
HOUSE BILL 2048

State of Washington

68th Legislature

2024 Regular Session

By Representatives Mosbrucker and Goodman

Prefiled 12/27/23.

1 AN ACT Relating to supervision of domestic violence in criminal
2 sentencing; and amending RCW 9.94A.030, 9.94A.500, 9.94A.501,
3 9.94A.502, and 9.94A.525.

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

5 **Sec. 1.** RCW 9.94A.030 and 2022 c 231 s 11 are each amended to
6 read as follows:

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

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

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

20 (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 880 feet of
11 the facilities and grounds of a public or private school.

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

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

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

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

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

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. However, when a
39 defendant is charged with a recidivist offense, "criminal history"
40 includes a vacated prior conviction for the sole purpose of

1 establishing that such vacated prior conviction constitutes an
2 element of the present recidivist offense as provided in RCW
3 9.94A.640(4)(b) and 9.96.060(~~((7))~~) (8)(c).

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

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

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

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

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

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

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

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

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

39 (f) To provide the gang with any advantage in, or any control or
40 dominance over any criminal market sector, including, but not limited

1 to, manufacturing, delivering, or selling any controlled substance
2 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen
3 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88
4 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual
5 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter
6 9.68 RCW).

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

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

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

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

25 (19) "Disposable earnings" means that part of the earnings of an
26 offender remaining after the deduction from those earnings of any
27 amount required by law to be withheld. For the purposes of this
28 definition, "earnings" means compensation paid or payable for
29 personal services, whether denominated as wages, salary, commission,
30 bonuses, or otherwise, and, notwithstanding any other provision of
31 law making the payments exempt from garnishment, attachment, or other
32 process to satisfy a court-ordered legal financial obligation,
33 specifically includes periodic payments pursuant to pension or
34 retirement programs, or insurance policies of any type, but does not
35 include payments made under Title 50 RCW, except as provided in RCW
36 50.40.020 and 50.40.050, or Title 74 RCW.

37 (20)(a) "Domestic violence" has the same meaning as defined in
38 RCW 10.99.020.

39 (b) "Domestic violence" also means: (i) Physical harm, bodily
40 injury, assault, or the infliction of fear of imminent physical harm,

1 bodily injury, or assault, sexual assault, or stalking, as defined in
2 RCW 9A.46.110, of one intimate partner by another intimate partner as
3 defined in RCW 10.99.020; or (ii) physical harm, bodily injury,
4 assault, or the infliction of fear of imminent physical harm, bodily
5 injury, or assault, sexual assault, or stalking, as defined in RCW
6 9A.46.110, of one family or household member by another family or
7 household member as defined in RCW 10.99.020.

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

11 (22) "Drug offense" means:

12 (a) Any felony violation of chapter 69.50 RCW except possession
13 of a controlled substance (RCW 69.50.4013) or forged prescription for
14 a controlled substance (RCW 69.50.403);

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

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

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

23 (24) "Electronic monitoring" means tracking the location of an
24 individual through the use of technology that is capable of
25 determining or identifying the monitored individual's presence or
26 absence at a particular location 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 and which
35 may also include electronic monitoring with victim notification
36 technology that is capable of notifying a victim or protected party,
37 either directly or through a monitoring agency, if the monitored
38 individual enters within the restricted distance of a victim or
39 protected party, or within the restricted distance of a designated
40 location.

1 (25) "Escape" means:

2 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
3 the first degree (RCW 9A.76.110), escape in the second degree (RCW
4 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
5 willful failure to return from work release (RCW 72.65.070), or
6 willful failure to be available for supervision by the department
7 while in community custody (RCW 72.09.310); or

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

11 (26) "Felony traffic offense" means:

12 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
13 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
14 run injury-accident (RCW 46.52.020(4)), felony driving while under
15 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
16 or felony physical control of a vehicle while under the influence of
17 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

27 (29) "Home detention" is a subset of electronic monitoring and
28 means a program of partial confinement available to offenders wherein
29 the offender is confined in a private residence 24 hours a day,
30 unless an absence from the residence is approved, authorized, or
31 otherwise permitted in the order by the court or other supervising
32 agency that ordered home detention, and the offender is subject to
33 electronic monitoring.

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

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

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

1 (c) A private residence where the individual stays as a transient
2 invitee.

3 (31) "Legal financial obligation" means a sum of money that is
4 ordered by a superior court of the state of Washington for legal
5 financial obligations which may include restitution to the victim,
6 statutorily imposed crime victims' compensation fees as assessed
7 pursuant to RCW 7.68.035, court costs, county or interlocal drug
8 funds, court-appointed attorneys' fees, and costs of defense, fines,
9 and any other financial obligation that is assessed to the offender
10 as a result of a felony conviction. Upon conviction for vehicular
11 assault while under the influence of intoxicating liquor or any drug,
12 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
13 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
14 financial obligations may also include payment to a public agency of
15 the expense of an emergency response to the incident resulting in the
16 conviction, subject to RCW 38.52.430.

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

19 (a) Any felony defined under any law as a class A felony or
20 criminal solicitation of or criminal conspiracy to commit a class A
21 felony;

22 (b) Assault in the second degree;

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

24 (d) Child molestation in the second degree;

25 (e) Controlled substance homicide;

26 (f) Extortion in the first degree;

27 (g) Incest when committed against a child under age 14;

28 (h) Indecent liberties;

29 (i) Kidnapping in the second degree;

30 (j) Leading organized crime;

31 (k) Manslaughter in the first degree;

32 (l) Manslaughter in the second degree;

33 (m) Promoting prostitution in the first degree;

34 (n) Rape in the third degree;

35 (o) Sexual exploitation;

36 (p) Vehicular assault, when caused by the operation or driving of
37 a vehicle by a person while under the influence of intoxicating
38 liquor or any drug or by the operation or driving of a vehicle in a
39 reckless manner;

1 (q) Vehicular homicide, when proximately caused by the driving of
2 any vehicle by any person while under the influence of intoxicating
3 liquor or any drug as defined by RCW 46.61.502, or by the operation
4 of any vehicle in a reckless manner;

5 (r) Any other class B felony offense with a finding of sexual
6 motivation;

7 (s) Any other felony with a deadly weapon verdict under RCW
8 9.94A.825;

9 (t) Any felony offense in effect at any time prior to December 2,
10 1993, that is comparable to a most serious offense under this
11 subsection, or any federal or out-of-state conviction for an offense
12 that under the laws of this state would be a felony classified as a
13 most serious offense under this subsection;

14 (u)(i) A prior conviction for indecent liberties under RCW
15 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
16 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
17 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
18 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
19 until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
22 if: (A) The crime was committed against a child under the age of 14;
23 or (B) the relationship between the victim and perpetrator is
24 included in the definition of indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
26 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
27 1993, through July 27, 1997;

28 (v) Any out-of-state conviction for a felony offense with a
29 finding of sexual motivation if the minimum sentence imposed was 10
30 years or more; provided that the out-of-state felony offense must be
31 comparable to a felony offense under this title and Title 9A RCW and
32 the out-of-state definition of sexual motivation must be comparable
33 to the definition of sexual motivation contained in this section.

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

36 (34) "Offender" means a person who has committed a felony
37 established by state law and is 18 years of age or older or is less
38 than 18 years of age but whose case is under superior court
39 jurisdiction under RCW 13.04.030 or has been transferred by the
40 appropriate juvenile court to a criminal court pursuant to RCW

1 13.40.110. In addition, for the purpose of community custody
2 requirements under this chapter, "offender" also means a misdemeanor
3 or gross misdemeanor probationer ordered by a superior court to
4 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
5 supervised by the department pursuant to RCW 9.94A.501 and
6 9.94A.5011. Throughout this chapter, the terms "offender" and
7 "defendant" are used interchangeably.

8 (35) "Partial confinement" means confinement for no more than one
9 year in a facility or institution operated or utilized under contract
10 by the state or any other unit of government, or, if home detention,
11 electronic monitoring, or work crew has been ordered by the court or
12 home detention has been ordered by the department as part of the
13 parenting program or the graduated reentry program, in an approved
14 residence, for a substantial portion of each day with the balance of
15 the day spent in the community. Partial confinement includes work
16 release, home detention, work crew, electronic monitoring, and a
17 combination of work crew, electronic monitoring, and home detention.

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

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

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

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

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

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

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

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

33 (vii) Hate Crime (RCW 9A.36.080);

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

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

37 (x) Any felony conviction by a person 18 years of age or older
38 with a special finding of involving a juvenile in a felony offense
39 under RCW 9.94A.833;

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

- 1 (xii) Burglary 2 (RCW 9A.52.030);
2 (xiii) Malicious Mischief 1 (RCW 9A.48.070);
3 (xiv) Malicious Mischief 2 (RCW 9A.48.080);
4 (xv) Theft of a Motor Vehicle (RCW 9A.56.065);
5 (xvi) Possession of a Stolen Motor Vehicle (RCW 9A.56.068);
6 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
7 9A.56.070);
8 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
9 9A.56.075);
10 (xix) Extortion 1 (RCW 9A.56.120);
11 (xx) Extortion 2 (RCW 9A.56.130);
12 (xxi) Intimidating a Witness (RCW 9A.72.110);
13 (xxii) Tampering with a Witness (RCW 9A.72.120);
14 (xxiii) Reckless Endangerment (RCW 9A.36.050);
15 (xxiv) Coercion (RCW 9A.36.070);
16 (xxv) Harassment (RCW 9A.46.020); or
17 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);

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

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

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

26 (37) "Persistent offender" is an offender who:

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

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

37 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
38 of a child in the first degree, child molestation in the first
39 degree, rape in the second degree, rape of a child in the second
40 degree, or indecent liberties by forcible compulsion; (B) any of the

1 following offenses with a finding of sexual motivation: Murder in the
2 first degree, murder in the second degree, homicide by abuse,
3 kidnapping in the first degree, kidnapping in the second degree,
4 assault in the first degree, assault in the second degree, assault of
5 a child in the first degree, assault of a child in the second degree,
6 or burglary in the first degree; or (C) an attempt to commit any
7 crime listed in this subsection (37)(b)(i); and

8 (ii) Has, before the commission of the offense under (b)(i) of
9 this subsection, been convicted as an offender on at least one
10 occasion, whether in this state or elsewhere, of an offense listed in
11 (b)(i) of this subsection or any federal or out-of-state offense or
12 offense under prior Washington law that is comparable to the offenses
13 listed in (b)(i) of this subsection. A conviction for rape of a child
14 in the first degree constitutes a conviction under (b)(i) of this
15 subsection only when the offender was 16 years of age or older when
16 the offender committed the offense. A conviction for rape of a child
17 in the second degree constitutes a conviction under (b)(i) of this
18 subsection only when the offender was 18 years of age or older when
19 the offender committed the offense.

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

1 28A.225.010; and (B) "teacher, counselor, volunteer, or other person
2 in authority" does not include the parent or legal guardian of the
3 victim.

4 (39) "Private school" means a school regulated under chapter
5 28A.195 or 28A.205 RCW.

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

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

10 (a) (~~(Assault)~~) Domestic violence assault in the fourth degree
11 (~~(where domestic violence is pleaded and proven)~~), RCW 9A.36.041(3);

12 (b) Cyber harassment, RCW 9A.90.120(2)(b)(i);

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

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

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

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

17 (g) Violation of a no-contact or protection order, RCW 7.105.450
18 or former RCW 26.50.110(5).

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

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

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

24 (iii) Domestic violence violation of a protection order under
25 chapter 26.09, 26.26A, or 26.26B RCW or former chapter 26.50 RCW, or
26 violation of a domestic violence protection order under chapter 7.105
27 RCW, that is not a felony offense;

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

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

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

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

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

5 (45) "Serious traffic offense" means:

6 (a) Nonfelony driving while under the influence of intoxicating
7 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
8 while under the influence of intoxicating liquor or any drug (RCW
9 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
10 attended vehicle (RCW 46.52.020(5)); or

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

14 (46) "Serious violent offense" is a subcategory of violent
15 offense and means:

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

17 (ii) Homicide by abuse;

18 (iii) Murder in the second degree;

19 (iv) Manslaughter in the first degree;

20 (v) Assault in the first degree;

21 (vi) Kidnapping in the first degree;

22 (vii) Rape in the first degree;

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

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

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

29 (47) "Sex offense" means:

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

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

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

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

38 (v) A felony violation of RCW 9A.44.132(1) (failure to register
39 as a sex offender) if the person has been convicted of violating RCW

1 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
2 prior to June 10, 2010, on at least one prior occasion;

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

6 (c) A felony with a finding of sexual motivation under RCW
7 9.94A.835 or 13.40.135; or

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

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

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

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

21 (51) "Stranger" means that the victim did not know the offender
22 24 hours before the offense.

23 (52) "Total confinement" means confinement inside the physical
24 boundaries of a facility or institution operated or utilized under
25 contract by the state or any other unit of government for 24 hours a
26 day, or pursuant to RCW 72.64.050 and 72.64.060.

27 (53) "Transition training" means written and verbal instructions
28 and assistance provided by the department to the offender during the
29 two weeks prior to the offender's successful completion of the work
30 ethic camp program. The transition training shall include
31 instructions in the offender's requirements and obligations during
32 the offender's period of community custody.

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

36 (55) "Victim of domestic violence" means an intimate partner or
37 household member who has been subjected to the infliction of physical
38 harm or sexual and psychological abuse by an intimate partner or
39 household member as part of a pattern of assaultive, coercive, and
40 controlling behaviors directed at achieving compliance from or

1 control over that intimate partner or household member. Domestic
2 violence includes, but is not limited to, the offenses listed in RCW
3 10.99.020 and 26.50.010 committed by an intimate partner or household
4 member against a victim who is an intimate partner or household
5 member.

6 (56) "Victim of sex trafficking, prostitution, or commercial
7 sexual abuse of a minor" means a person who has been forced or
8 coerced to perform a commercial sex act including, but not limited
9 to, being a victim of offenses defined in RCW 9A.40.100, 9A.88.070,
10 9.68A.101, and the trafficking victims protection act of 2000, 22
11 U.S.C. Sec. 7101 et seq.; or a person who was induced to perform a
12 commercial sex act when they were less than 18 years of age including
13 but not limited to the offenses defined in chapter 9.68A RCW.

14 (57) "Victim of sexual assault" means any person who is a victim
15 of a sexual assault offense, nonconsensual sexual conduct, or
16 nonconsensual sexual penetration and as a result suffers physical,
17 emotional, financial, or psychological impacts. Sexual assault
18 offenses include, but are not limited to, the offenses defined in
19 chapter 9A.44 RCW.

20 (58) "Violent offense" means:

21 (a) Any of the following felonies:

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

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

26 (iii) Manslaughter in the first degree;

27 (iv) Manslaughter in the second degree;

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

29 (vi) Kidnapping in the second degree;

30 (vii) Arson in the second degree;

31 (viii) Assault in the second degree;

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

33 (x) Extortion in the first degree;

34 (xi) Robbery in the second degree;

35 (xii) Drive-by shooting;

36 (xiii) Vehicular assault, when caused by the operation or driving
37 of a vehicle by a person while under the influence of intoxicating
38 liquor or any drug or by the operation or driving of a vehicle in a
39 reckless manner; and

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

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

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

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

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

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

24 **Sec. 2.** RCW 9.94A.500 and 2019 c 263 s 501 are each amended to
25 read as follows:

26 (1) Before imposing a sentence upon a defendant, the court shall
27 conduct a sentencing hearing. The sentencing hearing shall be held
28 within forty court days following conviction. Upon the motion of
29 either party for good cause shown, or on its own motion, the court
30 may extend the time period for conducting the sentencing hearing.

31 Except in cases where the defendant shall be sentenced to a term
32 of total confinement for life without the possibility of release or,
33 when authorized by RCW 10.95.030 for the crime of aggravated murder
34 in the first degree, sentenced to death, the court may order the
35 department to complete a risk assessment report. If available before
36 sentencing, the report shall be provided to the court.

37 Unless specifically waived by the court, the court shall order
38 the department to complete a chemical dependency screening report
39 before imposing a sentence upon a defendant who has been convicted of

1 a violation of the uniform controlled substances act under chapter
2 69.50 RCW, a criminal solicitation to commit such a violation under
3 chapter 9A.28 RCW, or any felony where the court finds that the
4 offender has a chemical dependency that has contributed to his or her
5 offense. In addition, the court shall, at the time of plea or
6 conviction, order the department to complete a presentence report
7 before imposing a sentence upon a defendant who has been convicted of
8 a felony sexual offense. The department of corrections shall give
9 priority to presentence investigations for sexual offenders. If the
10 court determines that the defendant may be a mentally ill person as
11 defined in RCW 71.24.025, although the defendant has not established
12 that at the time of the crime he or she lacked the capacity to commit
13 the crime, was incompetent to commit the crime, or was insane at the
14 time of the crime, the court shall order the department to complete a
15 presentence report before imposing a sentence.

16 Unless specifically waived by the court, the court shall order
17 the department to complete a presentence investigation before
18 imposing a drug offender sentencing alternative upon a defendant who
19 has been convicted of a felony domestic violence offense (~~where~~
20 ~~domestic violence has been pleaded and proven~~).

21 The court shall consider the risk assessment report and
22 presentence reports, if any, including any victim impact statement
23 and criminal history, and allow arguments from the prosecutor, the
24 defense counsel, the offender, the victim, the survivor of the
25 victim, or a representative of the victim or survivor, and an
26 investigative law enforcement officer as to the sentence to be
27 imposed.

28 A criminal history summary relating to the defendant from the
29 prosecuting authority or from a state, federal, or foreign
30 governmental agency shall be prima facie evidence of the existence
31 and validity of the convictions listed therein. If the court is
32 satisfied by a preponderance of the evidence that the defendant has a
33 criminal history, the court shall specify the convictions it has
34 found to exist. All of this information shall be part of the record.
35 Copies of all risk assessment reports and presentence reports
36 presented to the sentencing court and all written findings of facts
37 and conclusions of law as to sentencing entered by the court shall be
38 sent to the department by the clerk of the court at the conclusion of
39 the sentencing and shall accompany the offender if the offender is
40 committed to the custody of the department. Court clerks shall

1 provide, without charge, certified copies of documents relating to
2 criminal convictions requested by prosecuting attorneys.

3 (2) To prevent wrongful disclosure of information and records
4 related to mental health services, as described in RCW 71.05.445 and
5 70.02.250, a court may take only those steps necessary during a
6 sentencing hearing or any hearing in which the department presents
7 information related to mental health services to the court. The steps
8 may be taken on motion of the defendant, the prosecuting attorney, or
9 on the court's own motion. The court may seal the portion of the
10 record relating to information relating to mental health services,
11 exclude the public from the hearing during presentation or discussion
12 of information and records relating to mental health services, or
13 grant other relief to achieve the result intended by this subsection,
14 but nothing in this subsection shall be construed to prevent the
15 subsequent release of information and records related to mental
16 health services as authorized by RCW 71.05.445, 70.02.250, or
17 72.09.585. Any person who otherwise is permitted to attend any
18 hearing pursuant to chapter 7.69 or 7.69A RCW shall not be excluded
19 from the hearing solely because the department intends to disclose or
20 discloses information related to mental health services.

21 **Sec. 3.** RCW 9.94A.501 and 2021 c 242 s 2 are each amended to
22 read as follows:

23 (1) The department shall supervise the following offenders who
24 are sentenced to probation in superior court, pursuant to RCW
25 9.92.060, 9.95.204, or 9.95.210:

26 (a) Offenders convicted of:

27 (i) Sexual misconduct with a minor second degree;

28 (ii) Custodial sexual misconduct second degree;

29 (iii) Communication with a minor for immoral purposes; and

30 (iv) Violation of RCW 9A.44.132(2) (failure to register); and

31 (b) Offenders who have:

32 (i) A current conviction for a repetitive domestic violence
33 offense (~~where domestic violence has been pleaded and proven~~) after
34 August 1, 2011; and

35 (ii) A prior conviction for a repetitive domestic violence
36 offense or domestic violence felony offense (~~where domestic violence
37 has been pleaded and proven~~) after August 1, 2011.

1 (2) Misdemeanor and gross misdemeanor offenders supervised by the
2 department pursuant to this section shall be placed on community
3 custody.

4 (3) The department shall supervise every felony offender
5 sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702
6 whose risk assessment classifies the offender as one who is at a high
7 risk to reoffend.

8 (4) Notwithstanding any other provision of this section, the
9 department shall supervise an offender sentenced to community custody
10 regardless of risk classification if the offender:

11 (a) Has a current conviction for a sex offense or a serious
12 violent offense and was sentenced to a term of community custody
13 pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

14 (b) Has been identified by the department as a dangerous mentally
15 ill offender pursuant to RCW 72.09.370;

16 (c) Has an indeterminate sentence and is subject to parole
17 pursuant to RCW 9.95.017;

18 (d) Has a current conviction for violating RCW 9A.44.132(1)
19 (failure to register) and was sentenced to a term of community
20 custody pursuant to RCW 9.94A.701;

21 (e)(i) Has a current conviction for a domestic violence felony
22 offense (~~where domestic violence has been pleaded and proven~~) after
23 August 1, 2011, and a prior conviction for a repetitive domestic
24 violence offense or domestic violence felony offense (~~where domestic
25 violence was pleaded and proven~~) after August 1, 2011. This
26 subsection (4)(e)(i) applies only to offenses committed prior to July
27 24, 2015;

28 (ii) Has a current conviction for a domestic violence felony
29 offense (~~where domestic violence was pleaded and proven~~). The state
30 and its officers, agents, and employees shall not be held criminally
31 or civilly liable for its supervision of an offender under this
32 subsection (4)(e)(ii) unless the state and its officers, agents, and
33 employees acted with gross negligence;

34 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,
35 9.94A.670, 9.94A.711, or 9.94A.695;

36 (g) Is subject to supervision pursuant to RCW 9.94A.745; or

37 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
38 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
39 (felony DUI), or RCW 46.61.504(6) (felony physical control).

1 (5) The department shall supervise any offender who is released
2 by the indeterminate sentence review board and who was sentenced to
3 community custody or subject to community custody under the terms of
4 release.

5 (6) The department is not authorized to, and may not, supervise
6 any offender sentenced to a term of community custody or any
7 probationer unless the offender or probationer is one for whom
8 supervision is required under this section or RCW 9.94A.5011.

9 (7) The department shall conduct a risk assessment for every
10 felony offender sentenced to a term of community custody who may be
11 subject to supervision under this section or RCW 9.94A.5011.

12 (8) The period of time the department is authorized to supervise
13 an offender under this section may not exceed the duration of
14 community custody specified under RCW 9.94B.050, 9.94A.701 (1)
15 through (9), or 9.94A.702, except in cases where the court has
16 imposed an exceptional term of community custody under RCW 9.94A.535.

17 (9) The period of time the department is authorized to supervise
18 an offender under this section may be reduced by the earned award of
19 supervision compliance credit pursuant to RCW 9.94A.717.

20 **Sec. 4.** RCW 9.94A.502 and 2019 c 263 s 401 are each amended to
21 read as follows:

22 (1) The Washington State University department of criminal
23 justice shall develop a tool to be used in conjunction with the
24 Washington one risk assessment that would specifically predict
25 whether the offender will commit domestic violence in the future. The
26 domestic violence tool may incorporate relevant court records into
27 the prediction modeling, if practical within the resources allocated.
28 The tool will be used by the department as part of the current risk,
29 needs, and responsivity assessment process.

30 (2) The Washington State University department of criminal
31 justice shall make the domestic violence risk assessment tool
32 available for use by the department no later than July 1, 2020.
33 Subject to funds appropriated for this specific purpose, the
34 department shall start to implement the domestic violence risk
35 assessment tool by July 1, 2020, and by July 1, 2021, the department
36 shall use the domestic violence risk assessment tool when conducting
37 a Washington one risk assessment for an offender with a current
38 conviction ((where)) for domestic violence ((~~was pleaded and~~
39 ~~proven~~)).

1 (3) The harborview center for sexual assault and traumatic stress
2 shall develop a training curriculum for domestic violence perpetrator
3 treatment providers that incorporates evidence-based practices and
4 treatment modalities consistent with the Washington Administrative
5 Code provisions adopted by the department of social and health
6 services. The harborview center for sexual assault and traumatic
7 stress shall complete the training curriculum and make it available
8 for provider training no later than June 30, 2020.

9 **Sec. 5.** RCW 9.94A.525 and 2023 c 415 s 2 are each amended to
10 read as follows:

11 The offender score is measured on the horizontal axis of the
12 sentencing grid. The offender score rules are as follows:

13 The offender score is the sum of points accrued under this
14 section rounded down to the nearest whole number.

15 (1)(a) A prior conviction is a conviction which exists before the
16 date of sentencing for the offense for which the offender score is
17 being computed. Convictions entered or sentenced on the same date as
18 the conviction for which the offender score is being computed shall
19 be deemed "other current offenses" within the meaning of RCW
20 9.94A.589.

21 (b) For the purposes of this section, adjudications of guilt
22 pursuant to Title 13 RCW which are not murder in the first or second
23 degree or class A felony sex offenses may not be included in the
24 offender score.

25 (2)(a) Class A and sex prior felony convictions shall always be
26 included in the offender score.

27 (b) Class B prior felony convictions other than sex offenses
28 shall not be included in the offender score, if since the last date
29 of release from confinement (including full-time residential
30 treatment) pursuant to a felony conviction, if any, or entry of
31 judgment and sentence, the offender had spent ten consecutive years
32 in the community without committing any crime that subsequently
33 results in a conviction.

34 (c) Except as provided in (e) of this subsection, class C prior
35 felony convictions other than sex offenses shall not be included in
36 the offender score if, since the last date of release from
37 confinement (including full-time residential treatment) pursuant to a
38 felony conviction, if any, or entry of judgment and sentence, the

1 offender had spent five consecutive years in the community without
2 committing any crime that subsequently results in a conviction.

3 (d) Except as provided in (e) of this subsection, serious traffic
4 convictions shall not be included in the offender score if, since the
5 last date of release from confinement (including full-time
6 residential treatment) pursuant to a conviction, if any, or entry of
7 judgment and sentence, the offender spent five years in the community
8 without committing any crime that subsequently results in a
9 conviction.

10 (e) If the present conviction is felony driving while under the
11 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
12 felony physical control of a vehicle while under the influence of
13 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
14 crimes for the offense as defined by RCW 46.61.5055(14) shall be
15 included in the offender score, and prior convictions for felony
16 driving while under the influence of intoxicating liquor or any drug
17 (RCW 46.61.502(6)) or felony physical control of a vehicle while
18 under the influence of intoxicating liquor or any drug (RCW
19 46.61.504(6)) shall always be included in the offender score. All
20 other convictions of the defendant shall be scored according to this
21 section.

22 (f) Prior convictions for a repetitive domestic violence offense,
23 as defined in RCW 9.94A.030, shall not be included in the offender
24 score if, since the last date of release from confinement or entry of
25 judgment and sentence, the offender had spent ten consecutive years
26 in the community without committing any crime that subsequently
27 results in a conviction.

28 (g) This subsection applies to both prior adult convictions and
29 prior juvenile adjudications.

30 (3) Out-of-state convictions for offenses shall be classified
31 according to the comparable offense definitions and sentences
32 provided by Washington law. Federal convictions for offenses shall be
33 classified according to the comparable offense definitions and
34 sentences provided by Washington law. Neither out-of-state or federal
35 convictions which would have been presumptively adjudicated in
36 juvenile court under Washington law may be included in the offender
37 score unless they are comparable to murder in the first or second
38 degree or a class A felony sex offense. If there is no clearly
39 comparable offense under Washington law or the offense is one that is
40 usually considered subject to exclusive federal jurisdiction, the

1 offense shall be scored as a class C felony equivalent if it was a
2 felony under the relevant federal statute.

3 (4) Score prior convictions for felony anticipatory offenses
4 (attempts, criminal solicitations, and criminal conspiracies) the
5 same as if they were convictions for completed offenses.

6 (5) (a) In the case of multiple prior convictions, for the purpose
7 of computing the offender score, count all convictions separately,
8 except:

9 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),
10 to encompass the same criminal conduct, shall be counted as one
11 offense, the offense that yields the highest offender score. The
12 current sentencing court shall determine with respect to other prior
13 adult offenses for which sentences were served concurrently or prior
14 juvenile offenses for which sentences were served consecutively,
15 whether those offenses shall be counted as one offense or as separate
16 offenses using the "same criminal conduct" analysis found in RCW
17 9.94A.589(1) (a), and if the court finds that they shall be counted as
18 one offense, then the offense that yields the highest offender score
19 shall be used. The current sentencing court may presume that such
20 other prior offenses were not the same criminal conduct from
21 sentences imposed on separate dates, or in separate counties or
22 jurisdictions, or in separate complaints, indictments, or
23 informations;

24 (ii) In the case of multiple prior convictions for offenses
25 committed before July 1, 1986, for the purpose of computing the
26 offender score, count all convictions or adjudications served
27 concurrently as one offense. Use the conviction for the offense that
28 yields the highest offender score.

29 (b) As used in this subsection (5), "served concurrently" means
30 that: (i) The latter sentence was imposed with specific reference to
31 the former; (ii) the concurrent relationship of the sentences was
32 judicially imposed; and (iii) the concurrent timing of the sentences
33 was not the result of a probation or parole revocation on the former
34 offense.

35 (6) If the present conviction is one of the anticipatory offenses
36 of criminal attempt, solicitation, or conspiracy, count each prior
37 conviction as if the present conviction were for a completed offense.
38 When these convictions are used as criminal history, score them the
39 same as a completed crime.

1 (7) If the present conviction is for a nonviolent offense and not
2 covered by subsection (11), (12), or (13) of this section, count one
3 point for each adult prior felony conviction and one point for each
4 juvenile prior violent felony conviction which is scorable under
5 subsection (1)(b) of this section.

6 (8) If the present conviction is for a violent offense and not
7 covered in subsection (9), (10), (11), (12), or (13) of this section,
8 count two points for each prior adult violent felony conviction and
9 juvenile violent felony conviction which is scorable under subsection
10 (1)(b) of this section, and one point for each prior adult nonviolent
11 felony conviction.

12 (9) If the present conviction is for a serious violent offense,
13 count three points for prior adult convictions and juvenile
14 convictions which are scorable under subsection (1)(b) of this
15 section for crimes in this category, two points for each prior adult
16 and scorable juvenile violent conviction (not already counted), and
17 one point for each prior adult nonviolent felony conviction.

18 (10) If the present conviction is for Burglary 1, count prior
19 convictions as in subsection (8) of this section; however count two
20 points for each prior Burglary 2 or residential burglary conviction.

21 (11) If the present conviction is for a felony traffic offense
22 count two points for each prior conviction for Vehicular Homicide or
23 Vehicular Assault; for each felony offense count one point for each
24 adult prior conviction and 1/2 point for each juvenile prior
25 conviction which is scorable under subsection (1)(b) of this section;
26 for each serious traffic offense, other than those used for an
27 enhancement pursuant to RCW 46.61.520(2), count one point for each
28 adult prior conviction and 1/2 point for each juvenile prior
29 conviction which is scorable under subsection (1)(b) of this section;
30 count one point for each adult prior conviction for operation of a
31 vessel while under the influence of intoxicating liquor or any drug.

32 (12) If the present conviction is for homicide by watercraft or
33 assault by watercraft count two points for each adult prior
34 conviction for homicide by watercraft or assault by watercraft; for
35 each felony offense count one point for each adult prior conviction
36 and 1/2 point for each juvenile prior conviction which would be
37 scorable under subsection (1)(b) of this section; count one point for
38 each adult prior conviction for driving under the influence of
39 intoxicating liquor or any drug, actual physical control of a motor
40 vehicle while under the influence of intoxicating liquor or any drug,

1 or operation of a vessel while under the influence of intoxicating
2 liquor or any drug.

3 (13) If the present conviction is for manufacture of
4 methamphetamine count three points for each adult prior manufacture
5 of methamphetamine conviction. If the present conviction is for a
6 drug offense and the offender has a criminal history that includes a
7 sex offense or serious violent offense, count three points for each
8 adult prior felony drug offense conviction. All other felonies are
9 scored as in subsection (8) of this section if the current drug
10 offense is violent, or as in subsection (7) of this section if the
11 current drug offense is nonviolent.

12 (14) If the present conviction is for Escape from Community
13 Custody, RCW 72.09.310, count only adult prior escape convictions in
14 the offender score. Count prior escape convictions as one point.

15 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
16 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
17 and juvenile prior convictions which are scorable under subsection
18 (1)(b) of this section as 1/2 point.

19 (16) If the present conviction is for Burglary 2 or residential
20 burglary, count priors as in subsection (7) of this section; however,
21 count two points for each prior Burglary 1 conviction, and two points
22 for each prior Burglary 2 or residential burglary conviction.

23 (17) If the present conviction is for a sex offense, count priors
24 as in subsections (7) through (11) and (13) through (16) of this
25 section; however count three points for each adult prior sex offense
26 conviction and juvenile prior class A felony sex offense
27 adjudication.

28 (18) If the present conviction is for failure to register as a
29 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in
30 subsections (7) through (11) and (13) through (16) of this section;
31 however count three points for each adult prior sex offense
32 conviction and juvenile prior sex offense conviction which is
33 scorable under subsection (1)(b) of this section, excluding adult
34 prior convictions for failure to register as a sex offender under RCW
35 9A.44.130 or 9A.44.132, which shall count as one point.

36 (19) If the present conviction is for an offense committed while
37 the offender was under community custody, add one point. For purposes
38 of this subsection, community custody includes community placement or
39 postrelease supervision, as defined in chapter 9.94B RCW.

1 (20) If the present conviction is for Theft of a Motor Vehicle,
2 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
3 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
4 priors as in subsections (7) through (18) of this section; however
5 count one point for prior convictions of Vehicle Prowling 2, and
6 three points for each adult prior Theft 1 (of a motor vehicle), Theft
7 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor
8 vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft
9 of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor
10 Vehicle Without Permission 1, or Taking a Motor Vehicle Without
11 Permission 2 conviction.

12 (21) If the present conviction is for a felony (~~domestic~~
13 ~~violence~~) offense (~~where~~) for domestic violence as defined in RCW
14 9.94A.030 (~~was pleaded and proven~~), count priors as in subsections
15 (7) through (20) of this section; however, count points as follows:

16 (a) Count two points for each adult prior conviction (~~where~~)
17 for domestic violence as defined in RCW 9.94A.030 (~~was pleaded and~~
18 ~~proven~~) after August 1, 2011, for any of the following offenses: A
19 felony violation of a no-contact or protection order (RCW 7.105.450
20 or former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),
21 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),
22 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful
23 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2
24 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW
25 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or
26 Arson 2 (RCW 9A.48.030);

27 (b) Count two points for each adult prior conviction (~~where~~)
28 for domestic violence as defined in RCW 9.94A.030 (~~was pleaded and~~
29 ~~proven~~) after July 23, 2017, for any of the following offenses:
30 Assault of a child in the first degree, RCW 9A.36.120; Assault of a
31 child in the second degree, RCW 9A.36.130; Assault of a child in the
32 third degree, RCW 9A.36.140; Criminal Mistreatment in the first
33 degree, RCW 9A.42.020; or Criminal Mistreatment in the second degree,
34 RCW 9A.42.030; and

35 (c) Count one point for each adult prior conviction for a
36 repetitive domestic violence offense as defined in RCW 9.94A.030(~~(7~~
37 ~~where domestic violence as defined in RCW 9.94A.030, was pleaded and~~
38 ~~proven~~) after August 1, 2011.

39 (22) The fact that a prior conviction was not included in an
40 offender's offender score or criminal history at a previous

1 sentencing shall have no bearing on whether it is included in the
2 criminal history or offender score for the current offense. Prior
3 convictions that were not counted in the offender score or included
4 in criminal history under repealed or previous versions of the
5 sentencing reform act shall be included in criminal history and shall
6 count in the offender score if the current version of the sentencing
7 reform act requires including or counting those convictions. Prior
8 convictions that were not included in criminal history or in the
9 offender score shall be included upon any resentencing to ensure
10 imposition of an accurate sentence.

--- END ---