
SUBSTITUTE HOUSE BILL 1282

State of Washington

67th Legislature

2021 Regular Session

By House Public Safety (originally sponsored by Representatives Simmons, J. Johnson, Hansen, Ramel, Frame, Dolan, Bateman, Fitzgibbon, Ryu, Berry, Peterson, Davis, Hackney, Fey, Thai, Gregerson, Macri, Callan, Ormsby, Pollet, Senn, and Ramos; by request of Department of Corrections)

1 AN ACT Relating to allowed earned time for certain offenses;
2 amending RCW 9.94A.729, 9.94A.729, 9.94A.540, 10.01.210, and
3 72.01.410; reenacting and amending RCW 9.94A.533; creating new
4 sections; providing an effective date; and providing an expiration
5 date.

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

7 **Sec. 1.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
8 read as follows:

9 (1)(a) The term of the sentence of an offender committed to a
10 correctional facility operated by the department may be reduced by
11 earned release time in accordance with procedures that shall be
12 developed and adopted by the correctional agency having jurisdiction
13 in which the offender is confined. The earned release time shall be
14 for good behavior and good performance, as determined by the
15 correctional agency having jurisdiction. The correctional agency
16 shall not credit the offender with earned release credits in advance
17 of the offender actually earning the credits.

18 (b) Any program established pursuant to this section shall allow
19 an offender to earn early release credits for presentence
20 incarceration. If an offender is transferred from a county jail to
21 the department, the administrator of a county jail facility shall

1 certify to the department the amount of time spent in custody at the
2 facility and the number of days of early release credits lost or not
3 earned. The department may approve a jail certification from a
4 correctional agency that calculates early release time based on the
5 actual amount of confinement time served by the offender before
6 sentencing when an erroneous calculation of confinement time served
7 by the offender before sentencing appears on the judgment and
8 sentence. The department must adjust an offender's rate of early
9 release listed on the jail certification to be consistent with the
10 rate applicable to offenders in the department's facilities. However,
11 the department is not authorized to adjust the number of presentence
12 early release days that the jail has certified as lost or not earned.

13 ~~(2) ((An offender who has been convicted of a felony committed
14 after July 23, 1995, that involves any applicable deadly weapon
15 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not
16 receive any good time credits or earned release time for that portion
17 of his or her sentence that results from any deadly weapon
18 enhancements.~~

19 ~~(3) An offender may earn early release time as follows:))~~ Except
20 as provided in (a) through (c) of this subsection, an offender may
21 earn up to one-third of the offender's total sentence in aggregated
22 earned release time.

23 (a) In the case of an offender sentenced pursuant to RCW
24 10.95.030(3) or 10.95.035, the offender may not receive any earned
25 early release time during the minimum term of confinement imposed by
26 the court; for any remaining portion of the sentence served by the
27 offender, the aggregate earned release time may not exceed ((~~ten~~
28 percent)) one-third of the sentence.

29 ~~(b) ((In the case of an offender convicted of a serious violent
30 offense, or a sex offense that is a class A felony, committed on or
31 after July 1, 1990, and before July 1, 2003, the aggregate earned
32 release time may not exceed fifteen percent of the sentence.~~

33 ~~(c) In the case of an offender convicted of a serious violent
34 offense, or a sex offense that is a class A felony, committed on or
35 after July 1, 2003, the aggregate earned release time may not exceed
36 ten percent of the sentence.~~

37 ~~(d) An offender is qualified to earn up to fifty percent of
38 aggregate earned release time if he or she:~~

39 ~~(i) Is not classified as an offender who is at a high risk to
40 reoffend as provided in subsection (4) of this section;~~

1 ~~(ii) Is not confined pursuant to a sentence for:~~
2 ~~(A) A sex offense;~~
3 ~~(B) A violent offense;~~
4 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~
5 ~~(D) A felony that is domestic violence as defined in RCW~~
6 ~~10.99.020;~~
7 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~
8 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~
9 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
10 ~~intent to deliver methamphetamine; or~~
11 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~
12 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a~~
13 ~~minor);~~
14 ~~(iii) Has no prior conviction for the offenses listed in (d) (ii)~~
15 ~~of this subsection;~~
16 ~~(iv) Participates in programming or activities as directed by the~~
17 ~~offender's individual reentry plan as provided under RCW 72.09.270 to~~
18 ~~the extent that such programming or activities are made available by~~
19 ~~the department; and~~
20 ~~(v) Has not committed a new felony after July 22, 2007, while~~
21 ~~under community custody.~~
22 ~~(e) In no other case shall the aggregate earned release time~~
23 ~~exceed one-third of the total sentence.~~
24 ~~(4) The department shall perform a risk assessment of each~~
25 ~~offender who may qualify for earned early release under subsection~~
26 ~~(3)(d) of this section utilizing the risk assessment tool recommended~~
27 ~~by the Washington state institute for public policy. Subsection~~
28 ~~(3)(d) of this section does not apply to offenders convicted after~~
29 ~~July 1, 2010.~~
30 ~~(5))~~ In the case of an offender subject to a mandatory minimum
31 term of confinement pursuant to RCW 9.94A.540, the offender may
32 accrue earned time throughout the entire sentence, including the
33 portion of the sentence attributable to the mandatory minimum term,
34 but the offender may not be released before serving the entire
35 mandatory minimum term.
36 (c) An offender sentenced to total confinement for life without
37 the possibility of release, or who was sentenced under RCW
38 9.94A.670(5)(a), is not eligible for earned release credits under
39 this section.

1 (3)(a) A person who is eligible for earned early release as
2 provided in this section and who will be supervised by the department
3 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
4 community custody in lieu of earned release time;

5 (b) The department shall, as a part of its program for release to
6 the community in lieu of earned release, require the offender to
7 propose a release plan that includes an approved residence and living
8 arrangement. All offenders with community custody terms eligible for
9 release to community custody in lieu of earned release shall provide
10 an approved residence and living arrangement prior to release to the
11 community;

12 (c) The department may deny transfer to community custody in lieu
13 of earned release time if the department determines an offender's
14 release plan, including proposed residence location and living
15 arrangements, may violate the conditions of the sentence or
16 conditions of supervision, place the offender at risk to violate the
17 conditions of the sentence, place the offender at risk to reoffend,
18 or present a risk to victim safety or community safety. The
19 department's authority under this section is independent of any
20 court-ordered condition of sentence or statutory provision regarding
21 conditions for community custody;

22 (d) If the department is unable to approve the offender's release
23 plan, the department may do one or more of the following:

24 (i) Transfer an offender to partial confinement in lieu of earned
25 early release for a period not to exceed three months. The three
26 months in partial confinement is in addition to that portion of the
27 offender's term of confinement that may be served in partial
28 confinement as provided in RCW 9.94A.728(~~((5))~~) (1)(e);

29 (ii) Provide rental vouchers to the offender for a period not to
30 exceed three months if rental assistance will result in an approved
31 release plan.

32 A voucher must be provided in conjunction with additional
33 transition support programming or services that enable an offender to
34 participate in services including, but not limited to, substance
35 abuse treatment, mental health treatment, sex offender treatment,
36 educational programming, or employment programming;

37 (e) The department shall maintain a list of housing providers
38 that meets the requirements of RCW 72.09.285. If more than two
39 voucher recipients will be residing per dwelling unit, as defined in

1 RCW 59.18.030, rental vouchers for those recipients may only be paid
2 to a housing provider on the department's list;

3 (f) For each offender who is the recipient of a rental voucher,
4 the department shall gather data as recommended by the Washington
5 state institute for public policy in order to best demonstrate
6 whether rental vouchers are effective in reducing recidivism.

7 ~~((6) An offender serving a term of confinement imposed under RCW
8 9.94A.670(5)(a) is not eligible for earned release credits under this
9 section.))~~

10 **Sec. 2.** RCW 9.94A.729 and 2020 c 330 s 2 are each amended to
11 read as follows:

12 (1)(a) The term of the sentence of an offender committed to a
13 correctional facility operated by the department may be reduced by
14 earned release time in accordance with procedures that shall be
15 developed and adopted by the correctional agency having jurisdiction
16 in which the offender is confined. The earned release time shall be
17 for good behavior and good performance, as determined by the
18 correctional agency having jurisdiction. The correctional agency
19 shall not credit the offender with earned release credits in advance
20 of the offender actually earning the credits.

21 (b) Any program established pursuant to this section shall allow
22 an offender to earn early release credits for presentence
23 incarceration. If an offender is transferred from a county jail to
24 the department, the administrator of a county jail facility shall
25 certify to the department the amount of time spent in custody at the
26 facility and the number of days of early release credits lost or not
27 earned. The department may approve a jail certification from a
28 correctional agency that calculates early release time based on the
29 actual amount of confinement time served by the offender before
30 sentencing when an erroneous calculation of confinement time served
31 by the offender before sentencing appears on the judgment and
32 sentence. The department must adjust an offender's rate of early
33 release listed on the jail certification to be consistent with the
34 rate applicable to offenders in the department's facilities. However,
35 the department is not authorized to adjust the number of presentence
36 early release days that the jail has certified as lost or not earned.

37 (2) ~~((a) An offender who has been convicted of a felony committed
38 after July 23, 1995, that involves any applicable deadly weapon
39 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not~~

1 receive any good time credits or earned release time for that portion
2 of his or her sentence that results from any deadly weapon
3 enhancements.

4 ~~(b) An offender whose sentence includes any impaired driving~~
5 ~~enhancements under RCW 9.94A.533(7), minor child enhancements under~~
6 ~~RCW 9.94A.533(13), or both, shall not receive any good time credits~~
7 ~~or earned release time for any portion of his or her sentence that~~
8 ~~results from those enhancements.~~

9 ~~(3) An offender may earn early release time as follows:))~~ Except
10 as provided in (a) through (c) of this subsection, an offender may
11 earn up to one-third of the offender's total sentence in aggregated
12 earned release time.

13 (a) In the case of an offender sentenced pursuant to RCW
14 10.95.030(3) or 10.95.035, the offender may not receive any earned
15 early release time during the minimum term of confinement imposed by
16 the court; for any remaining portion of the sentence served by the
17 offender, the aggregate earned release time may not exceed ((ten
18 percent)) one-third of the sentence.

19 (b) ((In the case of an offender convicted of a serious violent
20 offense, or a sex offense that is a class A felony, committed on or
21 after July 1, 1990, and before July 1, 2003, the aggregate earned
22 release time may not exceed fifteen percent of the sentence.

23 (c) In the case of an offender convicted of a serious violent
24 offense, or a sex offense that is a class A felony, committed on or
25 after July 1, 2003, the aggregate earned release time may not exceed
26 ten percent of the sentence.

27 (d) An offender is qualified to earn up to fifty percent of
28 aggregate earned release time if he or she:

29 (i) Is not classified as an offender who is at a high risk to
30 reoffend as provided in subsection (4) of this section;

31 (ii) Is not confined pursuant to a sentence for:

32 (A) A sex offense;

33 (B) A violent offense;

34 (C) A crime against persons as defined in RCW 9.94A.411;

35 (D) A felony that is domestic violence as defined in RCW
36 10.99.020;

37 (E) A violation of RCW 9A.52.025 (residential burglary);

38 (F) A violation of, or an attempt, solicitation, or conspiracy to
39 violate, RCW 69.50.401 by manufacture or delivery or possession with
40 intent to deliver methamphetamine; or

1 ~~(G) A violation of, or an attempt, solicitation, or conspiracy to~~
2 ~~violate, RCW 69.50.406 (delivery of a controlled substance to a~~
3 ~~minor);~~

4 ~~(iii) Has no prior conviction for the offenses listed in (d) (ii)~~
5 ~~of this subsection;~~

6 ~~(iv) Participates in programming or activities as directed by the~~
7 ~~offender's individual reentry plan as provided under RCW 72.09.270 to~~
8 ~~the extent that such programming or activities are made available by~~
9 ~~the department; and~~

10 ~~(v) Has not committed a new felony after July 22, 2007, while~~
11 ~~under community custody.~~

12 ~~(e) In no other case shall the aggregate earned release time~~
13 ~~exceed one-third of the total sentence.~~

14 ~~(4) The department shall perform a risk assessment of each~~
15 ~~offender who may qualify for earned early release under subsection~~
16 ~~(3)(d) of this section utilizing the risk assessment tool recommended~~
17 ~~by the Washington state institute for public policy. Subsection~~
18 ~~(3)(d) of this section does not apply to offenders convicted after~~
19 ~~July 1, 2010.~~

20 ~~(5))~~ In the case of an offender subject to a mandatory minimum
21 term of confinement pursuant to RCW 9.94A.540, the offender may
22 accrue earned time throughout the entire sentence, including the
23 portion of the sentence attributable to the mandatory minimum term,
24 but the offender may not be released before serving the entire
25 mandatory minimum term.

26 (c) An offender sentenced to total confinement for life without
27 the possibility of release, or who was sentenced under RCW
28 9.94A.670(5)(a), is not eligible for earned release credits under
29 this section.

30 (3)(a) A person who is eligible for earned early release as
31 provided in this section and who will be supervised by the department
32 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
33 community custody in lieu of earned release time;

34 (b) The department shall, as a part of its program for release to
35 the community in lieu of earned release, require the offender to
36 propose a release plan that includes an approved residence and living
37 arrangement. All offenders with community custody terms eligible for
38 release to community custody in lieu of earned release shall provide
39 an approved residence and living arrangement prior to release to the
40 community;

1 (c) The department may deny transfer to community custody in lieu
2 of earned release time if the department determines an offender's
3 release plan, including proposed residence location and living
4 arrangements, may violate the conditions of the sentence or
5 conditions of supervision, place the offender at risk to violate the
6 conditions of the sentence, place the offender at risk to reoffend,
7 or present a risk to victim safety or community safety. The
8 department's authority under this section is independent of any
9 court-ordered condition of sentence or statutory provision regarding
10 conditions for community custody;

11 (d) If the department is unable to approve the offender's release
12 plan, the department may do one or more of the following:

13 (i) Transfer an offender to partial confinement in lieu of earned
14 early release for a period not to exceed three months. The three
15 months in partial confinement is in addition to that portion of the
16 offender's term of confinement that may be served in partial
17 confinement as provided in RCW 9.94A.728(1)(e);

18 (ii) Provide rental vouchers to the offender for a period not to
19 exceed three months if rental assistance will result in an approved
20 release plan.

21 A voucher must be provided in conjunction with additional
22 transition support programming or services that enable an offender to
23 participate in services including, but not limited to, substance
24 abuse treatment, mental health treatment, sex offender treatment,
25 educational programming, or employment programming;

26 (e) The department shall maintain a list of housing providers
27 that meets the requirements of RCW 72.09.285. If more than two
28 voucher recipients will be residing per dwelling unit, as defined in
29 RCW 59.18.030, rental vouchers for those recipients may only be paid
30 to a housing provider on the department's list;

31 (f) For each offender who is the recipient of a rental voucher,
32 the department shall gather data as recommended by the Washington
33 state institute for public policy in order to best demonstrate
34 whether rental vouchers are effective in reducing recidivism.

35 ~~((6) An offender serving a term of confinement imposed under RCW
36 9.94A.670(5)(a) is not eligible for earned release credits under this
37 section.))~~

38 NEW SECTION. **Sec. 3.** Pursuant to RCW 9.94A.729, the department
39 of corrections shall recalculate the earned release date for any

1 offender currently serving a term in a facility or institution either
2 operated by the state or utilized under contract. The earned release
3 date shall be recalculated whether the offender is currently
4 incarcerated or is sentenced after the effective date of this
5 section, and regardless of the offender's date of offense. For
6 offenders whose offense was committed prior to the effective date of
7 this section, the recalculation shall not extend a term of
8 incarceration beyond that to which an offender is currently subject.
9 This act applies retroactively and prospectively, regardless of the
10 date of an offender's underlying offense.

11 NEW SECTION. **Sec. 4.** The department of corrections'
12 recalculations of earned time pursuant to sections 1 and 2 of this
13 act do not create any expectations that the percentage of earned
14 release time will be revised before the effective date of this
15 section, and offenders have no reason to conclude that the maximum
16 percentage of earned release time is an entitlement or creates any
17 liberty interest. The department of corrections has discretion to
18 implement the retroactive changes to earned early release for
19 qualifying offenders over a period of time not to exceed 12 months
20 following the effective date of this section.

21 **Sec. 5.** RCW 9.94A.533 and 2020 c 330 s 1 and 2020 c 141 s 1 are
22 each reenacted and amended to read as follows:

23 (1) The provisions of this section apply to the standard sentence
24 ranges determined by RCW 9.94A.510 or 9.94A.517.

25 (2) For persons convicted of the anticipatory offenses of
26 criminal attempt, solicitation, or conspiracy under chapter 9A.28
27 RCW, the standard sentence range is determined by locating the
28 sentencing grid sentence range defined by the appropriate offender
29 score and the seriousness level of the completed crime, and
30 multiplying the range by seventy-five percent.

31 (3) The following additional times shall be added to the standard
32 sentence range for felony crimes committed after July 23, 1995, if
33 the offender or an accomplice was armed with a firearm as defined in
34 RCW 9.41.010 and the offender is being sentenced for one of the
35 crimes listed in this subsection as eligible for any firearm
36 enhancements based on the classification of the completed felony
37 crime. If the offender is being sentenced for more than one offense,
38 the firearm enhancement or enhancements must be added to the total

1 period of confinement for all offenses, regardless of which
2 underlying offense is subject to a firearm enhancement. If the
3 offender or an accomplice was armed with a firearm as defined in RCW
4 9.41.010 and the offender is being sentenced for an anticipatory
5 offense under chapter 9A.28 RCW to commit one of the crimes listed in
6 this subsection as eligible for any firearm enhancements, the
7 following additional times shall be added to the standard sentence
8 range determined under subsection (2) of this section based on the
9 felony crime of conviction as classified under RCW 9A.28.020:

10 (a) Five years for any felony defined under any law as a class A
11 felony or with a statutory maximum sentence of at least twenty years,
12 or both, and not covered under (f) of this subsection;

13 (b) Three years for any felony defined under any law as a class B
14 felony or with a statutory maximum sentence of ten years, or both,
15 and not covered under (f) of this subsection;

16 (c) Eighteen months for any felony defined under any law as a
17 class C felony or with a statutory maximum sentence of five years, or
18 both, and not covered under (f) of this subsection;

19 (d) If the offender is being sentenced for any firearm
20 enhancements under (a), (b), and/or (c) of this subsection and the
21 offender has previously been sentenced for any deadly weapon
22 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
23 subsection or subsection (4)(a), (b), and/or (c) of this section, or
24 both, all firearm enhancements under this subsection shall be twice
25 the amount of the enhancement listed;

26 (e) Notwithstanding any other provision of law, all firearm
27 enhancements under this section are mandatory, shall be served in
28 total confinement, and shall run consecutively to all other
29 sentencing provisions, including other firearm or deadly weapon
30 enhancements, for all offenses sentenced under this chapter. However,
31 whether or not a mandatory minimum term has expired, an offender
32 serving a sentence under this subsection may be:

33 (i) Granted an extraordinary medical placement when authorized
34 under RCW 9.94A.728(1)(c); or

35 (ii) Released under the provisions of RCW 9.94A.730;

36 (f) The firearm enhancements in this section shall apply to all
37 felony crimes except the following: Possession of a machine gun or
38 bump-fire stock, possessing a stolen firearm, drive-by shooting,
39 theft of a firearm, unlawful possession of a firearm in the first and

1 second degree, and use of a machine gun or bump-fire stock in a
2 felony;

3 (g) If the standard sentence range under this section exceeds the
4 statutory maximum sentence for the offense, the statutory maximum
5 sentence shall be the presumptive sentence unless the offender is a
6 persistent offender. If the addition of a firearm enhancement
7 increases the sentence so that it would exceed the statutory maximum
8 for the offense, the portion of the sentence representing the
9 enhancement may not be reduced.

10 (4) The following additional times shall be added to the standard
11 sentence range for felony crimes committed after July 23, 1995, if
12 the offender or an accomplice was armed with a deadly weapon other
13 than a firearm as defined in RCW 9.41.010 and the offender is being
14 sentenced for one of the crimes listed in this subsection as eligible
15 for any deadly weapon enhancements based on the classification of the
16 completed felony crime. If the offender is being sentenced for more
17 than one offense, the deadly weapon enhancement or enhancements must
18 be added to the total period of confinement for all offenses,
19 regardless of which underlying offense is subject to a deadly weapon
20 enhancement. If the offender or an accomplice was armed with a deadly
21 weapon other than a firearm as defined in RCW 9.41.010 and the
22 offender is being sentenced for an anticipatory offense under chapter
23 9A.28 RCW to commit one of the crimes listed in this subsection as
24 eligible for any deadly weapon enhancements, the following additional
25 times shall be added to the standard sentence range determined under
26 subsection (2) of this section based on the felony crime of
27 conviction as classified under RCW 9A.28.020:

28 (a) Two years for any felony defined under any law as a class A
29 felony or with a statutory maximum sentence of at least twenty years,
30 or both, and not covered under (f) of this subsection;

31 (b) One year for any felony defined under any law as a class B
32 felony or with a statutory maximum sentence of ten years, or both,
33 and not covered under (f) of this subsection;

34 (c) Six months for any felony defined under any law as a class C
35 felony or with a statutory maximum sentence of five years, or both,
36 and not covered under (f) of this subsection;

37 (d) If the offender is being sentenced under (a), (b), and/or (c)
38 of this subsection for any deadly weapon enhancements and the
39 offender has previously been sentenced for any deadly weapon
40 enhancements after July 23, 1995, under (a), (b), and/or (c) of this

1 subsection or subsection (3)(a), (b), and/or (c) of this section, or
2 both, all deadly weapon enhancements under this subsection shall be
3 twice the amount of the enhancement listed;

4 (e) Notwithstanding any other provision of law, all deadly weapon
5 enhancements under this section are mandatory, shall be served in
6 total confinement, and shall run consecutively to all other
7 sentencing provisions, including other firearm or deadly weapon
8 enhancements, for all offenses sentenced under this chapter. However,
9 whether or not a mandatory minimum term has expired, an offender
10 serving a sentence under this subsection may be:

11 (i) Granted an extraordinary medical placement when authorized
12 under RCW 9.94A.728(1)(c); or

13 (ii) Released under the provisions of RCW 9.94A.730;

14 (f) The deadly weapon enhancements in this section shall apply to
15 all felony crimes except the following: Possession of a machine gun
16 or bump-fire stock, possessing a stolen firearm, drive-by shooting,
17 theft of a firearm, unlawful possession of a firearm in the first and
18 second degree, and use of a machine gun or bump-fire stock in a
19 felony;

20 (g) If the standard sentence range under this section exceeds the
21 statutory maximum sentence for the offense, the statutory maximum
22 sentence shall be the presumptive sentence unless the offender is a
23 persistent offender. If the addition of a deadly weapon enhancement
24 increases the sentence so that it would exceed the statutory maximum
25 for the offense, the portion of the sentence representing the
26 enhancement may not be reduced.

27 (5) The following additional times shall be added to the standard
28 sentence range if the offender or an accomplice committed the offense
29 while in a county jail or state correctional facility and the
30 offender is being sentenced for one of the crimes listed in this
31 subsection. If the offender or an accomplice committed one of the
32 crimes listed in this subsection while in a county jail or state
33 correctional facility, and the offender is being sentenced for an
34 anticipatory offense under chapter 9A.28 RCW to commit one of the
35 crimes listed in this subsection, the following additional times
36 shall be added to the standard sentence range determined under
37 subsection (2) of this section:

38 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
39 (a) or (b) or 69.50.410;

1 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
2 (c), (d), or (e);

3 (c) Twelve months for offenses committed under RCW 69.50.4013.

4 For the purposes of this subsection, all of the real property of
5 a state correctional facility or county jail shall be deemed to be
6 part of that facility or county jail.

7 (6) An additional twenty-four months shall be added to the
8 standard sentence range for any ranked offense involving a violation
9 of chapter 69.50 RCW if the offense was also a violation of RCW
10 69.50.435 or 9.94A.827. All enhancements under this subsection shall
11 run consecutively to all other sentencing provisions, for all
12 offenses sentenced under this chapter.

13 (7) An additional two years shall be added to the standard
14 sentence range for vehicular homicide committed while under the
15 influence of intoxicating liquor or any drug as defined by RCW
16 46.61.502 for each prior offense as defined in RCW 46.61.5055.

17 Notwithstanding any other provision of law, all impaired driving
18 enhancements under this subsection are mandatory, shall be served in
19 total confinement, and shall run consecutively to all other
20 sentencing provisions, including other impaired driving enhancements,
21 for all offenses sentenced under this chapter.

22 An offender serving a sentence under this subsection may be
23 granted an extraordinary medical placement when authorized under RCW
24 9.94A.728(1)(c).

25 (8)(a) The following additional times shall be added to the
26 standard sentence range for felony crimes committed on or after July
27 1, 2006, if the offense was committed with sexual motivation, as that
28 term is defined in RCW 9.94A.030. If the offender is being sentenced
29 for more than one offense, the sexual motivation enhancement must be
30 added to the total period of total confinement for all offenses,
31 regardless of which underlying offense is subject to a sexual
32 motivation enhancement. If the offender committed the offense with
33 sexual motivation and the offender is being sentenced for an
34 anticipatory offense under chapter 9A.28 RCW, the following
35 additional times shall be added to the standard sentence range
36 determined under subsection (2) of this section based on the felony
37 crime of conviction as classified under RCW 9A.28.020:

38 (i) Two years for any felony defined under the law as a class A
39 felony or with a statutory maximum sentence of at least twenty years,
40 or both;

1 (ii) Eighteen months for any felony defined under any law as a
2 class B felony or with a statutory maximum sentence of ten years, or
3 both;

4 (iii) One year for any felony defined under any law as a class C
5 felony or with a statutory maximum sentence of five years, or both;

6 (iv) If the offender is being sentenced for any sexual motivation
7 enhancements under (a) (i), (ii), and/or (iii) of this subsection and
8 the offender has previously been sentenced for any sexual motivation
9 enhancements on or after July 1, 2006, under (a) (i), (ii), and/or
10 (iii) of this subsection, all sexual motivation enhancements under
11 this subsection shall be twice the amount of the enhancement listed;

12 (b) Notwithstanding any other provision of law, all sexual
13 motivation enhancements under this subsection are mandatory, shall be
14 served in total confinement, and shall run consecutively to all other
15 sentencing provisions, including other sexual motivation
16 enhancements, for all offenses sentenced under this chapter. However,
17 whether or not a mandatory minimum term has expired, an offender
18 serving a sentence under this subsection may be:

19 (i) Granted an extraordinary medical placement when authorized
20 under RCW 9.94A.728(1) (c); or

21 (ii) Released under the provisions of RCW 9.94A.730;

22 (c) The sexual motivation enhancements in this subsection apply
23 to all felony crimes;

24 (d) If the standard sentence range under this subsection exceeds
25 the statutory maximum sentence for the offense, the statutory maximum
26 sentence shall be the presumptive sentence unless the offender is a
27 persistent offender. If the addition of a sexual motivation
28 enhancement increases the sentence so that it would exceed the
29 statutory maximum for the offense, the portion of the sentence
30 representing the enhancement may not be reduced;

31 ~~(e) ((The portion of the total confinement sentence which the
32 offender must serve under this subsection shall be calculated before
33 any earned early release time is credited to the offender;~~

34 ~~(f))~~ Nothing in this subsection prevents a sentencing court from
35 imposing a sentence outside the standard sentence range pursuant to
36 RCW 9.94A.535.

37 (9) An additional one-year enhancement shall be added to the
38 standard sentence range for the felony crimes of RCW 9A.44.073,
39 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
40 or after July 22, 2007, if the offender engaged, agreed, or offered

1 to engage the victim in the sexual conduct in return for a fee. If
2 the offender is being sentenced for more than one offense, the
3 one-year enhancement must be added to the total period of total
4 confinement for all offenses, regardless of which underlying offense
5 is subject to the enhancement. If the offender is being sentenced for
6 an anticipatory offense for the felony crimes of RCW 9A.44.073,
7 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
8 offender attempted, solicited another, or conspired to engage, agree,
9 or offer to engage the victim in the sexual conduct in return for a
10 fee, an additional one-year enhancement shall be added to the
11 standard sentence range determined under subsection (2) of this
12 section. For purposes of this subsection, "sexual conduct" means
13 sexual intercourse or sexual contact, both as defined in chapter
14 9A.44 RCW.

15 (10)(a) For a person age eighteen or older convicted of any
16 criminal street gang-related felony offense for which the person
17 compensated, threatened, or solicited a minor in order to involve the
18 minor in the commission of the felony offense, the standard sentence
19 range is determined by locating the sentencing grid sentence range
20 defined by the appropriate offender score and the seriousness level
21 of the completed crime, and multiplying the range by one hundred
22 twenty-five percent. If the standard sentence range under this
23 subsection exceeds the statutory maximum sentence for the offense,
24 the statutory maximum sentence is the presumptive sentence unless the
25 offender is a persistent offender.

26 (b) This subsection does not apply to any criminal street gang-
27 related felony offense for which involving a minor in the commission
28 of the felony offense is an element of the offense.

29 (c) The increased penalty specified in (a) of this subsection is
30 unavailable in the event that the prosecution gives notice that it
31 will seek an exceptional sentence based on an aggravating factor
32 under RCW 9.94A.535.

33 (11) An additional twelve months and one day shall be added to
34 the standard sentence range for a conviction of attempting to elude a
35 police vehicle as defined by RCW 46.61.024, if the conviction
36 included a finding by special allegation of endangering one or more
37 persons under RCW 9.94A.834.

38 (12) An additional twelve months shall be added to the standard
39 sentence range for an offense that is also a violation of RCW
40 9.94A.831.

1 (13) An additional twelve months shall be added to the standard
2 sentence range for vehicular homicide committed while under the
3 influence of intoxicating liquor or any drug as defined by RCW
4 46.61.520 or for vehicular assault committed while under the
5 influence of intoxicating liquor or any drug as defined by RCW
6 46.61.522, or for any felony driving under the influence (RCW
7 46.61.502(6)) or felony physical control under the influence (RCW
8 46.61.504(6)) for each child passenger under the age of sixteen who
9 is an occupant in the defendant's vehicle. These enhancements shall
10 be mandatory, shall be served in total confinement, and shall run
11 consecutively to all other sentencing provisions, including other
12 minor child enhancements, for all offenses sentenced under this
13 chapter. If the addition of a minor child enhancement increases the
14 sentence so that it would exceed the statutory maximum for the
15 offense, the portion of the sentence representing the enhancement
16 shall be mandatory, shall be served in total confinement, and shall
17 run consecutively to all other sentencing provisions.

18 (14) An additional twelve months shall be added to the standard
19 sentence range for an offense that is also a violation of RCW
20 9.94A.832.

21 (15) Regardless of any provisions in this section, if a person is
22 being sentenced in adult court for a crime committed under age
23 eighteen, the court has full discretion to depart from mandatory
24 sentencing enhancements and to take the particular circumstances
25 surrounding the defendant's youth into account.

26 (16) All sentencing enhancements in this section are subject to
27 the earned early release provisions of RCW 9.94A.729.

28 **Sec. 6.** RCW 9.94A.540 and 2014 c 130 s 2 are each amended to
29 read as follows:

30 (1) Except to the extent provided in subsection (3) of this
31 section, the following minimum terms of total confinement are
32 mandatory and shall not be varied or modified under RCW 9.94A.535:

33 (a) An offender convicted of the crime of murder in the first
34 degree shall be sentenced to a term of total confinement not less
35 than twenty years.

36 (b) An offender convicted of the crime of assault in the first
37 degree or assault of a child in the first degree where the offender
38 used force or means likely to result in death or intended to kill the

1 victim shall be sentenced to a term of total confinement not less
2 than five years.

3 (c) An offender convicted of the crime of rape in the first
4 degree shall be sentenced to a term of total confinement not less
5 than five years.

6 (d) An offender convicted of the crime of sexually violent
7 predator escape shall be sentenced to a minimum term of total
8 confinement not less than sixty months.

9 (e) An offender convicted of the crime of aggravated first degree
10 murder for a murder that was committed prior to the offender's
11 eighteenth birthday shall be sentenced to a term of total confinement
12 not less than twenty-five years.

13 (2) During such minimum terms of total confinement, no offender
14 subject to the provisions of this section is eligible for community
15 custody, early release through accrual of earned release time,
16 furlough, home detention, partial confinement, work crew, work
17 release, or any other form of early release authorized under RCW
18 9.94A.728, or any other form of authorized leave of absence from the
19 correctional facility while not in the direct custody of a
20 corrections officer. The provisions of this subsection shall not
21 apply: (a) In the case of an offender in need of emergency medical
22 treatment; (b) for the purpose of commitment to an inpatient
23 treatment facility in the case of an offender convicted of the crime
24 of rape in the first degree; or (c) for an extraordinary medical
25 placement when authorized under RCW 9.94A.728(~~(3)~~) (1)(c).

26 (3)(a) Subsection (1)(a) through (d) of this section shall not be
27 applied in sentencing of juveniles tried as adults pursuant to RCW
28 13.04.030(1)(e)(i).

29 (b) This subsection (3) applies only to crimes committed on or
30 after July 24, 2005.

31 **Sec. 7.** RCW 10.01.210 and 2002 c 290 s 23 are each amended to
32 read as follows:

33 Any and all law enforcement agencies and personnel, criminal
34 justice attorneys, sentencing judges, and state and local
35 correctional facilities and personnel may, but are not required to,
36 give any and all offenders either written or oral notice, or both, of
37 the sanctions imposed and criminal justice changes regarding armed
38 offenders, including but not limited to the subjects of:

1 (1) Felony crimes involving any deadly weapon special verdict
2 under RCW (~~9.94A.602~~) 9.94A.825;

3 (2) Any and all deadly weapon enhancements under RCW 9.94A.533
4 (3) or (4), or both, as well as any federal firearm, ammunition, or
5 other deadly weapon enhancements;

6 (3) Any and all felony crimes requiring the possession, display,
7 or use of any deadly weapon as well as the many increased penalties
8 for these crimes including the creation of theft of a firearm and
9 possessing a stolen firearm;

10 (4) New prosecuting standards established for filing charges for
11 all crimes involving any deadly weapons; and

12 (~~5) ((Removal of good time for any and all deadly weapon
13 enhancements; and~~

14 ~~(6))~~) Providing the death penalty for those who commit first
15 degree murder: (a) To join, maintain, or advance membership in an
16 identifiable group; (b) as part of a drive-by shooting; or (c) to
17 avoid prosecution as a persistent offender as defined in RCW
18 9.94A.030.

19 **Sec. 8.** RCW 72.01.410 and 2019 c 322 s 2 are each amended to
20 read as follows:

21 (1) Whenever any person is convicted as an adult in the courts of
22 this state of a felony offense committed under the age of eighteen,
23 and is committed for a term of confinement, that person shall be
24 initially placed in a facility operated by the department of
25 children, youth, and families. The department of corrections shall
26 determine the person's earned release date.

27 (a) While in the custody of the department of children, youth,
28 and families, the person must have the same treatment, housing
29 options, transfer, and access to program resources as any other
30 person committed to that juvenile correctional facility or
31 institution pursuant to chapter 13.40 RCW. Except as provided under
32 (d) of this subsection, treatment, placement, and program decisions
33 shall be at the sole discretion of the department of children, youth,
34 and families. The person shall not be transferred to the custody of
35 the department of corrections without the approval of the department
36 of children, youth, and families until the person reaches the age of
37 twenty-five.

38 (b) If the person's sentence includes a term of community
39 custody, the department of children, youth, and families shall not

1 release the person to community custody until the department of
2 corrections has approved the person's release plan pursuant to RCW
3 9.94A.729(~~(+5)~~) (3)(b). If a person is held past his or her earned
4 release date pending release plan approval, the department of
5 children, youth, and families shall retain custody until a plan is
6 approved or the person completes the ordered term of confinement
7 prior to age twenty-five.

8 (c) If the department of children, youth, and families determines
9 that retaining custody of the person in a facility of the department
10 of children, youth, and families presents a significant safety risk,
11 the department of children, youth, and families may transfer the
12 person to the custody of the department of corrections.

13 (d) The department of corrections must retain authority over
14 custody decisions relating to a person whose earned release date is
15 on or after the person's twenty-fifth birthday and who is placed in a
16 facility operated by the department of children, youth, and families
17 under this section, unless the person qualifies for partial
18 confinement under RCW 72.01.412, and must approve any leave from the
19 facility. When the person turns age twenty-five, he or she must be
20 transferred to the department of corrections, except as described
21 under RCW 72.01.412. The department of children, youth, and families
22 has all routine and day-to-day operations authority for the person
23 while the person is in its custody.

24 (2)(a) Except as provided in (b) and (c) of this subsection, a
25 person under the age of eighteen who is transferred to the custody of
26 the department of corrections must be placed in a housing unit, or a
27 portion of a housing unit, that is separated from other persons in
28 custody who are eighteen years of age or older, until the person
29 reaches the age of eighteen.

30 (b) A person who is transferred to the custody of the department
31 of corrections and reaches eighteen years of age may remain in a
32 housing unit for persons under the age of eighteen if the secretary
33 of corrections determines that: (i) The person's needs and the
34 rehabilitation goals for the person could continue to be better met
35 by the programs and housing environment that is separate from other
36 persons in custody who are eighteen years of age and older; and (ii)
37 the programs or housing environment for persons under the age of
38 eighteen will not be substantially affected by the continued
39 placement of the person in that environment. The person may remain
40 placed in a housing unit for persons under the age of eighteen until

1 such time as the secretary of corrections determines that the
2 person's needs and goals are no longer better met in that environment
3 but in no case past the person's twenty-fifth birthday.

4 (c) A person transferred to the custody of the department of
5 corrections who is under the age of eighteen may be housed in an
6 intensive management unit or administrative segregation unit
7 containing offenders eighteen years of age or older if it is
8 necessary for the safety or security of the offender or staff. In
9 these cases, the offender must be kept physically separate from other
10 offenders at all times.

11 (3) The department of children, youth, and families must review
12 the placement of a person over age twenty-one in the custody of the
13 department of children, youth, and families under this section to
14 determine whether the person should be transferred to the custody of
15 the department of corrections. The department of children, youth, and
16 families may determine the frequency of the review required under
17 this subsection, but the review must occur at least once before the
18 person reaches age twenty-three if the person's commitment period in
19 a juvenile institution extends beyond the person's twenty-third
20 birthday.

21 NEW SECTION. **Sec. 9.** Section 1 of this act expires January 1,
22 2022.

23 NEW SECTION. **Sec. 10.** Section 2 of this act takes effect
24 January 1, 2022.

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