
SUBSTITUTE HOUSE BILL 2314

State of Washington

66th Legislature

2020 Regular Session

By House Public Safety (originally sponsored by Representatives Lovick, Orwall, Davis, Wylie, and Goodman)

1 AN ACT Relating to drug offender sentencing alternatives for
2 offenders convicted of driving or control of a vehicle while under
3 the influence; amending RCW 9.94A.190, 9.94A.501, 9.94A.505,
4 9.94A.633, and 9.94A.6332; reenacting and amending RCW 9.94A.030,
5 9.94A.660, and 9.94A.701; adding a new section to chapter 9.94A RCW;
6 and providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A
9 RCW to read as follows:

10 (1) An offender is eligible for the special drug offender
11 sentencing alternative for driving under the influence if the
12 offender:

13 (a) Does not have a prior conviction under RCW 46.61.520,
14 46.61.522, 46.61.502(6), or 46.61.504(6); and either

15 (b) Is convicted of felony driving while under the influence of
16 intoxicating liquor, marijuana, or any drug under RCW
17 46.61.502(6)(a); or

18 (c) Is convicted of felony physical control of a vehicle while
19 under the influence of intoxicating liquor or any drug under RCW
20 46.61.504(6)(a).

1 (2) A motion for a special drug offender sentencing alternative
2 for driving under the influence may be made by the court, the
3 offender, or the state if the midpoint of the standard sentence range
4 is twenty-six months or less. If an offender has a higher midpoint, a
5 motion for a special drug offender sentencing alternative for driving
6 under the influence can only be made by joint agreement of the state
7 and offender.

8 (3) If the sentencing court determines that the offender is
9 eligible for an alternative sentence under this section and that the
10 alternative sentence is appropriate, the court shall waive imposition
11 of a sentence within the standard sentence range and:

12 (a) Impose a sentence equivalent to a prison-based alternative
13 under RCW 9.94A.662, and subject to the same requirements and
14 restrictions as are established in that section, if the low end of
15 the standard sentence range is greater than twenty-four months; or

16 (b) Impose a sentence consisting of a residential treatment-based
17 alternative consistent with this section if the low end of the
18 standard sentence range is twenty-four months or less.

19 (4) (a) To assist the court in making its determination, the court
20 may order the department to complete either a risk assessment report
21 or a substance use disorder screening report as provided in RCW
22 9.94A.500, or both.

23 (b) If the court is considering imposing a sentence under the
24 residential substance use disorder treatment-based alternative, the
25 court may order an examination of the offender by the department. The
26 examination shall, at a minimum, address the following issues:

27 (i) Whether the offender suffers from a substance use disorder;

28 (ii) Whether the substance use disorder is such that there is a
29 probability that criminal behavior will occur in the future;

30 (iii) Whether effective treatment for the offender's substance
31 use disorder is available from a provider that has been licensed or
32 certified by the department of health; and

33 (iv) Whether the offender and the community will benefit from the
34 use of the alternative.

35 (5) An offender who is eligible for a residential treatment-based
36 alternative under this section shall be sentenced as follows:

37 (a) If necessary, an indeterminate term of confinement of no more
38 than thirty days in a facility operated, licensed, or utilized under
39 contract, by the county in order to facilitate direct transfer to a
40 residential substance use disorder treatment facility;

1 (b) Treatment in a residential substance use disorder treatment
2 program certified by the department of health for a period set by the
3 court up to six months with treatment completion and continued care
4 delivered in accordance with rules established by the department of
5 health. In establishing rules pursuant to this subsection, the
6 department of health must consider criteria established by the
7 American society of addiction medicine;

8 (c) Twenty-four months of partial confinement to consist of
9 twelve months work release followed by twelve months of home
10 detention with electronic monitoring; and

11 (d) Twelve months of community custody.

12 (6)(a) During any period of partial confinement or community
13 custody, the court shall impose treatment and other conditions as
14 provided in RCW 9.94A.703 or as the court considers appropriate.

15 (b) The department may impose conditions and sanctions as
16 authorized in RCW 9.94A.704 and 9.94A.737.

17 (c) The department shall, within available resources, make
18 substance use disorder assessment and treatment services available to
19 the offender.

20 (d) An offender sentenced to community custody under subsection
21 (3)(a) of this section as part of the prison-based alternative or
22 under subsection (3)(b) of this section as part of the residential
23 treatment-based alternative may be required to pay thirty dollars per
24 month while on community custody to offset the cost of monitoring for
25 alcohol or controlled substances.

26 (7)(a) If the court imposes a sentence under subsection (3)(b) of
27 this section, the treatment provider must send the treatment plan to
28 the court within thirty days of the offender's arrival to the
29 residential substance use disorder treatment program.

30 (b) Upon receipt of the plan, the court shall schedule a progress
31 hearing during the period of treatment and schedule a treatment
32 termination hearing for three months before the expiration of the
33 term of community custody.

34 (c) Before the progress hearing and treatment termination
35 hearing, the treatment provider and the department shall submit
36 written reports to the court and parties regarding the offender's
37 compliance with treatment and monitoring requirements and
38 recommendations regarding termination from treatment.

39 (8) At a progress hearing or treatment termination hearing, the
40 court may:

1 (a) Authorize the department to terminate the offender's
2 community custody status on the expiration date determined under
3 subsection (7) of this section;

4 (b) Continue the hearing to a date before the expiration date of
5 community custody, with or without modifying the conditions of
6 partial confinement or community custody; or

7 (c) Impose a term of total confinement equal to one-half the
8 midpoint of the standard sentence range, followed by a term of
9 community custody under RCW 9.94A.701.

10 (9) (a) The court may bring any offender sentenced under
11 subsection (3) (a) or (b) of this section back into court at any time
12 on its own initiative to evaluate the offender's progress in
13 treatment or to determine if any violations of the conditions of the
14 sentence have occurred.

15 (b) If the offender is brought back to court, the court may
16 modify the conditions of partial confinement or community custody or
17 order the offender to serve a term of total confinement within the
18 standard sentence range of the offender's current offense at any time
19 during the period of partial confinement or community custody if the
20 offender violates the conditions or requirements of the sentence or
21 if the offender is failing to make satisfactory progress in
22 treatment.

23 (c) An offender ordered to serve a term of total confinement
24 under (b) of this subsection shall receive credit for any time
25 previously served in total confinement or residential treatment under
26 this section and shall receive fifty percent credit for any time
27 previously served in partial confinement or community custody under
28 this section.

29 (10) In serving a term of community custody imposed upon failure
30 to complete, or administrative termination from, the special drug
31 offender sentencing alternative program for driving under the
32 influence under this section, the offender shall receive no credit
33 for time served in community custody prior to termination of the
34 offender's participation in the program.

35 (11) An offender sentenced under this section shall be subject to
36 all rules relating to earned release time with respect to any period
37 served in total or partial confinement.

38 (12) Costs of examinations and preparing the recommended service
39 delivery plans under a special drug offender sentencing alternative
40 for driving under the influence may be paid, at the option of the

1 county, from funds provided to the county from the criminal justice
2 treatment account under RCW 71.24.580.

3 **Sec. 2.** RCW 9.94A.030 and 2019 c 331 s 5, 2019 c 271 s 6, 2019 c
4 187 s 1, and 2019 c 46 s 5007 are each reenacted and amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

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

10 (2) "Collect," or any derivative thereof, "collect and remit," or
11 "collect and deliver," when used with reference to the department,
12 means that the department, either directly or through a collection
13 agreement authorized by RCW 9.94A.760, is responsible for monitoring
14 and enforcing the offender's sentence with regard to the legal
15 financial obligation, receiving payment thereof from the offender,
16 and, consistent with current law, delivering daily the entire payment
17 to the superior court clerk without depositing it in a departmental
18 account.

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

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

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

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

32 (7) "Community restitution" means compulsory service, without
33 compensation, performed for the benefit of the community by the
34 offender.

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

36 (9) "Conviction" means an adjudication of guilt pursuant to Title
37 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,
38 and acceptance of a plea of guilty.

1 (10) "Crime-related prohibition" means an order of a court
2 prohibiting conduct that directly relates to the circumstances of the
3 crime for which the offender has been convicted, and shall not be
4 construed to mean orders directing an offender affirmatively to
5 participate in rehabilitative programs or to otherwise perform
6 affirmative conduct. However, affirmative acts necessary to monitor
7 compliance with the order of a court may be required by the
8 department.

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

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

17 (b) A conviction may be removed from a defendant's criminal
18 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
19 9.95.240, or a similar out-of-state statute, or if the conviction has
20 been vacated pursuant to a governor's pardon. However, when a
21 defendant is charged with a recidivist offense, "criminal history"
22 includes a vacated prior conviction for the sole purpose of
23 establishing that such vacated prior conviction constitutes an
24 element of the present recidivist offense as provided in RCW
25 9.94A.640(3)(b) and 9.96.060(~~(+5)~~) (6)(c).

26 (c) The determination of a defendant's criminal history is
27 distinct from the determination of an offender score. A prior
28 conviction that was not included in an offender score calculated
29 pursuant to a former version of the sentencing reform act remains
30 part of the defendant's criminal history.

31 (12) "Criminal street gang" means any ongoing organization,
32 association, or group of three or more persons, whether formal or
33 informal, having a common name or common identifying sign or symbol,
34 having as one of its primary activities the commission of criminal
35 acts, and whose members or associates individually or collectively
36 engage in or have engaged in a pattern of criminal street gang
37 activity. This definition does not apply to employees engaged in
38 concerted activities for their mutual aid and protection, or to the
39 activities of labor and bona fide nonprofit organizations or their
40 members or agents.

1 (13) "Criminal street gang associate or member" means any person
2 who actively participates in any criminal street gang and who
3 intentionally promotes, furthers, or assists in any criminal act by
4 the criminal street gang.

5 (14) "Criminal street gang-related offense" means any felony or
6 misdemeanor offense, whether in this state or elsewhere, that is
7 committed for the benefit of, at the direction of, or in association
8 with any criminal street gang, or is committed with the intent to
9 promote, further, or assist in any criminal conduct by the gang, or
10 is committed for one or more of the following reasons:

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

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

14 (c) To exact revenge or retribution for the gang or any member of
15 the gang;

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

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

21 (f) To provide the gang with any advantage in, or any control or
22 dominance over any criminal market sector, including, but not limited
23 to, manufacturing, delivering, or selling any controlled substance
24 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
25 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
26 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
27 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
28 9.68 RCW).

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

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

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

39 (18) "Determinate sentence" means a sentence that states with
40 exactitude the number of actual years, months, or days of total

1 confinement, of partial confinement, of community custody, the number
2 of actual hours or days of community restitution work, or dollars or
3 terms of a legal financial obligation. The fact that an offender
4 through earned release can reduce the actual period of confinement
5 shall not affect the classification of the sentence as a determinate
6 sentence.

7 (19) "Disposable earnings" means that part of the earnings of an
8 offender remaining after the deduction from those earnings of any
9 amount required by law to be withheld. For the purposes of this
10 definition, "earnings" means compensation paid or payable for
11 personal services, whether denominated as wages, salary, commission,
12 bonuses, or otherwise, and, notwithstanding any other provision of
13 law making the payments exempt from garnishment, attachment, or other
14 process to satisfy a court-ordered legal financial obligation,
15 specifically includes periodic payments pursuant to pension or
16 retirement programs, or insurance policies of any type, but does not
17 include payments made under Title 50 RCW, except as provided in RCW
18 50.40.020 and 50.40.050, or Title 74 RCW.

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

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

25 (22) "Drug offense" means:

26 (a) Any felony violation of chapter 69.50 RCW except possession
27 of a controlled substance (RCW 69.50.4013) or forged prescription for
28 a controlled substance (RCW 69.50.403);

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

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

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

37 (24) "Electronic monitoring" means tracking the location of an
38 individual, whether pretrial or posttrial, through the use of
39 technology that is capable of determining or identifying the

1 monitored individual's presence or absence at a particular location
2 including, but not limited to:

3 (a) Radio frequency signaling technology, which detects if the
4 monitored individual is or is not at an approved location and
5 notifies the monitoring agency of the time that the monitored
6 individual either leaves the approved location or tampers with or
7 removes the monitoring device; or

8 (b) Active or passive global positioning system technology, which
9 detects the location of the monitored individual and notifies the
10 monitoring agency of the monitored individual's location.

11 (25) "Escape" means:

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

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

21 (26) "Felony traffic offense" means:

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

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

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

37 (29) "Home detention" is a subset of electronic monitoring and
38 means a program of partial confinement available to offenders wherein
39 the offender is confined in a private residence twenty-four hours a
40 day, unless an absence from the residence is approved, authorized, or

1 otherwise permitted in the order by the court or other supervising
2 agency that ordered home detention, and the offender is subject to
3 electronic monitoring.

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

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

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

11 (c) A private residence where the individual stays as a transient
12 invitee.

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

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

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

32 (a) Any felony defined under any law as a class A felony or
33 criminal solicitation of or criminal conspiracy to commit a class A
34 felony;

35 (b) Assault in the second degree;

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

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

39 (f) Extortion in the first degree;

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

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

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

7 (34) "Nonviolent offense" means an offense which is not a violent
8 offense.

9 (35) "Offender" means a person who has committed a felony
10 established by state law and is eighteen years of age or older or is
11 less than eighteen years of age but whose case is under superior
12 court jurisdiction under RCW 13.04.030 or has been transferred by the
13 appropriate juvenile court to a criminal court pursuant to RCW
14 13.40.110. In addition, for the purpose of community custody
15 requirements under this chapter, "offender" also means a misdemeanor
16 or gross misdemeanor probationer ordered by a superior court to
17 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
18 supervised by the department pursuant to RCW 9.94A.501 and
19 9.94A.5011. Throughout this chapter, the terms "offender" and
20 "defendant" are used interchangeably.

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

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

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

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

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

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

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

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

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

11 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first
13 degree, rape in the second degree, rape of a child in the second
14 degree, or indecent liberties by forcible compulsion; (B) any of the
15 following offenses with a finding of sexual motivation: Murder in the
16 first degree, murder in the second degree, homicide by abuse,
17 kidnapping in the first degree, kidnapping in the second degree,
18 assault in the first degree, assault in the second degree, assault of
19 a child in the first degree, assault of a child in the second degree,
20 or burglary in the first degree; or (C) an attempt to commit any
21 crime listed in this subsection (38) (b) (i); and

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

34 (39) "Predatory" means: (a) The perpetrator of the crime was a
35 stranger to the victim, as defined in this section; (b) the
36 perpetrator established or promoted a relationship with the victim
37 prior to the offense and the victimization of the victim was a
38 significant reason the perpetrator established or promoted the
39 relationship; or (c) the perpetrator was: (i) A teacher, counselor,
40 volunteer, or other person in authority in any public or private

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

18 (40) "Private school" means a school regulated under chapter
19 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

31 (g) Violation of a no-contact or protection order, RCW
32 26.50.110(5).

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

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

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

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

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

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

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

9 (44) "Restitution" means a specific sum of money ordered by the
10 sentencing court to be paid by the offender to the court over a
11 specified period of time as payment of damages. The sum may include
12 both public and private costs.

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

17 (46) "Serious traffic offense" means:

18 (a) Nonfelony driving while under the influence of intoxicating
19 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
20 while under the influence of intoxicating liquor or any drug (RCW
21 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
22 attended vehicle (RCW 46.52.020(5)); or

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

26 (47) "Serious violent offense" is a subcategory of violent
27 offense and means:

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

29 (ii) Homicide by abuse;

30 (iii) Murder in the second degree;

31 (iv) Manslaughter in the first degree;

32 (v) Assault in the first degree;

33 (vi) Kidnapping in the first degree;

34 (vii) Rape in the first degree;

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

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

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

1 (48) "Sex offense" means:

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

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

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

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

10 (v) A felony violation of RCW 9A.44.132(1) (failure to register
11 as a sex offender) if the person has been convicted of violating RCW
12 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
13 prior to June 10, 2010, on at least one prior occasion;

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

17 (c) A felony with a finding of sexual motivation under RCW
18 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

38 (54) "Transition training" means written and verbal instructions
39 and assistance provided by the department to the offender during the
40 two weeks prior to the offender's successful completion of the work

1 ethic camp program. The transition training shall include
2 instructions in the offender's requirements and obligations during
3 the offender's period of community custody.

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

7 (56) "Violent offense" means:

8 (a) Any of the following felonies:

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

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

13 (iii) Manslaughter in the first degree;

14 (iv) Manslaughter in the second degree;

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

16 (vi) Kidnapping in the second degree;

17 (vii) Arson in the second degree;

18 (viii) Assault in the second degree;

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

20 (x) Extortion in the first degree;

21 (xi) Robbery in the second degree;

22 (xii) Drive-by shooting;

23 (xiii) Vehicular assault, when caused by the operation or driving
24 of a vehicle by a person while under the influence of intoxicating
25 liquor or any drug or by the operation or driving of a vehicle in a
26 reckless manner; and

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

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

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

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

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

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

11 (60) "Drug offender sentencing alternative for driving under the
12 influence" is a sentencing option available to persons convicted of
13 felony driving while under the influence of intoxicating liquor or
14 any drug under RCW 46.61.502(6), or felony physical control of a
15 vehicle while under the influence of intoxicating liquor or any drug
16 under RCW 46.61.504(6) who are eligible under section 1 of this act.

17 **Sec. 3.** RCW 9.94A.190 and 2018 c 166 s 5 are each amended to
18 read as follows:

19 (1) A sentence that includes a term or terms of confinement
20 totaling more than one year shall be served in a facility or
21 institution operated, or utilized under contract, by the state, or in
22 home detention pursuant to RCW 9.94A.6551 or the graduated reentry
23 program under RCW 9.94A.733. Except as provided in subsection (3) or
24 (5) of this section, a sentence of not more than one year of
25 confinement shall be served in a facility operated, licensed, or
26 utilized under contract, by the county, or if home detention or work
27 crew has been ordered by the court, in the residence of either the
28 offender or a member of the offender's immediate family.

29 (2) If a county uses a state partial confinement facility for the
30 partial confinement of a person sentenced to confinement for not more
31 than one year, the county shall reimburse the state for the use of
32 the facility as provided in this subsection. The office of financial
33 management shall set the rate of reimbursement based upon the average
34 per diem cost per offender in the facility. The office of financial
35 management shall determine to what extent, if any, reimbursement
36 shall be reduced or eliminated because of funds provided by the
37 legislature to the department for the purpose of covering the cost of
38 county use of state partial confinement facilities. The office of

1 financial management shall reestablish reimbursement rates each even-
2 numbered year.

3 (3) A person who is sentenced for a felony to a term of not more
4 than one year, and who is committed or returned to incarceration in a
5 state facility on another felony conviction, either under the
6 indeterminate sentencing laws, chapter 9.95 RCW, or under this
7 chapter shall serve all terms of confinement, including a sentence of
8 not more than one year, in a facility or institution operated, or
9 utilized under contract, by the state, consistent with the provisions
10 of RCW 9.94A.589.

11 (4) Notwithstanding any other provision of this section, a
12 sentence imposed pursuant to RCW 9.94A.660 or section 1 of this act
13 which has a standard sentence range of over one year, regardless of
14 length, shall be served in a facility or institution operated, or
15 utilized under contract, by the state.

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

19 **Sec. 4.** RCW 9.94A.501 and 2019 c 191 s 2 are each amended to
20 read as follows:

21 (1) The department shall supervise the following offenders who
22 are sentenced to probation in superior court, pursuant to RCW
23 9.92.060, 9.95.204, or 9.95.210:

24 (a) Offenders convicted of:

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

26 (ii) Custodial sexual misconduct second degree;

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

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

29 (b) Offenders who have:

30 (i) A current conviction for a repetitive domestic violence
31 offense where domestic violence has been pleaded and proven after
32 August 1, 2011; and

33 (ii) A prior conviction for a repetitive domestic violence
34 offense or domestic violence felony offense where domestic violence
35 has been pleaded and proven after August 1, 2011.

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

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

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

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

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

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

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

18 (e)(i) Has a current conviction for a domestic violence felony
19 offense where domestic violence has been pleaded and proven after
20 August 1, 2011, and a prior conviction for a repetitive domestic
21 violence offense or domestic violence felony offense where domestic
22 violence was pleaded and proven after August 1, 2011. This subsection
23 (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

24 (ii) Has a current conviction for a domestic violence felony
25 offense where domestic violence was pleaded and proven. The state and
26 its officers, agents, and employees shall not be held criminally or
27 civilly liable for its supervision of an offender under this
28 subsection (4)(e)(ii) unless the state and its officers, agents, and
29 employees acted with gross negligence;

30 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,
31 9.94A.670, ~~((or))~~ 9.94A.711, or section 1 of this act;

32 (g) Is subject to supervision pursuant to RCW 9.94A.745; or

33 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
34 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
35 (felony DUI), or RCW 46.61.504(6) (felony physical control).

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

1 (6) The department is not authorized to, and may not, supervise
2 any offender sentenced to a term of community custody or any
3 probationer unless the offender or probationer is one for whom
4 supervision is required under this section or RCW 9.94A.5011.

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

8 (8) The period of time the department is authorized to supervise
9 an offender under this section may not exceed the duration of
10 community custody specified under RCW 9.94B.050, 9.94A.701 (1)
11 through ~~((8))~~ (9), or 9.94A.702, except in cases where the court
12 has imposed an exceptional term of community custody under RCW
13 9.94A.535.

14 **Sec. 5.** RCW 9.94A.505 and 2019 c 191 s 3 are each amended to
15 read as follows:

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

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

20 (i) Unless another term of confinement applies, a sentence within
21 the standard sentence range established in RCW 9.94A.510 or
22 9.94A.517;

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

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

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

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

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

29 (vii) Section 1 of this act, relating to the drug offender
30 sentencing alternative for driving under the influence;

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

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

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

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

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

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

5 (~~(xiii)~~) (xiv) RCW 9.94A.711, relating to the theft or taking
6 of a motor vehicle.

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

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

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

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

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

33 (7) The sentencing court shall not give the offender credit for
34 any time the offender was required to comply with an electronic
35 monitoring program prior to sentencing if the offender was convicted
36 of one of the following offenses:

- 37 (a) A violent offense;
- 38 (b) Any sex offense;
- 39 (c) Any drug offense;

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

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

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

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

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

7 (8) The court shall order restitution as provided in RCW
8 9.94A.750 and 9.94A.753.

9 (9) As a part of any sentence, the court may impose and enforce
10 crime-related prohibitions and affirmative conditions as provided in
11 this chapter. "Crime-related prohibitions" may include a prohibition
12 on the use or possession of alcohol or controlled substances if the
13 court finds that any chemical dependency or substance abuse
14 contributed to the offense.

15 (10) In any sentence of partial confinement, the court may
16 require the offender to serve the partial confinement in work
17 release, in a program of home detention, on work crew, or in a
18 combined program of work crew and home detention.

19 **Sec. 6.** RCW 9.94A.633 and 2012 1st sp.s. c 6 s 2 are each
20 amended to read as follows:

21 (1) (a) An offender who violates any condition or requirement of a
22 sentence may be sanctioned by the court with up to sixty days'
23 confinement for each violation or by the department with up to thirty
24 days' confinement as provided in RCW 9.94A.737.

25 (b) In lieu of confinement, an offender may be sanctioned with
26 work release, home detention with electronic monitoring, work crew,
27 community restitution, inpatient treatment, daily reporting, curfew,
28 educational or counseling sessions, supervision enhanced through
29 electronic monitoring, or any other community-based sanctions.

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

32 (a) If the offender was transferred to community custody in lieu
33 of earned early release in accordance with RCW 9.94A.728, the
34 offender may be transferred to a more restrictive confinement status
35 to serve up to the remaining portion of the sentence, less credit for
36 any period actually spent in community custody or in detention
37 awaiting disposition of an alleged violation.

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

4 (c) If the offender was sentenced under the drug offender
5 sentencing alternative for driving under the influence set out in
6 section 1 of this act, the offender may be sanctioned in accordance
7 with that section.

8 (d) If the offender was sentenced under the parenting sentencing
9 alternative set out in RCW 9.94A.655, the offender may be sanctioned
10 in accordance with that section.

11 (~~(d)~~) (e) If the offender was sentenced under the special sex
12 offender sentencing alternative set out in RCW 9.94A.670, the
13 suspended sentence may be revoked and the offender committed to serve
14 the original sentence of confinement.

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

18 (~~(f)~~) (g) If a sex offender was sentenced pursuant to RCW
19 9.94A.507, the offender may be transferred to a more restrictive
20 confinement status to serve up to the remaining portion of the
21 sentence, less credit for any period actually spent in community
22 custody or in detention awaiting disposition of an alleged violation.

23 (3) If a probationer is being supervised by the department
24 pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may
25 be sanctioned pursuant to subsection (1) of this section. The
26 department shall have authority to issue a warrant for the arrest of
27 an offender who violates a condition of community custody, as
28 provided in RCW 9.94A.716. Any sanctions shall be imposed by the
29 department pursuant to RCW 9.94A.737. Nothing in this subsection is
30 intended to limit the power of the sentencing court to respond to a
31 probationer's violation of conditions.

32 (4) The parole or probation of an offender who is charged with a
33 new felony offense may be suspended and the offender placed in total
34 confinement pending disposition of the new criminal charges if:

35 (a) The offender is on parole pursuant to RCW 9.95.110(1); or

36 (b) The offender is being supervised pursuant to RCW 9.94A.745
37 and is on parole or probation pursuant to the laws of another state.

38 **Sec. 7.** RCW 9.94A.6332 and 2014 c 130 s 3 are each amended to
39 read as follows:

1 The procedure for imposing sanctions for violations of sentence
2 conditions or requirements is as follows:

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

6 (2) If the offender was sentenced under the drug offender
7 sentencing alternative for driving under the influence, any sanctions
8 shall be imposed by the department or the court pursuant to section 1
9 of this act.

10 (3) If the offender was sentenced under the special sex offender
11 sentencing alternative, any sanctions shall be imposed by the
12 department or the court pursuant to RCW 9.94A.670.

13 ~~((3))~~ (4) If the offender was sentenced under the parenting
14 sentencing alternative, any sanctions shall be imposed by the
15 department or by the court pursuant to RCW 9.94A.655.

16 ~~((4))~~ (5) If a sex offender was sentenced pursuant to RCW
17 9.94A.507, any sanctions shall be imposed by the board pursuant to
18 RCW 9.95.435.

19 ~~((5))~~ (6) If the offender was released pursuant to RCW
20 9.94A.730, any sanctions shall be imposed by the board pursuant to
21 RCW 9.95.435.

22 ~~((6))~~ (7) If the offender was sentenced pursuant to RCW
23 10.95.030(3) or 10.95.035, any sanctions shall be imposed by the
24 board pursuant to RCW 9.95.435.

25 ~~((7))~~ (8) In any other case, if the offender is being
26 supervised by the department, any sanctions shall be imposed by the
27 department pursuant to RCW 9.94A.737. If a probationer is being
28 supervised by the department pursuant to RCW 9.92.060, 9.95.204, or
29 9.95.210, upon receipt of a violation hearing report from the
30 department, the court retains any authority that those statutes
31 provide to respond to a probationer's violation of conditions.

32 ~~((8))~~ (9) If the offender is not being supervised by the
33 department, any sanctions shall be imposed by the court pursuant to
34 RCW 9.94A.6333.

35 **Sec. 8.** RCW 9.94A.660 and 2019 c 325 s 5002 and 2019 c 263 s 502
36 are each reenacted and amended to read as follows:

37 (1) An offender is eligible for the special drug offender
38 sentencing alternative if:

1 (a) The offender is convicted of a felony that is not a violent
2 offense or sex offense and the violation does not involve a sentence
3 enhancement under RCW 9.94A.533 (3) or (4);

4 (b) The offender is convicted of a felony that is not a felony
5 driving while under the influence of intoxicating liquor or any drug
6 under RCW 46.61.502(6) or felony physical control of a vehicle while
7 under the influence of intoxicating liquor or any drug under RCW
8 46.61.504(6);

9 (c) The offender has no current or prior convictions for a sex
10 offense at any time or violent offense within ten years before
11 conviction of the current offense, in this state, another state, or
12 the United States;

13 (d) For a violation of the Uniform Controlled Substances Act
14 under chapter 69.50 RCW or a criminal solicitation to commit such a
15 violation under chapter 9A.28 RCW, the offense involved only a small
16 quantity of the particular controlled substance as determined by the
17 judge upon consideration of such factors as the weight, purity,
18 packaging, sale price, and street value of the controlled substance;

19 (e) The offender has not been found by the United States attorney
20 general to be subject to a deportation detainer or order and does not
21 become subject to a deportation order during the period of the
22 sentence;

23 (f) The end of the standard sentence range for the current
24 offense is greater than one year; and

25 (g) The offender has not received a drug offender sentencing
26 alternative under this section, or a drug offender sentencing
27 alternative for driving under the influence under section 1 of this
28 act, more than once in the prior ten years before the current
29 offense.

30 (2) A motion for a special drug offender sentencing alternative
31 may be made by the court, the offender, or the state.

32 (3) If the sentencing court determines that the offender is
33 eligible for an alternative sentence under this section and that the
34 alternative sentence is appropriate, the court shall waive imposition
35 of a sentence within the standard sentence range and impose a
36 sentence consisting of either a prison-based alternative under RCW
37 9.94A.662 or a residential substance use disorder treatment-based
38 alternative under RCW 9.94A.664. The residential substance use
39 disorder treatment-based alternative is only available if the

1 midpoint of the standard sentence range is twenty-four months or
2 less.

3 (4) (a) To assist the court in making its determination, the court
4 may order the department to complete either or both a risk assessment
5 report and a substance use disorder screening report as provided in
6 RCW 9.94A.500.

7 (b) To assist the court in making its determination in domestic
8 violence cases, the court shall order the department to complete a
9 presentence investigation and a chemical dependency screening report
10 as provided in RCW 9.94A.500, unless otherwise specifically waived by
11 the court.

12 (5) (a) If the court is considering imposing a sentence under the
13 residential substance use disorder treatment-based alternative, the
14 court may order an examination of the offender by the department. The
15 examination shall, at a minimum, address the following issues:

16 (i) Whether the offender suffers from drug addiction;

17 (ii) Whether the addiction is such that there is a probability
18 that criminal behavior will occur in the future;

19 (iii) Whether effective treatment for the offender's addiction is
20 available from a provider that has been licensed or certified by the
21 department of health, and where applicable, whether effective
22 domestic violence perpetrator treatment is available from a state-
23 certified domestic violence treatment provider pursuant to chapter
24 26.50 RCW; and

25 (iv) Whether the offender and the community will benefit from the
26 use of the alternative.

27 (b) The examination report must contain:

28 (i) A proposed monitoring plan, including any requirements
29 regarding living conditions, lifestyle requirements, and monitoring
30 by family members and others; and

31 (ii) Recommended crime-related prohibitions and affirmative
32 conditions.

33 (6) When a court imposes a sentence of community custody under
34 this section:

35 (a) The court may impose conditions as provided in RCW 9.94A.703
36 and may impose other affirmative conditions as the court considers
37 appropriate. In addition, an offender may be required to pay thirty
38 dollars per month while on community custody to offset the cost of
39 monitoring for alcohol or controlled substances, or in cases of

1 domestic violence for monitoring with global positioning system
2 technology for compliance with a no-contact order.

3 (b) The department may impose conditions and sanctions as
4 authorized in RCW 9.94A.704 and 9.94A.737.

5 (7)(a) The court may bring any offender sentenced under this
6 section back into court at any time on its own initiative to evaluate
7 the offender's progress in treatment or to determine if any
8 violations of the conditions of the sentence have occurred.

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

12 (c) The court may order the offender to serve a term of total
13 confinement within the standard sentence range of the offender's
14 current offense at any time during the period of community custody if
15 the offender violates the conditions or requirements of the sentence
16 or if the offender is failing to make satisfactory progress in
17 treatment.

18 (d) An offender ordered to serve a term of total confinement
19 under (c) of this subsection shall receive credit for any time
20 previously served under this section.

21 (8) In serving a term of community custody imposed upon failure
22 to complete, or administrative termination from, the special drug
23 offender sentencing alternative program, the offender shall receive
24 no credit for time served in community custody prior to termination
25 of the offender's participation in the program.

26 (9) An offender sentenced under this section shall be subject to
27 all rules relating to earned release time with respect to any period
28 served in total confinement.

29 (10) Costs of examinations and preparing treatment plans under a
30 special drug offender sentencing alternative may be paid, at the
31 option of the county, from funds provided to the county from the
32 criminal justice treatment account under RCW 71.24.580.

33 **Sec. 9.** RCW 9.94A.701 and 2010 c 267 s 11 and 2010 c 224 s 5 are
34 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.

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

22 (5) If an offender is sentenced under the drug offender
23 sentencing alternative, the court shall impose community custody as
24 provided in section 1 of this act.

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

28 ((+6)) (7) If an offender is sentenced to a work ethic camp, the
29 court shall impose community custody as provided in RCW 9.94A.690.

30 ((+7)) (8) If an offender is sentenced under the parenting
31 sentencing alternative, the court shall impose a term of community
32 custody as provided in RCW 9.94A.655.

33 ((+8)) (9) If a sex offender is sentenced as a nonpersistent
34 offender pursuant to RCW 9.94A.507, the court shall impose community
35 custody as provided in that section.

36 ((+9)) (10) The term of community custody specified by this
37 section shall be reduced by the court whenever an offender's standard
38 sentence range term of confinement in combination with the term of
39 community custody exceeds the statutory maximum for the crime as
40 provided in RCW 9A.20.021.

1 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2021.

--- **END** ---