

---

ENGROSSED HOUSE BILL 1943

---

AS AMENDED BY THE SENATE

Passed Legislature - 2015 Regular Session

State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Shea, Goodman, McCaslin, and Scott

Read first time 02/03/15. Referred to Committee on Public Safety.

1            AN ACT Relating to electronic monitoring; amending RCW 9.94A.030,  
2 9.94A.734, 10.21.030, 9.94A.704, 26.50.010, 10.99.040, 9.94A.505, and  
3 9A.76.130; adding new sections to chapter 9.94A RCW; adding new  
4 sections to chapter 10.21 RCW; and prescribing penalties.

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

6            **Sec. 1.** RCW 9.94A.030 and 2012 c 143 s 1 are each amended to  
7 read as follows:

8            Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

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

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

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

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

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

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

13 (7) "Community restitution" means compulsory service, without  
14 compensation, performed for the benefit of the community by the  
15 offender.

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

17 (9) "Conviction" means an adjudication of guilt pursuant to Title  
18 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
19 and acceptance of a plea of guilty.

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

28 (11) "Criminal history" means the list of a defendant's prior  
29 convictions and juvenile adjudications, whether in this state, in  
30 federal court, or elsewhere.

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

35 (b) A conviction may be removed from a defendant's criminal  
36 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
37 9.95.240, or a similar out-of-state statute, or if the conviction has  
38 been vacated pursuant to a governor's pardon.

39 (c) The determination of a defendant's criminal history is  
40 distinct from the determination of an offender score. A prior

1 conviction that was not included in an offender score calculated  
2 pursuant to a former version of the sentencing reform act remains  
3 part of the defendant's criminal history.

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

14 (13) "Criminal street gang associate or member" means any person  
15 who actively participates in any criminal street gang and who  
16 intentionally promotes, furthers, or assists in any criminal act by  
17 the criminal street gang.

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

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

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

27 (c) To exact revenge or retribution for the gang or any member of  
28 the gang;

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

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

34 (f) To provide the gang with any advantage in, or any control or  
35 dominance over any criminal market sector, including, but not limited  
36 to, manufacturing, delivering, or selling any controlled substance  
37 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
38 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
39 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual

1 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
2 9.68 RCW).

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

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

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

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

21 (19) "Disposable earnings" means that part of the earnings of an  
22 offender remaining after the deduction from those earnings of any  
23 amount required by law to be withheld. For the purposes of this  
24 definition, "earnings" means compensation paid or payable for  
25 personal services, whether denominated as wages, salary, commission,  
26 bonuses, or otherwise, and, notwithstanding any other provision of  
27 law making the payments exempt from garnishment, attachment, or other  
28 process to satisfy a court-ordered legal financial obligation,  
29 specifically includes periodic payments pursuant to pension or  
30 retirement programs, or insurance policies of any type, but does not  
31 include payments made under Title 50 RCW, except as provided in RCW  
32 50.40.020 and 50.40.050, or Title 74 RCW.

33 (20) "Domestic violence" has the same meaning as defined in RCW  
34 10.99.020 and 26.50.010.

35 (21) "Drug offender sentencing alternative" is a sentencing  
36 option available to persons convicted of a felony offense other than  
37 a violent offense or a sex offense and who are eligible for the  
38 option under RCW 9.94A.660.

39 (22) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession  
2 of a controlled substance (RCW 69.50.4013) or forged prescription for  
3 a controlled substance (RCW 69.50.403);

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

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

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

12 (24) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
14 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
16 willful failure to return from work release (RCW 72.65.070), or  
17 willful failure to be available for supervision by the department  
18 while in community custody (RCW 72.09.310); or

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

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

27 (a) Radio frequency signaling technology, which detects if the  
28 monitored individual is or is not at an approved location and  
29 notifies the monitoring agency of the time that the monitored  
30 individual either leaves the approved location or tampers with or  
31 removes the monitoring device; or

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

35 (26) "Felony traffic offense" means:

36 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
37 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
38 run injury-accident (RCW 46.52.020(4)), felony driving while under  
39 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),

1 or felony physical control of a vehicle while under the influence of  
2 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

6 ~~((+26+))~~ (27) "Fine" means a specific sum of money ordered by the  
7 sentencing court to be paid by the offender to the court over a  
8 specific period of time.

9 ~~((+27+))~~ (28) "First-time offender" means any person who has no  
10 prior convictions for a felony and is eligible for the first-time  
11 offender waiver under RCW 9.94A.650.

12 ~~((+28+))~~ (29) "Home detention" is a subset of electronic  
13 monitoring and means a program of partial confinement available to  
14 offenders wherein the offender is confined in a private residence  
15 twenty-four hours a day, unless an absence from the residence is  
16 approved, authorized, or otherwise permitted in the order by the  
17 court or other supervising agency that ordered home detention, and  
18 the offender is subject to electronic ~~((surveillance))~~ monitoring.

19 ~~((+29+))~~ (30) "Homelessness" or "homeless" means a condition  
20 where an individual lacks a fixed, regular, and adequate nighttime  
21 residence and who has a primary nighttime residence that is:

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

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

26 (c) A private residence where the individual stays as a transient  
27 invitee.

28 ~~((+30+))~~ (31) "Legal financial obligation" means a sum of money  
29 that is ordered by a superior court of the state of Washington for  
30 legal financial obligations which may include restitution to the  
31 victim, statutorily imposed crime victims' compensation fees as  
32 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
33 drug funds, court-appointed attorneys' fees, and costs of defense,  
34 fines, and any other financial obligation that is assessed to the  
35 offender as a result of a felony conviction. Upon conviction for  
36 vehicular assault while under the influence of intoxicating liquor or  
37 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
38 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
39 legal financial obligations may also include payment to a public

1 agency of the expense of an emergency response to the incident  
2 resulting in the conviction, subject to RCW 38.52.430.

3 ~~((31))~~ (32) "Minor child" means a biological or adopted child  
4 of the offender who is under age eighteen at the time of the  
5 offender's current offense.

6 ~~((32))~~ (33) "Most serious offense" means any of the following  
7 felonies or a felony attempt to commit any of the following felonies:

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

11 (b) Assault in the second degree;

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

13 (d) Child molestation in the second degree;

14 (e) Controlled substance homicide;

15 (f) Extortion in the first degree;

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

17 (h) Indecent liberties;

18 (i) Kidnapping in the second degree;

19 (j) Leading organized crime;

20 (k) Manslaughter in the first degree;

21 (l) Manslaughter in the second degree;

22 (m) Promoting prostitution in the first degree;

23 (n) Rape in the third degree;

24 (o) Robbery in the second degree;

25 (p) Sexual exploitation;

26 (q) Vehicular assault, when caused by the operation or driving of  
27 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;

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

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

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

38 (u) Any felony offense in effect at any time prior to December 2,  
39 1993, that is comparable to a most serious offense under this  
40 subsection, or any federal or out-of-state conviction for an offense

1 that under the laws of this state would be a felony classified as a  
2 most serious offense under this subsection;

3 (v)(i) A prior conviction for indecent liberties under RCW  
4 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.  
5 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),  
6 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW  
7 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,  
8 until July 1, 1988;

9 (ii) A prior conviction for indecent liberties under RCW  
10 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
11 if: (A) The crime was committed against a child under the age of  
12 fourteen; or (B) the relationship between the victim and perpetrator  
13 is included in the definition of indecent liberties under RCW  
14 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
15 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
16 1993, through July 27, 1997;

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

23 ~~((+33))~~ (34) "Nonviolent offense" means an offense which is not  
24 a violent offense.

25 ~~((+34))~~ (35) "Offender" means a person who has committed a  
26 felony established by state law and is eighteen years of age or older  
27 or is less than eighteen years of age but whose case is under  
28 superior court jurisdiction under RCW 13.04.030 or has been  
29 transferred by the appropriate juvenile court to a criminal court  
30 pursuant to RCW 13.40.110. In addition, for the purpose of community  
31 custody requirements under this chapter, "offender" also means a  
32 misdemeanor or gross misdemeanor probationer ordered by a superior  
33 court to probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210  
34 and supervised by the department pursuant to RCW 9.94A.501 and  
35 9.94A.5011. Throughout this chapter, the terms "offender" and  
36 "defendant" are used interchangeably.

37 ~~((+35))~~ (36) "Partial confinement" means confinement for no more  
38 than one year in a facility or institution operated or utilized under  
39 contract by the state or any other unit of government, or, if home  
40 detention, electronic monitoring, or work crew has been ordered by



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

7 ((~~36~~)) (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (xx) Extortion 2 (RCW 9A.56.130);

1 (xxi) Intimidating a Witness (RCW 9A.72.110);  
2 (xxii) Tampering with a Witness (RCW 9A.72.120);  
3 (xxiii) Reckless Endangerment (RCW 9A.36.050);  
4 (xxiv) Coercion (RCW 9A.36.070);  
5 (xxv) Harassment (RCW 9A.46.020); or  
6 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);  
7 (b) That at least one of the offenses listed in (a) of this  
8 subsection shall have occurred after July 1, 2008;  
9 (c) That the most recent committed offense listed in (a) of this  
10 subsection occurred within three years of a prior offense listed in  
11 (a) of this subsection; and  
12 (d) Of the offenses that were committed in (a) of this  
13 subsection, the offenses occurred on separate occasions or were  
14 committed by two or more persons.  
15 (~~(+37+)~~) (38) "Persistent offender" is an offender who:  
16 (a)(i) Has been convicted in this state of any felony considered  
17 a most serious offense; and  
18 (ii) Has, before the commission of the offense under (a) of this  
19 subsection, been convicted as an offender on at least two separate  
20 occasions, whether in this state or elsewhere, of felonies that under  
21 the laws of this state would be considered most serious offenses and  
22 would be included in the offender score under RCW 9.94A.525; provided  
23 that of the two or more previous convictions, at least one conviction  
24 must have occurred before the commission of any of the other most  
25 serious offenses for which the offender was previously convicted; or  
26 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
27 of a child in the first degree, child molestation in the first  
28 degree, rape in the second degree, rape of a child in the second  
29 degree, or indecent liberties by forcible compulsion; (B) any of the  
30 following offenses with a finding of sexual motivation: Murder in the  
31 first degree, murder in the second degree, homicide by abuse,  
32 kidnapping in the first degree, kidnapping in the second degree,  
33 assault in the first degree, assault in the second degree, assault of  
34 a child in the first degree, assault of a child in the second degree,  
35 or burglary in the first degree; or (C) an attempt to commit any  
36 crime listed in this subsection (~~(+37+)~~) (38)(b)(i); and  
37 (ii) Has, before the commission of the offense under (b)(i) of  
38 this subsection, been convicted as an offender on at least one  
39 occasion, whether in this state or elsewhere, of an offense listed in  
40 (b)(i) of this subsection or any federal or out-of-state offense or

1 offense under prior Washington law that is comparable to the offenses  
2 listed in (b)(i) of this subsection. A conviction for rape of a child  
3 in the first degree constitutes a conviction under (b)(i) of this  
4 subsection only when the offender was sixteen years of age or older  
5 when the offender committed the offense. A conviction for rape of a  
6 child in the second degree constitutes a conviction under (b)(i) of  
7 this subsection only when the offender was eighteen years of age or  
8 older when the offender committed the offense.

9 ~~((38))~~ (39) "Predatory" means: (a) The perpetrator of the crime  
10 was a stranger to the victim, as defined in this section; (b) the  
11 perpetrator established or promoted a relationship with the victim  
12 prior to the offense and the victimization of the victim was a  
13 significant reason the perpetrator established or promoted the  
14 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
15 volunteer, or other person in authority in any public or private  
16 school and the victim was a student of the school under his or her  
17 authority or supervision. For purposes of this subsection, "school"  
18 does not include home-based instruction as defined in RCW  
19 28A.225.010; (ii) a coach, trainer, volunteer, or other person in  
20 authority in any recreational activity and the victim was a  
21 participant in the activity under his or her authority or  
22 supervision; (iii) a pastor, elder, volunteer, or other person in  
23 authority in any church or religious organization, and the victim was  
24 a member or participant of the organization under his or her  
25 authority; or (iv) a teacher, counselor, volunteer, or other person  
26 in authority providing home-based instruction and the victim was a  
27 student receiving home-based instruction while under his or her  
28 authority or supervision. For purposes of this subsection: (A) "Home-  
29 based instruction" has the same meaning as defined in RCW  
30 28A.225.010; and (B) "teacher, counselor, volunteer, or other person  
31 in authority" does not include the parent or legal guardian of the  
32 victim.

33 ~~((39))~~ (40) "Private school" means a school regulated under  
34 chapter 28A.195 or 28A.205 RCW.

35 ~~((40))~~ (41) "Public school" has the same meaning as in RCW  
36 28A.150.010.

37 ~~((41))~~ (42) "Repetitive domestic violence offense" means any:  
38 (a)(i) Domestic violence assault that is not a felony offense  
39 under RCW 9A.36.041;

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

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

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

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

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

14 (~~(42)~~) (43) "Restitution" means a specific sum of money ordered  
15 by the sentencing court to be paid by the offender to the court over  
16 a specified period of time as payment of damages. The sum may include  
17 both public and private costs.

18 (~~(43)~~) (44) "Risk assessment" means the application of the risk  
19 instrument recommended to the department by the Washington state  
20 institute for public policy as having the highest degree of  
21 predictive accuracy for assessing an offender's risk of reoffense.

22 (~~(44)~~) (45) "Serious traffic offense" means:

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

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

31 (~~(45)~~) (46) "Serious violent offense" is a subcategory of  
32 violent offense and means:

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

34 (ii) Homicide by abuse;

35 (iii) Murder in the second degree;

36 (iv) Manslaughter in the first degree;

37 (v) Assault in the first degree;

38 (vi) Kidnapping in the first degree;

39 (vii) Rape in the first degree;

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

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

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

6 ~~((46))~~ (47) "Sex offense" means:

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

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

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

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

15 (v) A felony violation of RCW 9A.44.132(1) (failure to register)  
16 if the person has been convicted of violating RCW 9A.44.132(1)  
17 (failure to register) on at least one prior occasion;

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

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

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

26 ~~((47))~~ (48) "Sexual motivation" means that one of the purposes  
27 for which the defendant committed the crime was for the purpose of  
28 his or her sexual gratification.

29 ~~((48))~~ (49) "Standard sentence range" means the sentencing  
30 court's discretionary range in imposing a nonappealable sentence.

31 ~~((49))~~ (50) "Statutory maximum sentence" means the maximum  
32 length of time for which an offender may be confined as punishment  
33 for a crime as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the  
34 statute defining the crime, or other statute defining the maximum  
35 penalty for a crime.

36 ~~((50))~~ (51) "Stranger" means that the victim did not know the  
37 offender twenty-four hours before the offense.

38 ~~((51))~~ (52) "Total confinement" means confinement inside the  
39 physical boundaries of a facility or institution operated or utilized

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

3 ~~((+52+))~~ (53) "Transition training" means written and verbal  
4 instructions and assistance provided by the department to the  
5 offender during the two weeks prior to the offender's successful  
6 completion of the work ethic camp program. The transition training  
7 shall include instructions in the offender's requirements and  
8 obligations during the offender's period of community custody.

9 ~~((+53+))~~ (54) "Victim" means any person who has sustained  
10 emotional, psychological, physical, or financial injury to person or  
11 property as a direct result of the crime charged.

12 ~~((+54+))~~ (55) "Violent offense" means:

13 (a) Any of the following felonies:

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

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

18 (iii) Manslaughter in the first degree;

19 (iv) Manslaughter in the second degree;

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

21 (vi) Kidnapping in the second degree;

22 (vii) Arson in the second degree;

23 (viii) Assault in the second degree;

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

25 (x) Extortion in the first degree;

26 (xi) Robbery in the second degree;

27 (xii) Drive-by shooting;

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

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

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

1 (c) 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 violent offense under (a) or (b) of this subsection.

4 (~~(55)~~) (56) "Work crew" means a program of partial confinement  
5 consisting of civic improvement tasks for the benefit of the  
6 community that complies with RCW 9.94A.725.

7 (~~(56)~~) (57) "Work ethic camp" means an alternative  
8 incarceration program as provided in RCW 9.94A.690 designed to reduce  
9 recidivism and lower the cost of corrections by requiring offenders  
10 to complete a comprehensive array of real-world job and vocational  
11 experiences, character-building work ethics training, life management  
12 skills development, substance abuse rehabilitation, counseling,  
13 literacy training, and basic adult education.

14 (~~(57)~~) (58) "Work release" means a program of partial  
15 confinement available to offenders who are employed or engaged as a  
16 student in a regular course of study at school.

17 **Sec. 2.** RCW 9.94A.734 and 2010 c 224 s 9 are each amended to  
18 read as follows:

19 (1) Home detention may not be imposed for offenders convicted of  
20 the following offenses, unless imposed as partial confinement in the  
21 department's parenting program under RCW 9.94A.6551:

- 22 (a) A violent offense;
- 23 (b) Any sex offense;
- 24 (c) Any drug offense;
- 25 (d) Reckless burning in the first or second degree as defined in  
26 RCW 9A.48.040 or 9A.48.050;
- 27 (e) Assault in the third degree as defined in RCW 9A.36.031;
- 28 (f) Assault of a child in the third degree;
- 29 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or
- 30 (h) Harassment as defined in RCW 9A.46.020.

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

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

1 (a) Successfully completing twenty-one days in a work release  
2 program;

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

6 (c) Having no convictions for a violent felony offense during the  
7 preceding two years and not more than two prior convictions for a  
8 violent felony offense;

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

10 (e) Fulfilling the other conditions of the home detention  
11 program.

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

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

22 (b) Having no convictions for a violent felony offense during the  
23 preceding two years and not more than two prior convictions for a  
24 violent felony offense;

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

26 (d) Fulfilling the other conditions of the home detention  
27 program.

28 (4) Participation in a home detention program shall be  
29 conditioned upon:

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

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

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

36 (5) The home detention program may also be made available to  
37 offenders whose charges and convictions do not otherwise disqualify  
38 them if medical or health-related conditions, concerns or treatment  
39 would be better addressed under the home detention program, or where  
40 the health and welfare of the offender, other inmates, or staff would



1 be jeopardized by the offender's incarceration. Participation in the  
2 home detention program for medical or health-related reasons is  
3 conditioned on the offender abiding by the rules of the home  
4 detention program and complying with court-ordered restitution.

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

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

15 (7) A home detention program must be administered by a monitoring  
16 agency that meets the conditions described in section 3 of this act.

17 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A  
18 RCW to read as follows:

19 (1) A supervising agency must establish terms and conditions of  
20 electronic monitoring for each individual subject to electronic  
21 monitoring under the agency's jurisdiction. The supervising agency  
22 must communicate those terms and conditions to the monitoring agency.  
23 A supervising agency must also establish protocols for when and how a  
24 monitoring agency must notify the supervising agency when a violation  
25 of the terms and conditions occurs. A monitoring agency must comply  
26 with the terms and conditions as established by the supervising  
27 agency.

28 (2) A monitoring agency shall:

29 (a) Provide notification within twenty-four hours to the court or  
30 other supervising agency when the monitoring agency discovers that  
31 the monitored individual is unaccounted for, or is beyond an approved  
32 location, for twenty-four consecutive hours. Notification shall also  
33 be provided to the probation department, the prosecuting attorney,  
34 local law enforcement, the local detention facility, or the  
35 department, as applicable;

36 (b) Establish geographic boundaries consistent with court-ordered  
37 activities and report substantive violations of those boundaries;

38 (c) Verify the location of the offender through in-person contact  
39 on a random basis at least once per month; and

1 (d) Report to the supervising agency or other appropriate  
2 authority any known violation of the law or court-ordered condition.

3 (3) In addition, a private monitoring agency shall:

4 (a) Have detailed contingency plans for the monitoring agency's  
5 operation with provisions for power outage, loss of telephone  
6 service, fire, flood, malfunction of equipment, death, incapacitation  
7 or personal emergency of a monitor, and financial insolvency of the  
8 monitoring agency;

9 (b) Prohibit certain relationships between a monitored individual  
10 and a monitoring agency, including:

11 (i) Personal associations between a monitored individual and a  
12 monitoring agency or agency employee;

13 (ii) A monitoring agency or employee entering into another  
14 business relationship with a monitored individual or monitored  
15 individual's family during the monitoring; and

16 (iii) A monitoring agency or employee employing a monitored  
17 individual for at least one year after the termination of the  
18 monitoring;

19 (c) Not employ or be owned by any person convicted of a felony  
20 offense within the past four years; and

21 (d) Obtain a background check through the Washington state patrol  
22 for every partner, director, officer, owner, employee, or operator of  
23 the monitoring agency, at the monitoring agency's expense.

24 (4) A private monitoring agency that fails to comply with any of  
25 the requirements in this section may be subject to a civil penalty,  
26 as determined by a court of competent jurisdiction or a court  
27 administrator, in an amount of not more than one thousand dollars for  
28 each violation, in addition to any penalties imposed by contract. A  
29 court or court administrator may cancel a contract with a monitoring  
30 agency for any violation by the monitoring agency.

31 (5)(a) A court that receives notice of a violation by a monitored  
32 individual of the terms of electronic monitoring or home detention  
33 shall note and maintain a record of the violation in the court file.

34 (b)(i) The presiding judge of a court must notify the  
35 administrative office of the courts if:

36 (A) The court or court administrator decides it will not allow  
37 use of a particular monitoring agency by persons ordered to comply  
38 with an electronic monitoring or home detention program; and

39 (B) The court or court administrator, after previously deciding  
40 not to allow use of a particular monitoring agency, decides to resume

1 allowing use of the monitoring agency by persons ordered to comply  
2 with a home detention program.

3 (ii) In either case, the court or court administrator must  
4 include in its notice the reasons for the court's decision.

5 (6) The administrative office of the courts shall, after  
6 receiving notice pursuant to subsection (5) of this section, transmit  
7 the notice to all superior courts and courts of limited jurisdiction  
8 in the state, and any law enforcement or corrections agency that has  
9 requested such notification.

10 (7) The courts, the administrative office of the courts, and  
11 their employees and agents are not liable for acts or omissions  
12 pursuant to subsections (5) and (6) of this section absent a showing  
13 of gross negligence or bad faith.

14 (8) For the purposes of this section:

15 (a) A "monitoring agency" means an entity, private or public,  
16 which electronically monitors an individual, pursuant to an  
17 electronic monitoring or home detention program, including the  
18 department of corrections, a sheriff's office, a police department, a  
19 local detention facility, or a private entity; and

20 (b) A "supervising agency" means the public entity that  
21 authorized, approved, administers or manages, whether pretrial or  
22 posttrial, the home detention or electronic monitoring program of an  
23 individual and has jurisdiction and control over the monitored  
24 individual. A supervising agency may also be a monitoring agency.

25 (9) All government contracts with a private monitoring agency to  
26 provide electronic monitoring or home detention must be in writing  
27 and may provide contractual penalties in addition to those provided  
28 under this act.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A  
30 RCW to read as follows:

31 (1) By December 1, 2015, the administrative office of the courts  
32 shall create a pattern form order for use by a court in cases where a  
33 court orders a person to comply with a home detention program.

34 (2) The court shall provide a copy of the form order to the  
35 person ordered to comply with a home detention program. The form  
36 order must include the following:

37 (a) In a conspicuous location, a notice of criminal penalties  
38 resulting for a violation of the terms and conditions of a home  
39 detention program; and

1 (b) Language stating that a person may leave his or her residence  
2 for specific purposes only as ordered by the court, with a list of  
3 common purposes, such as school, employment, treatment, counseling,  
4 programming, or other activities from which a court may select.

5 (3) When a court orders a person to comply with the terms of a  
6 home detention program, the court must, in addition to its order,  
7 complete the form order created pursuant to this section to notify  
8 the person of criminal penalties associated with violation of the  
9 terms and conditions of the program and of any express permission  
10 granted for absence from the residence.

11 **Sec. 5.** RCW 10.21.030 and 2014 c 24 s 2 are each amended to read  
12 as follows:

13 (1) The judicial officer may at any time amend the order to  
14 impose additional or different conditions of release. The conditions  
15 imposed under this chapter supplement but do not supplant provisions  
16 of law allowing the imposition of conditions to assure the appearance  
17 of the defendant at trial or to prevent interference with the  
18 administration of justice.

19 (2) Appropriate conditions of release under this chapter include,  
20 but are not limited to, the following:

21 (a) The defendant may be placed in the custody of a pretrial  
22 release program;

23 (b) The defendant may have restrictions placed upon travel,  
24 association, or place of abode during the period of release;

25 (c) The defendant may be required to comply with a specified  
26 curfew;

27 (d) The defendant may be required to return to custody during  
28 specified hours or to be placed on electronic monitoring, as defined  
29 in RCW 9.94A.030, if available. The defendant, if convicted, may not  
30 have the period of incarceration reduced by the number of days spent  
31 on electronic monitoring;

32 (e) The defendant may be required to comply with a program of  
33 home detention, as defined in RCW 9.94A.030;

34 (f) The defendant may be prohibited from approaching or  
35 communicating in any manner with particular persons or classes of  
36 persons;

37 ((+f+)) (g) The defendant may be prohibited from going to certain  
38 geographical areas or premises;

1       ~~((g))~~ (h) The defendant may be prohibited from possessing any  
2 dangerous weapons or firearms;

3       ~~((h))~~ (i) The defendant may be prohibited from possessing or  
4 consuming any intoxicating liquors or drugs not prescribed to the  
5 defendant. The defendant may be required to submit to testing to  
6 determine the defendant's compliance with this condition;

7       ~~((i))~~ (j) The defendant may be prohibited from operating a  
8 motor vehicle that is not equipped with an ignition interlock device;

9       ~~((j))~~ (k) The defendant may be required to report regularly to  
10 and remain under the supervision of an officer of the court or other  
11 person or agency; and

12       ~~((k))~~ (l) The defendant may be prohibited from committing any  
13 violations of criminal law.

14       NEW SECTION.   **Sec. 6.** A new section is added to chapter 10.21  
15 RCW to read as follows:

16       Under this chapter, "home detention" means any program meeting  
17 the definition of home detention in RCW 9.94A.030, and complying with  
18 the requirements of section 3 of this act.

19       **Sec. 7.** RCW 9.94A.704 and 2014 c 35 s 1 are each amended to read  
20 as follows:

21       (1) Every person who is sentenced to a period of community  
22 custody shall report to and be placed under the supervision of the  
23 department, subject to RCW 9.94A.501.

24       (2)(a) The department shall assess the offender's risk of  
25 reoffense and may establish and modify additional conditions of  
26 community custody based upon the risk to community safety.

27       (b) Within the funds available for community custody, the  
28 department shall determine conditions on the basis of risk to  
29 community safety, and shall supervise offenders during community  
30 custody on the basis of risk to community safety and conditions  
31 imposed by the court. The secretary shall adopt rules to implement  
32 the provisions of this subsection (2)(b).

33       (3) If the offender is supervised by the department, the  
34 department shall at a minimum instruct the offender to:

35           (a) Report as directed to a community corrections officer;

36           (b) Remain within prescribed geographical boundaries;

37           (c) Notify the community corrections officer of any change in the  
38 offender's address or employment;

1 (d) Pay the supervision fee assessment; and

2 (e) Disclose the fact of supervision to any mental health or  
3 chemical dependency treatment provider, as required by RCW 9.94A.722.

4 (4) The department may require the offender to participate in  
5 rehabilitative programs, or otherwise perform affirmative conduct,  
6 and to obey all laws.

7 (5) If the offender was sentenced pursuant to a conviction for a  
8 sex offense, the department may:

9 (a) Require the offender to refrain from direct or indirect  
10 contact with the victim of the crime or immediate family member of  
11 the victim of the crime. If a victim or an immediate family member of  
12 a victim has requested that the offender not contact him or her after  
13 notice as provided in RCW 72.09.340, the department shall require the  
14 offender to refrain from contact with the requestor. Where the victim  
15 is a minor, the parent or guardian of the victim may make a request  
16 on the victim's behalf.

17 (b) Impose electronic monitoring. Within the resources made  
18 available by the department for this purpose, the department shall  
19 carry out any electronic monitoring using the most appropriate  
20 technology given the individual circumstances of the offender. As  
21 used in this section, "electronic monitoring" (~~means the monitoring~~  
22 ~~of an offender using an electronic offender tracking system~~  
23 ~~including, but not limited to, a system using radio frequency or~~  
24 ~~active or passive global positioning system technology~~) has the same  
25 meaning as in RCW 9.94A.030.

26 (6) The department may not impose conditions that are contrary to  
27 those ordered by the court and may not contravene or decrease court-  
28 imposed conditions.

29 (7)(a) The department shall notify the offender in writing of any  
30 additional conditions or modifications.

31 (b) By the close of the next business day after receiving notice  
32 of a condition imposed or modified by the department, an offender may  
33 request an administrative review under rules adopted by the  
34 department. The condition shall remain in effect unless the reviewing  
35 officer finds that it is not reasonably related to the crime of  
36 conviction, the offender's risk of reoffending, or the safety of the  
37 community.

38 (8) The department shall notify the offender in writing upon  
39 community custody intake of the department's violation process.

1 (9) The department may require offenders to pay for special  
2 services rendered including electronic monitoring, day reporting, and  
3 telephone reporting, dependent on the offender's ability to pay. The  
4 department may pay for these services for offenders who are not able  
5 to pay.

6 (10)(a) When a sex offender has been sentenced pursuant to RCW  
7 9.94A.507, the department shall assess the offender's risk of  
8 recidivism and shall recommend to the board any additional or  
9 modified conditions based upon the offender's risk to community  
10 safety and may recommend affirmative conduct or electronic monitoring  
11 consistent with subsections (4) through (6) of this section.

12 (b) The board may impose conditions in addition to court-ordered  
13 conditions. The board must consider and may impose department-  
14 recommended conditions. The board must impose a condition requiring  
15 the offender to refrain from contact with the victim or immediate  
16 family member of the victim as provided in subsection (5)(a) of this  
17 section.

18 (c) By the close of the next business day, after receiving notice  
19 of a condition imposed by the board or the department, an offender  
20 may request an administrative hearing under rules adopted by the  
21 board. The condition shall remain in effect unless the hearing  
22 examiner finds that it is not reasonably related to any of the  
23 following:

- 24 (i) The crime of conviction;
- 25 (ii) The offender's risk of reoffending;
- 26 (iii) The safety of the community.

27 (d) If the department finds that an emergency exists requiring  
28 the immediate imposition of additional conditions in order to prevent  
29 the offender from committing a crime, the department may impose such  
30 conditions. The department may not impose conditions that are  
31 contrary to those set by the board or the court and may not  
32 contravene or decrease court-imposed or board-imposed conditions.  
33 Conditions imposed under this subsection shall take effect  
34 immediately after notice to the offender by personal service, but  
35 shall not remain in effect longer than seven working days unless  
36 approved by the board.

37 (11) In setting, modifying, and enforcing conditions of community  
38 custody, the department shall be deemed to be performing a  
39 quasi-judicial function.

1       **Sec. 8.** RCW 26.50.010 and 2008 c 6 s 406 are each amended to  
2 read as follows:

3       As used in this chapter, the following terms shall have the  
4 meanings given them:

5       (1) "Domestic violence" means: (a) Physical harm, bodily injury,  
6 assault, or the infliction of fear of imminent physical harm, bodily  
7 injury or assault, between family or household members; (b) sexual  
8 assault of one family or household member by another; or (c) stalking  
9 as defined in RCW 9A.46.110 of one family or household member by  
10 another family or household member.

11       (2) "Family or household members" means spouses, domestic  
12 partners, former spouses, former domestic partners, persons who have  
13 a child in common regardless of whether they have been married or  
14 have lived together at any time, adult persons related by blood or  
15 marriage, adult persons who are presently residing together or who  
16 have resided together in the past, persons sixteen years of age or  
17 older who are presently residing together or who have resided  
18 together in the past and who have or have had a dating relationship,  
19 persons sixteen years of age or older with whom a person sixteen  
20 years of age or older has or has had a dating relationship, and  
21 persons who have a biological or legal parent-child relationship,  
22 including stepparents and stepchildren and grandparents and  
23 grandchildren.

24       (3) "Dating relationship" means a social relationship of a  
25 romantic nature. Factors that the court may consider in making this  
26 determination include: (a) The length of time the relationship has  
27 existed; (b) the nature of the relationship; and (c) the frequency of  
28 interaction between the parties.

29       (4) "Court" includes the superior, district, and municipal courts  
30 of the state of Washington.

31       (5) "Judicial day" does not include Saturdays, Sundays, or legal  
32 holidays.

33       (6) "Electronic monitoring" (~~(means a program in which a person's~~  
34 ~~presence at a particular location is monitored from a remote location~~  
35 ~~by use of electronic equipment)) has the same meaning as in RCW  
36 9.94A.030.~~

37       (7) "Essential personal effects" means those items necessary for  
38 a person's immediate health, welfare, and livelihood. "Essential  
39 personal effects" includes but is not limited to clothing, cribs,  
40 bedding, documents, medications, and personal hygiene items.



1       **Sec. 9.** RCW 10.99.040 and 2012 c 223 s 3 are each amended to  
2 read as follows:

3       (1) Because of the serious nature of domestic violence, the court  
4 in domestic violence actions:

5       (a) Shall not dismiss any charge or delay disposition because of  
6 concurrent dissolution or other civil proceedings;

7       (b) Shall not require proof that either party is seeking a  
8 dissolution of marriage prior to instigation of criminal proceedings;

9       (c) Shall waive any requirement that the victim's location be  
10 disclosed to any person, other than the attorney of a criminal  
11 defendant, upon a showing that there is a possibility of further  
12 violence: PROVIDED, That the court may order a criminal defense  
13 attorney not to disclose to his or her client the victim's location;  
14 and

15       (d) Shall identify by any reasonable means on docket sheets those  
16 criminal actions arising from acts of domestic violence.

17       (2)(a) Because of the likelihood of repeated violence directed at  
18 those who have been victims of domestic violence in the past, when  
19 any person charged with or arrested for a crime involving domestic  
20 violence is released from custody before arraignment or trial on bail  
21 or personal recognizance, the court authorizing the release may  
22 prohibit that person from having any contact with the victim. The  
23 jurisdiction authorizing the release shall determine whether that  
24 person should be prohibited from having any contact with the victim.  
25 If there is no outstanding restraining or protective order  
26 prohibiting that person from having contact with the victim, the  
27 court authorizing release may issue, by telephone, a no-contact order  
28 prohibiting the person charged or arrested from having contact with  
29 the victim or from knowingly coming within, or knowingly remaining  
30 within, a specified distance of a location.

31       (b) In issuing the order, the court shall consider the provisions  
32 of RCW 9.41.800.

33       (c) The no-contact order shall also be issued in writing as soon  
34 as possible, and shall state that it may be extended as provided in  
35 subsection (3) of this section. By January 1, 2011, the  
36 administrative office of the courts shall develop a pattern form for  
37 all no-contact orders issued under this chapter. A no-contact order  
38 issued under this chapter must substantially comply with the pattern  
39 form developed by the administrative office of the courts.

1 (3) At the time of arraignment the court shall determine whether  
2 a no-contact order shall be issued or extended. So long as the court  
3 finds probable cause, the court may issue or extend a no-contact  
4 order even if the defendant fails to appear at arraignment. The no-  
5 contact order shall terminate if the defendant is acquitted or the  
6 charges are dismissed. If a no-contact order is issued or extended,  
7 the court may also include in the conditions of release a requirement  
8 that the defendant submit to electronic monitoring as defined in RCW  
9 9.94A.030. If electronic monitoring is ordered, the court shall  
10 specify who shall provide the monitoring services, and the terms  
11 under which the monitoring shall be performed. Upon conviction, the  
12 court may require as a condition of the sentence that the defendant  
13 reimburse the providing agency for the costs of the electronic  
14 monitoring.

15 (4)(a) Willful violation of a court order issued under subsection  
16 (2), (3), or (7) of this section is punishable under RCW 26.50.110.

17 (b) The written order releasing the person charged or arrested  
18 shall contain the court's directives and shall bear the legend:  
19 "Violation of this order is a criminal offense under chapter 26.50  
20 RCW and will subject a violator to arrest; any assault, drive-by  
21 shooting, or reckless endangerment that is a violation of this order  
22 is a felony. You can be arrested even if any person protected by the  
23 order invites or allows you to violate the order's prohibitions. You  
24 have the sole responsibility to avoid or refrain from violating the  
25 order's provisions. Only the court can change the order."

26 (c) A certified copy of the order shall be provided to the  
27 victim.

28 (5) If a no-contact order has been issued prior to charging, that  
29 order shall expire at arraignment or within seventy-two hours if  
30 charges are not filed.

31 (6) Whenever a no-contact order is issued, modified, or  
32 terminated under subsection (2) or (3) of this section, the clerk of  
33 the court shall forward a copy of the order on or before the next  
34 judicial day to the appropriate law enforcement agency specified in  
35 the order. Upon receipt of the copy of the order the law enforcement  
36 agency shall enter the order for one year or until the expiration  
37 date specified on the order into any computer-based criminal  
38 intelligence information system available in this state used by law  
39 enforcement agencies to list outstanding warrants. Entry into the  
40 computer-based criminal intelligence information system constitutes

1 notice to all law enforcement agencies of the existence of the order.  
2 The order is fully enforceable in any jurisdiction in the state. Upon  
3 receipt of notice that an order has been terminated under subsection  
4 (3) of this section, the law enforcement agency shall remove the  
5 order from the computer-based criminal intelligence information  
6 system.

7 (7) All courts shall develop policies and procedures by January  
8 1, 2011, to grant victims a process to modify or rescind a no-contact  
9 order issued under this chapter. The administrative office of the  
10 courts shall develop a model policy to assist the courts in  
11 implementing the requirements of this subsection.

12 **Sec. 10.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to  
13 read as follows:

14 (1) When a person is convicted of a felony, the court shall  
15 impose punishment as provided in this chapter.

16 (2)(a) The court shall impose a sentence as provided in the  
17 following sections and as applicable in the case:

18 (i) Unless another term of confinement applies, a sentence within  
19 the standard sentence range established in RCW 9.94A.510 or  
20 9.94A.517;

21 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

22 (iii) RCW 9.94A.570, relating to persistent offenders;

23 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

24 (v) RCW 9.94A.650, relating to the first-time offender waiver;

25 (vi) RCW 9.94A.660, relating to the drug offender sentencing  
26 alternative;

27 (vii) RCW 9.94A.670, relating to the special sex offender  
28 sentencing alternative;

29 (viii) RCW 9.94A.655, relating to the parenting sentencing  
30 alternative;

31 (ix) RCW 9.94A.507, relating to certain sex offenses;

32 (x) RCW 9.94A.535, relating to exceptional sentences;

33 (xi) RCW 9.94A.589, relating to consecutive and concurrent  
34 sentences;

35 (xii) RCW 9.94A.603, relating to felony driving while under the  
36 influence of intoxicating liquor or any drug and felony physical  
37 control of a vehicle while under the influence of intoxicating liquor  
38 or any drug.

1 (b) If a standard sentence range has not been established for the  
2 offender's crime, the court shall impose a determinate sentence which  
3 may include not more than one year of confinement; community  
4 restitution work; a term of community custody under RCW 9.94A.702 not  
5 to exceed one year; and/or other legal financial obligations. The  
6 court may impose a sentence which provides more than one year of  
7 confinement and a community custody term under RCW 9.94A.701 if the  
8 court finds reasons justifying an exceptional sentence as provided in  
9 RCW 9.94A.535.

10 (3) If the court imposes a sentence requiring confinement of  
11 thirty days or less, the court may, in its discretion, specify that  
12 the sentence be served on consecutive or intermittent days. A  
13 sentence requiring more than thirty days of confinement shall be  
14 served on consecutive days. Local jail administrators may schedule  
15 court-ordered intermittent sentences as space permits.

16 (4) If a sentence imposed includes payment of a legal financial  
17 obligation, it shall be imposed as provided in RCW 9.94A.750,  
18 9.94A.753, 9.94A.760, and 43.43.7541.

19 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
20 court may not impose a sentence providing for a term of confinement  
21 or community custody that exceeds the statutory maximum for the crime  
22 as provided in chapter 9A.20 RCW.

23 (6) The sentencing court shall give the offender credit for all  
24 confinement time served before the sentencing if that confinement was  
25 solely in regard to the offense for which the offender is being  
26 sentenced.

27 (7) The sentencing court shall not give the offender credit for  
28 any time the offender was required to comply with an electronic  
29 monitoring program prior to sentencing if the offender was convicted  
30 of one of the following offenses:

31 (a) A violent offense;

32 (b) Any sex offense;

33 (c) Any drug offense;

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

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

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

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

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

1       (8) The court shall order restitution as provided in RCW  
2 9.94A.750 and 9.94A.753.

3       (~~(8)~~) (9) As a part of any sentence, the court may impose and  
4 enforce crime-related prohibitions and affirmative conditions as  
5 provided in this chapter.

6       (~~(9)~~) (10) In any sentence of partial confinement, the court  
7 may require the offender to serve the partial confinement in work  
8 release, in a program of home detention, on work crew, or in a  
9 combined program of work crew and home detention.

10       **Sec. 11.** RCW 9A.76.130 and 2011 c 336 s 403 are each amended to  
11 read as follows:

12       (1) A person is guilty of escape in the third degree if he or  
13 she:

14       (a) Escapes from custody; or

15       (b) Knowingly violates the terms of an electronic monitoring  
16 program.

17       (2) Escape in the third degree is a (~~gross~~) misdemeanor, except  
18 as provided in subsection (3) of this section.

19       (3)(a) If the person has one prior conviction for escape in the  
20 third degree, escape in the third degree is a gross misdemeanor.

21       (b) If the person has two or more prior convictions for escape in  
22 the third degree, escape in the third degree is a class C felony.

23       NEW SECTION.   **Sec. 12.** A new section is added to chapter 10.21  
24 RCW to read as follows:

25       A monitoring agency, as defined in section 3 of this act, may not  
26 agree to monitor pursuant to home detention or electronic monitoring  
27 an offender who is currently awaiting trial for a violent or sex  
28 offense, as defined in RCW 9.94A.030, unless the defendant's release  
29 before trial is secured with a payment of bail. If bail is revoked by  
30 the court or the bail bond agency, the court shall note the reason  
31 for the revocation in the court file.

32       NEW SECTION.   **Sec. 13.** If any provision of this act or its  
33 application to any person or circumstance is held invalid, the  
34 remainder of the act or the application of the provision to other  
35 persons or circumstances is not affected.

--- END ---