
HOUSE BILL 1866

State of Washington

65th Legislature

2017 Regular Session

By Representatives Pettigrew, Appleton, Hudgins, and Kagi

1 AN ACT Relating to reviewing elderly incarcerated offenders for
2 possible early release; amending RCW 9.95.422, 9.95.425, 9.95.430,
3 9.95.435, 9.95.440, 9.94A.533, and 9.94A.6332; adding a new section
4 to chapter 9.94A RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature recognizes research
7 showing that people released from prison after the age of fifty are
8 far less likely to reoffend and return to prison. Further, it costs
9 at least twice as much to incarcerate people over the age of fifty
10 than younger inmates. However, the number of persons age fifty-five
11 and older who are incarcerated in state or federal prisons in the
12 United States has increased by one thousand four hundred percent
13 since 1981, and is expected to triple by 2030, at which point, if
14 incarceration trends continue, they will comprise one-third of the
15 United States prison population by 2030. Incarceration of this
16 population is not only costly, but it also fails to take into account
17 the rehabilitation of those offenders, many of whom could be
18 productive members of society, if released.

19 The legislature finds that providing an avenue for review and
20 release for qualified elderly prisoners is both cost-effective and
21 consistent with public safety. Therefore, the legislature hereby

1 authorizes the review of petitions for early release from offenders
2 over the age of fifty, as long as those offenders have served at
3 least twenty years in prison. The offenders must meet rigorous
4 criteria established by the indeterminate sentence review board,
5 which must place public safety as the highest priority, and take into
6 account rehabilitation, remorse, and input from crime victims and the
7 community.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A
9 RCW to read as follows:

10 (1) Notwithstanding any other provision of this chapter, any
11 offender convicted of one or more crimes may petition the board for
12 early release after serving no less than twenty years of total
13 confinement or reaching fifty years of age, whichever is later,
14 provided that the person has not committed a disqualifying serious
15 infraction as defined by the department in the twelve months prior to
16 filing the petition for early release, and the current sentence was
17 not imposed for: An offense committed before July 1, 1984, where the
18 offender is eligible for review by the board; an offense where the
19 offender is eligible for review by the board under RCW 9.94A.730;
20 aggravated first degree murder under RCW 10.95.030; or a sex offense,
21 including the offenses imposed under RCW 9.94A.507 or any offense
22 defined as a sex offense in RCW 9.94A.030 under RCW 10.95.030 or
23 9.94A.507.

24 (2) No later than five years prior to the date the offender will
25 be eligible to petition for release, the department shall conduct an
26 assessment of the offender and identify programming and services that
27 would be appropriate to prepare the offender for return to the
28 community. To the extent possible, the department shall make
29 programming available as identified by the assessment.

30 (3) No later than one hundred eighty days from receipt of the
31 petition for early release, the department shall conduct, and the
32 offender shall participate in, an examination of the person,
33 incorporating methodologies that are recognized by experts in the
34 prediction of dangerousness, and including a prediction of the
35 probability that the person will engage in future criminal behavior
36 if released on conditions to be set by the board. The board may
37 consider a person's failure to participate in an evaluation under
38 this subsection in determining whether to release the person.

1 (4) The board shall establish criteria for reviewing petitions
2 under this section, which must include consideration of: Public
3 safety; the seriousness of the offense; crime victims; the offender's
4 remorse and atonement for the offense committed, or absence thereof;
5 the offender's productivity and life changes while incarcerated; the
6 offender's infraction history while incarcerated; the offender's
7 completion of and responsivity to programs made available to him or
8 her while incarcerated; the offender's rehabilitative status; and the
9 offender's behavioral health history. The board shall give public
10 safety considerations the highest priority when making all decisions
11 regarding the ability for release and conditions of release. The
12 board's decision to release an offender is discretionary based on
13 consideration of the criteria established by the board.

14 (5) In a hearing conducted under this section, the board shall
15 provide opportunities for victims and survivors of victims of any
16 crimes for which the offender has been convicted to present
17 statements as set forth in RCW 7.69.032. The procedures for victim
18 and survivor of victim input shall be provided by rule. To facilitate
19 victim and survivor of victim involvement, county prosecutor's
20 offices shall ensure that any victim impact statements and known
21 contact information for victims of record and survivors of victims
22 are forwarded as part of the judgment and sentence. The hearing must
23 comply with the requirements of RCW 9.95.422.

24 (6) After a hearing, the board may order the offender released
25 under such affirmative and other conditions as the board determines
26 appropriate. When the board grants or denies a petition, it shall
27 specify the reasons for the decision. An offender released by the
28 board is subject to the supervision of the department for a period to
29 be determined by the board, which may not be less than three years
30 and no more than the length of the court-imposed term of
31 incarceration. The department shall monitor the offender's compliance
32 with conditions of community custody imposed by the court or board
33 and promptly report any violations to the board. Any violation of
34 conditions of community custody established or modified by the board
35 are subject to the provisions of RCW 9.95.425 through 9.95.440.

36 (7) An offender whose petition for release is denied may file a
37 new petition for release five years from the date of denial or at an
38 earlier date as may be set by the board.

39 (8) An offender released under the provisions of this section may
40 be returned to the institution at the discretion of the board if the

1 offender is found to have violated a condition of community custody.
2 The offender is entitled to a hearing pursuant to RCW 9.95.435. If
3 the board finds that the offender has committed a new violation, the
4 board may return the offender to the institution for up to the
5 remainder of the court-imposed term of incarceration. The offender
6 may file a new petition for release five years from the date of
7 return to the institution or at an earlier date as may be set by the
8 board.

9 **Sec. 3.** RCW 9.95.422 and 2016 c 218 s 2 are each amended to read
10 as follows:

11 (1) Upon receipt of a petition for early release submitted under
12 RCW 9.94A.730 or section 2 of this act, or upon determination of a
13 parole eligibility review date pursuant to RCW 9.95.100 and 9.95.052,
14 the indeterminate sentence review board must provide notice and a
15 copy of a petition or parole eligibility documents to the sentencing
16 court, prosecuting attorney, and crime victim or surviving family
17 member. The board may request the prosecuting attorney to assist in
18 contacting the crime victim or surviving family member. If requested
19 in writing by the sentencing court, the prosecuting attorney, or the
20 crime victim or surviving family member, the indeterminate sentence
21 review board must also provide any assessment, psychological
22 evaluation, institutional behavior record, or other examination of
23 the offender. Notice of the early release hearing date or parole
24 eligibility date, and any evaluations or information relevant to the
25 release decision, must be provided at least ninety days before the
26 early release hearing or parole eligibility review hearing. The
27 records described in this section, and other records reviewed by the
28 board in response to the petition or parole eligibility
29 review(~~{,}~~), must be disclosed in full and without redaction.
30 Copies of records to be provided to the sentencing court and
31 prosecuting attorney under this section must be provided as required
32 without regard to whether the board has received a request for
33 copies.

34 (2) For the purpose of review by the board of a petition for
35 early release or parole eligibility, it is presumed that none of the
36 records reviewed are exempt from disclosure to the sentencing court,
37 prosecuting attorney, and crime victim or surviving family member, in
38 whole or in part. The board may not claim any exemption from

1 disclosure for the records reviewed for an early release petition or
2 parole eligibility review hearing.

3 (3) The board and its subcommittees must provide comprehensive
4 minutes of all related meetings and hearings on a petition for early
5 release or parole eligibility review hearing. The comprehensive
6 minutes should include, but not be limited to, the board members
7 present, the name of the petitioner seeking review, the purpose and
8 date of the meeting or hearing, a listing of documents reviewed, the
9 names of members of the public who testify, a summary of discussion,
10 the motions or other actions taken, and the votes of board members by
11 name. For the purposes of this subsection, "action" has the same
12 meaning as in RCW 42.30.020. The comprehensive minutes must be
13 publicly and conspicuously posted on the board's web site within
14 thirty days of the meeting or hearing, without any information
15 withheld or redacted. Nothing in this subsection precludes the board
16 from receiving confidential input from the crime victim or surviving
17 family member.

18 **Sec. 4.** RCW 9.95.425 and 2014 c 130 s 5 are each amended to read
19 as follows:

20 (1) Whenever the board or a community corrections officer of this
21 state has reason to believe an offender released under RCW 9.95.420,
22 10.95.030(3), (~~(e)~~) 9.94A.730, or section 2 of this act has violated
23 a condition of community custody or the laws of this state, any
24 community corrections officer may arrest or cause the arrest and
25 detention of the offender pending a determination by the board
26 whether sanctions should be imposed or the offender's community
27 custody should be revoked. The community corrections officer shall
28 report all facts and circumstances surrounding the alleged violation
29 to the board, with recommendations.

30 (2) If the board or the department causes the arrest or detention
31 of an offender for a violation that does not amount to a new crime
32 and the offender is arrested or detained by local law enforcement or
33 in a local jail, the board or department, whichever caused the arrest
34 or detention, shall be financially responsible for local costs. Jail
35 bed costs shall be allocated at the rate established under RCW
36 9.94A.740.

37 **Sec. 5.** RCW 9.95.430 and 2014 c 130 s 6 are each amended to read
38 as follows:

1 Any offender released under RCW 9.95.420, 10.95.030(3), (~~or~~)
2 9.94A.730, or section 2 of this act who is arrested and detained in
3 physical custody by the authority of a community corrections officer,
4 or upon the written order of the board, shall not be released from
5 custody on bail or personal recognizance, except upon approval of the
6 board and the issuance by the board of an order reinstating the
7 offender's release on the same or modified conditions. All chiefs of
8 police, marshals of cities and towns, sheriffs of counties, and all
9 police, prison, and peace officers and constables shall execute any
10 such order in the same manner as any ordinary criminal process.

11 **Sec. 6.** RCW 9.95.435 and 2014 c 130 s 7 are each amended to read
12 as follows:

13 (1) If an offender released by the board under RCW 9.95.420,
14 10.95.030(3), (~~or~~) 9.94A.730, or section 2 of this act violates any
15 condition or requirement of community custody, the board may transfer
16 the offender to a more restrictive confinement status to serve up to
17 the remaining portion of the sentence, less credit for any period
18 actually spent in community custody or in detention awaiting
19 disposition of an alleged violation and subject to the limitations of
20 subsection (2) of this section.

21 (2) Following the hearing specified in subsection (3) of this
22 section, the board may impose sanctions such as work release, home
23 detention with electronic monitoring, work crew, community
24 restitution, inpatient treatment, daily reporting, curfew,
25 educational or counseling sessions, supervision enhanced through
26 electronic monitoring, or any other sanctions available in the
27 community, or may suspend the release and sanction up to sixty days'
28 confinement in a local correctional facility for each violation, or
29 revoke the release to community custody whenever an offender released
30 by the board under RCW 9.95.420, 10.95.030(3), (~~or~~) 9.94A.730, or
31 section 2 of this act violates any condition or requirement of
32 community custody.

33 (3) If an offender released by the board under RCW 9.95.420,
34 10.95.030(3), (~~or~~) 9.94A.730, or section 2 of this act is accused
35 of violating any condition or requirement of community custody, he or
36 she is entitled to a hearing before the board or a designee of the
37 board prior to the imposition of sanctions. The hearing shall be
38 considered as offender disciplinary proceedings and shall not be
39 subject to chapter 34.05 RCW. The board shall develop hearing

1 procedures and a structure of graduated sanctions consistent with the
2 hearing procedures and graduated sanctions developed pursuant to RCW
3 9.94A.737. The board may suspend the offender's release to community
4 custody and confine the offender in a correctional institution owned,
5 operated by, or operated under contract with the state prior to the
6 hearing unless the offender has been arrested and confined for a new
7 criminal offense.

8 (4) The hearing procedures required under subsection (3) of this
9 section shall be developed by rule and include the following:

10 (a) Hearings shall be conducted by members or designees of the
11 board unless the board enters into an agreement with the department
12 to use the hearing officers established under RCW 9.94A.737;

13 (b) The board shall provide the offender with findings and
14 conclusions which include the evidence relied upon, and the reasons
15 the particular sanction was imposed. The board shall notify the
16 offender of the right to appeal the sanction and the right to file a
17 personal restraint petition under court rules after the final
18 decision of the board;

19 (c) The hearing shall be held unless waived by the offender, and
20 shall be electronically recorded. For offenders not in total
21 confinement, the hearing shall be held within thirty days of service
22 of notice of the violation, but not less than twenty-four hours after
23 notice of the violation. For offenders in total confinement, the
24 hearing shall be held within thirty days of service of notice of the
25 violation, but not less than twenty-four hours after notice of the
26 violation. The board or its designee shall make a determination
27 whether probable cause exists to believe the violation or violations
28 occurred. The determination shall be made within forty-eight hours of
29 receipt of the allegation;

30 (d) The offender shall have the right to: (i) Be present at the
31 hearing; (ii) have the assistance of a person qualified to assist the
32 offender in the hearing, appointed by the presiding hearing officer
33 if the offender has a language or communications barrier; (iii)
34 testify or remain silent; (iv) call witnesses and present documentary
35 evidence; (v) question witnesses who appear and testify; and (vi) be
36 represented by counsel if revocation of the release to community
37 custody upon a finding of violation is a probable sanction for the
38 violation. The board may not revoke the release to community custody
39 of any offender who was not represented by counsel at the hearing,
40 unless the offender has waived the right to counsel; and

1 (e) The sanction shall take effect if affirmed by the presiding
2 hearing officer.

3 (5) Within seven days after the presiding hearing officer's
4 decision, the offender may appeal the decision to the full board or
5 to a panel of three reviewing examiners designated by the chair of
6 the board or by the chair's designee. The sanction shall be reversed
7 or modified if a majority of the panel finds that the sanction was
8 not reasonably related to any of the following: (a) The crime of
9 conviction; (b) the violation committed; (c) the offender's risk of
10 reoffending; or (d) the safety of the community.

11 (6) For purposes of this section, no finding of a violation of
12 conditions may be based on unconfirmed or unconfirmable allegations.

13 **Sec. 7.** RCW 9.95.440 and 2014 c 130 s 8 are each amended to read
14 as follows:

15 In the event the board suspends the release status of an offender
16 released under RCW 9.95.420, 10.95.030(3), ~~((or))~~ 9.94A.730, or
17 section 2 of this act by reason of an alleged violation of a
18 condition of release, or pending disposition of a new criminal
19 charge, the board may nullify the suspension order and reinstate
20 release under previous conditions or any new conditions the board
21 determines advisable under RCW 9.94A.704. Before the board may
22 nullify a suspension order and reinstate release, it shall determine
23 that the best interests of society and the offender shall be served
24 by such reinstatement rather than return to confinement.

25 **Sec. 8.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to
26 read as follows:

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

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

35 (3) The following additional times shall be added to the standard
36 sentence range for felony crimes committed after July 23, 1995, if
37 the offender or an accomplice was armed with a firearm as defined in
38 RCW 9.41.010 and the offender is being sentenced for one of the

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

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

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

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

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

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

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

39 (ii) Released under the provisions of RCW 9.94A.730 or section 2
40 of this act;

1 (f) The firearm enhancements in this section shall apply to all
2 felony crimes except the following: Possession of a machine gun,
3 possessing a stolen firearm, drive-by shooting, theft of a firearm,
4 unlawful possession of a firearm in the first and second degree, and
5 use of a machine gun in a felony;

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

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

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

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

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

1 (d) If the offender is being sentenced under (a), (b), and/or (c)
2 of this subsection for any deadly weapon enhancements and the
3 offender has previously been sentenced for any deadly weapon
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
5 subsection or subsection (3)(a), (b), and/or (c) of this section, or
6 both, all deadly weapon enhancements under this subsection shall be
7 twice the amount of the enhancement listed;

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

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

17 (ii) Released under the provisions of RCW 9.94A.730 or section 2
18 of this act;

19 (f) The deadly weapon enhancements in this section shall apply to
20 all felony crimes except the following: Possession of a machine gun,
21 possessing a stolen firearm, drive-by shooting, theft of a firearm,
22 unlawful possession of a firearm in the first and second degree, and
23 use of a machine gun in a felony;

24 (g) If the standard sentence range under this section exceeds the
25 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 deadly weapon enhancement
28 increases the sentence so that it would exceed the statutory maximum
29 for the offense, the portion of the sentence representing the
30 enhancement may not be reduced.

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

1 shall be added to the standard sentence range determined under
2 subsection (2) of this section:

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

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

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

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

11 (6) An additional twenty-four months shall be added to the
12 standard sentence range for any ranked offense involving a violation
13 of chapter 69.50 RCW if the offense was also a violation of RCW
14 69.50.435 or 9.94A.827. All enhancements under this subsection shall
15 run consecutively to all other sentencing provisions, for all
16 offenses sentenced under this chapter.

17 (7) An additional two years shall be added to the standard
18 sentence range for vehicular homicide committed while under the
19 influence of intoxicating liquor or any drug as defined by RCW
20 46.61.502 for each prior offense as defined in RCW 46.61.5055.

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

26 An offender serving a sentence under this subsection may be
27 granted an extraordinary medical placement when authorized under RCW
28 9.94A.728(1)(c).

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

1 determined under subsection (2) of this section based on the felony
2 crime of conviction as classified under RCW 9A.28.020:

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

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

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

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

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

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

26 (ii) Released under the provisions of RCW 9.94A.730 or section 2
27 of this act;

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

30 (d) If the standard sentence range under this subsection exceeds
31 the statutory maximum sentence for the offense, the statutory maximum
32 sentence shall be the presumptive sentence unless the offender is a
33 persistent offender. If the addition of a sexual motivation
34 enhancement increases the sentence so that it would exceed the
35 statutory maximum for the offense, the portion of the sentence
36 representing the enhancement may not be reduced;

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

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

4 (9) An additional one-year enhancement shall be added to the
5 standard sentence range for the felony crimes of RCW 9A.44.073,
6 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
7 or after July 22, 2007, if the offender engaged, agreed, or offered
8 to engage the victim in the sexual conduct in return for a fee. If
9 the offender is being sentenced for more than one offense, the
10 one-year enhancement must be added to the total period of total
11 confinement for all offenses, regardless of which underlying offense
12 is subject to the enhancement. If the offender is being sentenced for
13 an anticipatory offense for the felony crimes of RCW 9A.44.073,
14 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
15 offender attempted, solicited another, or conspired to engage, agree,
16 or offer to engage the victim in the sexual conduct in return for a
17 fee, an additional one-year enhancement shall be added to the
18 standard sentence range determined under subsection (2) of this
19 section. For purposes of this subsection, "sexual conduct" means
20 sexual intercourse or sexual contact, both as defined in chapter
21 9A.44 RCW.

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

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

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

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

6 (12) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.831.

9 (13) An additional twelve months shall be added to the standard
10 sentence range for vehicular homicide committed while under the
11 influence of intoxicating liquor or any drug as defined by RCW
12 46.61.520 or for vehicular assault committed while under the
13 influence of intoxicating liquor or any drug as defined by RCW
14 46.61.522, or for any felony driving under the influence (RCW
15 46.61.502(6)) or felony physical control under the influence (RCW
16 46.61.504(6)) for each child passenger under the age of sixteen who
17 is an occupant in the defendant's vehicle. These enhancements shall
18 be mandatory, shall be served in total confinement, and shall run
19 consecutively to all other sentencing provisions. If the addition of
20 a minor child enhancement increases the sentence so that it would
21 exceed the statutory maximum for the offense, the portion of the
22 sentence representing the enhancement may not be reduced.

23 (14) An additional twelve months shall be added to the standard
24 sentence range for an offense that is also a violation of RCW
25 9.94A.832.

26 **Sec. 9.** RCW 9.94A.6332 and 2014 c 130 s 3 are each amended to
27 read as follows:

28 The procedure for imposing sanctions for violations of sentence
29 conditions or requirements is as follows:

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

33 (2) If the offender was sentenced under the special sex offender
34 sentencing alternative, any sanctions shall be imposed by the
35 department or the court pursuant to RCW 9.94A.670.

36 (3) If the offender was sentenced under the parenting sentencing
37 alternative, any sanctions shall be imposed by the department or by
38 the court pursuant to RCW 9.94A.655.

1 (4) If a sex offender was sentenced pursuant to RCW 9.94A.507,
2 any sanctions shall be imposed by the board pursuant to RCW 9.95.435.

3 (5) If the offender was released pursuant to RCW 9.94A.730, any
4 sanctions shall be imposed by the board pursuant to RCW 9.95.435.

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

8 (7) If the offender was released pursuant to section 2 of this
9 act, any sanctions shall be imposed by the board pursuant to RCW
10 9.95.435.

11 (8) In any other case, if the offender is being supervised by the
12 department, any sanctions shall be imposed by the department pursuant
13 to RCW 9.94A.737. If a probationer is being supervised by the
14 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon
15 receipt of a violation hearing report from the department, the court
16 retains any authority that those statutes provide to respond to a
17 probationer's violation of conditions.

18 ((+8)) (9) If the offender is not being supervised by the
19 department, any sanctions shall be imposed by the court pursuant to
20 RCW 9.94A.6333.

21 NEW SECTION. Sec. 10. By December 1, 2022, the indeterminate
22 sentence review board shall submit a report to the appropriate
23 committees of the legislature and the governor with the following:

24 (1) The criteria established and used by the board under section
25 2 of this act;

26 (2) A summary of the petition review process under section 2 of
27 this act;

28 (3) Information on the offenders released under section 2 of this
29 act, including the total number of those released, demographic
30 information, criminal history information, and community custody
31 terms and status;

32 (4) Information on the offenders not released after petitioning
33 the board under section 2 of this act, including the total number of
34 those denied release, demographic information, and criminal history
35 information;

36 (5) Information on the offenders released and subsequently
37 returned to confinement for community custody violations or new
38 criminal convictions;

1 (6) An evaluation of the effectiveness of section 2 of this act
2 with respect to reducing incarceration of rehabilitated, elderly
3 offenders while maintaining public safety;

4 (7) Recommendations, if appropriate, to expand the eligibility
5 criteria in section 2 of this act including, but not limited to, the
6 addition of offenses excluded under section 2(1) of this act.

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