include one representative of each of
32 the following entities:

33 (a) Governor's office;

34 (b) Washington state association of counties;

35 (c) Washington association of prosecuting attorneys;

36 (d) Administrative office of the courts;

37 (e) Washington association of sheriffs and police chiefs;

38 (f) Crime victims' compensation program;

39 (g) Department of corrections;

40 (h) Washington state patrol; and

1 (i) Criminal justice training commission.

2 (4) The department of commerce must report to the sentencing
3 guidelines commission on the advisory committee's evaluation of the
4 effectiveness of grant projects in terms of property crime reduction.

5 NEW SECTION. **Sec. 15.** Subject to appropriation, the department
6 of commerce shall establish a pretrial grant program. To be eligible
7 for a grant, counties shall submit proposals to the department of
8 commerce that provide for a local pretrial program that meets the
9 following criteria. The pretrial program must:

10 (1) Establish a procedure for screening those persons detained
11 following arrest, and information from the screening must be provided
12 to the judge who is setting the bond and conditions of release. The
13 information must provide the judge with the ability to make an
14 appropriate initial bond decision that is based upon facts relating
15 to the person's risk of failure to appear for court and risk of
16 danger to the community;

17 (2) Implement an empirically developed pretrial risk assessment
18 tool and a structured decision-making design based upon the person's
19 charge and risk assessment score;

20 (3) Establish a community advisory board with membership
21 including a representative of the judiciary, a representative of
22 local law enforcement, a representative of a prosecuting attorney, a
23 representative of a public defender or other defense counsel, and a
24 representative of a sheriff;

25 (4) Provide mental health, chemical dependency, and cognitive
26 behavioral treatment and services to each person, as needed, in order
27 to address and reduce criminal behavior;

28 (5) Use community supervision as a condition of release in order
29 to decrease unnecessary pretrial detention;

30 (6) Agree to provide an annual report to the department of
31 commerce that includes:

32 (a) The total number of pretrial assessments performed by the
33 program and submitted to the court;

34 (b) The total number of closed cases in which the person was
35 released from custody and supervised by the program;

36 (c) The total number of closed cases in which the person was
37 released from custody, was supervised by the program, and, while
38 under supervision, appeared for all scheduled court appearances on
39 the case;

1 (d) The total number of closed cases in which the person was
2 released from custody, was supervised by the program, and was not
3 charged with a new criminal offense while under supervision;

4 (e) The total number of closed cases in which the person was
5 released from custody, was supervised by the program, and the
6 person's bond was not revoked by the court;

7 (f) The total number of persons released from custody to the
8 supervision of the program and also on a commercial surety bond, a
9 cash private surety or property bond, or a personal recognizance
10 bond; and

11 (g) Any additional information required by the department of
12 commerce;

13 The department of commerce shall identify at least one county to
14 receive a grant that will test the impact of providing defendants
15 with earlier access to pretrial defense counsel on pretrial outcomes
16 and county budgets.

17 The department of commerce must report to the sentencing
18 guidelines commission on the effectiveness of the grant programs.

19 NEW SECTION. **Sec. 16.** (1) Grants awarded under sections 14 and
20 15 of this act shall be considered one-time grants and may be renewed
21 for effective programs. The department of commerce shall consult with
22 counties and local law enforcement agencies when determining grant
23 eligibility requirements and criteria. The department of commerce
24 shall publish guidelines and an application for the competitive
25 portion of the grant programs no later than January 1, 2016.

26 (2) The department of commerce shall monitor and enforce grant
27 compliance, including enforcement by withdrawing grant funds or
28 requiring reimbursement of grant funds.

29 (3) The department of commerce may adopt rules and procedures as
30 necessary to carry out sections 14 and 15 of this act.

31 (4) A grantee may not supplant current local funds for pretrial
32 services or law enforcement with funds provided by the department of
33 commerce under sections 14 and 15 of this act.

34 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.88
35 RCW to read as follows:

36 (1) If one member from each of the major two caucuses in the
37 house of representatives or the senate request in writing a racial
38 and ethnic impact statement under this section regarding legislation

1 that has been introduced in that chamber, the Washington sentencing
2 guidelines commission shall prepare a racial and ethnic impact
3 analysis that describes the effects of proposed legislation on the
4 racial and ethnic composition of:

5 (a) The criminal offender population; or

6 (b) Recipients of human services.

7 (2) A racial and ethnic impact statement must be impartial,
8 simple, and understandable, and must include, for racial and ethnic
9 groups for which data are available, the following:

10 (a) An estimate of how the proposed legislation would change the
11 racial and ethnic composition of the criminal offender population or
12 recipients of human services;

13 (b) A statement of the methodologies and assumptions used in
14 preparing the estimate; and

15 (c) If the racial and ethnic impact statement addresses the
16 effect of proposed legislation on the criminal offender population,
17 an estimate of the racial and ethnic composition of the crime victims
18 who may be affected by the proposed legislation.

19 (3) As used in this section:

20 (a) "Criminal offender population" means all persons who are
21 convicted of a crime or adjudicated for an act that, if committed by
22 an adult, would constitute a crime.

23 (b) "Recipients of human services" means all persons who are
24 found to be within the jurisdiction of the juvenile court or who
25 receive child welfare services.

26 NEW SECTION. **Sec. 18.** (1) If an offender sentenced under this
27 chapter or chapter 9.94B RCW is supervised by the department, the
28 offender may earn positive achievement time in accordance with
29 procedures that are developed and adopted by the department. The
30 positive achievement time may be awarded to offenders who are in
31 compliance with supervision terms, including participation in
32 targeted interventions, programming or treatment, as determined by
33 the department. For each month of community custody served, offenders
34 may earn positive achievement time of fifteen days.

35 (2) An offender is not eligible to earn positive achievement time
36 if he or she:

37 (a) Was sentenced under RCW 9.94A.507 or 10.95.030;

38 (b) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or
39 9.94A.670;

1 (c) Is subject to supervision pursuant to RCW 9.94A.745;

2 (d) Has been identified by the department as an offender with
3 mental illness who is believed to be dangerous pursuant to RCW
4 72.09.370;

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

7 (f) Is serving community custody pursuant to early release under
8 RCW 9.94A.730.

9 NEW SECTION. **Sec. 19.** The department of corrections has
10 discretion to implement this act over a period of time not to exceed
11 twelve months. For any offender under active supervision by the
12 department as of the effective date of this section, he or she is not
13 eligible to earn positive achievement time pursuant to section 18 of
14 this act until he or she has received an orientation by the
15 department regarding positive achievement time.

16 **Sec. 20.** RCW 46.61.502 and 2013 c 3 s 33 are each amended to
17 read as follows:

18 (1) A person is guilty of driving while under the influence of
19 intoxicating liquor, marijuana, or any drug if the person drives a
20 vehicle within this state:

21 (a) And the person has, within two hours after driving, an
22 alcohol concentration of 0.08 or higher as shown by analysis of the
23 person's breath or blood made under RCW 46.61.506; or

24 (b) The person has, within two hours after driving, a THC
25 concentration of 5.00 or higher as shown by analysis of the person's
26 blood made under RCW 46.61.506; or

27 (c) While the person is under the influence of or affected by
28 intoxicating liquor, marijuana, or any drug; or

29 (d) While the person is under the combined influence of or
30 affected by intoxicating liquor, marijuana, and any drug.

31 (2) The fact that a person charged with a violation of this
32 section is or has been entitled to use a drug under the laws of this
33 state shall not constitute a defense against a charge of violating
34 this section.

35 (3)(a) It is an affirmative defense to a violation of subsection
36 (1)(a) of this section, which the defendant must prove by a
37 preponderance of the evidence, that the defendant consumed a
38 sufficient quantity of alcohol after the time of driving and before

1 the administration of an analysis of the person's breath or blood to
2 cause the defendant's alcohol concentration to be 0.08 or more within
3 two hours after driving. The court shall not admit evidence of this
4 defense unless the defendant notifies the prosecution prior to the
5 omnibus or pretrial hearing in the case of the defendant's intent to
6 assert the affirmative defense.

7 (b) It is an affirmative defense to a violation of subsection
8 (1)(b) of this section, which the defendant must prove by a
9 preponderance of the evidence, that the defendant consumed a
10 sufficient quantity of marijuana after the time of driving and before
11 the administration of an analysis of the person's blood to cause the
12 defendant's THC concentration to be 5.00 or more within two hours
13 after driving. The court shall not admit evidence of this defense
14 unless the defendant notifies the prosecution prior to the omnibus or
15 pretrial hearing in the case of the defendant's intent to assert the
16 affirmative defense.

17 (4)(a) Analyses of blood or breath samples obtained more than two
18 hours after the alleged driving may be used as evidence that within
19 two hours of the alleged driving, a person had an alcohol
20 concentration of 0.08 or more in violation of subsection (1)(a) of
21 this section, and in any case in which the analysis shows an alcohol
22 concentration above 0.00 may be used as evidence that a person was
23 under the influence of or affected by intoxicating liquor or any drug
24 in violation of subsection (1)(c) or (d) of this section.

25 (b) Analyses of blood samples obtained more than two hours after
26 the alleged driving may be used as evidence that within two hours of
27 the alleged driving, a person had a THC concentration of 5.00 or more
28 in violation of subsection (1)(b) of this section, and in any case in
29 which the analysis shows a THC concentration above 0.00 may be used
30 as evidence that a person was under the influence of or affected by
31 marijuana in violation of subsection (1)(c) or (d) of this section.

32 (5) Except as provided in subsection (6) of this section, a
33 violation of this section is a gross misdemeanor.

34 (6) It is a class C felony punishable under chapter 9.94A RCW, or
35 chapter 13.40 RCW if the person is a juvenile, if:

36 (a) The person has (~~four~~) three or more prior offenses within
37 ten years as defined in RCW 46.61.5055; or

38 (b) The person has ever previously been convicted of:

39 (i) Vehicular homicide while under the influence of intoxicating
40 liquor or any drug, RCW 46.61.520(1)(a);

1 (ii) Vehicular assault while under the influence of intoxicating
2 liquor or any drug, RCW 46.61.522(1)(b);

3 (iii) An out-of-state offense comparable to the offense specified
4 in (b)(i) or (ii) of this subsection; or

5 (iv) A violation of this subsection (6) or RCW 46.61.504(6).

6 **Sec. 21.** RCW 46.61.504 and 2013 c 3 s 35 are each amended to
7 read as follows:

8 (1) A person is guilty of being in actual physical control of a
9 motor vehicle while under the influence of intoxicating liquor or any
10 drug if the person has actual physical control of a vehicle within
11 this state:

12 (a) And the person has, within two hours after being in actual
13 physical control of the vehicle, an alcohol concentration of 0.08 or
14 higher as shown by analysis of the person's breath or blood made
15 under RCW 46.61.506; or

16 (b) The person has, within two hours after being in actual
17 physical control of a vehicle, a THC concentration of 5.00 or higher
18 as shown by analysis of the person's blood made under RCW 46.61.506;
19 or

20 (c) While the person is under the influence of or affected by
21 intoxicating liquor or any drug; or

22 (d) While the person is under the combined influence of or
23 affected by intoxicating liquor and any drug.

24 (2) The fact that a person charged with a violation of this
25 section is or has been entitled to use a drug under the laws of this
26 state does not constitute a defense against any charge of violating
27 this section. No person may be convicted under this section if, prior
28 to being pursued by a law enforcement officer, the person has moved
29 the vehicle safely off the roadway.

30 (3)(a) It is an affirmative defense to a violation of subsection
31 (1)(a) of this section which the defendant must prove by a
32 preponderance of the evidence that the defendant consumed a
33 sufficient quantity of alcohol after the time of being in actual
34 physical control of the vehicle and before the administration of an
35 analysis of the person's breath or blood to cause the defendant's
36 alcohol concentration to be 0.08 or more within two hours after being
37 in such control. The court shall not admit evidence of this defense
38 unless the defendant notifies the prosecution prior to the omnibus or

1 pretrial hearing in the case of the defendant's intent to assert the
2 affirmative defense.

3 (b) It is an affirmative defense to a violation of subsection
4 (1)(b) of this section, which the defendant must prove by a
5 preponderance of the evidence, that the defendant consumed a
6 sufficient quantity of marijuana after the time of being in actual
7 physical control of the vehicle and before the administration of an
8 analysis of the person's blood to cause the defendant's THC
9 concentration to be 5.00 or more within two hours after being in
10 control of the vehicle. The court shall not admit evidence of this
11 defense unless the defendant notifies the prosecution prior to the
12 omnibus or pretrial hearing in the case of the defendant's intent to
13 assert the affirmative defense.

14 (4)(a) Analyses of blood or breath samples obtained more than two
15 hours after the alleged being in actual physical control of a vehicle
16 may be used as evidence that within two hours of the alleged being in
17 such control, a person had an alcohol concentration of 0.08 or more
18 in violation of subsection (1)(a) of this section, and in any case in
19 which the analysis shows an alcohol concentration above 0.00 may be
20 used as evidence that a person was under the influence of or affected
21 by intoxicating liquor or any drug in violation of subsection (1)(c)
22 or (d) of this section.

23 (b) Analyses of blood samples obtained more than two hours after
24 the alleged being in actual physical control of a vehicle may be used
25 as evidence that within two hours of the alleged being in control of
26 the vehicle, a person had a THC concentration of 5.00 or more in
27 violation of subsection (1)(b) of this section, and in any case in
28 which the analysis shows a THC concentration above 0.00 may be used
29 as evidence that a person was under the influence of or affected by
30 marijuana in violation of subsection (1)(c) or (d) of this section.

31 (5) Except as provided in subsection (6) of this section, a
32 violation of this section is a gross misdemeanor.

33 (6) It is a class C felony punishable under chapter 9.94A RCW, or
34 chapter 13.40 RCW if the person is a juvenile, if:

35 (a) The person has (~~four~~) three or more prior offenses within
36 ten years as defined in RCW 46.61.5055; or

37 (b) The person has ever previously been convicted of:

38 (i) Vehicular homicide while under the influence of intoxicating
39 liquor or any drug, RCW 46.61.520(1)(a);

1 (ii) Vehicular assault while under the influence of intoxicating
2 liquor or any drug, RCW 46.61.522(1)(b);

3 (iii) An out-of-state offense comparable to the offense specified
4 in (b)(i) or (ii) of this subsection; or

5 (iv) A violation of this subsection (6) or RCW 46.61.502(6).

6 **Sec. 22.** RCW 46.61.5055 and 2015 c 265 s 33 are each amended to
7 read as follows:

8 (1) **No prior offenses in seven years.** Except as provided in RCW
9 46.61.502(6) or 46.61.504(6), a person who is convicted of a
10 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
11 within seven years shall be punished as follows:

12 (a) **Penalty for alcohol concentration less than 0.15.** In the case
13 of a person whose alcohol concentration was less than 0.15, or for
14 whom for reasons other than the person's refusal to take a test
15 offered pursuant to RCW 46.20.308 there is no test result indicating
16 the person's alcohol concentration:

17 (i) By imprisonment for not less than one day nor more than three
18 hundred sixty-four days. Twenty-four consecutive hours of the
19 imprisonment may not be suspended unless the court finds that the
20 imposition of this mandatory minimum sentence would impose a
21 substantial risk to the offender's physical or mental well-being.
22 Whenever the mandatory minimum sentence is suspended, the court shall
23 state in writing the reason for granting the suspension and the facts
24 upon which the suspension is based. In lieu of the mandatory minimum
25 term of imprisonment required under this subsection (1)(a)(i), the
26 court may order not less than fifteen days of electronic home
27 monitoring. The offender shall pay the cost of electronic home
28 monitoring. The county or municipality in which the penalty is being
29 imposed shall determine the cost. The court may also require the
30 offender's electronic home monitoring device or other separate
31 alcohol monitoring device to include an alcohol detection
32 breathalyzer, and the court may restrict the amount of alcohol the
33 offender may consume during the time the offender is on electronic
34 home monitoring; and

35 (ii) By a fine of not less than three hundred fifty dollars nor
36 more than five thousand dollars. Three hundred fifty dollars of the
37 fine may not be suspended unless the court finds the offender to be
38 indigent; or

1 (b) **Penalty for alcohol concentration at least 0.15.** In the case
2 of a person whose alcohol concentration was at least 0.15, or for
3 whom by reason of the person's refusal to take a test offered
4 pursuant to RCW 46.20.308 there is no test result indicating the
5 person's alcohol concentration:

6 (i) By imprisonment for not less than two days nor more than
7 three hundred sixty-four days. Forty-eight consecutive hours of the
8 imprisonment may not be suspended unless the court finds that the
9 imposition of this mandatory minimum sentence would impose a
10 substantial risk to the offender's physical or mental well-being.
11 Whenever the mandatory minimum sentence is suspended, the court shall
12 state in writing the reason for granting the suspension and the facts
13 upon which the suspension is based. In lieu of the mandatory minimum
14 term of imprisonment required under this subsection (1)(b)(i), the
15 court may order not less than thirty days of electronic home
16 monitoring. The offender shall pay the cost of electronic home
17 monitoring. The county or municipality in which the penalty is being
18 imposed shall determine the cost. The court may also require the
19 offender's electronic home monitoring device to include an alcohol
20 detection breathalyzer or other separate alcohol monitoring device,
21 and the court may restrict the amount of alcohol the offender may
22 consume during the time the offender is on electronic home
23 monitoring; and

24 (ii) By a fine of not less than five hundred dollars nor more
25 than five thousand dollars. Five hundred dollars of the fine may not
26 be suspended unless the court finds the offender to be indigent.

27 (2) **One prior offense in seven years.** Except as provided in RCW
28 46.61.502(6) or 46.61.504(6), a person who is convicted of a
29 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
30 within seven years shall be punished as follows:

31 (a) **Penalty for alcohol concentration less than 0.15.** In the case
32 of a person whose alcohol concentration was less than 0.15, or for
33 whom for reasons other than the person's refusal to take a test
34 offered pursuant to RCW 46.20.308 there is no test result indicating
35 the person's alcohol concentration:

36 (i) By imprisonment for not less than thirty days nor more than
37 three hundred sixty-four days and sixty days of electronic home
38 monitoring. In lieu of the mandatory minimum term of sixty days
39 electronic home monitoring, the court may order at least an
40 additional four days in jail or, if available in that county or city,

1 a six-month period of 24/7 sobriety program monitoring pursuant to
2 RCW 36.28A.300 through 36.28A.390, and the court shall order an
3 expanded alcohol assessment and treatment, if deemed appropriate by
4 the assessment. The offender shall pay for the cost of the electronic
5 monitoring. The county or municipality where the penalty is being
6 imposed shall determine the cost. The court may also require the
7 offender's electronic home monitoring device include an alcohol
8 detection breathalyzer or other separate alcohol monitoring device,
9 and may restrict the amount of alcohol the offender may consume
10 during the time the offender is on electronic home monitoring. Thirty
11 days of imprisonment and sixty days of electronic home monitoring may
12 not be suspended unless the court finds that the imposition of this
13 mandatory minimum sentence would impose a substantial risk to the
14 offender's physical or mental well-being. Whenever the mandatory
15 minimum sentence is suspended, the court shall state in writing the
16 reason for granting the suspension and the facts upon which the
17 suspension is based; and

18 (ii) By a fine of not less than five hundred dollars nor more
19 than five thousand dollars. Five hundred dollars of the fine may not
20 be suspended unless the court finds the offender to be indigent; or

21 (b) **Penalty for alcohol concentration at least 0.15.** In the case
22 of a person whose alcohol concentration was at least 0.15, or for
23 whom by reason of the person's refusal to take a test offered
24 pursuant to RCW 46.20.308 there is no test result indicating the
25 person's alcohol concentration:

26 (i) By imprisonment for not less than forty-five days nor more
27 than three hundred sixty-four days and ninety days of electronic home
28 monitoring. In lieu of the mandatory minimum term of ninety days
29 electronic home monitoring, the court may order at least an
30 additional six days in jail or, if available in that county or city,
31 a six-month period of 24/7 sobriety program monitoring pursuant to
32 RCW 36.28A.300 through 36.28A.390, and the court shall order an
33 expanded alcohol assessment and treatment, if deemed appropriate by
34 the assessment. The offender shall pay for the cost of the electronic
35 monitoring. The county or municipality where the penalty is being
36 imposed shall determine the cost. The court may also require the
37 offender's electronic home monitoring device include an alcohol
38 detection breathalyzer or other separate alcohol monitoring device,
39 and may restrict the amount of alcohol the offender may consume
40 during the time the offender is on electronic home monitoring. Forty-

1 five days of imprisonment and ninety days of electronic home
2 monitoring may not be suspended unless the court finds that the
3 imposition of this mandatory minimum sentence would impose a
4 substantial risk to the offender's physical or mental well-being.
5 Whenever the mandatory minimum sentence is suspended, the court shall
6 state in writing the reason for granting the suspension and the facts
7 upon which the suspension is based; and

8 (ii) By a fine of not less than seven hundred fifty dollars nor
9 more than five thousand dollars. Seven hundred fifty dollars of the
10 fine may not be suspended unless the court finds the offender to be
11 indigent.

12 (3) **Two ((~~or—three~~)) prior offenses in seven years.** Except as
13 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is
14 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has
15 two ((~~or—three~~)) prior offenses within seven years shall be punished
16 as follows:

17 (a) **Penalty for alcohol concentration less than 0.15.** In the case
18 of a person whose alcohol concentration was less than 0.15, or for
19 whom for reasons other than the person's refusal to take a test
20 offered pursuant to RCW 46.20.308 there is no test result indicating
21 the person's alcohol concentration:

22 (i) By imprisonment for not less than ninety days nor more than
23 three hundred sixty-four days, if available in that county or city, a
24 six-month period of 24/7 sobriety program monitoring pursuant to RCW
25 36.28A.300 through 36.28A.390, and one hundred twenty days of
26 electronic home monitoring. In lieu of the mandatory minimum term of
27 one hundred twenty days of electronic home monitoring, the court may
28 order at least an additional eight days in jail. The court shall
29 order an expanded alcohol assessment and treatment, if deemed
30 appropriate by the assessment. The offender shall pay for the cost of
31 the electronic monitoring. The county or municipality where the
32 penalty is being imposed shall determine the cost. The court may also
33 require the offender's electronic home monitoring device include an
34 alcohol detection breathalyzer or other separate alcohol monitoring
35 device, and may restrict the amount of alcohol the offender may
36 consume during the time the offender is on electronic home
37 monitoring. Ninety days of imprisonment and one hundred twenty days
38 of electronic home monitoring may not be suspended unless the court
39 finds that the imposition of this mandatory minimum sentence would
40 impose a substantial risk to the offender's physical or mental well-

1 being. Whenever the mandatory minimum sentence is suspended, the
2 court shall state in writing the reason for granting the suspension
3 and the facts upon which the suspension is based; and

4 (ii) By a fine of not less than one thousand dollars nor more
5 than five thousand dollars. One thousand dollars of the fine may not
6 be suspended unless the court finds the offender to be indigent; or

7 (b) **Penalty for alcohol concentration at least 0.15.** In the case
8 of a person whose alcohol concentration was at least 0.15, or for
9 whom by reason of the person's refusal to take a test offered
10 pursuant to RCW 46.20.308 there is no test result indicating the
11 person's alcohol concentration:

12 (i) By imprisonment for not less than one hundred twenty days nor
13 more than three hundred sixty-four days, if available in that county
14 or city, a six-month period of 24/7 sobriety program monitoring
15 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
16 days of electronic home monitoring. In lieu of the mandatory minimum
17 term of one hundred fifty days of electronic home monitoring, the
18 court may order at least an additional ten days in jail. The offender
19 shall pay for the cost of the electronic monitoring. The court shall
20 order an expanded alcohol assessment and treatment, if deemed
21 appropriate by the assessment. The county or municipality where the
22 penalty is being imposed shall determine the cost. The court may also
23 require the offender's electronic home monitoring device include an
24 alcohol detection breathalyzer or other separate alcohol monitoring
25 device, and may restrict the amount of alcohol the offender may
26 consume during the time the offender is on electronic home
27 monitoring. One hundred twenty days of imprisonment and one hundred
28 fifty days of electronic home monitoring may not be suspended unless
29 the court finds that the imposition of this mandatory minimum
30 sentence would impose a substantial risk to the offender's physical
31 or mental well-being. Whenever the mandatory minimum sentence is
32 suspended, the court shall state in writing the reason for granting
33 the suspension and the facts upon which the suspension is based; and

34 (ii) By a fine of not less than one thousand five hundred dollars
35 nor more than five thousand dollars. One thousand five hundred
36 dollars of the fine may not be suspended unless the court finds the
37 offender to be indigent.

38 (4) (~~Four~~) **Three or more prior offenses in ten years.** A person
39 who is convicted of a violation of RCW 46.61.502 or 46.61.504 shall
40 be punished under chapter 9.94A RCW if:

1 (a) The person has (~~four~~) three or more prior offenses within
2 ten years; or

3 (b) The person has ever previously been convicted of:

4 (i) A violation of RCW 46.61.520 committed while under the
5 influence of intoxicating liquor or any drug;

6 (ii) A violation of RCW 46.61.522 committed while under the
7 influence of intoxicating liquor or any drug;

8 (iii) An out-of-state offense comparable to the offense specified
9 in (b)(i) or (ii) of this subsection; or

10 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

11 (5) **Monitoring.**

12 (a) **Ignition interlock device.** The court shall require any person
13 convicted of a violation of RCW 46.61.502 or 46.61.504 or an
14 equivalent local ordinance to comply with the rules and requirements
15 of the department regarding the installation and use of a functioning
16 ignition interlock device installed on all motor vehicles operated by
17 the person.

18 (b) **Monitoring devices.** If the court orders that a person refrain
19 from consuming any alcohol, the court may order the person to submit
20 to alcohol monitoring through an alcohol detection breathalyzer
21 device, transdermal sensor device, or other technology designed to
22 detect alcohol in a person's system. The person shall pay for the
23 cost of the monitoring, unless the court specifies that the cost of
24 monitoring will be paid with funds that are available from an
25 alternative source identified by the court. The county or
26 municipality where the penalty is being imposed shall determine the
27 cost.

28 (c) **Ignition interlock device substituted for 24/7 sobriety**
29 **program monitoring.** In any county or city where a 24/7 sobriety
30 program is available and verified by the Washington association of
31 sheriffs and police chiefs, the court shall:

32 (i) Order the person to install and use a functioning ignition
33 interlock or other device in lieu of such period of 24/7 sobriety
34 program monitoring;

35 (ii) Order the person to a period of 24/7 sobriety program
36 monitoring pursuant to subsections (1) through (3) of this section;
37 or

38 (iii) Order the person to install and use a functioning ignition
39 interlock or other device in addition to a period of 24/7 sobriety

1 program monitoring pursuant to subsections (1) through (3) of this
2 section.

3 (6) **Penalty for having a minor passenger in vehicle.** If a person
4 who is convicted of a violation of RCW 46.61.502 or 46.61.504
5 committed the offense while a passenger under the age of sixteen was
6 in the vehicle, the court shall:

7 (a) Order the use of an ignition interlock or other device for an
8 additional six months;

9 (b) In any case in which the person has no prior offenses within
10 seven years, and except as provided in RCW 46.61.502(6) or
11 46.61.504(6), order an additional twenty-four hours of imprisonment
12 and a fine of not less than one thousand dollars and not more than
13 five thousand dollars. One thousand dollars of the fine may not be
14 suspended unless the court finds the offender to be indigent;

15 (c) In any case in which the person has one prior offense within
16 seven years, and except as provided in RCW 46.61.502(6) or
17 46.61.504(6), order an additional five days of imprisonment and a
18 fine of not less than two thousand dollars and not more than five
19 thousand dollars. One thousand dollars of the fine may not be
20 suspended unless the court finds the offender to be indigent;

21 (d) In any case in which the person has two (~~or three~~) prior
22 offenses within seven years, and except as provided in RCW
23 46.61.502(6) or 46.61.504(6), order an additional ten days of
24 imprisonment and a fine of not less than three thousand dollars and
25 not more than ten thousand dollars. One thousand dollars of the fine
26 may not be suspended unless the court finds the offender to be
27 indigent.

28 (7) **Other items courts must consider while setting penalties.** In
29 exercising its discretion in setting penalties within the limits
30 allowed by this section, the court shall particularly consider the
31 following:

32 (a) Whether the person's driving at the time of the offense was
33 responsible for injury or damage to another or another's property;

34 (b) Whether at the time of the offense the person was driving or
35 in physical control of a vehicle with one or more passengers;

36 (c) Whether the driver was driving in the opposite direction of
37 the normal flow of traffic on a multiple lane highway, as defined by
38 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
39 or greater; and

1 (d) Whether a child passenger under the age of sixteen was an
2 occupant in the driver's vehicle.

3 (8) **Treatment and information school.** An offender punishable
4 under this section is subject to the alcohol assessment and treatment
5 provisions of RCW 46.61.5056.

6 (9) **Driver's license privileges of the defendant.** The license,
7 permit, or nonresident privilege of a person convicted of driving or
8 being in physical control of a motor vehicle while under the
9 influence of intoxicating liquor or drugs must:

10 (a) **Penalty for alcohol concentration less than 0.15.** If the
11 person's alcohol concentration was less than 0.15, or if for reasons
12 other than the person's refusal to take a test offered under RCW
13 46.20.308 there is no test result indicating the person's alcohol
14 concentration:

15 (i) Where there has been no prior offense within seven years, be
16 suspended or denied by the department for ninety days;

17 (ii) Where there has been one prior offense within seven years,
18 be revoked or denied by the department for two years; or

19 (iii) Where there have been two or more prior offenses within
20 seven years, be revoked or denied by the department for three years;

21 (b) **Penalty for alcohol concentration at least 0.15.** If the
22 person's alcohol concentration was at least 0.15:

23 (i) Where there has been no prior offense within seven years, be
24 revoked or denied by the department for one year;

25 (ii) Where there has been one prior offense within seven years,
26 be revoked or denied by the department for nine hundred days; or

27 (iii) Where there have been two or more prior offenses within
28 seven years, be revoked or denied by the department for four years;
29 or

30 (c) **Penalty for refusing to take test.** If by reason of the
31 person's refusal to take a test offered under RCW 46.20.308, there is
32 no test result indicating the person's alcohol concentration:

33 (i) Where there have been no prior offenses within seven years,
34 be revoked or denied by the department for two years;

35 (ii) Where there has been one prior offense within seven years,
36 be revoked or denied by the department for three years; or

37 (iii) Where there have been two or more previous offenses within
38 seven years, be revoked or denied by the department for four years.

39 The department shall grant credit on a day-for-day basis for any
40 portion of a suspension, revocation, or denial already served under

1 this subsection for a suspension, revocation, or denial imposed under
2 RCW 46.20.3101 arising out of the same incident.

3 Upon its own motion or upon motion by a person, a court may find,
4 on the record, that notice to the department under RCW 46.20.270 has
5 been delayed for three years or more as a result of a clerical or
6 court error. If so, the court may order that the person's license,
7 permit, or nonresident privilege shall not be revoked, suspended, or
8 denied for that offense. The court shall send notice of the finding
9 and order to the department and to the person. Upon receipt of the
10 notice from the court, the department shall not revoke, suspend, or
11 deny the license, permit, or nonresident privilege of the person for
12 that offense.

13 For purposes of this subsection (9), the department shall refer
14 to the driver's record maintained under RCW 46.52.120 when
15 determining the existence of prior offenses.

16 (10) **Probation of driving privilege.** After expiration of any
17 period of suspension, revocation, or denial of the offender's
18 license, permit, or privilege to drive required by this section, the
19 department shall place the offender's driving privilege in
20 probationary status pursuant to RCW 46.20.355.

21 (11) **Conditions of probation.** (a) In addition to any
22 nonsuspendable and nondeferrable jail sentence required by this
23 section, whenever the court imposes up to three hundred sixty-four
24 days in jail, the court shall also suspend but shall not defer a
25 period of confinement for a period not exceeding five years. The
26 court shall impose conditions of probation that include: (i) Not
27 driving a motor vehicle within this state without a valid license to
28 drive and proof of liability insurance or other financial
29 responsibility for the future pursuant to RCW 46.30.020; (ii) not
30 driving or being in physical control of a motor vehicle within this
31 state while having an alcohol concentration of 0.08 or more or a THC
32 concentration of 5.00 nanograms per milliliter of whole blood or
33 higher, within two hours after driving; and (iii) not refusing to
34 submit to a test of his or her breath or blood to determine alcohol
35 or drug concentration upon request of a law enforcement officer who
36 has reasonable grounds to believe the person was driving or was in
37 actual physical control of a motor vehicle within this state while
38 under the influence of intoxicating liquor or drug. The court may
39 impose conditions of probation that include nonrepetition,
40 installation of an ignition interlock device on the probationer's

1 motor vehicle, alcohol or drug treatment, supervised probation, or
2 other conditions that may be appropriate. The sentence may be imposed
3 in whole or in part upon violation of a condition of probation during
4 the suspension period.

5 (b) For each violation of mandatory conditions of probation under
6 (a)(i), (ii), or (iii) of this subsection, the court shall order the
7 convicted person to be confined for thirty days, which shall not be
8 suspended or deferred.

9 (c) For each incident involving a violation of a mandatory
10 condition of probation imposed under this subsection, the license,
11 permit, or privilege to drive of the person shall be suspended by the
12 court for thirty days or, if such license, permit, or privilege to
13 drive already is suspended, revoked, or denied at the time the
14 finding of probation violation is made, the suspension, revocation,
15 or denial then in effect shall be extended by thirty days. The court
16 shall notify the department of any suspension, revocation, or denial
17 or any extension of a suspension, revocation, or denial imposed under
18 this subsection.

19 (12) **Waiver of electronic home monitoring.** A court may waive the
20 electronic home monitoring requirements of this chapter when:

21 (a) The offender does not have a dwelling, telephone service, or
22 any other necessity to operate an electronic home monitoring system.
23 However, if a court determines that an alcohol monitoring device
24 utilizing wireless reporting technology is reasonably available, the
25 court may require the person to obtain such a device during the
26 period of required electronic home monitoring;

27 (b) The offender does not reside in the state of Washington; or

28 (c) The court determines that there is reason to believe that the
29 offender would violate the conditions of the electronic home
30 monitoring penalty.

31 Whenever the mandatory minimum term of electronic home monitoring
32 is waived, the court shall state in writing the reason for granting
33 the waiver and the facts upon which the waiver is based, and shall
34 impose an alternative sentence with similar punitive consequences.
35 The alternative sentence may include, but is not limited to, use of
36 an ignition interlock device, the 24/7 sobriety program monitoring,
37 additional jail time, work crew, or work camp.

38 Whenever the combination of jail time and electronic home
39 monitoring or alternative sentence would exceed three hundred sixty-
40 four days, the offender shall serve the jail portion of the sentence

1 first, and the electronic home monitoring or alternative portion of
2 the sentence shall be reduced so that the combination does not exceed
3 three hundred sixty-four days.

4 (13) **Extraordinary medical placement.** An offender serving a
5 sentence under this section, whether or not a mandatory minimum term
6 has expired, may be granted an extraordinary medical placement by the
7 jail administrator subject to the standards and limitations set forth
8 in RCW 9.94A.728(3).

9 (14) **Definitions.** For purposes of this section and RCW 46.61.502
10 and 46.61.504:

11 (a) A "prior offense" means any of the following:

12 (i) A conviction for a violation of RCW 46.61.502 or an
13 equivalent local ordinance;

14 (ii) A conviction for a violation of RCW 46.61.504 or an
15 equivalent local ordinance;

16 (iii) A conviction for a violation of RCW 46.25.110 or an
17 equivalent local ordinance;

18 (iv) A conviction for a violation of RCW 79A.60.040 or an
19 equivalent local ordinance;

20 (v) A conviction for a violation of RCW 47.68.220 or an
21 equivalent local ordinance;

22 (vi) A conviction for a violation of RCW 46.09.470(2) or an
23 equivalent local ordinance;

24 (vii) A conviction for a violation of RCW 46.10.490(2) or an
25 equivalent local ordinance;

26 (viii) A conviction for a violation of RCW 46.61.520 committed
27 while under the influence of intoxicating liquor or any drug, or a
28 conviction for a violation of RCW 46.61.520 committed in a reckless
29 manner or with the disregard for the safety of others if the
30 conviction is the result of a charge that was originally filed as a
31 violation of RCW 46.61.520 committed while under the influence of
32 intoxicating liquor or any drug;

33 (ix) A conviction for a violation of RCW 46.61.522 committed
34 while under the influence of intoxicating liquor or any drug, or a
35 conviction for a violation of RCW 46.61.522 committed in a reckless
36 manner or with the disregard for the safety of others if the
37 conviction is the result of a charge that was originally filed as a
38 violation of RCW 46.61.522 committed while under the influence of
39 intoxicating liquor or any drug;

1 (x) A conviction for a violation of RCW 46.61.5249, 46.61.500, or
2 9A.36.050 or an equivalent local ordinance, if the conviction is the
3 result of a charge that was originally filed as a violation of RCW
4 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
5 46.61.520 or 46.61.522;

6 (xi) An out-of-state conviction for a violation that would have
7 been a violation of (a)(i), (ii), (viii), (ix), or (x) of this
8 subsection if committed in this state;

9 (xii) A deferred prosecution under chapter 10.05 RCW granted in a
10 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
11 equivalent local ordinance;

12 (xiii) A deferred prosecution under chapter 10.05 RCW granted in
13 a prosecution for a violation of RCW 46.61.5249, or an equivalent
14 local ordinance, if the charge under which the deferred prosecution
15 was granted was originally filed as a violation of RCW 46.61.502 or
16 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
17 46.61.522;

18 (xiv) A deferred prosecution granted in another state for a
19 violation of driving or having physical control of a vehicle while
20 under the influence of intoxicating liquor or any drug if the out-of-
21 state deferred prosecution is equivalent to the deferred prosecution
22 under chapter 10.05 RCW, including a requirement that the defendant
23 participate in a chemical dependency treatment program; or

24 (xv) A deferred sentence imposed in a prosecution for a violation
25 of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local
26 ordinance, if the charge under which the deferred sentence was
27 imposed was originally filed as a violation of RCW 46.61.502 or
28 46.61.504, or an equivalent local ordinance, or a violation of RCW
29 46.61.520 or 46.61.522;

30 If a deferred prosecution is revoked based on a subsequent
31 conviction for an offense listed in this subsection (14)(a), the
32 subsequent conviction shall not be treated as a prior offense of the
33 revoked deferred prosecution for the purposes of sentencing;

34 (b) "Treatment" means alcohol or drug treatment approved by the
35 department of social and health services;

36 (c) "Within seven years" means that the arrest for a prior
37 offense occurred within seven years before or after the arrest for
38 the current offense; and

1 (d) "Within ten years" means that the arrest for a prior offense
2 occurred within ten years before or after the arrest for the current
3 offense.

4 (15) All fines imposed by this section apply to adult offenders
5 only.

6 **Sec. 23.** RCW 9.94A.515 and 2015 c 261 s 11 are each amended to
7 read as follows:

8 TABLE 2

9 CRIMES INCLUDED WITHIN
10 EACH SERIOUSNESS LEVEL

- 11 XVI Aggravated Murder 1 (RCW
12 10.95.020)
- 13 XV Homicide by abuse (RCW 9A.32.055)
14 Malicious explosion 1 (RCW
15 70.74.280(1))
16 Murder 1 (RCW 9A.32.030)
- 17 XIV Murder 2 (RCW 9A.32.050)
18 Trafficking 1 (RCW 9A.40.100(1))
- 19 XIII Malicious explosion 2 (RCW
20 70.74.280(2))
21 Malicious placement of an explosive 1
22 (RCW 70.74.270(1))
- 23 XII Assault 1 (RCW 9A.36.011)
24 Assault of a Child 1 (RCW 9A.36.120)
25 Malicious placement of an imitation
26 device 1 (RCW 70.74.272(1)(a))
27 Promoting Commercial Sexual Abuse
28 of a Minor (RCW 9.68A.101)
29 Rape 1 (RCW 9A.44.040)
30 Rape of a Child 1 (RCW 9A.44.073)
31 Trafficking 2 (RCW 9A.40.100(3))
- 32 XI Manslaughter 1 (RCW 9A.32.060)
33 Rape 2 (RCW 9A.44.050)
34 Rape of a Child 2 (RCW 9A.44.076)

1 Vehicular Homicide, by being under
2 the influence of intoxicating liquor
3 or any drug (RCW 46.61.520)
4 X Child Molestation 1 (RCW 9A.44.083)
5 Criminal Mistreatment 1 (RCW
6 9A.42.020)
7 Indecent Liberties (with forcible
8 compulsion) (RCW
9 9A.44.100(1)(a))
10 Kidnapping 1 (RCW 9A.40.020)
11 Leading Organized Crime (RCW
12 9A.82.060(1)(a))
13 Malicious explosion 3 (RCW
14 70.74.280(3))
15 Sexually Violent Predator Escape
16 (RCW 9A.76.115)
17 IX Abandonment of Dependent Person 1
18 (RCW 9A.42.060)
19 Assault of a Child 2 (RCW 9A.36.130)
20 Explosive devices prohibited (RCW
21 70.74.180)
22 Hit and Run—Death (RCW
23 46.52.020(4)(a))
24 Homicide by Watercraft, by being
25 under the influence of intoxicating
26 liquor or any drug (RCW
27 79A.60.050)
28 Inciting Criminal Profiteering (RCW
29 9A.82.060(1)(b))
30 Malicious placement of an explosive 2
31 (RCW 70.74.270(2))
32 Robbery 1 (RCW 9A.56.200)
33 Sexual Exploitation (RCW 9.68A.040)
34 VIII Arson 1 (RCW 9A.48.020)

1 Commercial Sexual Abuse of a Minor
2 (RCW 9.68A.100)
3 Homicide by Watercraft, by the
4 operation of any vessel in a
5 reckless manner (RCW
6 79A.60.050)
7 Manslaughter 2 (RCW 9A.32.070)
8 Promoting Prostitution 1 (RCW
9 9A.88.070)
10 Theft of Ammonia (RCW 69.55.010)
11 Vehicular Homicide, by the operation
12 of any vehicle in a reckless
13 manner (RCW 46.61.520)
14 VII Burglary 1 (RCW 9A.52.020)
15 Child Molestation 2 (RCW 9A.44.086)
16 Civil Disorder Training (RCW
17 9A.48.120)
18 Dealing in depictions of minor engaged
19 in sexually explicit conduct 1
20 (RCW 9.68A.050(1))
21 Drive-by Shooting (RCW 9A.36.045)
22 Homicide by Watercraft, by disregard
23 for the safety of others (RCW
24 79A.60.050)
25 Indecent Liberties (without forcible
26 compulsion) (RCW 9A.44.100(1)
27 (b) and (c))
28 Introducing Contraband 1 (RCW
29 9A.76.140)
30 Malicious placement of an explosive 3
31 (RCW 70.74.270(3))
32 Negligently Causing Death By Use of a
33 Signal Preemption Device (RCW
34 46.37.675)

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct 1 (RCW
4 9.68A.060(1))
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW 9A.72.160)
18 Intimidating a Juror/Witness (RCW
19 9A.72.110, 9A.72.130)
20 Malicious placement of an imitation
21 device 2 (RCW 70.74.272(1)(b))
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit
24 Conduct 1 (RCW 9.68A.070(1))
25 Rape of a Child 3 (RCW 9A.44.079)
26 Theft of a Firearm (RCW 9A.56.300)
27 Unlawful Storage of Ammonia (RCW
28 69.55.020)
29 V Abandonment of Dependent Person 2
30 (RCW 9A.42.070)
31 Advancing money or property for
32 extortionate extension of credit
33 (RCW 9A.82.030)
34 Bail Jumping with class A Felony
35 (RCW 9A.76.170(3)(b))
36 Child Molestation 3 (RCW 9A.44.089)

1 Criminal Mistreatment 2 (RCW
2 9A.42.030)
3 Custodial Sexual Misconduct 1 (RCW
4 9A.44.160)
5 Dealing in Depictions of Minor
6 Engaged in Sexually Explicit
7 Conduct 2 (RCW 9.68A.050(2))
8 Domestic Violence Court Order
9 Violation (RCW 10.99.040,
10 10.99.050, 26.09.300, 26.10.220,
11 26.26.138, 26.50.110, 26.52.070,
12 or 74.34.145)
13 ~~((Driving While Under the Influence~~
14 ~~(RCW 46.61.502(6))))~~
15 Extortion 1 (RCW 9A.56.120)
16 Extortionate Extension of Credit (RCW
17 9A.82.020)
18 Extortionate Means to Collect
19 Extensions of Credit (RCW
20 9A.82.040)
21 Incest 2 (RCW 9A.64.020(2))
22 Kidnapping 2 (RCW 9A.40.030)
23 Perjury 1 (RCW 9A.72.020)
24 Persistent prison misbehavior (RCW
25 9.94.070)
26 ~~((Physical Control of a Vehicle While~~
27 ~~Under the Influence (RCW~~
28 ~~46.61.504(6))))~~
29 Possession of a Stolen Firearm (RCW
30 9A.56.310)
31 Rape 3 (RCW 9A.44.060)
32 Rendering Criminal Assistance 1
33 (RCW 9A.76.070)

1 Sending, Bringing into State
2 Depictions of Minor Engaged in
3 Sexually Explicit Conduct 2
4 (RCW 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)
12 IV Arson 2 (RCW 9A.48.030)
13 Assault 2 (RCW 9A.36.021)
14 Assault 3 (of a Peace Officer with a
15 Projectile Stun Gun) (RCW
16 9A.36.031(1)(h))
17 Assault by Watercraft (RCW
18 79A.60.060)
19 Bribing a Witness/Bribe Received by
20 Witness (RCW 9A.72.090,
21 9A.72.100)
22 Cheating 1 (RCW 9.46.1961)
23 Commercial Bribery (RCW
24 9A.68.060)
25 Counterfeiting (RCW 9.16.035(4))
26 Driving While Under the Influence
27 (RCW 46.61.502(6))
28 Endangerment with a Controlled
29 Substance (RCW 9A.42.100)
30 Escape 1 (RCW 9A.76.110)
31 Hit and Run—Injury (RCW
32 46.52.020(4)(b))
33 Hit and Run with Vessel—Injury
34 Accident (RCW 79A.60.200(3))
35 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under
2 Age Fourteen (subsequent sex
3 offense) (RCW 9A.88.010)
4 Influencing Outcome of Sporting Event
5 (RCW 9A.82.070)
6 Malicious Harassment (RCW
7 9A.36.080)
8 Physical Control of a Vehicle While
9 Under the Influence (RCW
10 46.61.504(6))
11 Possession of Depictions of a Minor
12 Engaged in Sexually Explicit
13 Conduct 2 (RCW 9.68A.070(2))
14 Residential Burglary (RCW
15 9A.52.025)
16 Robbery 2 (RCW 9A.56.210)
17 Theft of Livestock 1 (RCW 9A.56.080)
18 Threats to Bomb (RCW 9.61.160)
19 Trafficking in Stolen Property 1 (RCW
20 9A.82.050)
21 Unlawful factoring of a credit card or
22 payment card transaction (RCW
23 9A.56.290(4)(b))
24 Unlawful transaction of health
25 coverage as a health care service
26 contractor (RCW 48.44.016(3))
27 Unlawful transaction of health
28 coverage as a health maintenance
29 organization (RCW 48.46.033(3))
30 Unlawful transaction of insurance
31 business (RCW 48.15.023(3))
32 Unlicensed practice as an insurance
33 professional (RCW 48.17.063(2))
34 Use of Proceeds of Criminal
35 Profiteering (RCW 9A.82.080 (1)
36 and (2))

1 Vehicle Prowling 2 (third or
2 subsequent offense) (RCW
3 9A.52.100(3))
4 Vehicular Assault, by being under the
5 influence of intoxicating liquor or
6 any drug, or by the operation or
7 driving of a vehicle in a reckless
8 manner (RCW 46.61.522)
9 Viewing of Depictions of a Minor
10 Engaged in Sexually Explicit
11 Conduct 1 (RCW 9.68A.075(1))
12 Willful Failure to Return from
13 Furlough (RCW 72.66.060)
14 III Animal Cruelty 1 (Sexual Conduct or
15 Contact) (RCW 16.52.205(3))
16 Assault 3 (Except Assault 3 of a Peace
17 Officer With a Projectile Stun
18 Gun) (RCW 9A.36.031 except
19 subsection (1)(h))
20 Assault of a Child 3 (RCW 9A.36.140)
21 Bail Jumping with class B or C Felony
22 (RCW 9A.76.170(3)(c))
23 Burglary 2 (RCW 9A.52.030)
24 Communication with a Minor for
25 Immoral Purposes (RCW
26 9.68A.090)
27 Criminal Gang Intimidation (RCW
28 9A.46.120)
29 Custodial Assault (RCW 9A.36.100)
30 Cyberstalking (subsequent conviction
31 or threat of death) (RCW
32 9.61.260(3))
33 Escape 2 (RCW 9A.76.120)
34 Extortion 2 (RCW 9A.56.130)
35 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW
4 9A.76.150)
5 Malicious Injury to Railroad Property
6 (RCW 81.60.070)
7 Mortgage Fraud (RCW 19.144.080)
8 Negligently Causing Substantial
9 Bodily Harm By Use of a Signal
10 Preemption Device (RCW
11 46.37.674)
12 Organized Retail Theft 1 (RCW
13 9A.56.350(2))
14 Perjury 2 (RCW 9A.72.030)
15 Possession of Incendiary Device (RCW
16 9.40.120)
17 Possession of Machine Gun or Short-
18 Barreled Shotgun or Rifle (RCW
19 9.41.190)
20 Promoting Prostitution 2 (RCW
21 9A.88.080)
22 Retail Theft with Special
23 Circumstances 1 (RCW
24 9A.56.360(2))
25 Securities Act violation (RCW
26 21.20.400)
27 Tampering with a Witness (RCW
28 9A.72.120)
29 Telephone Harassment (subsequent
30 conviction or threat of death)
31 (RCW 9.61.230(2))
32 Theft of Livestock 2 (RCW 9A.56.083)
33 Theft with the Intent to Resell 1 (RCW
34 9A.56.340(2))
35 Trafficking in Stolen Property 2 (RCW
36 9A.82.055)

1 Unlawful Hunting of Big Game 1
2 (RCW 77.15.410(3)(b))
3 Unlawful Imprisonment (RCW
4 9A.40.040)
5 Unlawful Misbranding of Food Fish or
6 Shellfish 1 (RCW 69.04.938(3))
7 Unlawful possession of firearm in the
8 second degree (RCW 9.41.040(2))
9 Unlawful Taking of Endangered Fish
10 or Wildlife 1 (RCW
11 77.15.120(3)(b))
12 Unlawful Trafficking in Fish, Shellfish,
13 or Wildlife 1 (RCW
14 77.15.260(3)(b))
15 Unlawful Use of a Nondesignated
16 Vessel (RCW 77.15.530(4))
17 Vehicular Assault, by the operation or
18 driving of a vehicle with disregard
19 for the safety of others (RCW
20 46.61.522)
21 Willful Failure to Return from Work
22 Release (RCW 72.65.070)
23 II Commercial Fishing Without a License
24 1 (RCW 77.15.500(3)(b))
25 Computer Trespass 1 (RCW
26 9A.52.110)
27 Counterfeiting (RCW 9.16.035(3))
28 Engaging in Fish Dealing Activity
29 Unlicensed 1 (RCW 77.15.620(3))
30 Escape from Community Custody
31 (RCW 72.09.310)
32 Failure to Register as a Sex Offender
33 (second or subsequent offense)
34 (RCW 9A.44.130 prior to June 10,
35 2010, and RCW 9A.44.132)

1 Health Care False Claims (RCW
2 48.80.030)
3 Identity Theft 2 (RCW 9.35.020(3))
4 Improperly Obtaining Financial
5 Information (RCW 9.35.010)
6 Malicious Mischief 1 (RCW
7 9A.48.070)
8 Organized Retail Theft 2 (RCW
9 9A.56.350(3))
10 Possession of Stolen Property 1 (RCW
11 9A.56.150)
12 Possession of a Stolen Vehicle (RCW
13 9A.56.068)
14 Retail Theft with Special
15 Circumstances 2 (RCW
16 9A.56.360(3))
17 Scrap Processing, Recycling, or
18 Supplying Without a License
19 (second or subsequent offense)
20 (RCW 19.290.100)
21 Theft 1 (RCW 9A.56.030)
22 Theft of a Motor Vehicle (RCW
23 9A.56.065)
24 Theft of Rental, Leased, or Lease-
25 purchased Property (valued at one
26 thousand five hundred dollars or
27 more) (RCW 9A.56.096(5)(a))
28 Theft with the Intent to Resell 2 (RCW
29 9A.56.340(3))
30 Trafficking in Insurance Claims (RCW
31 48.30A.015)
32 Unlawful factoring of a credit card or
33 payment card transaction (RCW
34 9A.56.290(4)(a))

1 Unlawful Participation of Non-Indians
2 in Indian Fishery (RCW
3 77.15.570(2))
4 Unlawful Practice of Law (RCW
5 2.48.180)
6 Unlawful Purchase or Use of a License
7 (RCW 77.15.650(3)(b))
8 Unlawful Trafficking in Fish, Shellfish,
9 or Wildlife 2 (RCW
10 77.15.260(3)(a))
11 Unlicensed Practice of a Profession or
12 Business (RCW 18.130.190(7))
13 Voyeurism (RCW 9A.44.115)
14 I Attempting to Elude a Pursuing Police
15 Vehicle (RCW 46.61.024)
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forgery (RCW 9A.60.020)
19 Fraudulent Creation or Revocation of a
20 Mental Health Advance Directive
21 (RCW 9A.60.060)
22 Malicious Mischief 2 (RCW
23 9A.48.080)
24 Mineral Trespass (RCW 78.44.330)
25 Possession of Stolen Property 2 (RCW
26 9A.56.160)
27 Reckless Burning 1 (RCW 9A.48.040)
28 Spotlighting Big Game 1 (RCW
29 77.15.450(3)(b))
30 Suspension of Department Privileges 1
31 (RCW 77.15.670(3)(b))
32 Taking Motor Vehicle Without
33 Permission 2 (RCW 9A.56.075)
34 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at two
3 hundred fifty dollars or more but
4 less than one thousand five
5 hundred dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063)
10 Unlawful Fish and Shellfish Catch
11 Accounting (RCW
12 77.15.630(3)(b))
13 Unlawful Issuance of Checks or Drafts
14 (RCW 9A.56.060)
15 Unlawful Possession of Fictitious
16 Identification (RCW 9A.56.320)
17 Unlawful Possession of Instruments of
18 Financial Fraud (RCW 9A.56.320)
19 Unlawful Possession of Payment
20 Instruments (RCW 9A.56.320)
21 Unlawful Possession of a Personal
22 Identification Device (RCW
23 9A.56.320)
24 Unlawful Production of Payment
25 Instruments (RCW 9A.56.320)
26 ~~((Unlawful Releasing, planting,~~
27 ~~possessing, or placing Deleterious~~
28 ~~Exotic Wildlife (RCW~~
29 ~~77.15.250(2)(b))))~~
30 Unlawful Trafficking in Food Stamps
31 (RCW 9.91.142)
32 Unlawful Use of Food Stamps (RCW
33 9.91.144)
34 Unlawful Use of Net to Take Fish 1
35 (RCW 77.15.580(3)(b))

1 Unlawful Use of Prohibited Aquatic

2 Animal Species (RCW

3 77.15.253(3))

4 Unlawfully Releasing, Planting,

5 Possessing, or Placing Deleterious

6 Exotic Wildlife (RCW

7 77.15.250(2)(b))

8 Vehicle Prowl 1 (RCW 9A.52.095)

9 Violating Commercial Fishing Area or

10 Time 1 (RCW 77.15.550(3)(b))

11 **Sec. 24.** RCW 46.61.5054 and 2015 c 265 s 32 are each amended to
12 read as follows:

13 (1)(a) In addition to penalties set forth in RCW 46.61.5051
14 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055
15 thereafter, a two hundred fifty dollar fee shall be assessed to a
16 person who is either convicted, sentenced to a lesser charge, or
17 given deferred prosecution, as a result of an arrest for violating
18 RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for
19 the purpose of funding the Washington state toxicology laboratory and
20 the Washington state patrol for grants and activities to increase the
21 conviction rate and decrease the incidence of persons driving under
22 the influence of alcohol or drugs.

23 (b) Upon a verified petition by the person assessed the fee, the
24 court may suspend payment of all or part of the fee if it finds that
25 the person does not have the ability to pay.

26 (2) The fee assessed under subsection (1) of this section shall
27 be collected by the clerk of the court and, subject to subsection
28 ~~((+4))~~ (5) of this section, one hundred seventy-five dollars of the
29 fee must be distributed as follows:

30 (a) Forty percent shall be subject to distribution under RCW
31 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

32 (b) The remainder of the fee shall be forwarded to the state
33 treasurer who shall, through June 30, 1997, deposit: Fifty percent in
34 the death investigations' account to be used solely for funding the
35 state toxicology laboratory blood or breath testing programs; and
36 fifty percent in the state patrol highway account to be used solely
37 for funding activities to increase the conviction rate and decrease
38 the incidence of persons driving under the influence of alcohol or

1 drugs. Effective July 1, 1997, the remainder of the fee shall be
2 forwarded to the state treasurer who shall deposit: Fifteen percent
3 in the death investigations' account to be used solely for funding
4 the state toxicology laboratory blood or breath testing programs; and
5 eighty-five percent in the state patrol highway account to be used
6 solely for funding activities to increase the conviction rate and
7 decrease the incidence of persons driving under the influence of
8 alcohol or drugs.

9 (3) Twenty-five dollars of the fee assessed under subsection (1)
10 of this section must be distributed to the highway safety fund to be
11 used solely for funding Washington traffic safety commission grants
12 to reduce statewide collisions caused by persons driving under the
13 influence of alcohol or drugs. Grants awarded under this subsection
14 may be for projects that encourage collaboration with other
15 community, governmental, and private organizations, and that utilize
16 innovative approaches based on best practices or proven strategies
17 supported by research or rigorous evaluation. Grants recipients may
18 include, for example:

19 (a) DUI courts; and

20 (b) Jurisdictions implementing the victim impact panel registries
21 under RCW 46.61.5152 and 10.01.230.

22 (4) Fifty dollars of the fee assessed under subsection (1) of
23 this section must be distributed to the highway safety fund to be
24 used solely for funding Washington traffic safety commission grants
25 to organizations within counties targeted for programs to reduce
26 driving under the influence of alcohol or drugs.

27 (5) If the court has suspended payment of part of the fee
28 pursuant to subsection (1)(b) of this section, amounts collected
29 shall be distributed proportionately.

30 ~~((+5))~~ (6) This section applies to any offense committed on or
31 after July 1, 1993, and only to adult offenders.

32 NEW SECTION. Sec. 25. A new section is added to chapter 43.131
33 RCW to read as follows:

34 The sentencing guidelines commission's authorities, as
35 established in sections 2 and 13 through 17 of this act, are
36 terminated on June 30, 2021, as provided in section 26 of this act.

37 NEW SECTION. Sec. 26. A new section is added to chapter 43.131
38 RCW to read as follows:

1 The following acts or parts of acts, as now existing or hereafter
2 amended, are each repealed, effective June 30, 2022:

- 3 (1) Section 1 of this act;
- 4 (2) Section 2 of this act;
- 5 (3) Section 4 of this act;
- 6 (4) Section 5 of this act;
- 7 (5) Section 6 of this act;
- 8 (6) Section 7 of this act;
- 9 (7) Section 8 of this act;
- 10 (8) Section 9 of this act;
- 11 (9) Section 10 of this act;
- 12 (10) Section 11 of this act;
- 13 (11) Section 12 of this act;
- 14 (12) Section 13 of this act;
- 15 (13) Section 14 of this act;
- 16 (14) Section 15 of this act;
- 17 (15) Section 16 of this act; and
- 18 (16) Section 17 of this act.

19 NEW SECTION. **Sec. 27.** Sections 7, 8, 14, 15, and 18 of this act
20 are each added to chapter 9.94A RCW.

21 NEW SECTION. **Sec. 28.** Sections 2 through 12 of this act apply
22 to sentences for crimes committed on or after July 1, 2015.

23 NEW SECTION. **Sec. 29.** If specific funding for the purposes of
24 this act, referencing this act by bill or chapter number, is not
25 provided by June 30, 2015, in the omnibus appropriations act, this
26 act is null and void.

27 NEW SECTION. **Sec. 30.** Sections 2 through 12, 18, and 19 of this
28 act are necessary for the immediate preservation of the public peace,
29 health, or safety, or support of the state government and its
30 existing public institutions, and take effect July 1, 2015.

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