
SECOND SUBSTITUTE SENATE BILL 5149

State of Washington

66th Legislature

2020 Regular Session

By Senate Law & Justice (originally sponsored by Senators Wilson, L., Becker, Kuderer, Short, and Takko)

READ FIRST TIME 01/24/20.

1 AN ACT Relating to electronic monitoring with victim notification
2 technology; amending RCW 7.90.010 and 7.92.020; reenacting and
3 amending RCW 9.94A.030 and 10.99.020; adding a new section to chapter
4 2.56 RCW; and creating a new section.

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

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the
7 Tiffany Hill act.

8 **Sec. 2.** RCW 9.94A.030 and 2019 c 331 s 5, 2019 c 271 s 6, 2019 c
9 187 s 1, and 2019 c 46 s 5007 are each reenacted and amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

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

15 (2) "Collect," or any derivative thereof, "collect and remit," or
16 "collect and deliver," when used with reference to the department,
17 means that the department, either directly or through a collection
18 agreement authorized by RCW 9.94A.760, is responsible for monitoring
19 and enforcing the offender's sentence with regard to the legal
20 financial obligation, receiving payment thereof from the offender,

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

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

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

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

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

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

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

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

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

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

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

1 (b) A conviction may be removed from a defendant's criminal
2 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
3 9.95.240, or a similar out-of-state statute, or if the conviction has
4 been vacated pursuant to a governor's pardon. However, when a
5 defendant is charged with a recidivist offense, "criminal history"
6 includes a vacated prior conviction for the sole purpose of
7 establishing that such vacated prior conviction constitutes an
8 element of the present recidivist offense as provided in RCW
9 9.94A.640(3)(b) and 9.96.060(5)(c).

10 (c) The determination of a defendant's criminal history is
11 distinct from the determination of an offender score. A prior
12 conviction that was not included in an offender score calculated
13 pursuant to a former version of the sentencing reform act remains
14 part of the defendant's criminal history.

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

25 (13) "Criminal street gang associate or member" means any person
26 who actively participates in any criminal street gang and who
27 intentionally promotes, furthers, or assists in any criminal act by
28 the criminal street gang.

29 (14) "Criminal street gang-related offense" means any felony or
30 misdemeanor offense, whether in this state or elsewhere, that is
31 committed for the benefit of, at the direction of, or in association
32 with any criminal street gang, or is committed with the intent to
33 promote, further, or assist in any criminal conduct by the gang, or
34 is committed for one or more of the following reasons:

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

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

38 (c) To exact revenge or retribution for the gang or any member of
39 the gang;

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

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

6 (f) To provide the gang with any advantage in, or any control or
7 dominance over any criminal market sector, including, but not limited
8 to, manufacturing, delivering, or selling any controlled substance
9 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
10 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
11 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
12 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
13 9.68 RCW).

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

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

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

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

32 (19) "Disposable earnings" means that part of the earnings of an
33 offender remaining after the deduction from those earnings of any
34 amount required by law to be withheld. For the purposes of this
35 definition, "earnings" means compensation paid or payable for
36 personal services, whether denominated as wages, salary, commission,
37 bonuses, or otherwise, and, notwithstanding any other provision of
38 law making the payments exempt from garnishment, attachment, or other
39 process to satisfy a court-ordered legal financial obligation,
40 specifically includes periodic payments pursuant to pension or

1 retirement programs, or insurance policies of any type, but does not
2 include payments made under Title 50 RCW, except as provided in RCW
3 50.40.020 and 50.40.050, or Title 74 RCW.

4 (20) "Domestic violence" has the same meaning as defined in RCW
5 10.99.020 and 26.50.010.

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

10 (22) "Drug offense" means:

11 (a) Any felony violation of chapter 69.50 RCW except possession
12 of a controlled substance (RCW 69.50.4013) or forged prescription for
13 a controlled substance (RCW 69.50.403);

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

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

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

22 (24) "Electronic monitoring" means tracking the location of an
23 individual (~~(, whether pretrial or posttrial,)~~) through the use of
24 technology that is capable of determining or identifying the
25 monitored individual's presence or absence at a particular location
26 including, but not limited to:

27 (a) Radio frequency signaling technology, which detects if the
28 monitored individual is or is not at an approved location and
29 notifies the monitoring agency of the time that the monitored
30 individual either leaves the approved location or tampers with or
31 removes the monitoring device; or

32 (b) Active or passive global positioning system technology, which
33 detects the location of the monitored individual and notifies the
34 monitoring agency of the monitored individual's location and which
35 may also include electronic monitoring with victim notification
36 technology that is capable of notifying a victim or protected party,
37 either directly or through a monitoring agency, if the monitored
38 individual is at or near a location from which the monitored
39 individual is required to stay away.

40 (25) "Escape" means:

1 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
2 the first degree (RCW 9A.76.110), escape in the second degree (RCW
3 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
4 willful failure to return from work release (RCW 72.65.070), or
5 willful failure to be available for supervision by the department
6 while in community custody (RCW 72.09.310); or

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

10 (26) "Felony traffic offense" means:

11 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
12 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
13 run injury-accident (RCW 46.52.020(4)), felony driving while under
14 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
15 or felony physical control of a vehicle while under the influence of
16 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

26 (29) "Home detention" is a subset of electronic monitoring and
27 means a program of partial confinement available to offenders wherein
28 the offender is confined in a private residence twenty-four hours a
29 day, unless an absence from the residence is approved, authorized, or
30 otherwise permitted in the order by the court or other supervising
31 agency that ordered home detention, and the offender is subject to
32 electronic monitoring.

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

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

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

1 (c) A private residence where the individual stays as a transient
2 invitee.

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

17 (32) "Minor child" means a biological or adopted child of the
18 offender who is under age eighteen at the time of the offender's
19 current offense.

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

22 (a) Any felony defined under any law as a class A felony or
23 criminal solicitation of or criminal conspiracy to commit a class A
24 felony;

25 (b) Assault in the second degree;

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

27 (d) Child molestation in the second degree;

28 (e) Controlled substance homicide;

29 (f) Extortion in the first degree;

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

31 (h) Indecent liberties;

32 (i) Kidnapping in the second degree;

33 (j) Leading organized crime;

34 (k) Manslaughter in the first degree;

35 (l) Manslaughter in the second degree;

36 (m) Promoting prostitution in the first degree;

37 (n) Rape in the third degree;

38 (o) Sexual exploitation;

39 (p) Vehicular assault, when caused by the operation or driving of
40 a vehicle by a person while under the influence of intoxicating

1 liquor or any drug or by the operation or driving of a vehicle in a
2 reckless manner;

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

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

9 (s) Any other felony with a deadly weapon verdict under RCW
10 9.94A.825;

11 (t) Any felony offense in effect at any time prior to December 2,
12 1993, that is comparable to a most serious offense under this
13 subsection, or any federal or out-of-state conviction for an offense
14 that under the laws of this state would be a felony classified as a
15 most serious offense under this subsection;

16 (u)(i) A prior conviction for indecent liberties under RCW
17 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
18 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
19 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
20 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
21 until July 1, 1988;

22 (ii) A prior conviction for indecent liberties under RCW
23 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
24 if: (A) The crime was committed against a child under the age of
25 fourteen; or (B) the relationship between the victim and perpetrator
26 is included in the definition of indecent liberties under RCW
27 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
28 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
29 1993, through July 27, 1997;

30 (v) Any out-of-state conviction for a felony offense with a
31 finding of sexual motivation if the minimum sentence imposed was ten
32 years or more; provided that the out-of-state felony offense must be
33 comparable to a felony offense under this title and Title 9A RCW and
34 the out-of-state definition of sexual motivation must be comparable
35 to the definition of sexual motivation contained in this section.

36 (34) "Nonviolent offense" means an offense which is not a violent
37 offense.

38 (35) "Offender" means a person who has committed a felony
39 established by state law and is eighteen years of age or older or is
40 less than eighteen years of age but whose case is under superior

1 court jurisdiction under RCW 13.04.030 or has been transferred by the
2 appropriate juvenile court to a criminal court pursuant to RCW
3 13.40.110. In addition, for the purpose of community custody
4 requirements under this chapter, "offender" also means a misdemeanor
5 or gross misdemeanor probationer ordered by a superior court to
6 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
7 supervised by the department pursuant to RCW 9.94A.501 and
8 9.94A.5011. Throughout this chapter, the terms "offender" and
9 "defendant" are used interchangeably.

10 (36) "Partial confinement" means confinement for no more than one
11 year in a facility or institution operated or utilized under contract
12 by the state or any other unit of government, or, if home detention,
13 electronic monitoring, or work crew has been ordered by the court or
14 home detention has been ordered by the department as part of the
15 parenting program or the graduated reentry program, in an approved
16 residence, for a substantial portion of each day with the balance of
17 the day spent in the community. Partial confinement includes work
18 release, home detention, work crew, electronic monitoring, and a
19 combination of work crew, electronic monitoring, and home detention.

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

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

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

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

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

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

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

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

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

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

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

1 (x) Any felony conviction by a person eighteen years of age or
2 older with a special finding of involving a juvenile in a felony
3 offense under RCW 9.94A.833;

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

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

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

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

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

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

10 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
11 9A.56.070);

12 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
13 9A.56.075);

14 (xix) Extortion 1 (RCW 9A.56.120);

15 (xx) Extortion 2 (RCW 9A.56.130);

16 (xxi) Intimidating a Witness (RCW 9A.72.110);

17 (xxii) Tampering with a Witness (RCW 9A.72.120);

18 (xxiii) Reckless Endangerment (RCW 9A.36.050);

19 (xxiv) Coercion (RCW 9A.36.070);

20 (xxv) Harassment (RCW 9A.46.020); or

21 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

24 (c) That the most recent committed offense listed in (a) of this
25 subsection occurred within three years of a prior offense listed in
26 (a) of this subsection; and

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

30 (38) "Persistent offender" is an offender who:

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

33 (ii) Has, before the commission of the offense under (a) of this
34 subsection, been convicted as an offender on at least two separate
35 occasions, whether in this state or elsewhere, of felonies that under
36 the laws of this state would be considered most serious offenses and
37 would be included in the offender score under RCW 9.94A.525; provided
38 that of the two or more previous convictions, at least one conviction
39 must have occurred before the commission of any of the other most
40 serious offenses for which the offender was previously convicted; or

1 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
2 of a child in the first degree, child molestation in the first
3 degree, rape in the second degree, rape of a child in the second
4 degree, or indecent liberties by forcible compulsion; (B) any of the
5 following offenses with a finding of sexual motivation: Murder in the
6 first degree, murder in the second degree, homicide by abuse,
7 kidnapping in the first degree, kidnapping in the second degree,
8 assault in the first degree, assault in the second degree, assault of
9 a child in the first degree, assault of a child in the second degree,
10 or burglary in the first degree; or (C) an attempt to commit any
11 crime listed in this subsection (38) (b) (i); and

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

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

1 in authority providing home-based instruction and the victim was a
2 student receiving home-based instruction while under his or her
3 authority or supervision. For purposes of this subsection: (A) "Home-
4 based instruction" has the same meaning as defined in RCW
5 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
6 in authority" does not include the parent or legal guardian of the
7 victim.

8 (40) "Private school" means a school regulated under chapter
9 28A.195 or 28A.205 RCW.

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

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

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

16 (b) Cyberstalking, RCW 9.61.260(3)(a);

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

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

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

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

21 (g) Violation of a no-contact or protection order, RCW
22 26.50.110(5).

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

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

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

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

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

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

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

39 (44) "Restitution" means a specific sum of money ordered by the
40 sentencing court to be paid by the offender to the court over a

1 specified period of time as payment of damages. The sum may include
2 both public and private costs.

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

7 (46) "Serious traffic offense" means:

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

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

16 (47) "Serious violent offense" is a subcategory of violent
17 offense and means:

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

19 (ii) Homicide by abuse;

20 (iii) Murder in the second degree;

21 (iv) Manslaughter in the first degree;

22 (v) Assault in the first degree;

23 (vi) Kidnapping in the first degree;

24 (vii) Rape in the first degree;

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

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

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

31 (48) "Sex offense" means:

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

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

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

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

1 (v) A felony violation of RCW 9A.44.132(1) (failure to register
2 as a sex offender) if the person has been convicted of violating RCW
3 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
4 prior to June 10, 2010, on at least one prior occasion;

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

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

10 (d) 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 sex
12 offense under (a) of this subsection.

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

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

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

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

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

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

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

38 (56) "Violent offense" means:

39 (a) Any of the following felonies:

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

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

5 (iii) Manslaughter in the first degree;

6 (iv) Manslaughter in the second degree;

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

8 (vi) Kidnapping in the second degree;

9 (vii) Arson in the second degree;

10 (viii) Assault in the second degree;

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

12 (x) Extortion in the first degree;

13 (xi) Robbery in the second degree;

14 (xii) Drive-by shooting;

15 (xiii) Vehicular assault, when caused by the operation or driving
16 of a vehicle by a person while under the influence of intoxicating
17 liquor or any drug or by the operation or driving of a vehicle in a
18 reckless manner; and

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

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

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

29 (57) "Work crew" means a program of partial confinement
30 consisting of civic improvement tasks for the benefit of the
31 community that complies with RCW 9.94A.725.

32 (58) "Work ethic camp" means an alternative incarceration program
33 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
34 the cost of corrections by requiring offenders to complete a
35 comprehensive array of real-world job and vocational experiences,
36 character-building work ethics training, life management skills
37 development, substance abuse rehabilitation, counseling, literacy
38 training, and basic adult education.

1 (59) "Work release" means a program of partial confinement
2 available to offenders who are employed or engaged as a student in a
3 regular course of study at school.

4 **Sec. 3.** RCW 7.90.010 and 2006 c 138 s 2 are each amended to read
5 as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Electronic monitoring" means the same as in RCW 9.94A.030.

9 (2) "Nonconsensual" means a lack of freely given agreement.

10 ~~((2))~~ (3) "Petitioner" means any named petitioner for the
11 sexual assault protection order or any named victim of nonconsensual
12 sexual conduct or nonconsensual sexual penetration on whose behalf
13 the petition is brought.

14 ~~((3))~~ (4) "Sexual assault protection order" means an ex parte
15 temporary order or a final order granted under this chapter, which
16 includes a remedy authorized by RCW 7.90.090.

17 ~~((4))~~ (5) "Sexual conduct" means any of the following:

18 (a) Any intentional or knowing touching or fondling of the
19 genitals, anus, or breasts, directly or indirectly, including through
20 clothing;

21 (b) Any intentional or knowing display of the genitals, anus, or
22 breasts for the purposes of arousal or sexual gratification of the
23 respondent;

24 (c) Any intentional or knowing touching or fondling of the
25 genitals, anus, or breasts, directly or indirectly, including through
26 clothing, that the petitioner is forced to perform by another person
27 or the respondent;

28 (d) Any forced display of the petitioner's genitals, anus, or
29 breasts for the purposes of arousal or sexual gratification of the
30 respondent or others;

31 (e) Any intentional or knowing touching of the clothed or
32 unclothed body of a child under the age of thirteen, if done for the
33 purpose of sexual gratification or arousal of the respondent or
34 others; and

35 (f) Any coerced or forced touching or fondling by a child under
36 the age of thirteen, directly or indirectly, including through
37 clothing, of the genitals, anus, or breasts of the respondent or
38 others.

1 ~~((5))~~ (6) "Sexual penetration" means any contact, however
2 slight, between the sex organ or anus of one person by an object, the
3 sex organ, mouth, or anus of another person, or any intrusion,
4 however slight, of any part of the body of one person or of any
5 animal or object into the sex organ or anus of another person,
6 including but not limited to cunnilingus, fellatio, or anal
7 penetration. Evidence of emission of semen is not required to prove
8 sexual penetration.

9 ~~((6))~~ (7) "Nonphysical contact" includes, but is not limited
10 to, telephone calls, mail, email, fax, and written notes.

11 **Sec. 4.** RCW 7.92.020 and 2013 c 84 s 2 are each amended to read
12 as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Electronic monitoring" means the same as in RCW 9.94A.030.

16 (2) "Minor" means a person who is under eighteen years of age.

17 ~~((2))~~ (3) "Petitioner" means any named petitioner for the
18 stalking protection order or any named victim of stalking conduct on
19 whose behalf the petition is brought.

20 ~~((3))~~ (4) "Stalking conduct" means any of the following:

21 (a) Any act of stalking as defined under RCW 9A.46.110;

22 (b) Any act of cyberstalking as defined under RCW 9.61.260;

23 (c) Any course of conduct involving repeated or continuing
24 contacts, attempts to contact, monitoring, tracking, keeping under
25 observation, or following of another that:

26 (i) Would cause a reasonable person to feel intimidated,
27 frightened, or threatened and that actually causes such a feeling;

28 (ii) Serves no lawful purpose; and

29 (iii) The stalker knows or reasonably should know threatens,
30 frightens, or intimidates the person, even if the stalker did not
31 intend to intimidate, frighten, or threaten the person.

32 ~~((4))~~ (5) "Stalking no-contact order" means a temporary order
33 or a final order granted under this chapter against a person charged
34 with or arrested for stalking, which includes a remedy authorized
35 under RCW 7.92.160.

36 ~~((5))~~ (6) "Stalking protection order" means an ex parte
37 temporary order or a final order granted under this chapter, which
38 includes a remedy authorized in RCW 7.92.100.

1 **Sec. 5.** RCW 10.99.020 and 2019 c 263 s 203 and 2019 c 46 s 5014
2 are each reenacted and amended to read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Agency" means a general authority Washington law enforcement
6 agency as defined in RCW 10.93.020.

7 (2) "Association" means the Washington association of sheriffs
8 and police chiefs.

9 (3) "Electronic monitoring" means the same as in RCW 9.94A.030.

10 ~~(4)~~ (5) "Family or household members" means the same as in RCW
11 26.50.010.

12 ~~((4))~~ (5) "Dating relationship" has the same meaning as in RCW
13 26.50.010.

14 ~~((5))~~ (6) "Domestic violence" includes but is not limited to
15 any of the following crimes when committed either by (a) one family
16 or household member against another family or household member, or
17 (b) one intimate partner against another intimate partner:

18 (i) Assault in the first degree (RCW 9A.36.011);

19 (ii) Assault in the second degree (RCW 9A.36.021);

20 (iii) Assault in the third degree (RCW 9A.36.031);

21 (iv) Assault in the fourth degree (RCW 9A.36.041);

22 (v) Drive-by shooting (RCW 9A.36.045);

23 (vi) Reckless endangerment (RCW 9A.36.050);

24 (vii) Coercion (RCW 9A.36.070);

25 (viii) Burglary in the first degree (RCW 9A.52.020);

26 (ix) Burglary in the second degree (RCW 9A.52.030);

27 (x) Criminal trespass in the first degree (RCW 9A.52.070);

28 (xi) Criminal trespass in the second degree (RCW 9A.52.080);

29 (xii) Malicious mischief in the first degree (RCW 9A.48.070);

30 (xiii) Malicious mischief in the second degree (RCW 9A.48.080);

31 (xiv) Malicious mischief in the third degree (RCW 9A.48.090);

32 (xv) Kidnapping in the first degree (RCW 9A.40.020);

33 (xvi) Kidnapping in the second degree (RCW 9A.40.030);

34 (xvii) Unlawful imprisonment (RCW 9A.40.040);

35 (xviii) Violation of the provisions of a restraining order, no-
36 contact order, or protection order restraining or enjoining the
37 person or restraining the person from going onto the grounds of or
38 entering a residence, workplace, school, or day care, or prohibiting
39 the person from knowingly coming within, or knowingly remaining
40 within, a specified distance of a location (RCW 10.99.040, 10.99.050,

1 26.09.300, 26.10.220, 26.26B.050, 26.44.063, 26.44.150, 26.50.060,
2 26.50.070, 26.50.130, 26.52.070, or 74.34.145);

3 (xix) Rape in the first degree (RCW 9A.44.040);

4 (xx) Rape in the second degree (RCW 9A.44.050);

5 (xxi) Residential burglary (RCW 9A.52.025);

6 (xxii) Stalking (RCW 9A.46.110); and

7 (xxiii) Interference with the reporting of domestic violence (RCW
8 9A.36.150).

9 (~~(+6)~~) (7) "Employee" means any person currently employed with
10 an agency.

11 (~~(+7)~~) (8) "Intimate partners" means the same as in RCW
12 26.50.010.

13 (~~(+8)~~) (9) "Sworn employee" means a general authority Washington
14 peace officer as defined in RCW 10.93.020, any person appointed under
15 RCW 35.21.333, and any person appointed or elected to carry out the
16 duties of the sheriff under chapter 36.28 RCW.

17 (~~(+9)~~) (10) "Victim" means a family or household member or an
18 intimate partner who has been subjected to domestic violence.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 2.56 RCW
20 to read as follows:

21 (1) The administrative office of the courts shall:

22 (a) Develop a list of vendors or enter into a contract with a
23 vendor that provides electronic monitoring with victim notification
24 technology. The office shall provide outreach to counties as to how
25 courts may access the vendor or vendors; and

26 (b) Create an informational handout on the opportunity to request
27 electronic monitoring with victim notification technology to be
28 provided to individuals seeking a protection order and for which
29 electronic monitoring with victim notification technology is
30 available. The information must include a description of the
31 technology used, requirements for accessing the technology, any
32 limitations on how the technology may or may not assist the person in
33 maintaining the safety of the victim and the victim's family, and how
34 the person may request electronic monitoring with victim notification
35 technology from the court.

36 (2) An appointed or elected public official, public employee, or
37 public agency as defined in RCW 4.24.470, or units of local
38 government and its employees, as provided in RCW 36.28A.010, are
39 immune from civil liability for damages resulting from the

1 utilization of electronic monitoring with victim notification
2 technology, unless it is shown that the official, employee, or agency
3 acted with gross negligence or in bad faith.

4 (3) For purposes of this section, "electronic monitoring" means
5 the same as in RCW 9.94A.030.

--- **END** ---