
HOUSE BILL 1394

State of Washington

67th Legislature

2021 Regular Session

By Representative Young

1 AN ACT Relating to unlawful discharge of a laser offenses;
2 amending RCW 9A.49.020, 9A.49.030, 9A.49.040, and 9.94A.515;
3 reenacting and amending RCW 9.94A.533 and 9.94A.030; adding a new
4 section to chapter 9A.49 RCW; adding a new section to chapter 9.94A
5 RCW; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.49
8 RCW to read as follows:

9 (1) A person is guilty of unlawful discharge of a laser in the
10 first degree if he or she knowingly and maliciously discharges a
11 laser at a person and as a result causes any form of full or partial
12 visual or ophthalmic degradation to one or both eyes of that person.

13 (2) Unlawful discharge of a laser in the first degree is a class
14 A felony.

15 **Sec. 2.** RCW 9A.49.020 and 1999 c 180 s 3 are each amended to
16 read as follows:

17 (1) A person is guilty of unlawful discharge of a laser in the
18 (~~first~~) second degree if he or she knowingly and maliciously
19 discharges a laser, under circumstances not amounting to malicious
20 mischief in the first degree:

1 (a) At a law enforcement officer or other employee of a law
2 enforcement agency who is performing his or her official duties in
3 uniform or exhibiting evidence of his or her authority, and in a
4 manner that would support that officer's or employee's reasonable
5 belief that he or she is targeted with a laser sighting device or
6 system; or

7 (b) At a law enforcement officer or other employee of a law
8 enforcement agency who is performing his or her official duties,
9 causing an impairment of the safety or operation of a law enforcement
10 vehicle or causing an interruption or impairment of service rendered
11 to the public by negatively affecting the officer or employee; or

12 (c) At a pilot, causing an impairment of the safety or operation
13 of an aircraft or causing an interruption or impairment of service
14 rendered to the public by negatively affecting the pilot; or

15 (d) At a firefighter or other employee of a fire department,
16 county fire marshal's office, county fire prevention bureau, or fire
17 protection district who is performing his or her official duties,
18 causing an impairment of the safety or operation of an emergency
19 vehicle or causing an interruption or impairment of service rendered
20 to the public by negatively affecting the firefighter or employee; or

21 (e) At a transit operator or driver of a public or private
22 transit company while that person is performing his or her official
23 duties, causing an impairment of the safety or operation of a transit
24 vehicle or causing an interruption or impairment of service rendered
25 to the public by negatively affecting the operator or driver; or

26 (f) At a school bus driver employed by a school district or
27 private company while the driver is performing his or her official
28 duties, causing an impairment of the safety or operation of a school
29 bus or causing an interruption or impairment of service by negatively
30 affecting the bus driver.

31 (2) Except as provided in RCW 9A.49.040, unlawful discharge of a
32 laser in the (~~first~~) second degree is a class C felony.

33 **Sec. 3.** RCW 9A.49.030 and 1999 c 180 s 4 are each amended to
34 read as follows:

35 (1) A person is guilty of unlawful discharge of a laser in the
36 (~~second~~) third degree if he or she knowingly and maliciously
37 discharges a laser, under circumstances not amounting to unlawful
38 discharge of a laser in the first or second degree or malicious
39 mischief in the first or second degree:

1 (a) At a person, not described in RCW 9A.49.020(1) (a) through
2 (f), who is operating a motor vehicle at the time, causing an
3 impairment of the safety or operation of a motor vehicle by
4 negatively affecting the driver; or

5 (b) At a person described in RCW 9A.49.020(1) (b) through (f),
6 causing a substantial risk of an impairment or interruption as
7 described in RCW 9A.49.020(1) (b) through (f); or

8 (c) At a person in order to intimidate or threaten that person.

9 (2) Except as provided in RCW 9A.49.040, unlawful discharge of a
10 laser in the (~~second~~) third degree is a gross misdemeanor.

11 **Sec. 4.** RCW 9A.49.040 and 1999 c 180 s 5 are each amended to
12 read as follows:

13 Unlawful discharge of a laser in the (~~first degree or~~) second
14 or third degree is a civil infraction if committed by a juvenile who
15 has not before committed (~~either~~) an offense under this chapter.
16 The monetary penalty imposed upon a juvenile may not exceed (~~one~~
17 ~~hundred dollars~~) \$100.

18 **Sec. 5.** RCW 9.94A.515 and 2020 c 344 s 4 are each amended to
19 read as follows:

20 TABLE 2

21 CRIMES INCLUDED WITHIN EACH

22 SERIOUSNESS LEVEL

23	XVI	Aggravated Murder 1 (RCW 10.95.020)
24	XV	Homicide by abuse (RCW 9A.32.055)
25		Malicious explosion 1 (RCW
26		70.74.280(1))
27		Murder 1 (RCW 9A.32.030)
28	XIV	Murder 2 (RCW 9A.32.050)
29		Trafficking 1 (RCW 9A.40.100(1))
30	XIII	Malicious explosion 2 (RCW
31		70.74.280(2))
32		Malicious placement of an explosive 1
33		(RCW 70.74.270(1))
34	XII	Assault 1 (RCW 9A.36.011)
35		Assault of a Child 1 (RCW 9A.36.120)

1 Malicious placement of an imitation
2 device 1 (RCW 70.74.272(1)(a))
3 Promoting Commercial Sexual Abuse of
4 a Minor (RCW 9.68A.101)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Trafficking 2 (RCW 9A.40.100(3))
8 XI Manslaughter 1 (RCW 9A.32.060)
9 Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Unlawful discharge of a laser 1 (Section
12 1 of this act)
13 Vehicular Homicide, by being under the
14 influence of intoxicating liquor or
15 any drug (RCW 46.61.520)
16 Vehicular Homicide, by the operation of
17 any vehicle in a reckless manner
18 (RCW 46.61.520)
19 X Child Molestation 1 (RCW 9A.44.083)
20 Criminal Mistreatment 1 (RCW
21 9A.42.020)
22 Indecent Liberties (with forcible
23 compulsion) (RCW
24 9A.44.100(1)(a))
25 Kidnapping 1 (RCW 9A.40.020)
26 Leading Organized Crime (RCW
27 9A.82.060(1)(a))
28 Malicious explosion 3 (RCW
29 70.74.280(3))
30 Sexually Violent Predator Escape (RCW
31 9A.76.115)
32 IX Abandonment of Dependent Person 1
33 (RCW 9A.42.060)
34 Assault of a Child 2 (RCW 9A.36.130)

1 Explosive devices prohibited (RCW
2 70.74.180)
3 Hit and Run—Death (RCW
4 46.52.020(4)(a))
5 Homicide by Watercraft, by being under
6 the influence of intoxicating liquor
7 or any drug (RCW 79A.60.050)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Malicious placement of an explosive 2
11 (RCW 70.74.270(2))
12 Robbery 1 (RCW 9A.56.200)
13 Sexual Exploitation (RCW 9.68A.040)
14 VIII Arson 1 (RCW 9A.48.020)
15 Commercial Sexual Abuse of a Minor
16 (RCW 9.68A.100)
17 Homicide by Watercraft, by the
18 operation of any vessel in a reckless
19 manner (RCW 79A.60.050)
20 Manslaughter 2 (RCW 9A.32.070)
21 Promoting Prostitution 1 (RCW
22 9A.88.070)
23 Theft of Ammonia (RCW 69.55.010)
24 VII Air bag diagnostic systems (causing
25 bodily injury or death) (RCW
26 46.37.660(2)(b))
27 Air bag replacement requirements
28 (causing bodily injury or death)
29 (RCW 46.37.660(1)(b))
30 Burglary 1 (RCW 9A.52.020)
31 Child Molestation 2 (RCW 9A.44.086)
32 Civil Disorder Training (RCW
33 9A.48.120)

1 Dealing in depictions of minor engaged
2 in sexually explicit conduct 1
3 (RCW 9.68A.050(1))
4 Drive-by Shooting (RCW 9A.36.045)
5 False Reporting 1 (RCW
6 9A.84.040(2)(a))
7 Homicide by Watercraft, by disregard
8 for the safety of others (RCW
9 79A.60.050)
10 Indecent Liberties (without forcible
11 compulsion) (RCW 9A.44.100(1)
12 (b) and (c))
13 Introducing Contraband 1 (RCW
14 9A.76.140)
15 Malicious placement of an explosive 3
16 (RCW 70.74.270(3))
17 Manufacture or import counterfeit,
18 nonfunctional, damaged, or
19 previously deployed air bag
20 (causing bodily injury or death)
21 (RCW 46.37.650(1)(b))
22 Negligently Causing Death By Use of a
23 Signal Preemption Device (RCW
24 46.37.675)
25 Sell, install, or reinstall counterfeit,
26 nonfunctional, damaged, or
27 previously deployed airbag (RCW
28 46.37.650(2)(b))
29 Sending, bringing into state depictions
30 of minor engaged in sexually
31 explicit conduct 1 (RCW
32 9.68A.060(1))
33 Unlawful Possession of a Firearm in the
34 first degree (RCW 9.41.040(1))
35 Use of a Machine Gun or Bump-fire
36 Stock in Commission of a Felony
37 (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW 9A.72.160)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.070(1))
16 Rape of a Child 3 (RCW 9A.44.079)
17 Theft of a Firearm (RCW 9A.56.300)
18 Theft from a Vulnerable Adult 1 (RCW
19 9A.56.400(1))
20 Unlawful Storage of Ammonia (RCW
21 69.55.020)

22 V Abandonment of Dependent Person 2
23 (RCW 9A.42.070)
24 Advancing money or property for
25 extortionate extension of credit
26 (RCW 9A.82.030)
27 Air bag diagnostic systems (RCW
28 46.37.660(2)(c))
29 Air bag replacement requirements
30 (RCW 46.37.660(1)(c))
31 Bail Jumping with class A Felony
32 (RCW 9A.76.170(3)(b))
33 Child Molestation 3 (RCW 9A.44.089)
34 Criminal Mistreatment 2 (RCW
35 9A.42.030)

1 Custodial Sexual Misconduct 1 (RCW
2 9A.44.160)
3 Dealing in Depictions of Minor
4 Engaged in Sexually Explicit
5 Conduct 2 (RCW 9.68A.050(2))
6 Domestic Violence Court Order
7 Violation (RCW 10.99.040,
8 10.99.050, 26.09.300, 26.10.220,
9 26.26B.050, 26.50.110, 26.52.070,
10 or 74.34.145)
11 Extortion 1 (RCW 9A.56.120)
12 Extortionate Extension of Credit (RCW
13 9A.82.020)
14 Extortionate Means to Collect
15 Extensions of Credit (RCW
16 9A.82.040)
17 Incest 2 (RCW 9A.64.020(2))
18 Kidnapping 2 (RCW 9A.40.030)
19 Manufacture or import counterfeit,
20 nonfunctional, damaged, or
21 previously deployed air bag (RCW
22 46.37.650(1)(c))
23 Perjury 1 (RCW 9A.72.020)
24 Persistent prison misbehavior (RCW
25 9.94.070)
26 Possession of a Stolen Firearm (RCW
27 9A.56.310)
28 Rape 3 (RCW 9A.44.060)
29 Rendering Criminal Assistance 1 (RCW
30 9A.76.070)
31 Sell, install, or reinstall counterfeit,
32 nonfunctional, damaged, or
33 previously deployed airbag (RCW
34 46.37.650(2)(c))

1 Sending, Bringing into State Depictions
2 of Minor Engaged in Sexually
3 Explicit Conduct 2 (RCW
4 9.68A.060(2))
5 Sexual Misconduct with a Minor 1
6 (RCW 9A.44.093)
7 Sexually Violating Human Remains
8 (RCW 9A.44.105)
9 Stalking (RCW 9A.46.110)
10 Taking Motor Vehicle Without
11 Permission 1 (RCW 9A.56.070)
12 IV Arson 2 (RCW 9A.48.030)
13 Assault 2 (RCW 9A.36.021)
14 Assault 3 (of a Peace Officer with a
15 Projectile Stun Gun) (RCW
16 9A.36.031(1)(h))
17 Assault 4 (third domestic violence
18 offense) (RCW 9A.36.041(3))
19 Assault by Watercraft (RCW
20 79A.60.060)
21 Bribing a Witness/Bribe Received by
22 Witness (RCW 9A.72.090,
23 9A.72.100)
24 Cheating 1 (RCW 9.46.1961)
25 Commercial Bribery (RCW 9A.68.060)
26 Counterfeiting (RCW 9.16.035(4))
27 Driving While Under the Influence
28 (RCW 46.61.502(6))
29 Endangerment with a Controlled
30 Substance (RCW 9A.42.100)
31 Escape 1 (RCW 9A.76.110)
32 Hate Crime (RCW 9A.36.080)
33 Hit and Run—Injury (RCW
34 46.52.020(4)(b))

1 Hit and Run with Vessel—Injury
2 Accident (RCW 79A.60.200(3))
3 Identity Theft 1 (RCW 9.35.020(2))
4 Indecent Exposure to Person Under Age
5 Fourteen (subsequent sex offense)
6 (RCW 9A.88.010)
7 Influencing Outcome of Sporting Event
8 (RCW 9A.82.070)
9 Physical Control of a Vehicle While
10 Under the Influence (RCW
11 46.61.504(6))
12 Possession of Depictions of a Minor
13 Engaged in Sexually Explicit
14 Conduct 2 (RCW 9.68A.070(2))
15 Residential Burglary (RCW 9A.52.025)
16 Robbery 2 (RCW 9A.56.210)
17 Theft of Livestock 1 (RCW 9A.56.080)
18 Threats to Bomb (RCW 9.61.160)
19 Trafficking in Stolen Property 1 (RCW
20 9A.82.050)
21 Unlawful factoring of a credit card or
22 payment card transaction (RCW
23 9A.56.290(4)(b))
24 Unlawful transaction of health coverage
25 as a health care service contractor
26 (RCW 48.44.016(3))
27 Unlawful transaction of health coverage
28 as a health maintenance
29 organization (RCW 48.46.033(3))
30 Unlawful transaction of insurance
31 business (RCW 48.15.023(3))
32 Unlicensed practice as an insurance
33 professional (RCW 48.17.063(2))
34 Use of Proceeds of Criminal
35 Profiteering (RCW 9A.82.080 (1)
36 and (2))

1 Vehicle Prowling 2 (third or subsequent
2 offense) (RCW 9A.52.100(3))
3 Vehicular Assault, by being under the
4 influence of intoxicating liquor or
5 any drug, or by the operation or
6 driving of a vehicle in a reckless
7 manner (RCW 46.61.522)
8 Viewing of Depictions of a Minor
9 Engaged in Sexually Explicit
10 Conduct 1 (RCW 9.68A.075(1))
11 Willful Failure to Return from Furlough
12 (RCW 72.66.060)
13 III Animal Cruelty 1 (Sexual Conduct or
14 Contact) (RCW 16.52.205(3))
15 Assault 3 (Except Assault 3 of a Peace
16 Officer With a Projectile Stun Gun)
17 (RCW 9A.36.031 except subsection
18 (1)(h))
19 Assault of a Child 3 (RCW 9A.36.140)
20 Bail Jumping with class B or C Felony
21 (RCW 9A.76.170(3)(c))
22 Burglary 2 (RCW 9A.52.030)
23 Communication with a Minor for
24 Immoral Purposes (RCW
25 9.68A.090)
26 Criminal Gang Intimidation (RCW
27 9A.46.120)
28 Custodial Assault (RCW 9A.36.100)
29 Cyberstalking (subsequent conviction or
30 threat of death) (RCW 9.61.260(3))
31 Escape 2 (RCW 9A.76.120)
32 Extortion 2 (RCW 9A.56.130)
33 False Reporting 2 (RCW
34 9A.84.040(2)(b))
35 Harassment (RCW 9A.46.020)

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Introducing Contraband 2 (RCW
4 9A.76.150)
5 Malicious Injury to Railroad Property
6 (RCW 81.60.070)
7 Manufacture of Untraceable Firearm
8 with Intent to Sell (RCW 9.41.190)
9 Manufacture or Assembly of an
10 Undetectable Firearm or
11 Untraceable Firearm (RCW
12 9.41.325)
13 Mortgage Fraud (RCW 19.144.080)
14 Negligently Causing Substantial Bodily
15 Harm By Use of a Signal
16 Preemption Device (RCW
17 46.37.674)
18 Organized Retail Theft 1 (RCW
19 9A.56.350(2))
20 Perjury 2 (RCW 9A.72.030)
21 Possession of Incendiary Device (RCW
22 9.40.120)
23 Possession of Machine Gun, Bump-Fire
24 Stock, Undetectable Firearm, or
25 Short-Barreled Shotgun or Rifle
26 (RCW 9.41.190)
27 Promoting Prostitution 2 (RCW
28 9A.88.080)
29 Retail Theft with Special Circumstances
30 1 (RCW 9A.56.360(2))
31 Securities Act violation (RCW
32 21.20.400)
33 Tampering with a Witness (RCW
34 9A.72.120)

1 Telephone Harassment (subsequent
2 conviction or threat of death) (RCW
3 9.61.230(2))
4 Theft of Livestock 2 (RCW 9A.56.083)
5 Theft with the Intent to Resell 1 (RCW
6 9A.56.340(2))
7 Trafficking in Stolen Property 2 (RCW
8 9A.82.055)
9 Unlawful Hunting of Big Game 1 (RCW
10 77.15.410(3)(b))
11 Unlawful Imprisonment (RCW
12 9A.40.040)
13 Unlawful Misbranding of Fish or
14 Shellfish 1 (RCW 77.140.060(3))
15 Unlawful possession of firearm in the
16 second degree (RCW 9.41.040(2))
17 Unlawful Taking of Endangered Fish or
18 Wildlife 1 (RCW 77.15.120(3)(b))
19 Unlawful Trafficking in Fish, Shellfish,
20 or Wildlife 1 (RCW
21 77.15.260(3)(b))
22 Unlawful Use of a Nondesignated
23 Vessel (RCW 77.15.530(4))
24 Vehicular Assault, by the operation or
25 driving of a vehicle with disregard
26 for the safety of others (RCW
27 46.61.522)
28 Willful Failure to Return from Work
29 Release (RCW 72.65.070)
30 II Commercial Fishing Without a License
31 1 (RCW 77.15.500(3)(b))
32 Computer Trespass 1 (RCW 9A.90.040)
33 Counterfeiting (RCW 9.16.035(3))
34 Electronic Data Service Interference
35 (RCW 9A.90.060)

1 Electronic Data Tampering 1 (RCW
2 9A.90.080)
3 Electronic Data Theft (RCW 9A.90.100)
4 Engaging in Fish Dealing Activity
5 Unlicensed 1 (RCW 77.15.620(3))
6 Escape from Community Custody
7 (RCW 72.09.310)
8 Failure to Register as a Sex Offender
9 (second or subsequent offense)
10 (RCW 9A.44.130 prior to June 10,
11 2010, and RCW 9A.44.132)
12 Health Care False Claims (RCW
13 48.80.030)
14 Identity Theft 2 (RCW 9.35.020(3))
15 Improperly Obtaining Financial
16 Information (RCW 9.35.010)
17 Malicious Mischief 1 (RCW 9A.48.070)
18 Organized Retail Theft 2 (RCW
19 9A.56.350(3))
20 Possession of Stolen Property 1 (RCW
21 9A.56.150)
22 Possession of a Stolen Vehicle (RCW
23 9A.56.068)
24 Retail Theft with Special Circumstances
25 2 (RCW 9A.56.360(3))
26 Scrap Processing, Recycling, or
27 Supplying Without a License
28 (second or subsequent offense)
29 (RCW 19.290.100)
30 Theft 1 (RCW 9A.56.030)
31 Theft of a Motor Vehicle (RCW
32 9A.56.065)

1 Theft of Rental, Leased, Lease-
2 purchased, or Loaned Property
3 (valued at ~~((five thousand dollars))~~
4 \$5,000 or more) (RCW
5 9A.56.096(5)(a))
6 Theft with the Intent to Resell 2 (RCW
7 9A.56.340(3))
8 Trafficking in Insurance Claims (RCW
9 48.30A.015)
10 Unlawful factoring of a credit card or
11 payment card transaction (RCW
12 9A.56.290(4)(a))
13 Unlawful Participation of Non-Indians
14 in Indian Fishery (RCW
15 77.15.570(2))
16 Unlawful Practice of Law (RCW
17 2.48.180)
18 Unlawful Purchase or Use of a License
19 (RCW 77.15.650(3)(b))
20 Unlawful Trafficking in Fish, Shellfish,
21 or Wildlife 2 (RCW
22 77.15.260(3)(a))
23 Unlicensed Practice of a Profession or
24 Business (RCW 18.130.190(7))
25 Voyeurism 1 (RCW 9A.44.115)
26 I Attempting to Elude a Pursuing Police
27 Vehicle (RCW 46.61.024)
28 False Verification for Welfare (RCW
29 74.08.055)
30 Forgery (RCW 9A.60.020)
31 Fraudulent Creation or Revocation of a
32 Mental Health Advance Directive
33 (RCW 9A.60.060)
34 Malicious Mischief 2 (RCW 9A.48.080)
35 Mineral Trespass (RCW 78.44.330)

1 Possession of Stolen Property 2 (RCW
2 9A.56.160)
3 Reckless Burning 1 (RCW 9A.48.040)
4 Spotlighting Big Game 1 (RCW
5 77.15.450(3)(b))
6 Suspension of Department Privileges 1
7 (RCW 77.15.670(3)(b))
8 Taking Motor Vehicle Without
9 Permission 2 (RCW 9A.56.075)
10 Theft 2 (RCW 9A.56.040)
11 Theft from a Vulnerable Adult 2 (RCW
12 9A.56.400(2))
13 Theft of Rental, Leased, Lease-
14 purchased, or Loaned Property
15 (valued at (~~seven hundred fifty~~
16 ~~dollars~~) \$750 or more but less than
17 (~~five thousand dollars~~) \$5,000)
18 (RCW 9A.56.096(5)(b))
19 Transaction of insurance business
20 beyond the scope of licensure
21 (RCW 48.17.063)
22 Unlawful Fish and Shellfish Catch
23 Accounting (RCW 77.15.630(3)(b))
24 Unlawful Issuance of Checks or Drafts
25 (RCW 9A.56.060)
26 Unlawful Possession of Fictitious
27 Identification (RCW 9A.56.320)
28 Unlawful Possession of Instruments of
29 Financial Fraud (RCW 9A.56.320)
30 Unlawful Possession of Payment
31 Instruments (RCW 9A.56.320)
32 Unlawful Possession of a Personal
33 Identification Device (RCW
34 9A.56.320)
35 Unlawful Production of Payment
36 Instruments (RCW 9A.56.320)

1 Unlawful Releasing, Planting,
2 Possessing, or Placing Deleterious
3 Exotic Wildlife (RCW
4 77.15.250(2)(b))
5 Unlawful Trafficking in Food Stamps
6 (RCW 9.91.142)
7 Unlawful Use of Food Stamps (RCW
8 9.91.144)
9 Unlawful Use of Net to Take Fish 1
10 (RCW 77.15.580(3)(b))
11 Unlawful Use of Prohibited Aquatic
12 Animal Species (RCW
13 77.15.253(3))
14 Vehicle Prowl 1 (RCW 9A.52.095)
15 Violating Commercial Fishing Area or
16 Time 1 (RCW 77.15.550(3)(b))

17 **Sec. 6.** RCW 9.94A.533 and 2020 c 330 s 1 and 2020 c 141 s 1 are
18 each reenacted and amended to read as follows:

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

21 (2) For persons convicted of the anticipatory offenses of
22 criminal attempt, solicitation, or conspiracy under chapter 9A.28
23 RCW, the standard sentence range is determined by locating the
24 sentencing grid sentence range defined by the appropriate offender
25 score and the seriousness level of the completed crime, and
26 multiplying the range by (~~seventy-five~~) 75 percent.

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

1 9.41.010 and the offender is being sentenced for an anticipatory
2 offense under chapter 9A.28 RCW to commit one of the crimes listed in
3 this subsection as eligible for any firearm enhancements, the
4 following additional times shall be added to the standard sentence
5 range determined under subsection (2) of this section based on the
6 felony crime of conviction as classified under RCW 9A.28.020:

7 (a) Five years for any felony defined under any law as a class A
8 felony or with a statutory maximum sentence of at least (~~twenty~~) 20
9 years, or both, and not covered under (f) of this subsection;

10 (b) Three years for any felony defined under any law as a class B
11 felony or with a statutory maximum sentence of (~~ten~~) 10 years, or
12 both, and not covered under (f) of this subsection;

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

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

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

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

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

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

39 (g) If the standard sentence range under this section exceeds the
40 statutory maximum sentence for the offense, the statutory maximum

1 sentence shall be the presumptive sentence unless the offender is a
2 persistent offender. If the addition of a firearm enhancement
3 increases the sentence so that it would exceed the statutory maximum
4 for the offense, the portion of the sentence representing the
5 enhancement may not be reduced.

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

24 (a) Two years for any felony defined under any law as a class A
25 felony or with a statutory maximum sentence of at least (~~twenty~~) 20
26 years, or both, and not covered under (f) of this subsection;

27 (b) One year for any felony defined under any law as a class B
28 felony or with a statutory maximum sentence of (~~ten~~) 10 years, or
29 both, and not covered under (f) of this subsection;

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

33 (d) If the offender is being sentenced under (a), (b), and/or (c)
34 of this subsection for any deadly weapon enhancements and the
35 offender has previously been sentenced for any deadly weapon
36 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
37 subsection or subsection (3)(a), (b), and/or (c) of this section, or
38 both, all deadly weapon enhancements under this subsection shall be
39 twice the amount of the enhancement listed;

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

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

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

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

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

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

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

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

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

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

4 (6) An additional (~~twenty-four~~) 24 months shall be added to the
5 standard sentence range for any ranked offense involving a violation
6 of chapter 69.50 RCW if the offense was also a violation of RCW
7 69.50.435 or 9.94A.827. All enhancements under this subsection shall
8 run consecutively to all other sentencing provisions, for all
9 offenses sentenced under this chapter.

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

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

19 An offender serving a sentence under this subsection may be
20 granted an extraordinary medical placement when authorized under RCW
21 9.94A.728(1)(c).

22 (8)(a) The following additional times shall be added to the
23 standard sentence range for felony crimes committed on or after July
24 1, 2006, if the offense was committed with sexual motivation, as that
25 term is defined in RCW 9.94A.030. If the offender is being sentenced
26 for more than one offense, the sexual motivation enhancement must be
27 added to the total period of total confinement for all offenses,
28 regardless of which underlying offense is subject to a sexual
29 motivation enhancement. If the offender committed the offense with
30 sexual motivation and the offender is being sentenced for an
31 anticipatory offense under chapter 9A.28 RCW, the following
32 additional times shall be added to the standard sentence range
33 determined under subsection (2) of this section based on the felony
34 crime of conviction as classified under RCW 9A.28.020:

35 (i) Two years for any felony defined under the law as a class A
36 felony or with a statutory maximum sentence of at least (~~twenty~~) 20
37 years, or both;

38 (ii) Eighteen months for any felony defined under any law as a
39 class B felony or with a statutory maximum sentence of (~~ten~~) 10
40 years, or both;

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

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

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

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

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

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

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

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

31 (f) Nothing in this subsection prevents a sentencing court from
32 imposing a sentence outside the standard sentence range pursuant to
33 RCW 9.94A.535.

34 (9) An additional one-year enhancement shall be added to the
35 standard sentence range for the felony crimes of RCW 9A.44.073,
36 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
37 or after July 22, 2007, if the offender engaged, agreed, or offered
38 to engage the victim in the sexual conduct in return for a fee. If
39 the offender is being sentenced for more than one offense, the
40 one-year enhancement must be added to the total period of total

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

12 (10)(a) For a person age (~~(eighteen)~~) 18 or older convicted of
13 any criminal street gang-related felony offense for which the person
14 compensated, threatened, or solicited a minor in order to involve the
15 minor in the commission of the felony offense, the standard sentence
16 range is determined by locating the sentencing grid sentence range
17 defined by the appropriate offender score and the seriousness level
18 of the completed crime, and multiplying the range by (~~(one hundred~~
19 ~~twenty-five)~~) 125 percent. If the standard sentence range under this
20 subsection exceeds the statutory maximum sentence for the offense,
21 the statutory maximum sentence is the presumptive sentence unless the
22 offender is a persistent offender.

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

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

30 (11) An additional (~~(twelve)~~) 12 months and one day shall be
31 added to the standard sentence range for a conviction of attempting
32 to elude a police vehicle as defined by RCW 46.61.024, if the
33 conviction included a finding by special allegation of endangering
34 one or more persons under RCW 9.94A.834.

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

38 (13) An additional (~~(twelve)~~) 12 months shall be added to the
39 standard sentence range for vehicular homicide committed while under
40 the influence of intoxicating liquor or any drug as defined by RCW

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

15 (14) An additional (~~twelve~~) 12 months shall be added to the
16 standard sentence range for an offense that is also a violation of
17 RCW 9.94A.832.

18 (15) An additional 60 months shall be added to the standard
19 sentence range for a conviction of unlawful discharge of a laser in
20 the first degree as defined by section 1 of this act, if the
21 conviction included a finding by special allegation that the offense
22 was committed against a law enforcement officer or other employee of
23 a law enforcement agency who was acting in the course of his or her
24 official duties at the time of the offense under section 7 of this
25 act.

26 (16) Regardless of any provisions in this section, if a person is
27 being sentenced in adult court for a crime committed under age
28 eighteen, the court has full discretion to depart from mandatory
29 sentencing enhancements and to take the particular circumstances
30 surrounding the defendant's youth into account.

31 NEW SECTION. Sec. 7. A new section is added to chapter 9.94A
32 RCW to read as follows:

33 In a criminal case where:

34 (1) The defendant has been convicted of unlawful discharge of a
35 laser in the first degree under section 1 of this act; and

36 (2) There has been a special allegation pleaded and proven beyond
37 a reasonable doubt that the offense was committed against a law
38 enforcement officer or other employee of a law enforcement agency who
39 was performing his or her official duties at the time of the offense;

1 the court shall make a finding of fact of the special allegation, or
2 if a jury trial is had, the jury shall, if it finds the defendant
3 guilty, also find a special verdict as to the special allegation.

4 **Sec. 8.** RCW 9.94A.030 and 2020 c 296 s 2, 2020 c 252 s 4, and
5 2020 c 137 s 1 are each reenacted and amended to read as follows:

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

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

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

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

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

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

29 (6) "Community protection zone" means the area within (~~eight~~
30 ~~hundred-eighty~~) 880 feet of the facilities and grounds of a public
31 or private school.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (22) "Drug offense" means:

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

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

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

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

36 (24) "Electronic monitoring" means tracking the location of an
37 individual through the use of technology that is capable of
38 determining or identifying the monitored individual's presence or
39 absence at a particular location including, but not limited to:

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

6 (b) Active or passive global positioning system technology, which
7 detects the location of the monitored individual and notifies the
8 monitoring agency of the monitored individual's location and which
9 may also include electronic monitoring with victim notification
10 technology that is capable of notifying a victim or protected party,
11 either directly or through a monitoring agency, if the monitored
12 individual enters within the restricted distance of a victim or
13 protected party, or within the restricted distance of a designated
14 location.

15 (25) "Escape" means:

16 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
17 the first degree (RCW 9A.76.110), escape in the second degree (RCW
18 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
19 willful failure to return from work release (RCW 72.65.070), or
20 willful failure to be available for supervision by the department
21 while in community custody (RCW 72.09.310); or

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

25 (26) "Felony traffic offense" means:

26 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
27 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
28 run injury-accident (RCW 46.52.020(4)), felony driving while under
29 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
30 or felony physical control of a vehicle while under the influence of
31 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

1 (29) "Home detention" is a subset of electronic monitoring and
2 means a program of partial confinement available to offenders wherein
3 the offender is confined in a private residence (~~(twenty-four)~~) 24
4 hours a day, unless an absence from the residence is approved,
5 authorized, or otherwise permitted in the order by the court or other
6 supervising agency that ordered home detention, and the offender is
7 subject to electronic monitoring.

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

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

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

15 (c) A private residence where the individual stays as a transient
16 invitee.

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

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

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

36 (b) Assault in the second degree;

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

38 (d) Child molestation in the second degree;

39 (e) Controlled substance homicide;

40 (f) Extortion in the first degree;

1 (g) Incest when committed against a child under age fourteen;
2 (h) Indecent liberties;
3 (i) Kidnapping in the second degree;
4 (j) Leading organized crime;
5 (k) Manslaughter in the first degree;
6 (l) Manslaughter in the second degree;
7 (m) Promoting prostitution in the first degree;
8 (n) Rape in the third degree;
9 (o) Sexual exploitation;
10 (p) Vehicular assault, when caused by the operation or driving of
11 a vehicle by a person while under the influence of intoxicating
12 liquor or any drug or by the operation or driving of a vehicle in a
13 reckless manner;
14 (q) Vehicular homicide, when proximately caused by the driving of
15 any vehicle by any person while under the influence of intoxicating
16 liquor or any drug as defined by RCW 46.61.502, or by the operation
17 of any vehicle in a reckless manner;
18 (r) Any other class B felony offense with a finding of sexual
19 motivation;
20 (s) Any other felony with a deadly weapon verdict under RCW
21 9.94A.825;
22 (t) Any felony offense in effect at any time prior to December 2,
23 1993, that is comparable to a most serious offense under this
24 subsection, or any federal or out-of-state conviction for an offense
25 that under the laws of this state would be a felony classified as a
26 most serious offense under this subsection;
27 (u) (i) A prior conviction for indecent liberties under RCW
28 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
29 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
30 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
31 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
32 until July 1, 1988;
33 (ii) A prior conviction for indecent liberties under RCW
34 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
35 if: (A) The crime was committed against a child under the age of
36 (~~fourteen~~) 14; or (B) the relationship between the victim and
37 perpetrator is included in the definition of indecent liberties under
38 RCW 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
39 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
40 1993, through July 27, 1997;

1 (v) Any out-of-state conviction for a felony offense with a
2 finding of sexual motivation if the minimum sentence imposed was
3 (~~ten~~) 10 years or more; provided that the out-of-state felony
4 offense must be comparable to a felony offense under this title and
5 Title 9A RCW and the out-of-state definition of sexual motivation
6 must be comparable to the definition of sexual motivation contained
7 in this section.

8 (33) "Nonviolent offense" means an offense which is not a violent
9 offense.

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

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

32 (36) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

11 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
12 of a child in the first degree, child molestation in the first
13 degree, rape in the second degree, rape of a child in the second
14 degree, or indecent liberties by forcible compulsion; (B) any of the
15 following offenses with a finding of sexual motivation: Murder in the
16 first degree, murder in the second degree, homicide by abuse,
17 kidnapping in the first degree, kidnapping in the second degree,
18 assault in the first degree, assault in the second degree, assault of
19 a child in the first degree, assault of a child in the second degree,
20 or burglary in the first degree; or (C) an attempt to commit any
21 crime listed in this subsection (37) (b) (i); and

22 (ii) Has, before the commission of the offense under (b) (i) of
23 this subsection, been convicted as an offender on at least one
24 occasion, whether in this state or elsewhere, of an offense listed in
25 (b) (i) of this subsection or any federal or out-of-state offense or
26 offense under prior Washington law that is comparable to the offenses
27 listed in (b) (i) of this subsection. A conviction for rape of a child
28 in the first degree constitutes a conviction under (b) (i) of this
29 subsection only when the offender was (~~sixteen~~) 16 years of age or
30 older when the offender committed the offense. A conviction for rape
31 of a child in the second degree constitutes a conviction under (b) (i)
32 of this subsection only when the offender was (~~eighteen~~) 18 years
33 of age or older when the offender committed the offense.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (iv) Domestic violence harassment offense under RCW 9A.46.020
2 that is not a felony offense; or
3 (v) Domestic violence stalking offense under RCW 9A.46.110 that
4 is not a felony offense; or
5 (b) Any federal, out-of-state, tribal court, military, county, or
6 municipal conviction for an offense that under the laws of this state
7 would be classified as a repetitive domestic violence offense under
8 (a) of this subsection.
9 (43) "Restitution" means a specific sum of money ordered by the
10 sentencing court to be paid by the offender to the court over a
11 specified period of time as payment of damages. The sum may include
12 both public and private costs.
13 (44) "Risk assessment" means the application of the risk
14 instrument recommended to the department by the Washington state
15 institute for public policy as having the highest degree of
16 predictive accuracy for assessing an offender's risk of reoffense.
17 (45) "Serious traffic offense" means:
18 (a) Nonfelony driving while under the influence of intoxicating
19 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
20 while under the influence of intoxicating liquor or any drug (RCW
21 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
22 attended vehicle (RCW 46.52.020(5)); or
23 (b) Any federal, out-of-state, county, or municipal conviction
24 for an offense that under the laws of this state would be classified
25 as a serious traffic offense under (a) of this subsection.
26 (46) "Serious violent offense" is a subcategory of violent
27 offense and means:
28 (a) (i) Murder in the first degree;
29 (ii) Homicide by abuse;
30 (iii) Murder in the second degree;
31 (iv) Manslaughter in the first degree;
32 (v) Assault in the first degree;
33 (vi) Kidnapping in the first degree;
34 (vii) Rape in the first degree;
35 (viii) Assault of a child in the first degree; ((~~or~~))
36 (ix) Unlawful discharge of a laser in the first degree; or
37 (x) An attempt, criminal solicitation, or criminal conspiracy to
38 commit one of these felonies; or

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

4 (47) "Sex offense" means:

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

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

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

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

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

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

20 (c) A felony with a finding of sexual motivation under RCW
21 9.94A.835 or 13.40.135; or

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

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

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

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

35 (51) "Stranger" means that the victim did not know the offender
36 (~~(twenty-four)~~) 24 hours before the offense.

37 (52) "Total confinement" means confinement inside the physical
38 boundaries of a facility or institution operated or utilized under
39 contract by the state or any other unit of government for (~~(twenty-~~
40 ~~four)~~) 24 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

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

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

10 (55) "Violent offense" means:

11 (a) Any of the following felonies:

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

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

16 (iii) Manslaughter in the first degree;

17 (iv) Manslaughter in the second degree;

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

19 (vi) Kidnapping in the second degree;

20 (vii) Arson in the second degree;

21 (viii) Assault in the second degree;

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

23 (x) Extortion in the first degree;

24 (xi) Robbery in the second degree;

25 (xii) Drive-by shooting;

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

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

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

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

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

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

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

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