
SUBSTITUTE HOUSE BILL 1125

State of Washington

69th Legislature

2025 Regular Session

By House Community Safety (originally sponsored by Representatives Simmons, Obras, Scott, Stearns, Ryu, Taylor, Peterson, Reeves, Tharinger, Fey, Morgan, Alvarado, Macri, Ormsby, Stonier, Doglio, Berg, Fosse, Reed, Berry, Duerr, Kloba, Goodman, Farivar, Street, Donaghy, Pollet, Bernbaum, Nance, Ortiz-Self, Ramel, Mena, Gregerson, Wylie, Hill, and Salahuddin)

1 AN ACT Relating to providing judicial discretion to modify
2 sentences in the interest of justice; amending RCW 10.73.100,
3 9.94A.535, 9.94A.701, and 9.94A.701; adding a new section to chapter
4 9.94A RCW; adding a new section to chapter 2.70 RCW; creating new
5 sections; providing an effective date; and providing an expiration
6 date.

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

8 NEW SECTION. **Sec. 1.** This act shall be known and may be cited
9 as the judicial discretion act.

10 NEW SECTION. **Sec. 2.** (1) The legislature finds that long-term
11 incarceration disproportionately impacts low-income communities and
12 communities of color. The legislature further finds that an expansive
13 body of research demonstrates that persons who are granted early
14 release before finishing lengthy sentences are less likely to
15 recidivate. The legislature further finds that establishing an
16 opportunity to modify a sentence encourages incarcerated individuals
17 to engage in desirable behavior and to take advantage of
18 rehabilitative programming. The legislature further finds that
19 because the cost of long-term incarceration is substantial and the
20 state must use its resources responsibly, providing judges the

1 opportunity to modify lengthy sentences in the interests of justice
2 will result in significant cost savings to the state.

3 (2) Therefore, the legislature intends to authorize sentencing
4 courts to review lengthy sentences upon a showing that a person's
5 original sentence no longer serves the interests of justice.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A
7 RCW to read as follows:

8 (1) Except as provided in subsections (18) and (19) of this
9 section, and notwithstanding any other provision of this chapter, any
10 person under a term of total confinement for a felony conviction may
11 petition the sentencing court or the sentencing court's successor for
12 a modification of sentence if the original sentence no longer serves
13 the interests of justice and the person meets any of the following
14 criteria:

15 (a) Beginning July 1, 2026, the person may petition the court if:

16 (i) The person has served at least seven years of their sentence
17 for an offense committed at age 17 or younger; or

18 (ii) The person is terminally ill or experiences a permanent or
19 degenerative medical condition to such a degree that the person does
20 not presently and likely will not in the future pose a threat to
21 public safety.

22 (b) Beginning July 1, 2027, the person may petition the court if
23 the person meets any of the criteria in (a)(i) or (ii) of this
24 subsection, or if the person has served at least 20 years of their
25 sentence for an offense committed when the person was at least 18
26 years old but less than 25 years old.

27 (c) Beginning July 1, 2028, the person may petition the court if
28 the person meets any of the criteria in (a)(i) or (ii) of this
29 subsection, or if the person served at least 13 years of their
30 sentence for an offense committed when the person was at least 18
31 years old but less than 25 years old.

32 (d) Beginning July 1, 2029, the person may petition the court if
33 the person meets any of the criteria in (a)(i) or (ii) of this
34 subsection, or if:

35 (i) The person has served at least 13 years of their sentence for
36 an offense committed when the person was at least 18 years old but
37 less than 25 years old; or

38 (ii) The person has served at least 20 years of their sentence
39 for an offense committed at age 25 or older.

1 (e) Beginning July 1, 2030, the person may petition the court if
2 the person meets any of the criteria in (a)(i) or (ii) of this
3 subsection, or if:

4 (i) The person has served at least 10 years of their sentence for
5 an offense committed when the person was at least 18 years old but
6 less than 25 years old; or

7 (ii) The person has served at least 17 years of their sentence
8 for an offense committed at age 25 or older.

9 (f) Beginning July 1, 2031, the person may petition the court if
10 the person meets any of the criteria in (a)(i) or (ii) of this
11 subsection, or if:

12 (i) The person has served at least 10 years of their sentence for
13 an offense committed when the person was at least 18 years old but
14 less than 25 years old; or

15 (ii) The person has served at least 13 years of their sentence
16 for an offense committed at age 25 or older.

17 (g) Beginning July 1, 2032, the person may petition the court if
18 the person meets any of the criteria in (a)(i) or (ii) of this
19 subsection, or if the person has served at least 10 years of their
20 sentence for an offense committed at age 18 or older.

21 (h) If the person does not meet any of the criteria under (a)
22 through (g) of this subsection, the person may petition the court at
23 any time with the consent of the prosecuting attorney.

24 (2) The petitioner must file the petition in writing with the
25 sentencing court in the judicial district in which the original
26 sentence was imposed and serve the prosecuting attorney. The petition
27 may include affidavits, declarations, letters, prison records, or
28 other written or electronic materials. The petition must include a
29 statement by the petitioner and supporting documentation
30 demonstrating that they meet one or more of the following
31 requirements for a hearing:

32 (a) The petitioner has demonstrated positive, engaged, and
33 productive behavior while in the custody of the department that
34 indicates substantial rehabilitation; or

35 (b) The petitioner has otherwise demonstrated a minimal risk of
36 reoffense, which may include, but is not limited to, a demonstration
37 of medical frailty.

38 (3) Upon request by the petitioner or the petitioner's counsel,
39 the department shall assist the petitioner or the petitioner's

1 counsel in compiling the petitioner's disciplinary record and record
2 of rehabilitation at no cost to the petitioner.

3 (4) The court may decline to accept a petition that does not meet
4 one or more of the eligibility criteria pursuant to subsection (1) of
5 this section. If the court accepts the petition and determines by a
6 preponderance of the evidence that the petitioner meets one or more
7 of the criteria under subsection (1) of this section, the court shall
8 grant a hearing to consider the petition, which must be heard within
9 120 days. The hearing may be continued for good cause upon motion by
10 the petitioner or the prosecuting attorney.

11 (5) (a) At the hearing to consider the petition, the petitioner is
12 entitled to de novo review of the petitioner's original sentence. The
13 court may grant the petition and modify the petitioner's original
14 sentence if the court finds that the sentence no longer advances the
15 interests of justice, provided that any new sentence imposed shall
16 not be greater than the original sentence, and provided that any new
17 sentence imposed shall be subject to the following:

18 (i) If the petitioner's original sentence is an indeterminate
19 sentence imposed under RCW 9.94A.507, the court may modify the
20 minimum term of the sentence but may not modify the maximum term of
21 the sentence or order the petitioner's release from custody;

22 (ii) If the petitioner's original sentence includes a mandatory
23 minimum term imposed pursuant to RCW 9.94A.540, the court may not
24 modify the sentence below the mandatory minimum term required by law;

25 (iii) The soonest allowable release date from total confinement
26 for any petitioner resentenced pursuant to this section may be no
27 sooner than six months after the date of the hearing to consider the
28 petition; and

29 (iv) The court must impose five years of community custody in
30 addition to any other terms of the modified sentence.

31 (b) In addition to the mitigating factors provided under RCW
32 9.94A.535(1), the court may consider the following nonexhaustive list
33 of factors when determining whether to modify the petitioner's
34 sentence:

35 (i) The petitioner's disciplinary record and record of
36 rehabilitation while incarcerated;

37 (ii) Evidence that reflects whether age, time served, and
38 diminished physical condition, if any, have reduced the petitioner's
39 risk for future recidivism;

1 (iii) Evidence regarding the petitioner's level of culpability
2 for the offense;

3 (iv) Evidence that reflects changed circumstances since imposing
4 the petitioner's original sentence such that the sentence no longer
5 serves the interests of justice;

6 (v) Demonstration of an extraordinary adverse impact of the
7 petitioner's release on the victim or survivors of the victim of the
8 crime for which the petitioner is presently incarcerated, with
9 special consideration given to the impact of release on any victims
10 of sex offenses or domestic violence offenses committed by the
11 petitioner against an intimate partner; and

12 (vi) Whether the petitioner participated in the department's
13 accountability letter bank, provided that a victim or survivor of a
14 victim of the crime for which the petitioner is presently
15 incarcerated has enrolled to receive notification of deposited
16 accountability letters.

17 (6) When modifying a sentence pursuant to this section:

18 (a) The court may impose an exceptional sentence below the
19 standard range based on evidence of significant rehabilitation since
20 the offense or any other applicable factors; and

21 (b) If the petitioner's original sentence included one or more
22 mandatory enhancements that were imposed under RCW 9.94A.533, the
23 court may impose a sentence below the mandatory minimum enhancement
24 term.

25 (7) If the court denies a petition filed pursuant to this section
26 and declines to set a hearing, or grants a hearing but declines to
27 modify the petitioner's sentence at the hearing, the petitioner may,
28 upon a showing of a change in circumstances, file a new petition no
29 earlier than three years after the date the court denied the previous
30 petition or declined to modify the petitioner's sentence, unless the
31 court authorizes the petitioner to file a new petition at an earlier
32 date. If the court denies the petition or declines to modify the
33 petitioner's sentence, the court shall state the basis for its
34 decision on the record and provide an explanation for its decision in
35 a written order. The petitioner may appeal the denial of a hearing or
36 an order entered pursuant to a resentencing hearing, provided,
37 however, that denying a petition filed pursuant to this section shall
38 not reopen the petitioner's conviction or sentence to any other
39 challenges that would otherwise be barred.

1 (8) (a) The prosecuting attorney shall make reasonable efforts to
2 notify victims and survivors of victims of any hearing on a petition
3 for modification of sentence filed pursuant to this section,
4 including by providing the date of such hearing.

5 (b) For purposes of (a) of this subsection, the prosecuting
6 attorney shall make reasonable efforts to notify victims and
7 survivors of victims of any offense for which the petitioner is
8 seeking a modification of sentence, and victims of any sex offense or
9 domestic violence offense committed against an intimate partner
10 victim for which the petitioner was previously convicted.

11 (9) (a) The office of crime victims advocacy shall create a
12 flexible fund to serve victims and survivors of victims impacted by
13 this act. The office may contract for administration of this fund.
14 The flexible fund may be used for purposes including, but not limited
15 to:

16 (i) Relocation assistance related to a change in safety planning
17 associated with the petitioner's resentencing;

18 (ii) Traveling to and from court for resentencing hearings; and

19 (iii) Out-of-pocket expenses for psychotherapy associated with
20 the committed offense or resentencing.

21 (b) The office of crime victims advocacy shall contract with
22 prosecuting attorney's offices to offer victim advocacy services for
23 victims impacted by this act. Such victim advocacy services must
24 include:

25 (i) Legal advocacy to understand the resentencing process and how
26 a victim can exercise their rights;

27 (ii) Safety planning;

28 (iii) Options to participate in a restorative justice program
29 with the petitioner; and

30 (iv) Case management to address needs that may arise as a result
31 of resentencing.

32 (c) The office of crime victims advocacy may contract with an
33 entity with expertise in victim services to provide training for
34 victim advocates embedded within prosecutor's offices regarding
35 safety planning and other case management services that victims
36 impacted by this act may require.

37 (10) The court shall provide an opportunity for victims and
38 survivors of victims of any crimes for which the petitioner has been
39 convicted to present a statement personally or by representation at
40 the hearing, and the court must take any such statements into

1 consideration. Victims and survivors of victims are encouraged to
2 articulate what outcome would make them feel safe as a part of any
3 such statements presented to the court. The prosecuting attorney and
4 the court shall comply with the requirements set forth in chapter
5 7.69 RCW.

6 (11) The court shall not permit any person to waive the right to
7 petition pursuant to this section. Any agreement to waive the right
8 to petition pursuant to this section shall be void.

9 (12) The time limit for collateral attacks established under RCW
10 10.73.090 does not apply to any petition filed pursuant to this
11 section.

12 (13) Any incarcerated individual who is eligible to file a
13 petition pursuant to this section and is unable to afford counsel
14 shall be entitled to have counsel appointed pursuant to section 4 of
15 this act. Counsel shall be appointed at no cost to the individual, to
16 represent the individual for the petition and proceedings under this
17 section, unless the individual expressly waives the right to counsel
18 after being fully advised of this right by the court.

19 (14) Any person who files a pro se petition and subsequently
20 retains or is appointed counsel shall be entitled to amend such
21 petition at least once as of right with the assistance of counsel.
22 Subsequent amendments may be permitted by leave of court.

23 (15) The department shall provide written notice of this section
24 to any incarcerated individual sentenced to a term of confinement of
25 more than 10 years, and the applicable sentencing court, prosecuting
26 attorney, and public defense agency for the judicial district in
27 which the individual was sentenced, within the following time frames:

28 (a) For any incarcerated individual serving an applicable
29 sentence for a felony offense committed at 18 years of age or older,
30 the department shall provide written notice of this section no later
31 than 180 days before the date on which the person's 10th year of
32 confinement begins; and

33 (b) For any incarcerated individual serving an applicable
34 sentence for a felony offense committed at 17 years of age or
35 younger, the department shall provide written notice of this section
36 no later than 180 days before the date on which the person's seventh
37 year of confinement begins.

38 (16) The department shall provide information about the
39 department's accountability letter bank to any incarcerated
40 individual sentenced to a term of confinement of more than seven

1 years, and to any victims or survivors of victims who inquire with
2 the department's victim services program about options for victim
3 notifications or other services.

4 (17) When any person granted a modified sentence pursuant to this
5 section is within six months of his or her expected release date from
6 total confinement, the department must prepare and make available an
7 individual reentry plan under chapter 72.09 RCW and the resources
8 necessary for the person to complete the plan.

9 (18) A person may not petition for a modification of sentence
10 pursuant to this section if the person's original sentence was
11 imposed under RCW 9.94A.570 or 10.95.030.

12 (19) A person may not petition for a modification of sentence
13 pursuant to this section if the person is serving a term of
14 confinement for a murder in the first degree conviction, unless the
15 person has served at least 20 years of the original sentence in
16 addition to meeting eligibility criteria under subsection (1) of this
17 section.

18 NEW SECTION. **Sec. 4.** A new section is added to chapter 2.70 RCW
19 to read as follows:

20 Within available resources, the office of public defense shall
21 provide representation for persons who are eligible to file a
22 petition pursuant to section 3 of this act. The office will
23 prioritize representation based on the eligibility criteria and
24 timelines established in section 3(1) of this act.

25 **Sec. 5.** RCW 10.73.100 and 2024 c 118 s 8 are each amended to
26 read as follows:

27 The time limit specified in RCW 10.73.090 does not apply to a
28 petition or motion that is based solely on one or more of the
29 following grounds:

30 (1) Newly discovered evidence, if the defendant acted with
31 reasonable diligence in discovering the evidence and filing the
32 petition or motion;

33 (2) The statute that the defendant was convicted of violating was
34 unconstitutional on its face or as applied to the defendant's
35 conduct;

36 (3) The conviction was barred by double jeopardy under Amendment
37 V of the United States Constitution or Article I, section 9 of the
38 state Constitution;

1 (4) The defendant pleaded not guilty and the evidence introduced
2 at trial was insufficient to support the conviction;

3 (5) The sentence imposed was in excess of the court's
4 jurisdiction;

5 (6) A petition for a modification of sentence pursuant to section
6 3 of this act;

7 (7) A motion for a modification of conditions of community
8 custody pursuant to RCW 9.94A.703 and 9.94A.709; or

9 ~~((7))~~ (8) There has been a significant change in the law,
10 whether substantive or procedural, which is material to the
11 conviction, sentence, or other order entered in a criminal or civil
12 proceeding instituted by the state or local government, and either
13 the legislature has expressly provided that the change in the law is
14 to be applied retroactively, or a court, in interpreting a change in
15 the law that lacks express legislative intent regarding retroactive
16 application, determines that sufficient reasons exist to require
17 retroactive application of the changed legal standard.

18 **Sec. 6.** RCW 9.94A.535 and 2019 c 219 s 1 are each amended to
19 read as follows:

20 The court may impose a sentence outside the standard sentence
21 range for an offense if it finds, considering the purpose of this
22 chapter, that there are substantial and compelling reasons justifying
23 an exceptional sentence. Facts supporting aggravated sentences, other
24 than the fact of a prior conviction, shall be determined pursuant to
25 the provisions of RCW 9.94A.537.

26 Whenever a sentence outside the standard sentence range is
27 imposed, the court shall set forth the reasons for its decision in
28 written findings of fact and conclusions of law. A sentence outside
29 the standard sentence range shall be a determinate sentence.

30 If the sentencing court finds that an exceptional sentence
31 outside the standard sentence range should be imposed, the sentence
32 is subject to review only as provided for in RCW 9.94A.585(4).

33 A departure from the standards in RCW 9.94A.589 (1) and (2)
34 governing whether sentences are to be served consecutively or
35 concurrently is an exceptional sentence subject to the limitations in
36 this section, and may be appealed by the offender or the state as set
37 forth in RCW 9.94A.585 (2) through (6).

38 (1) Mitigating Circumstances - Court to Consider

1 The court may impose an exceptional sentence below the standard
2 range if it finds that mitigating circumstances are established by a
3 preponderance of the evidence. The following are illustrative only
4 and are not intended to be exclusive reasons for exceptional
5 sentences.

6 (a) To a significant degree, the victim was an initiator, willing
7 participant, aggressor, or provoker of the incident.

8 (b) Before detection, the defendant compensated, or made a good
9 faith effort to compensate, the victim of the criminal conduct for
10 any damage or injury sustained.

11 (c) The defendant committed the crime under duress, coercion,
12 threat, or compulsion insufficient to constitute a complete defense
13 but which significantly affected his or her conduct.

14 (d) The defendant, with no apparent predisposition to do so, was
15 induced by others to participate in the crime.

16 (e) The defendant's capacity to appreciate the wrongfulness of
17 his or her conduct, or to conform his or her conduct to the
18 requirements of the law, was significantly impaired. Voluntary use of
19 drugs or alcohol is excluded.

20 (f) The offense was principally accomplished by another person
21 and the defendant manifested extreme caution or sincere concern for
22 the safety or well-being of the victim.

23 (g) The operation of the multiple offense policy of RCW 9.94A.589
24 results in a presumptive sentence that is clearly excessive in light
25 of the purpose of this chapter, as expressed in RCW 9.94A.010.

26 (h) The defendant or the defendant's children suffered a
27 continuing pattern of physical or sexual abuse by the victim of the
28 offense and the offense is a response to that abuse.

29 (i) The defendant was making a good faith effort to obtain or
30 provide medical assistance for someone who is experiencing a drug-
31 related overdose.

32 (j) The current offense involved domestic violence, as defined in
33 RCW 10.99.020, and the defendant suffered a continuing pattern of
34 coercion, control, or abuse by the victim of the offense and the
35 offense is a response to that coercion, control, or abuse.

36 (k) The defendant was convicted of vehicular homicide, by the
37 operation of a vehicle in a reckless manner and has committed no
38 other previous serious traffic offenses as defined in RCW 9.94A.030,
39 and the sentence is clearly excessive in light of the purpose of this
40 chapter, as expressed in RCW 9.94A.010.

1 (1) The defendant petitions the court for modification of
2 sentence pursuant to section 3 of this act, and the court considers
3 the nonexhaustive list of additional factors provided under section
4 3(5)(b) of this act at a hearing on the petition.

5 (2) Aggravating Circumstances - Considered and Imposed by the
6 Court

7 The trial court may impose an aggravated exceptional sentence
8 without a finding of fact by a jury under the following
9 circumstances:

10 (a) The defendant and the state both stipulate that justice is
11 best served by the imposition of an exceptional sentence outside the
12 standard range, and the court finds the exceptional sentence to be
13 consistent with and in furtherance of the interests of justice and
14 the purposes of the sentencing reform act.

15 (b) The defendant's prior unscored misdemeanor or prior unscored
16 foreign criminal history results in a presumptive sentence that is
17 clearly too lenient in light of the purpose of this chapter, as
18 expressed in RCW 9.94A.010.

19 (c) The defendant has committed multiple current offenses and the
20 defendant's high offender score results in some of the current
21 offenses going unpunished.

22 (d) The failure to consider the defendant's prior criminal
23 history which was omitted from the offender score calculation
24 pursuant to RCW 9.94A.525 results in a presumptive sentence that is
25 clearly too lenient.

26 (3) Aggravating Circumstances - Considered by a Jury - Imposed by
27 the Court

28 Except for circumstances listed in subsection (2) of this
29 section, the following circumstances are an exclusive list of factors
30 that can support a sentence above the standard range. Such facts
31 should be determined by procedures specified in RCW 9.94A.537.

32 (a) The defendant's conduct during the commission of the current
33 offense manifested deliberate cruelty to the victim.

34 (b) The defendant knew or should have known that the victim of
35 the current offense was particularly vulnerable or incapable of
36 resistance.

37 (c) The current offense was a violent offense, and the defendant
38 knew that the victim of the current offense was pregnant.

1 (d) The current offense was a major economic offense or series of
2 offenses, so identified by a consideration of any of the following
3 factors:

4 (i) The current offense involved multiple victims or multiple
5 incidents per victim;

6 (ii) The current offense involved attempted or actual monetary
7 loss substantially greater than typical for the offense;

8 (iii) The current offense involved a high degree of
9 sophistication or planning or occurred over a lengthy period of time;
10 or

11 (iv) The defendant used his or her position of trust, confidence,
12 or fiduciary responsibility to facilitate the commission of the
13 current offense.

14 (e) The current offense was a major violation of the Uniform
15 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
16 trafficking in controlled substances, which was more onerous than the
17 typical offense of its statutory definition: The presence of ANY of
18 the following may identify a current offense as a major VUCSA:

19 (i) The current offense involved at least three separate
20 transactions in which controlled substances were sold, transferred,
21 or possessed with intent to do so;

22 (ii) The current offense involved an attempted or actual sale or
23 transfer of controlled substances in quantities substantially larger
24 than for personal use;

25 (iii) The current offense involved the manufacture of controlled
26 substances for use by other parties;

27 (iv) The circumstances of the current offense reveal the offender
28 to have occupied a high position in the drug distribution hierarchy;

29 (v) The current offense involved a high degree of sophistication
30 or planning, occurred over a lengthy period of time, or involved a
31 broad geographic area of disbursement; or

32 (vi) The offender used his or her position or status to
33 facilitate the commission of the current offense, including positions
34 of trust, confidence or fiduciary responsibility (e.g., pharmacist,
35 physician, or other medical professional).

36 (f) The current offense included a finding of sexual motivation
37 pursuant to RCW 9.94A.835.

38 (g) The offense was part of an ongoing pattern of sexual abuse of
39 the same victim under the age of (~~eighteen~~) 18 years manifested by
40 multiple incidents over a prolonged period of time.

1 (h) The current offense involved domestic violence, as defined in
2 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or
3 more of the following was present:

4 (i) The offense was part of an ongoing pattern of psychological,
5 physical, or sexual abuse of a victim or multiple victims manifested
6 by multiple incidents over a prolonged period of time;

7 (ii) The offense occurred within sight or sound of the victim's
8 or the offender's minor children under the age of eighteen years; or

9 (iii) The offender's conduct during the commission of the current
10 offense manifested deliberate cruelty or intimidation of the victim.

11 (i) The offense resulted in the pregnancy of a child victim of
12 rape.

13 (j) The defendant knew that the victim of the current offense was
14 a youth who was not residing with a legal custodian and the defendant
15 established or promoted the relationship for the primary purpose of
16 victimization.

17 (k) The offense was committed with the intent to obstruct or
18 impair human or animal health care or agricultural or forestry
19 research or commercial production.

20 (l) The current offense is trafficking in the first degree or
21 trafficking in the second degree and any victim was a minor at the
22 time of the offense.

23 (m) The offense involved a high degree of sophistication or
24 planning.

25 (n) The defendant used his or her position of trust, confidence,
26 or fiduciary responsibility to facilitate the commission of the
27 current offense.

28 (o) The defendant committed a current sex offense, has a history
29 of sex offenses, and is not amenable to treatment.

30 (p) The offense involved an invasion of the victim's privacy.

31 (q) The defendant demonstrated or displayed an egregious lack of
32 remorse.

33 (r) The offense involved a destructive and foreseeable impact on
34 persons other than the victim.

35 (s) The defendant committed the offense to obtain or maintain his
36 or her membership or to advance his or her position in the hierarchy
37 of an organization, association, or identifiable group.

38 (t) The defendant committed the current offense shortly after
39 being released from incarceration.

1 (u) The current offense is a burglary and the victim of the
2 burglary was present in the building or residence when the crime was
3 committed.

4 (v) The offense was committed against a law enforcement officer
5 who was performing his or her official duties at the time of the
6 offense, the offender knew that the victim was a law enforcement
7 officer, and the victim's status as a law enforcement officer is not
8 an element of the offense.

9 (w) The defendant committed the offense against a victim who was
10 acting as a good samaritan.

11 (x) The defendant committed the offense against a public official
12 or officer of the court in retaliation of the public official's
13 performance of his or her duty to the criminal justice system.

14 (y) The victim's injuries substantially exceed the level of
15 bodily harm necessary to satisfy the elements of the offense. This
16 aggravator is not an exception to RCW 9.94A.530(2).

17 (z) (i) (A) The current offense is theft in the first degree, theft
18 in the second degree, possession of stolen property in the first
19 degree, or possession of stolen property in the second degree; (B)
20 the stolen property involved is metal property; and (C) the property
21 damage to the victim caused in the course of the theft of metal
22 property is more than three times the value of the stolen metal
23 property, or the theft of the metal property creates a public hazard.

24 (ii) For purposes of this subsection, "metal property" means
25 commercial metal property, private metal property, or nonferrous
26 metal property, as defined in RCW 19.290.010.

27 (aa) The defendant committed the offense with the intent to
28 directly or indirectly cause any benefit, aggrandizement, gain,
29 profit, or other advantage to or for a criminal street gang as
30 defined in RCW 9.94A.030, its reputation, influence, or membership.

31 (bb) The current offense involved paying to view, over the
32 internet in violation of RCW 9.68A.075, depictions of a minor engaged
33 in an act of sexually explicit conduct as defined in RCW
34 9.68A.011(~~((4))~~) (7) (a) through (g).

35 (cc) The offense was intentionally committed because the
36 defendant perceived the victim to be homeless, as defined in RCW
37 9.94A.030.

38 (dd) The current offense involved a felony crime against persons,
39 except for assault in the third degree pursuant to RCW
40 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's

1 chamber, or any waiting area or corridor immediately adjacent to a
2 courtroom, jury room, or judge's chamber. This subsection shall apply
3 only: (i) During the times when a courtroom, jury room, or judge's
4 chamber is being used for judicial purposes during court proceedings;
5 and (ii) if signage was posted in compliance with RCW 2.28.200 at the
6 time of the offense.

7 (ee) During the commission of the current offense, the defendant
8 was driving in the opposite direction of the normal flow of traffic
9 on a multiple lane highway, as defined by RCW 46.04.350, with a
10 posted speed limit of forty-five miles per hour or greater.

11 (ff) The current offense involved the assault of a utility
12 employee of any publicly or privately owned utility company or
13 agency, who is at the time of the act engaged in official duties,
14 including: (i) The maintenance or repair of utility poles, lines,
15 conduits, pipes, or other infrastructure; or (ii) connecting,
16 disconnecting, or recording utility meters.

17 **Sec. 7.** RCW 9.94A.701 and 2021 c 242 s 6 are each amended to
18 read as follows:

19 (1) If an offender is sentenced to the custody of the department
20 for one of the following crimes, the court shall, in addition to the
21 other terms of the sentence, sentence the offender to community
22 custody for three years:

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

24 (b) A serious violent offense.

25 (2) A court shall, in addition to the other terms of the
26 sentence, sentence an offender to community custody for eighteen
27 months when the court sentences the person to the custody of the
28 department for a violent offense that is not considered a serious
29 violent offense.

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

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

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

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

1 (d) A felony violation of RCW 9A.44.132(1) (failure to register)
2 that is the offender's first violation for a felony failure to
3 register.

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

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

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

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

15 (8) If the offender is sentenced under the mental health
16 sentencing alternative, the court shall impose a term of community
17 custody as provided in RCW 9.94A.695.

18 (9) If a sex offender is sentenced as a nonpersistent offender
19 pursuant to RCW 9.94A.507, the court shall impose community custody
20 as provided in that section.

21 (10) If a person is granted a modification of sentence pursuant
22 to section 3 of this act, the court shall impose five years of
23 community custody as part of the modified sentence.

24 (11) The term of community custody specified by this section
25 shall be reduced by the court whenever an offender's standard range
26 term of confinement in combination with the term of community custody
27 exceeds the statutory maximum for the crime as provided in RCW
28 9A.20.021.

29 **Sec. 8.** RCW 9.94A.701 and 2024 c 306 s 10 are each amended to
30 read as follows:

31 (1) If an offender is sentenced to the custody of the department
32 for one of the following crimes, the court shall, in addition to the
33 other terms of the sentence, sentence the offender to community
34 custody for three years:

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

36 (b) A serious violent offense.

37 (2) A court shall, in addition to the other terms of the
38 sentence, sentence an offender to community custody for 18 months
39 when the court sentences the person to the custody of the department

1 for a violent offense that is not considered a serious violent
2 offense.

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

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

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

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

12 (d) A felony violation of RCW 9A.44.132(1) (failure to register)
13 that is the offender's first violation for a felony failure to
14 register.

15 (4) If an offender is sentenced under the drug offender
16 sentencing alternative, the court shall impose community custody as
17 provided in:

18 (a) RCW 9.94A.660 and 9.94A.662 for a prison-based drug offender
19 sentencing alternative;

20 (b) RCW 9.94A.660 and 9.94A.664 for a residential-based drug
21 offender sentencing alternative;

22 (c) RCW 9.94A.662 and 9.94A.661(6) for a prison-based drug
23 offender sentencing alternative for driving under the influence; and

24 (d) RCW 9.94A.661 (5) and (6) for a residential-based drug
25 offender sentencing alternative for driving under the influence.

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

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

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

34 (8) If the offender is sentenced under the mental health
35 sentencing alternative, the court shall impose a term of community
36 custody as provided in RCW 9.94A.695.

37 (9) If a sex offender is sentenced as a nonpersistent offender
38 pursuant to RCW 9.94A.507, the court shall impose community custody
39 as provided in that section.

1 (10) If a person is granted a modification of sentence pursuant
2 to section 3 of this act, the court shall impose five years of
3 community custody as part of the modified sentence.

4 (11) The term of community custody specified by this section
5 shall be reduced by the court whenever an offender's standard
6 sentence range term of confinement in combination with the term of
7 community custody exceeds the statutory maximum for the crime as
8 provided in RCW 9A.20.021.

9 NEW SECTION. **Sec. 9.** Section 7 of this act expires January 1,
10 2026.

11 NEW SECTION. **Sec. 10.** Section 8 of this act takes effect
12 January 1, 2026.

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