



WASHINGTON STATEWIDE REENTRY COUNCIL MEETING AGENDA

September 28, 2017 12:30 P.M. to 4:30 P.M.

Solutions Room, [King County Courthouse](#): 513 Third Ave. W400, Seattle WA 98104

Conference call option: 1 (571) 317-3122 PIN: 478-898-069

<https://global.gotomeeting.com/join/478898069>

This council develops collaborative relationships between the criminal justice system, victims and their families, and service providers, with the purpose of improving public safety and outcomes for people reentering the community from incarceration.

Executive Session: Reentry Council (regarding Council staffing)	Tarra Simmons, Co-Chair Dan Satterberg, Co-Chair	12:30
Open meeting and welcome <ul style="list-style-type: none">WelcomeReview and changes to agenda	Tarra Simmons, Co-Chair	1:00
Executive director report	Cary Retlin	1:10
Presentation and Discussion: Reentry at Department of Corrections	Devon Schrum	1:20
Council business: Appoint new Executive Director. Refine and clarify our process for supporting policy matters, discuss bylaws.	Tarra Simmons, Co-Chair	1:50
Presentation and Discussion: 2018 Legislative Proposals for Council support consideration: <ul style="list-style-type: none">Bob Cooper, Ban the BoxMelody Simle, DOC OmbudsmanMarybeth Queral, DSHS: Identicard, Mandatory ReturnDevon Schrum, DOC: Identicard, Graduated ReentryElisabeth Smith, ACLU: Legal Financial ObligationsSatori Butler, Washington CAN: Second Chances ActTarra Simmons, Vacating Convictions, Family and Offender Sentencing Alternative (FOSA) Expansion	Dan Satterberg, Co-Chair Members and Guests	2:10
Break	Tarra Simmons, Co-Chair	3:00
Upcoming events planning: Meeting Schedule changes, Meet and Greet for our permanent Executive Director, House Public Safety Work Session, Legislative Lunch, Retreat.	Tarra Simmons, Co-Chair	3:10
Announcements from members	Dan Satterberg, Co-Chair	3:20
Public comments	Dan Satterberg, Co-Chair	3:30
Public Closing, Opening of Executive Session (regarding Council staffing)	Dan Satterberg, Co-Chair	4:00
Executive Session (Continue conversation regarding Council staffing)	Dan Satterberg, Co-Chair Tarra Simmons, Co-Chair	4:30

Next council meeting: November 14, 12:30-3:30 Washington State Reformatory, Monroe Correctional Center

PROPOSED LEGISLATION

Key benefits:

Allows for a stronger rehabilitation response to typical adolescent behavior and provides an option to maintain youth in the best level of care to promote a successful reentry and improved community safety for Washingtonians.

Removes statutory language mandating the return of a juvenile from a JR community facility to a JR institution for the unlawful use or possession of alcohol or drugs. This will significantly reduce disruption to a youth's rehabilitative progress.

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Relating to the return of juveniles in community facilities to institutions operated by DSHS's Juvenile Rehabilitation (JR) Division.

Briefing paper on proposed legislation – Sept. 11, 2017

Why is this legislation necessary?

- Under current law, a juvenile in a JR community facility who commits a serious infraction or violation, including using or possessing alcohol or drugs, **must** be returned to a more restrictive JR institution.
- This law reflects the outdated treatment philosophy of punishing youth harshly for common adolescent errors in judgment regarding alcohol or substance use, and fails to take into consideration recent studies on adolescent brain development.
- Removal of a youth from a community facility places that person at a more intensive level of care than may be needed, and significantly disrupts their rehabilitative progress and reentry planning, resulting in a loss of protective factors and increasing the risk of recidivism.

What will the bill do?

- The bill removes statutory language mandating the return of a juvenile from a JR community facility to a JR institution, and instead gives the DSHS Secretary or a designee the discretion to return the juvenile. It also deletes language mandating return for the unlawful use or possession of alcohol or a controlled substance.
- This gives the department greater flexibility in treating youth to reduce disruption in their rehabilitation. It reflects the better treatment approach of providing drug and alcohol treatment services to treat potential substance use disorders and imposing normative consequences for behavior while remaining in the community facility.

How much will this cost?

- Nothing.



Washington State
Department of Social
& Health Services

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Date

PROPOSED LEGISLATION

Key benefits:

It is expected that issuing Washington identification cards, or identicards, to individuals released from a JR community facility or institution at the actual cost of producing those cards will have the following impact:

- Enable JR youth to access jobs, housing, treatment, and other services;
- Increase post-release employment and successful reentry for JR youth; and
- Reduce recidivism and improve public safety for Washingtonians.

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Relating to the issuance of Washington identification cards to individuals released from DSHS's Juvenile Rehabilitation facilities.

Briefing paper on proposed legislation – Sept. 12, 2017

Why is this legislation necessary?

- Obtaining a valid identification card is one of the cornerstones of successful reentry for individuals who are released from JR facilities. Identification is needed to obtain jobs, housing, medical and behavioral health care, and education that advance their likelihood of successful reintegration into the community.
- Currently, however, the only statutory option for many of these individuals is to purchase a six-year Washington identification card upon their release at a cost of \$54. Most youth simply cannot afford to pay for these cards and many experience multiple barriers to accessing this post-release.

What will the bill do?

- Effective January 1, 2019, the bill requires the Department of Licensing to provide individuals upon their release from a JR facility with a 6-year Washington identification card at the actual cost of production.
- DSHS's Juvenile Rehabilitation facilities will be moving to the new Department of Children, Youth, and Families (DCYF) in 2019 under [HB 1661](#). This bill applies to JR facilities under both DSHS and DCYF.
- Finally, this measure supports the Governor's Executive Order No. 16-05 (Building Safe and Strong Communities Through Successful Reentry) by assisting in these individuals' transition back to the community.

How much will this cost?

- The cost to DSHS will be: TBD
- The cost to DOL will be: TBD

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BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0557.2/17 2nd draft

ATTY/TYPIST: AI:eab

BRIEF DESCRIPTION: Creating a graduated reentry program of partial
confinement for certain offenders.

1 AN ACT Relating to creating a graduated reentry program of
2 partial confinement for certain offenders; amending RCW 9.94A.030,
3 9.94A.734, and 9.94A.190; reenacting and amending RCW 9.94A.728; and
4 adding a new section to chapter 9.94A RCW.

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

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

8 (1) For offenders not participating in the work release program
9 under chapter 72.65 RCW, but otherwise eligible under this section,
10 no more than the final six months of the offender's term of
11 confinement may be served in partial confinement as home detention as
12 part of the graduated reentry program developed by the department.

13 (2) The secretary of the department may transfer an offender from
14 a correctional facility to home detention in the community if it is
15 determined that the graduated reentry program is an appropriate
16 placement and must assist the offender's transition from confinement
17 to the community and the following conditions exist:

18 (a) The offender is serving a sentence for which the high end of
19 the standard range is greater than one year; and

20 (b) The offender has not been found by the United States attorney
21 general to be subject to a deportation detainer or order and does not

1 become subject to a deportation order during the period of the
2 sentence.

3 (3) The department and its officers, agents, and employees are
4 not liable for the acts of offenders participating in the graduated
5 reentry program unless the department or its officers, agents, and
6 employees acted with willful and wanton disregard.

7 (4) All offenders placed on home detention as part of the
8 graduated reentry program must provide an approved residence and
9 living arrangement prior to transfer to home detention.

10 (5) While in the community on home detention as part of the
11 graduated reentry program, the department must:

12 (a) Require the offender to be placed on electronic home
13 monitoring;

14 (b) Require the offender to participate in programming and
15 treatment that the department determines is needed; and

16 (c) Assign a community corrections officer who will monitor the
17 offender's compliance with conditions of partial confinement and
18 programming requirements.

19 (6) The department retains the authority to return any offender
20 serving partial confinement in the graduated reentry program to total
21 confinement for any reason including, but not limited to, the
22 offender's noncompliance with any sentence requirement.

23 (7) The department may issue rental vouchers for a period not to
24 exceed six months for those transferring to partial confinement under
25 this section if an approved address cannot be obtained without the
26 assistance of a voucher.

27 (8) In the selection of offenders to participate in the graduated
28 reentry program, and in setting, modifying, and enforcing the
29 requirements of the graduated release program, the department is
30 deemed to be performing a quasi-judicial function.

31 **Sec. 2.** RCW 9.94A.728 and 2015 c 156 s 1 and 2015 c 134 s 3 are
32 each reenacted and amended to read as follows:

33 (1) No person serving a sentence imposed pursuant to this chapter
34 and committed to the custody of the department shall leave the
35 confines of the correctional facility or be released prior to the
36 expiration of the sentence except as follows:

37 (a) An offender may earn early release time as authorized by RCW
38 9.94A.729;

1 (b) An offender may leave a correctional facility pursuant to an
2 authorized furlough or leave of absence. In addition, offenders may
3 leave a correctional facility when in the custody of a corrections
4 officer or officers;

5 (c)(i) The secretary may authorize an extraordinary medical
6 placement for an offender when all of the following conditions exist:

7 (A) The offender has a medical condition that is serious and is
8 expected to require costly care or treatment;

9 (B) The offender poses a low risk to the community because he or
10 she is currently physically incapacitated due to age or the medical
11 condition or is expected to be so at the time of release; and

12 (C) It is expected that granting the extraordinary medical
13 placement will result in a cost savings to the state.

14 (ii) An offender sentenced to death or to life imprisonment
15 without the possibility of release or parole is not eligible for an
16 extraordinary medical placement.

17 (iii) The secretary shall require electronic monitoring for all
18 offenders in extraordinary medical placement unless the electronic
19 monitoring equipment interferes with the function of the offender's
20 medical equipment or results in the loss of funding for the
21 offender's medical care, in which case, an alternative type of
22 monitoring shall be utilized. The secretary shall specify who shall
23 provide the monitoring services and the terms under which the
24 monitoring shall be performed.

25 (iv) The secretary may revoke an extraordinary medical placement
26 under this subsection (1)(c) at any time.

27 (v) Persistent offenders are not eligible for extraordinary
28 medical placement;

29 (d) The governor, upon recommendation from the clemency and
30 pardons board, may grant an extraordinary release for reasons of
31 serious health problems, senility, advanced age, extraordinary
32 meritorious acts, or other extraordinary circumstances;

33 (e) No more than the final ((six)) twelve months of the
34 offender's term of confinement may be served in partial confinement
35 designed to aid the offender in finding work ((and)) or
36 reestablishing himself or herself in the community ((or no more than
37 the final twelve months of the offender's term of confinement may be
38 served in partial confinement)) as part of the parenting program in
39 RCW 9.94A.6551. This is in addition to that period of earned early

1 release time that may be exchanged for partial confinement pursuant
2 to RCW 9.94A.729(5)(d);

3 (f) No more than the final six months of the offender's term of
4 confinement may be served in partial confinement as home detention as
5 part of the graduated reentry program developed by the department
6 under section 1 of this act;

7 (g) The governor may pardon any offender;

8 ~~((+g+))~~ (h) The department may release an offender from
9 confinement any time within ten days before a release date calculated
10 under this section;

11 ~~((+h+))~~ (i) An offender may leave a correctional facility prior
12 to completion of his or her sentence if the sentence has been reduced
13 as provided in RCW 9.94A.870;

14 ~~((+i+))~~ (j) Notwithstanding any other provisions of this section,
15 an offender sentenced for a felony crime listed in RCW 9.94A.540 as
16 subject to a mandatory minimum sentence of total confinement shall
17 not be released from total confinement before the completion of the
18 listed mandatory minimum sentence for that felony crime of conviction
19 unless allowed under RCW 9.94A.540; and

20 ~~((+j+))~~ (k) Any person convicted of one or more crimes committed
21 prior to the person's eighteenth birthday may be released from
22 confinement pursuant to RCW 9.94A.730.

23 (2) Offenders residing in a juvenile correctional facility
24 placement pursuant to RCW 72.01.410(1)(a) are not subject to the
25 limitations in this section.

26 **Sec. 3.** RCW 9.94A.030 and 2016 c 81 s 16 are each amended to
27 read as follows:

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

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

32 (2) "Collect," or any derivative thereof, "collect and remit," or
33 "collect and deliver," when used with reference to the department,
34 means that the department, either directly or through a collection
35 agreement authorized by RCW 9.94A.760, is responsible for monitoring
36 and enforcing the offender's sentence with regard to the legal
37 financial obligation, receiving payment thereof from the offender,
38 and, consistent with current law, delivering daily the entire payment

1 to the superior court clerk without depositing it in a departmental
2 account.

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

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

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

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

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

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

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

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

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

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

39 (b) A conviction may be removed from a defendant's criminal
40 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,

1 9.95.240, or a similar out-of-state statute, or if the conviction has
2 been vacated pursuant to a governor's pardon.

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

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

18 (13) "Criminal street gang associate or member" means any person
19 who actively participates in any criminal street gang and who
20 intentionally promotes, furthers, or assists in any criminal act by
21 the criminal street gang.

22 (14) "Criminal street gang-related offense" means any felony or
23 misdemeanor offense, whether in this state or elsewhere, that is
24 committed for the benefit of, at the direction of, or in association
25 with any criminal street gang, or is committed with the intent to
26 promote, further, or assist in any criminal conduct by the gang, or
27 is committed for one or more of the following reasons:

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

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

31 (c) To exact revenge or retribution for the gang or any member of
32 the gang;

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

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

38 (f) To provide the gang with any advantage in, or any control or
39 dominance over any criminal market sector, including, but not limited
40 to, manufacturing, delivering, or selling any controlled substance

(chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter 9.68 RCW).

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

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

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

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

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

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

(21) "Drug offender sentencing alternative" is a sentencing option available to persons convicted of a felony offense other than

1 a violent offense or a sex offense and who are eligible for the
2 option under RCW 9.94A.660.

3 (22) "Drug offense" means:

4 (a) Any felony violation of chapter 69.50 RCW except possession
5 of a controlled substance (RCW 69.50.4013) or forged prescription for
6 a controlled substance (RCW 69.50.403);

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

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

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

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

20 (a) Radio frequency signaling technology, which detects if the
21 monitored individual is or is not at an approved location and
22 notifies the monitoring agency of the time that the monitored
23 individual either leaves the approved location or tampers with or
24 removes the monitoring device; or

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

28 (25) "Escape" means:

29 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
30 the first degree (RCW 9A.76.110), escape in the second degree (RCW
31 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
32 willful failure to return from work release (RCW 72.65.070), or
33 willful failure to be available for supervision by the department
34 while in community custody (RCW 72.09.310); or

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

38 (26) "Felony traffic offense" means:

39 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
40 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-

1 run injury-accident (RCW 46.52.020(4)), felony driving while under
2 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
3 or felony physical control of a vehicle while under the influence of
4 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

28 (c) A private residence where the individual stays as a transient
29 invitee.

30 (31) "Legal financial obligation" means a sum of money that is
31 ordered by a superior court of the state of Washington for legal
32 financial obligations which may include restitution to the victim,
33 statutorily imposed crime victims' compensation fees as assessed
34 pursuant to RCW 7.68.035, court costs, county or interlocal drug
35 funds, court-appointed attorneys' fees, and costs of defense, fines,
36 and any other financial obligation that is assessed to the offender
37 as a result of a felony conviction. Upon conviction for vehicular
38 assault while under the influence of intoxicating liquor or any drug,
39 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
40 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal

1 financial obligations may also include payment to a public agency of
2 the expense of an emergency response to the incident resulting in the
3 conviction, subject to RCW 38.52.430.

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

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

9 (a) Any felony defined under any law as a class A felony or
10 criminal solicitation of or criminal conspiracy to commit a class A
11 felony;

12 (b) Assault in the second degree;

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

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

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

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Robbery in the second degree;

26 (p) Sexual exploitation;

27 (q) Vehicular assault, when caused by the operation or driving of
28 a vehicle by a person while under the influence of intoxicating
29 liquor or any drug or by the operation or driving of a vehicle in a
30 reckless manner;

31 (r) Vehicular homicide, when proximately caused by the driving of
32 any vehicle by any person while under the influence of intoxicating
33 liquor or any drug as defined by RCW 46.61.502, or by the operation
34 of any vehicle in a reckless manner;

35 (s) Any other class B felony offense with a finding of sexual
36 motivation;

37 (t) Any other felony with a deadly weapon verdict under RCW
38 9.94A.825;

39 (u) Any felony offense in effect at any time prior to December 2,
40 1993, that is comparable to a most serious offense under this

subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection;

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

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

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

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

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

(36) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention,

1 electronic monitoring, or work crew has been ordered by the court or
2 home detention has been ordered by the department as part of the
3 parenting program or the graduated reentry program, in an approved
4 residence, for a substantial portion of each day with the balance of
5 the day spent in the community. Partial confinement includes work
6 release, home detention, work crew, electronic monitoring, and a
7 combination of work crew, electronic monitoring, and home detention.

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

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

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

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

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

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

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

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

23 (vii) Malicious Harassment (RCW 9A.36.080);

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

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

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

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

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

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

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

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

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

36 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
37 9A.56.070);

38 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
39 9A.56.075);

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

(xx) Extortion 2 (RCW 9A.56.130);
(xxi) Intimidating a Witness (RCW 9A.72.110);
(xxii) Tampering with a Witness (RCW 9A.72.120);
(xxiii) Reckless Endangerment (RCW 9A.36.050);
(xxiv) Coercion (RCW 9A.36.070);
(xxv) Harassment (RCW 9A.46.020); or
(xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

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

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

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

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

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

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

(ii) Has, before the commission of the offense under (b)(i) of this subsection, been convicted as an offender on at least one occasion, whether in this state or elsewhere, of an offense listed in

(b)(i) of this subsection or any federal or out-of-state offense or offense under prior Washington law that is comparable to the offenses listed in (b)(i) of this subsection. A conviction for rape of a child in the first degree constitutes a conviction under (b)(i) of this subsection only when the offender was sixteen years of age or older when the offender committed the offense. A conviction for rape of a child in the second degree constitutes a conviction under (b)(i) of this subsection only when the offender was eighteen years of age or older when the offender committed the offense.

(39) "Predatory" means: (a) The perpetrator of the crime was a stranger to the victim, as defined in this section; (b) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization of the victim was a significant reason the perpetrator established or promoted the relationship; or (c) the perpetrator was: (i) A teacher, counselor, volunteer, or other person in authority in any public or private school and the victim was a student of the school under his or her authority or supervision. For purposes of this subsection, "school" does not include home-based instruction as defined in RCW 28A.225.010; (ii) a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in the activity under his or her authority or supervision; (iii) a pastor, elder, volunteer, or other person in authority in any church or religious organization, and the victim was a member or participant of the organization under his or her authority; or (iv) a teacher, counselor, volunteer, or other person in authority providing home-based instruction and the victim was a student receiving home-based instruction while under his or her authority or supervision. For purposes of this subsection: (A) "Home-based instruction" has the same meaning as defined in RCW 28A.225.010; and (B) "teacher, counselor, volunteer, or other person in authority" does not include the parent or legal guardian of the victim.

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

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

(42) "Repetitive domestic violence offense" means any:

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

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

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

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

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

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

14 (43) "Restitution" means a specific sum of money ordered by the
15 sentencing court to be paid by the offender to the court over a
16 specified period of time as payment of damages. The sum may include
17 both public and private costs.

18 (44) "Risk assessment" means the application of the risk
19 instrument recommended to the department by the Washington state
20 institute for public policy as having the highest degree of
21 predictive accuracy for assessing an offender's risk of reoffense.

22 (45) "Serious traffic offense" means:

23 (a) Nonfelony driving while under the influence of intoxicating
24 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
25 while under the influence of intoxicating liquor or any drug (RCW
26 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
27 attended vehicle (RCW 46.52.020(5)); or

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

31 (46) "Serious violent offense" is a subcategory of violent
32 offense and means:

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

34 (ii) Homicide by abuse;

35 (iii) Murder in the second degree;

36 (iv) Manslaughter in the first degree;

37 (v) Assault in the first degree;

38 (vi) Kidnapping in the first degree;

39 (vii) Rape in the first degree;

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

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

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

6 (47) "Sex offense" means:

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

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

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

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

15 (v) A felony violation of RCW 9A.44.132(1) (failure to register
16 as a sex offender) if the person has been convicted of violating RCW
17 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
18 prior to June 10, 2010, on at least one prior occasion;

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

22 (c) A felony with a finding of sexual motivation under RCW
23 9.94A.835 or 13.40.135; or

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

27 (48) "Sexual motivation" means that one of the purposes for which
28 the defendant committed the crime was for the purpose of his or her
29 sexual gratification.

30 (49) "Standard sentence range" means the sentencing court's
31 discretionary range in imposing a nonappealable sentence.

32 (50) "Statutory maximum sentence" means the maximum length of
33 time for which an offender may be confined as punishment for a crime
34 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute
35 defining the crime, or other statute defining the maximum penalty for
36 a crime.

37 (51) "Stranger" means that the victim did not know the offender
38 twenty-four hours before the offense.

39 (52) "Total confinement" means confinement inside the physical
40 boundaries of a facility or institution operated or utilized under

1 contract by the state or any other unit of government for twenty-four
2 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 (53) "Transition training" means written and verbal instructions
4 and assistance provided by the department to the offender during the
5 two weeks prior to the offender's successful completion of the work
6 ethic camp program. The transition training shall include
7 instructions in the offender's requirements and obligations during
8 the offender's period of community custody.

9 (54) "Victim" means any person who has sustained emotional,
10 psychological, physical, or financial injury to person or property as
11 a direct result of the crime charged.

12 (55) "Violent offense" means:

13 (a) Any of the following felonies:

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

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

18 (iii) Manslaughter in the first degree;

19 (iv) Manslaughter in the second degree;

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

21 (vi) Kidnapping in the second degree;

22 (vii) Arson in the second degree;

23 (viii) Assault in the second degree;

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

25 (x) Extortion in the first degree;

26 (xi) Robbery in the second degree;

27 (xii) Drive-by shooting;

28 (xiii) Vehicular assault, when caused by the operation or driving
29 of a vehicle by a person while under the influence of intoxicating
30 liquor or any drug or by the operation or driving of a vehicle in a
31 reckless manner; and

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

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

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

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

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

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

Sec. 4. RCW 9.94A.734 and 2015 c 287 s 2 are each amended to read as follows:

(1) Home detention may not be imposed for offenders convicted of the following offenses, unless imposed as partial confinement in the department's parenting program under RCW 9.94A.6551 or the graduated reentry program under section 1 of this act:

(a) A violent offense;

(b) Any sex offense;

(c) Any drug offense;

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

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

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

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

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

Home detention may be imposed for offenders convicted of possession of a controlled substance under RCW 69.50.4013 or forged prescription for a controlled substance under RCW 69.50.403 if the offender fulfills the participation conditions set forth in this section and is monitored for drug use by a treatment alternatives to street crime program or a comparable court or agency-referred program.

1 (2) Home detention may be imposed for offenders convicted of
2 burglary in the second degree as defined in RCW 9A.52.030 or
3 residential burglary conditioned upon the offender:

4 (a) Successfully completing twenty-one days in a work release
5 program;

6 (b) Having no convictions for burglary in the second degree or
7 residential burglary during the preceding two years and not more than
8 two prior convictions for burglary or residential burglary;

9 (c) Having no convictions for a violent felony offense during the
10 preceding two years and not more than two prior convictions for a
11 violent felony offense;

12 (d) Having no prior charges of escape; and

13 (e) Fulfilling the other conditions of the home detention
14 program.

15 (3) Home detention may be imposed for offenders convicted of
16 taking a motor vehicle without permission in the second degree as
17 defined in RCW 9A.56.075, theft of a motor vehicle as defined under
18 RCW 9A.56.065, or possession of a stolen motor vehicle as defined
19 under RCW 9A.56.068 conditioned upon the offender:

20 (a) Having no convictions for taking a motor vehicle without
21 permission, theft of a motor vehicle or possession of a stolen motor
22 vehicle during the preceding five years and not more than two prior
23 convictions for taking a motor vehicle without permission, theft of a
24 motor vehicle or possession of a stolen motor vehicle;

25 (b) Having no convictions for a violent felony offense during the
26 preceding two years and not more than two prior convictions for a
27 violent felony offense;

28 (c) Having no prior charges of escape; and

29 (d) Fulfilling the other conditions of the home detention
30 program.

31 (4) Participation in a home detention program shall be
32 conditioned upon:

33 (a) The offender obtaining or maintaining current employment or
34 attending a regular course of school study at regularly defined
35 hours, or the offender performing parental duties to offspring or
36 minors normally in the custody of the offender;

37 (b) Abiding by the rules of the home detention program; and

38 (c) Compliance with court-ordered legal financial obligations.

39 (5) The home detention program may also be made available to
40 offenders whose charges and convictions do not otherwise disqualify

1 them if medical or health-related conditions, concerns or treatment
2 would be better addressed under the home detention program, or where
3 the health and welfare of the offender, other inmates, or staff would
4 be jeopardized by the offender's incarceration. Participation in the
5 home detention program for medical or health-related reasons is
6 conditioned on the offender abiding by the rules of the home
7 detention program and complying with court-ordered restitution.

8 (6)(a) A sentencing court shall deny the imposition of home
9 detention if the court finds that (i) the offender has previously and
10 knowingly violated the terms of a home detention program and (ii) the
11 previous violation is not a technical, minor, or nonsubstantive
12 violation.

13 (b) A sentencing court may deny the imposition of home detention
14 if the court finds that (i) the offender has previously and knowingly
15 violated the terms of a home detention program and (ii) the previous
16 violation or violations were technical, minor, or nonsubstantive
17 violations.

18 (7) A home detention program must be administered by a monitoring
19 agency that meets the conditions described in RCW 9.94A.736.

20 **Sec. 5.** RCW 9.94A.190 and 2010 c 224 s 10 are each amended to
21 read as follows:

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

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

1 legislature to the department for the purpose of covering the cost of
2 county use of state partial confinement facilities. The office of
3 financial management shall reestablish reimbursement rates each even-
4 numbered year.

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

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

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

--- END ---



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