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**SUBSTITUTE SENATE BILL 5819**

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**State of Washington****66th Legislature****2019 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Darneille, Nguyen, and Wilson, C.)

1 AN ACT Relating to establishing a postconviction review board and  
2 review process for early release of qualifying offenders; amending  
3 RCW 9.94A.533, 9.94A.570, 9.94A.6332, 9.94A.728, 9.95.0001,  
4 9.95.0002, 9.95.001, 9.95.002, 9.95.422, 9.95.425, 9.95.430,  
5 9.95.435, 9.95.440, 9.95.009, 9.95.030, 9.95.045, 9.95.055, 9.95.060,  
6 9.95.070, 9.95.115, 9.95.130, 4.24.550, 4.24.5501, 4.100.070,  
7 7.68.120, 9.94A.030, 9.94A.501, 9.94A.730, 9.94A.840, 9.94A.860,  
8 9.94A.8673, 9.94A.890, 9.96.050, 9.98.010, 9A.44.045, 9A.46.020,  
9 9A.46.110, 10.64.140, 10.77.210, 10.95.020, 10.95.030, 10.98.160,  
10 10.110.020, 29A.08.520, 34.05.030, 42.17A.705, 43.43.745, 69.50.410,  
11 70.02.260, 71.05.232, 71.06.091, 71.06.100, 71.06.270, 71.09.025,  
12 72.02.100, 72.02.110, 72.02.220, 72.02.270, 72.04A.050, 72.04A.070,  
13 72.04A.080, 72.04A.090, 72.09.335, 72.09.337, 72.09.370, 72.09.585,  
14 72.60.102, 72.64.065, 72.65.130, 72.68.031, and 72.70.040; reenacting  
15 and amending RCW 9.95.003 and 9.95.260; adding a new section to  
16 chapter 9.94A RCW; adding new sections to chapter 9.95 RCW; adding a  
17 new section to chapter 43.06 RCW; creating new sections; and  
18 providing an expiration date.

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

20 NEW SECTION. **Sec. 1.** The legislature finds that Washington's  
21 prison system serves the public good by providing rehabilitative

1 services and protecting public safety. The legislature declares that  
2 offender rehabilitation is a top priority for the department of  
3 corrections and finds that offender rehabilitation may occur prior to  
4 the end of a lengthy prison sentence.

5 The legislature has determined that in certain situations,  
6 incarceration well beyond rehabilitation may not further the goal of  
7 addressing public safety and providing for effective rehabilitation.  
8 The legislature finds that many of the individuals who have committed  
9 low-severity offenses have unmet behavioral health needs that could  
10 be better managed in the community, and that people who are  
11 incarcerated have higher rates of victimization, trauma, and abuse  
12 than those in the general public.

13 The legislature affirms that research in cognitive development  
14 and brain science have given us the information necessary to trust  
15 that against the backdrop of rehabilitation, hope, and effective  
16 programming, many offenders are able to fully rehabilitate. The  
17 legislature finds that the public has both a financial and  
18 humanitarian interest in those who have been fully rehabilitated to  
19 reenter the community if they are ready, in the state's view, to be  
20 productive members of society.

21 As such, the legislature intends to create an independent program  
22 of review to examine certain offenders' progress in rehabilitation  
23 and their potential to reenter the community. The legislature intends  
24 to expand the authority and size of the currently existing  
25 indeterminate sentence review board, and rename it as the  
26 postconviction review board. The board shall report directly to the  
27 governor, and will review postconviction cases for early release if  
28 they meet the criteria established in this act.

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

31 (1) Notwithstanding any other provision of this chapter, a person  
32 may petition the postconviction review board for early release under  
33 this section, provided that he or she:

34 (a) Is not subject to the jurisdiction of the board pursuant to  
35 RCW 9.94A.730 or 9.94A.507, or because the person's offense was  
36 committed prior to July 1, 1984;

37 (b) (i) Has served at least fifteen consecutive years of total  
38 confinement or, if the person is serving a sentence for murder in the

1 first degree, at least twenty consecutive years of total confinement  
2 for the current charge; or  
3 (ii) Is at least sixty years of age and has served at least one-  
4 half of the person's sentenced term of total confinement;  
5 (c) Has not committed a serious infraction as defined by the  
6 department in the twelve months prior to filing the petition for  
7 early release;  
8 (d) Consents to a review of all his or her medical, mental  
9 health, and department files by the board; and  
10 (e) Does not have any current appeals pending.  
11 (2) No later than five years prior to the date the offender will  
12 be eligible to petition for release, the department shall:  
13 (a) Notify the offender regarding his or her eligibility under  
14 this section;  
15 (b) Conduct an assessment of the offender and identify  
16 programming and services that would be appropriate to prepare the  
17 offender for return to the community. To the extent possible, the  
18 department shall make programming available as identified by the  
19 assessment.  
20 (3) If the offender has a prior known or diagnosed decreased  
21 cognitive function or developmental disability, or a decreased  
22 cognitive function or developmental disability is determined during  
23 the assessment process as outlined in subsection (2)(b) of this  
24 section, the department shall assist the offender with the process of  
25 applying for review by the postconviction review board, or refer to  
26 additional services for such assistance.  
27 (4) No later than one hundred eighty days from the date that the  
28 offender submits his or her petition for early release to the board,  
29 the department shall conduct, and the offender shall participate in,  
30 an examination of the person, incorporating methodologies that are  
31 evidence-based, normed on the specific gender of the offender, and  
32 recognized by experts in the prediction of dangerousness, and  
33 including a prediction of the probability that the person will engage  
34 in future criminal behavior if released on conditions to be set by  
35 the postconviction review board.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.95 RCW  
37 to read as follows:

38 (1) When a petition is filed under this section, the board shall  
39 review the petition, and shall take the following actions:

1 (a) Deny a petition without a hearing due to the offender's  
2 failure to meet the statutory eligibility for review or based on the  
3 presence of any of the following:

4 (i) A serious infraction relating to drugs, alcohol, sex, or  
5 violence within the past five years;

6 (ii) A confirmed status as a security threat group member, as  
7 defined by the department within the past five years;

8 (iii) A lack of compliance with the department's recommended  
9 treatment and programming if such programming was made available; or

10 (iv) A new conviction for an offense that was committed after  
11 admission to prison, within the past fifteen years; or

12 (b) Conduct a hearing if the conditions in (a) of this subsection  
13 are not met. The determination made at the hearing is whether to  
14 grant or deny the petition for early release.

15 (i) A decision to grant a petition for early release under this  
16 section must be made by a majority vote of the board, after the  
17 hearing. The board shall order the person released under such  
18 affirmative and other conditions as the board determines appropriate,  
19 unless the board determines by a preponderance of the evidence that,  
20 despite such conditions, it is more likely than not that the person  
21 will commit new criminal law violations if released. In making a  
22 determination, the board shall consider: The nature, circumstances,  
23 and seriousness of the offense committed; criminal history; evidence  
24 of the offender's remorse, atonement, and self-reflection in relation  
25 to the offense committed, including any efforts to participate in the  
26 department's victim offender dialogue program; the offender's  
27 behavior while incarcerated, including job history, education,  
28 participation in available rehabilitative programming and treatment,  
29 and infraction history; statements of correctional staff, program  
30 supervisors, and volunteer facilitators regarding the offender; and  
31 other behavior or medical conditions, or risk assessments and  
32 psychological evaluations that the board finds to be relevant to the  
33 question of whether the offender is likely to engage in future  
34 criminal behavior if released to appropriate conditions. In addition,  
35 the board may consider factors pertaining to the offender's ability  
36 to reintegrate into society, including employment skills and outside  
37 support from family, friends, or other groups. The board shall take  
38 into consideration individuals who have submitted an Alford plea and  
39 the impact that may have on an individual's ability to provide  
40 evidence of remorse and atonement. The board may also consider what

1 supervision and supports may be provided by law enforcement personnel  
2 in the jurisdictions where the crimes were committed. The board shall  
3 give public safety considerations the highest priority when making  
4 all discretionary decisions regarding the ability for release and  
5 conditions of release. If the victim of the crime chooses to  
6 participate in this process, the board shall consider victim input  
7 regarding what protective measures or conditions of supervision shall  
8 be imposed and what services or support the victim may need if the  
9 offender is released.

10 (ii) When denying a petition for release under this section, the  
11 board shall provide the offender with a written report setting forth  
12 the reasons for the denial and recommendations as to what the  
13 offender should do prior to submitting any subsequent petition under  
14 this section. The recommendations may include behavioral changes,  
15 programming or educational objectives, or other actions the board  
16 reasonably believes will reduce the offender's risk to reoffend. An  
17 offender whose petition for release is denied may file a new petition  
18 for release five years from the date of denial or at an earlier date  
19 as may be set by the board.

20 (iii) The granting or denial of a petition is reviewable by the  
21 Washington state court of appeals, only if the board fails to follow  
22 the proper procedures.

23 (iv) A decision of the board to grant or deny petition must be  
24 filed with the superior court in the county where the last offense  
25 took place, and a certified copy must be provided to the department.  
26 Before the release of an offender, the department shall confirm the  
27 decision with the board.

28 (2)(a) In a hearing conducted under subsection (1)(b) of this  
29 section, the board shall provide opportunities for victims and  
30 survivors of victims of any crimes for which the offender has been  
31 convicted to present statements as set forth in RCW 7.69.032. The  
32 procedures for victim and survivor of victim input shall be provided  
33 by rule. The board is encouraged to develop a standard written victim  
34 impact questionnaire for submittal in addition to the standard victim  
35 impact statement and which asks what conditions the victim would like  
36 to see imposed and their opinion on future risk factors.

37 (b) To facilitate victim and survivor of victim involvement,  
38 county prosecutor's offices shall make reasonable efforts to ensure  
39 that any victim impact statements and known contact information for  
40 victims of record and survivors of victims are forwarded as part of

1 the judgment and sentence. Prior to the hearing, the department shall  
2 notify victims and survivors of victims of the offender's eligibility  
3 under this section, which must also include notice as to the  
4 availability of the voluntary victim offender dialogue program and  
5 other support programs or services administered by the department. In  
6 the event no known victim or survivor of the victim is identified by  
7 the board, any hearing shall be delayed until the county prosecutor's  
8 office certifies to the board that they have exhausted all reasonable  
9 efforts in locating and providing contact information to the board.

10 (3) When a petition is filed under this section, the board must  
11 render its decision and notify the offender and all other necessary  
12 parties within the following time frames:

13 (a) For a petition denied according to subsection (1)(a) of this  
14 section, within sixty days of the receipt of the petition.

15 (b) For a hearing conducted according to subsection (1)(b) of  
16 this section, within sixty days of the final hearing date.

17 (4)(a) The board has jurisdiction over an offender released under  
18 this section for the length of the offender's original sentence.  
19 Conditions for release may include: Partial confinement for up to six  
20 months, regular drug and/or alcohol testing, no violations of law,  
21 restrictions on travel, no contact with certain individuals or  
22 classes of individuals, restrictions on the type of employment, and  
23 any other restrictions that the board determines to be reasonable and  
24 appropriate in light of the individual offender's case. The board  
25 shall order the released offender to serve a term of community  
26 custody under the supervision of the department, which may not be  
27 less than three years and may not exceed the expiration date of the  
28 original sentence imposed by the court.

29 (b) The department shall supervise the offender for the period  
30 ordered by the board and may impose additional individualized  
31 conditions including ensuring the defendant is not released to an  
32 area where the victim resides. The department shall monitor the  
33 offender's compliance with conditions of community custody imposed by  
34 the court, the board, and the department, and shall promptly report  
35 any violations to the board. Any violation of conditions of community  
36 custody established or modified by the board are subject to the  
37 provisions of RCW 9.95.425 through 9.95.440.

38 (5) An offender released under this section may be returned to  
39 the institution at the discretion of the board if the offender is

1 found to have violated a condition of community custody. The offender  
2 is entitled to a hearing pursuant to RCW 9.95.435.

3 (a) If the board finds that the offender has committed a new  
4 violation, the board may return the offender to the institution for  
5 up to the remainder of the court-imposed term of incarceration. The  
6 offender may file a new petition for release five years from the date  
7 of return to the institution or at an earlier date as may be set by  
8 the board.

9 (b) If the board finds that the offender has committed a new law  
10 violation, the board shall return the offender to the institution for  
11 the remainder of the court-imposed term of incarceration. An offender  
12 who has been returned to custody for having committed a new law  
13 violation may not file a new petition for release.

14 (6) Individuals determined to be indigent who are petitioning for  
15 release under this section have a right to appointed counsel. Both  
16 lawyers and nonlawyers may assist the offender in the preparation of  
17 his or her petition and at the hearing.

18 (7) The hearing may be conducted telephonically and without the  
19 offender's physical presence at the hearing. When possible, video  
20 conferencing shall be used. Hearings under this section are subject  
21 to the open public meetings act under chapter 42.30 RCW.

22 (8) All information contained in a petition or that is submitted  
23 to the board is subject to public disclosure, unless the information  
24 is protected health information under federal or state law.

25 (9) Members of the board are not civilly liable for decisions  
26 made while performing their duties.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.95 RCW  
28 to read as follows:

29 (1) The postconviction review board shall evaluate outcomes of  
30 petitions brought under section 3 of this act. The board shall  
31 develop recommendations for changes to the eligibility requirements  
32 under section 3 of this act, the composition or scope of review of  
33 the board, and the factors or risk assessments being used to assess  
34 petitions. The board shall submit a report with its findings and  
35 recommendations, to the appropriate committees of the legislature and  
36 the governor's office no later than July 1, 2022.

37 (2) This section expires July 1, 2023.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 43.06  
2    RCW to read as follows:

3        (1) Subject to the availability of amounts appropriated for this  
4    specific purpose, there is hereby created the postconviction review  
5    board, as described and defined in chapter 9.95 RCW, within the  
6    office of the governor for the purpose of reviewing and granting the  
7    early release of certain qualifying offenders.

8        (2) The postconviction review board reports directly to the  
9    governor and exercises its powers and duties independently of the  
10   department of corrections.

11       **Sec. 6.**    RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read  
12   as follows:

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

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

21       (3) The following additional times shall be added to the standard  
22   sentence range for felony crimes committed after July 23, 1995, if  
23   the offender or an accomplice was armed with a firearm as defined in  
24   RCW 9.41.010 and the offender is being sentenced for one of the  
25   crimes listed in this subsection as eligible for any firearm  
26   enhancements based on the classification of the completed felony  
27   crime. If the offender is being sentenced for more than one offense,  
28   the firearm enhancement or enhancements must be added to the total  
29   period of confinement for all offenses, regardless of which  
30   underlying offense is subject to a firearm enhancement. If the  
31   offender or an accomplice was armed with a firearm as defined in RCW  
32   9.41.010 and the offender is being sentenced for an anticipatory  
33   offense under chapter 9A.28 RCW to commit one of the crimes listed in  
34   this subsection as eligible for any firearm enhancements, the  
35   following additional times shall be added to the standard sentence  
36   range determined under subsection (2) of this section based on the  
37   felony crime of conviction as classified under RCW 9A.28.020:



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

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

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

10 (d) If the offender is being sentenced for any firearm  
11 enhancements under (a), (b), and/or (c) of this subsection and the  
12 offender has previously been sentenced for any deadly weapon  
13 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
14 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
15 both, all firearm enhancements under this subsection shall be twice  
16 the amount of the enhancement listed;

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

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

26 (ii) Released under the provisions of RCW 9.94A.730 or section 3  
27 of this act;

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

34 (g) If the standard sentence range under this section exceeds the  
35 statutory maximum sentence for the offense, the statutory maximum  
36 sentence shall be the presumptive sentence unless the offender is a  
37 persistent offender. If the addition of a firearm enhancement  
38 increases the sentence so that it would exceed the statutory maximum  
39 for the offense, the portion of the sentence representing the  
40 enhancement may not be reduced.

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

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

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

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

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

35 (e) Notwithstanding any other provision of law, all deadly weapon  
36 enhancements under this section are mandatory, shall be served in  
37 total confinement, and shall run consecutively to all other  
38 sentencing provisions, including other firearm or deadly weapon  
39 enhancements, for all offenses sentenced under this chapter. However,

1 whether or not a mandatory minimum term has expired, an offender  
2 serving a sentence under this subsection may be:

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

5 (ii) Released under the provisions of RCW 9.94A.730 or section 3  
6 of this act;

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

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

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

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

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

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

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

39 (6) An additional twenty-four months shall be added to the  
40 standard sentence range for any ranked offense involving a violation

1 of chapter 69.50 RCW if the offense was also a violation of RCW  
2 69.50.435 or 9.94A.827. All enhancements under this subsection shall  
3 run consecutively to all other sentencing provisions, for all  
4 offenses sentenced under this chapter.

5 (7) An additional two years shall be added to the standard  
6 sentence range for vehicular homicide committed while under the  
7 influence of intoxicating liquor or any drug as defined by RCW  
8 46.61.502 for each prior offense as defined in RCW 46.61.5055.

9 Notwithstanding any other provision of law, all impaired driving  
10 enhancements under this subsection are mandatory, shall be served in  
11 total confinement, and shall run consecutively to all other  
12 sentencing provisions, including other impaired driving enhancements,  
13 for all offenses sentenced under this chapter.

14 An offender serving a sentence under this subsection may be  
15 granted an extraordinary medical placement when authorized under RCW  
16 9.94A.728(1)(c).

17 (8)(a) The following additional times shall be added to the  
18 standard sentence range for felony crimes committed on or after July  
19 1, 2006, if the offense was committed with sexual motivation, as that  
20 term is defined in RCW 9.94A.030. If the offender is being sentenced  
21 for more than one offense, the sexual motivation enhancement must be  
22 added to the total period of total confinement for all offenses,  
23 regardless of which underlying offense is subject to a sexual  
24 motivation enhancement. If the offender committed the offense with  
25 sexual motivation and the offender is being sentenced for an  
26 anticipatory offense under chapter 9A.28 RCW, the following  
27 additional times shall be added to the standard sentence range  
28 determined under subsection (2) of this section based on the felony  
29 crime of conviction as classified under RCW 9A.28.020:

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

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

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

38 (iv) If the offender is being sentenced for any sexual motivation  
39 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
40 the offender has previously been sentenced for any sexual motivation

1 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
2 (iii) of this subsection, all sexual motivation enhancements under  
3 this subsection shall be twice the amount of the enhancement listed;

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

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

13 (ii) Released under the provisions of RCW 9.94A.730 or section 3  
14 of this act;

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

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

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

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

30 (9) An additional one-year enhancement shall be added to the  
31 standard sentence range for the felony crimes of RCW 9A.44.073,  
32 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
33 or after July 22, 2007, if the offender engaged, agreed, or offered  
34 to engage the victim in the sexual conduct in return for a fee. If  
35 the offender is being sentenced for more than one offense, the  
36 one-year enhancement must be added to the total period of total  
37 confinement for all offenses, regardless of which underlying offense  
38 is subject to the enhancement. If the offender is being sentenced for  
39 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
40 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the

1 offender attempted, solicited another, or conspired to engage, agree,  
2 or offer to engage the victim in the sexual conduct in return for a  
3 fee, an additional one-year enhancement shall be added to the  
4 standard sentence range determined under subsection (2) of this  
5 section. For purposes of this subsection, "sexual conduct" means  
6 sexual intercourse or sexual contact, both as defined in chapter  
7 9A.44 RCW.

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

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

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

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

31 (12) An additional twelve months shall be added to the standard  
32 sentence range for an offense that is also a violation of RCW  
33 9.94A.831.

34 (13) An additional twelve months shall be added to the standard  
35 sentence range for vehicular homicide committed while under the  
36 influence of intoxicating liquor or any drug as defined by RCW  
37 46.61.520 or for vehicular assault committed while under the  
38 influence of intoxicating liquor or any drug as defined by RCW  
39 46.61.522, or for any felony driving under the influence (RCW  
40 46.61.502(6)) or felony physical control under the influence (RCW

1 46.61.504(6)) for each child passenger under the age of sixteen who  
2 is an occupant in the defendant's vehicle. These enhancements shall  
3 be mandatory, shall be served in total confinement, and shall run  
4 consecutively to all other sentencing provisions. If the addition of  
5 a minor child enhancement increases the sentence so that it would  
6 exceed the statutory maximum for the offense, the portion of the  
7 sentence representing the enhancement may not be reduced.

8 (14) An additional twelve months shall be added to the standard  
9 sentence range for an offense that is also a violation of RCW  
10 9.94A.832.

11 **Sec. 7.** RCW 9.94A.570 and 2000 c 28 s 6 are each amended to read  
12 as follows:

13 (1) Notwithstanding the statutory maximum sentence or any other  
14 provision of this chapter((7)):

15 (a) A persistent offender shall be sentenced to a term of total  
16 confinement for life ((without the possibility of release)) and may  
17 only be released if authorized by the board under section 3 of this  
18 act; or((7))

19 (b) When authorized by RCW 10.95.030 for the crime of aggravated  
20 murder in the first degree((7-sentenced to death)), the offender  
21 shall be sentenced to a term of total confinement for life without  
22 the possibility of release.

23 ((In addition, no offender subject to this section may be)) (2)  
24 Except as provided in subsection (1)(a) of this section, no offender  
25 subject to this section is eligible for community custody, earned  
26 release time, furlough, home detention, partial confinement, work  
27 crew, work release, or any other form of release as defined under RCW  
28 9.94A.728 (1)((7-(2), (3), (4), (6), (8), or (9))) (b), (c), (e),  
29 (h), or (i), or any other form of authorized leave from a  
30 correctional facility while not in the direct custody of a  
31 corrections officer or officers, except: ((1)) (a) In the case of  
32 an offender in need of emergency medical treatment; or ((2)) (b)  
33 for the purpose of commitment to an inpatient treatment facility in  
34 the case of an offender convicted of the crime of rape in the first  
35 degree.

36 **Sec. 8.** RCW 9.94A.6332 and 2014 c 130 s 3 are each amended to  
37 read as follows:

1 The procedure for imposing sanctions for violations of sentence  
2 conditions or requirements is as follows:

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

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

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

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

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

16 (6) If the offender was sentenced pursuant to RCW 10.95.030(3) or  
17 10.95.035, any sanctions shall be imposed by the board pursuant to  
18 RCW 9.95.435.

19 (7) If the offender was released pursuant to section 3 of this  
20 act, any sanctions shall be imposed by the board pursuant to RCW  
21 9.95.435.

22 (8) In any other case, if the offender is being supervised by the  
23 department, any sanctions shall be imposed by the department pursuant  
24 to RCW 9.94A.737. If a probationer is being supervised by the  
25 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, upon  
26 receipt of a violation hearing report from the department, the court  
27 retains any authority that those statutes provide to respond to a  
28 probationer's violation of conditions.

29 ((+8)) (9) If the offender is not being supervised by the  
30 department, any sanctions shall be imposed by the court pursuant to  
31 RCW 9.94A.6333.

32 **Sec. 9.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to  
33 read as follows:

34 (1) No person serving a sentence imposed pursuant to this chapter  
35 and committed to the custody of the department shall leave the  
36 confines of the correctional facility or be released prior to the  
37 expiration of the sentence except as follows:

38 (a) An offender may earn early release time as authorized by RCW  
39 9.94A.729;



1 (b) An offender may leave a correctional facility pursuant to an  
2 authorized furlough or leave of absence. In addition, offenders may  
3 leave a correctional facility when in the custody of a corrections  
4 officer or officers;

5 (c) (i) The secretary may authorize an extraordinary medical  
6 placement for an offender when all of the following conditions exist:

7 (A) The offender has a medical condition that is serious and is  
8 expected to require costly care or treatment;

9 (B) The offender poses a low risk to the community because he or  
10 she is currently physically incapacitated due to age or the medical  
11 condition or is expected to be so at the time of release; and

12 (C) It is expected that granting the extraordinary medical  
13 placement will result in a cost savings to the state.

14 (ii) An offender sentenced to death or to life imprisonment  
15 without the possibility of release or parole is not eligible for an  
16 extraordinary medical placement.

17 (iii) The secretary shall require electronic monitoring for all  
18 offenders in extraordinary medical placement unless the electronic  
19 monitoring equipment interferes with the function of the offender's  
20 medical equipment or results in the loss of funding for the  
21 offender's medical care, in which case, an alternative type of  
22 monitoring shall be utilized. The secretary shall specify who shall  
23 provide the monitoring services and the terms under which the  
24 monitoring shall be performed.

25 (iv) The secretary may revoke an extraordinary medical placement  
26 under this subsection (1) (c) at any time.

27 (v) Persistent offenders are not eligible for extraordinary  
28 medical placement;

29 (d) The governor, upon recommendation from the clemency and  
30 pardons board, may grant an extraordinary release for reasons of  
31 serious health problems, senility, advanced age, extraordinary  
32 meritorious acts, or other extraordinary circumstances;

33 (e) No more than the final twelve months of the offender's term  
34 of confinement may be served in partial confinement for aiding the  
35 offender with: Finding work as part of the work release program under  
36 chapter 72.65 RCW; or reestablishing himself or herself in the  
37 community as part of the parenting program in RCW 9.94A.6551. This is  
38 in addition to that period of earned early release time that may be  
39 exchanged for partial confinement pursuant to RCW 9.94A.729(5) (d);

1 (f) No more than the final six months of the offender's term of  
2 confinement may be served in partial confinement as home detention as  
3 part of the graduated reentry program developed by the department  
4 under RCW 9.94A.733;

5 (g) The governor may pardon any offender;

6 (h) The department may release an offender from confinement any  
7 time within ten days before a release date calculated under this  
8 section;

9 (i) An offender may leave a correctional facility prior to  
10 completion of his or her sentence if the sentence has been reduced as  
11 provided in RCW 9.94A.870;

12 (j) Notwithstanding any other provisions of this section, an  
13 offender sentenced for a felony crime listed in RCW 9.94A.540 as  
14 subject to a mandatory minimum sentence of total confinement shall  
15 not be released from total confinement before the completion of the  
16 listed mandatory minimum sentence for that felony crime of conviction  
17 unless allowed under RCW 9.94A.540; ~~((and))~~

18 (k) Any person convicted of one or more crimes committed prior to  
19 the person's eighteenth birthday may be released from confinement  
20 pursuant to RCW 9.94A.730; and

21 (l) An offender may leave a correctional facility prior to  
22 completion of his or her sentence if he or she qualifies under  
23 section 3 of this act and release has been granted by the board.

24 (2) Offenders residing in a juvenile correctional facility  
25 placement pursuant to RCW 72.01.410(1)(a) are not subject to the  
26 limitations in this section.

27 **Sec. 10.** RCW 9.95.0001 and 2001 2nd sp.s. c 12 s 317 are each  
28 amended to read as follows:

29 (1) "Board" means the ~~((indeterminate sentence))~~ postconviction  
30 review board.

31 (2) "Community custody" means that portion of an offender's  
32 sentence subject to controls including crime-related prohibitions and  
33 affirmative conditions from the court, the board, or the department  
34 of corrections based on risk to community safety, that is served  
35 under supervision in the community, and which may be modified or  
36 revoked for violations of release conditions.

37 (3) "Crime-related prohibition" has the meaning defined in RCW  
38 9.94A.030.

39 (4) "Department" means the department of corrections.

1 (5) "Parole" means that portion of a person's sentence for a  
2 crime committed before July 1, 1984, served on conditional release in  
3 the community subject to board controls and revocation and under  
4 supervision of the department.

5 (6) "Secretary" means the secretary of the department of  
6 corrections or his or her designee.

7 **Sec. 11.** RCW 9.95.0002 and 2011 1st sp.s. c 40 s 16 are each  
8 amended to read as follows:

9 (1) The indeterminate sentence review board is transferred to the  
10 office of the governor and is no longer a part of the department of  
11 corrections.

12 (2)(a) All reports, documents, surveys, books, records, files,  
13 papers, or written materials in the possession of the department of  
14 corrections pertaining to the indeterminate sentence review board  
15 shall be delivered to the custody of the (~~department of~~  
16 ~~corrections~~) postconviction review board. All cabinets, furniture,  
17 office equipment, motor vehicles, and other tangible property  
18 employed by the department of corrections pertaining to the  
19 indeterminate sentence review board shall be made available to the  
20 (~~department of corrections~~) postconviction review board. All funds,  
21 credits, or other assets held by the department of corrections  
22 pertaining to the indeterminate sentence review board shall be  
23 assigned to the (~~department of corrections~~) postconviction review  
24 board.

25 (b) Any appropriations made during the 2017-2019 biennium to the  
26 department of corrections pertaining to the indeterminate sentence  
27 review board shall (~~, on August 24, 2011,~~) be transferred and  
28 credited to the (~~department of corrections~~) postconviction review  
29 board.

30 (c) If any question arises as to the transfer of any personnel,  
31 funds, books, documents, records, papers, files, equipment, or other  
32 tangible property used or held in the exercise of the powers and the  
33 performance of the duties and functions transferred, the director of  
34 financial management shall make a determination as to the proper  
35 allocation and certify the same to the state agencies concerned.

36 (3) All employees of the indeterminate sentence review board are  
37 transferred to the jurisdiction of the (~~department of corrections~~)  
38 office of the governor. All employees classified under chapter 41.06  
39 RCW, the state civil service law, are assigned to the (~~department of~~

1 ~~corrections))~~ postconviction review board to perform their usual  
2 duties upon the same terms as formerly, without any loss of rights,  
3 subject to any action that may be appropriate thereafter in  
4 accordance with the laws and rules governing state civil service.

5 (4) All rules and all pending business before the indeterminate  
6 sentence review board shall be continued and acted upon by the  
7 ~~((department of corrections))~~ postconviction review board. All  
8 existing contracts and obligations shall remain in full force and  
9 shall be performed by the ~~((department of corrections))~~  
10 postconviction review board.

11 ~~(5) ((The transfer of the powers, duties, functions, and  
12 personnel of the indeterminate sentence review board shall not affect  
13 the validity of any act performed before August 24, 2011.~~

14 ~~(6))~~ If apportionments of budgeted funds are required because of  
15 the transfers directed by this section, the director of financial  
16 management shall certify the apportionments to the agencies affected,  
17 the state auditor, and the state treasurer. Each of these shall make  
18 the appropriate transfer and adjustments in funds and appropriation  
19 accounts and equipment records in accordance with the certification.

20 ~~((7) All classified employees of the indeterminate sentence  
21 review board assigned to the department of corrections under chapter  
22 40, Laws of 2011 1st sp. sess. whose positions are within an existing  
23 bargaining unit description at the department of corrections shall  
24 become a part of the existing bargaining unit at the department of  
25 corrections and shall be considered an appropriate inclusion or  
26 modification of the existing bargaining unit under the provisions of  
27 chapter 41.80 RCW.~~

28 ~~(8) Notwithstanding any provision of chapter 40, Laws of 2011 1st  
29 sp. sess. and despite the transfer of the indeterminate sentence  
30 review board to the department of corrections, the members of the  
31 indeterminate sentence review board will possess and shall exercise  
32 independent judgment when making any decisions concerning offenders.  
33 These decisions include, but are not limited to, decisions concerning  
34 offenders' release, revocation, reinstatement, or the imposition of  
35 conditions of supervision.))~~

36 **Sec. 12.** RCW 9.95.001 and 1986 c 224 s 2 are each amended to  
37 read as follows:

38 On July 1, 1986, the board of prison terms and paroles shall be  
39 redesignated the indeterminate sentence review board. The newly

1 designated board shall retain the same membership and staff as the  
2 previously designated board of prison terms and paroles. References  
3 to "the board" or "board of prison terms and paroles" contained in  
4 this chapter, chapters 7.68, 9.95, 9.96, 71.06, and 72.04A RCW, and  
5 RCW 9A.44.045 and 72.68.031 are deemed to refer to the  
6 (~~indeterminate sentence~~) postconviction review board.

7 **Sec. 13.** RCW 9.95.002 and 2001 2nd sp.s. c 12 s 363 are each  
8 amended to read as follows:

9 The (~~indeterminate sentence~~) postconviction review board, in  
10 fulfilling its duties under the provisions of chapter 12, Laws of  
11 2001 2nd sp. sess., shall be considered a parole board as that  
12 concept was treated in law under the state's indeterminate sentencing  
13 statutes.

14 **Sec. 14.** RCW 9.95.003 and 2011 1st sp.s. c 40 s 15 and 2011 c  
15 336 s 336 are each reenacted and amended to read as follows:

16 (1) The (~~board is created within the department~~) indeterminate  
17 sentence review board is renamed the postconviction review board as  
18 an entity within the governor's office. The board shall consist of a  
19 chair and (~~four~~) eight other members, each of whom shall be  
20 appointed by the governor with the consent of the senate. In  
21 appointing members, the governor shall consider racial inequities in  
22 the criminal justice system, and ensure the members are  
23 representatives of underrepresented communities.

24 (a) Board members shall be composed of members as follows:

25 (i) A retired superior court judge;

26 (ii) A representative of the department;

27 (iii) A prosecutor or a representative of a prosecutor's  
28 association;

29 (iv) A representative of law enforcement or a law enforcement  
30 association;

31 (v) A public defender or a representative of a defender's  
32 association;

33 (vi) A formerly incarcerated person who has experienced  
34 successful reentry or a person with experience working with criminal  
35 justice involved populations;

36 (vii) A person with experience and history as a victim's  
37 advocate; and

38 (viii) A behavioral health professional.

1 (b) Minimum qualifications for board members include, but are not  
2 limited to:

3 (i) Demonstrated knowledge of Washington's legal system and  
4 experience with standardized risk assessment tools;

5 (ii) Ten years' experience in criminal justice or a social  
6 science field; and

7 (iii) Demonstrated competence in principles of racial equity and  
8 restorative justice.

9 (c) Each member shall hold office for a term of five years, and  
10 until his or her successor is appointed and qualified. The terms  
11 shall expire on April 15th of the expiration year. Vacancies in the  
12 membership of the board shall be filled by appointment by the  
13 governor with the consent of the senate. In the event of the  
14 inability of any member to act, the governor shall appoint some  
15 competent person to act in his or her stead during the continuance of  
16 such inability. The members shall not be removable during their  
17 respective terms except for cause determined by the ((superior court  
18 of Thurston county)) governor. The governor in appointing the members  
19 shall designate one of them to serve as chair at the governor's  
20 pleasure. The appointed chair shall serve as a fully participating  
21 board member.

22 (2) ((The department shall provide administrative and staff  
23 support for the board.)) The ((secretary)) board may employ a senior  
24 administrative officer and such other personnel as may be necessary  
25 to assist the board in carrying out its duties.

26 (3) The members of the board and staff assigned to the board  
27 shall not engage in any other business or profession or hold any  
28 other public office without the prior approval of the executive  
29 ethics board indicating compliance with RCW 42.52.020, 42.52.030,  
30 42.52.040, and 42.52.120; nor shall they, at the time of appointment  
31 or employment or during their incumbency, serve as the representative  
32 of any political party on an executive committee or other governing  
33 body thereof, or as an executive officer or employee of any political  
34 committee or association. The members of the board ((shall)) may each  
35 severally receive salaries fixed by the governor in accordance with  
36 the provisions of RCW 43.03.040, and in addition shall receive travel  
37 expenses incurred in the discharge of their official duties in  
38 accordance with RCW 43.03.050 and 43.03.060.

1       **Sec. 15.** RCW 9.95.422 and 2016 c 218 s 2 are each amended to  
2 read as follows:

3       (1) Upon receipt of a petition for early release submitted under  
4 RCW 9.94A.730 or the time it is determined that a hearing shall be  
5 scheduled for a petition submitted under section 3 of this act, or  
6 upon determination of a parole eligibility review date pursuant to  
7 RCW 9.95.100 and 9.95.052, the (~~indeterminate sentence~~)  
8 postconviction review board must provide notice and a copy of a  
9 petition or parole eligibility documents to the sentencing court,  
10 prosecuting attorney, and crime victim or surviving family member.  
11 The board may request the prosecuting attorney to assist in  
12 contacting the crime victim or surviving family member. If requested  
13 in writing by the sentencing court, the prosecuting attorney, or the  
14 crime victim or surviving family member, the (~~indeterminate sentence~~  
15 ~~review~~) board must also provide any assessment, psychological  
16 evaluation, institutional behavior record, or other examination of  
17 the offender. Notice of the early release hearing date or parole  
18 eligibility date, and any evaluations or information relevant to the  
19 release decision, must be provided at least ninety days before the  
20 early release hearing or parole eligibility review hearing. The  
21 records described in this section, and other records reviewed by the  
22 board in response to the petition or parole eligibility  
23 review(~~(+)~~), must be disclosed in full and without redaction.  
24 Copies of records to be provided to the sentencing court and  
25 prosecuting attorney under this section must be provided as required  
26 without regard to whether the board has received a request for  
27 copies.

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

35       (3) The board and its subcommittees must provide comprehensive  
36 minutes of all related meetings and hearings on a petition for early  
37 release or parole eligibility review hearing. The comprehensive  
38 minutes should include, but not be limited to, the board members  
39 present, the name of the petitioner seeking review, the purpose and  
40 date of the meeting or hearing, a listing of documents reviewed, the

1 names of members of the public who testify, a summary of discussion,  
2 the motions or other actions taken, and the votes of board members by  
3 name. For the purposes of this subsection, "action" has the same  
4 meaning as in RCW 42.30.020. The comprehensive minutes must be  
5 publicly and conspicuously posted on the board's web site within  
6 thirty days of the meeting or hearing, without any information  
7 withheld or redacted. Nothing in this subsection precludes the board  
8 from receiving confidential input from the crime victim or surviving  
9 family member.

10 **Sec. 16.** RCW 9.95.425 and 2014 c 130 s 5 are each amended to  
11 read as follows:

12 (1) Whenever the board or a community corrections officer of this  
13 state has reason to believe an offender released under RCW 9.95.420,  
14 10.95.030(3), (~~( $\text{\textcircled{e}}$ )~~) 9.94A.730, or section 3 of this act has violated  
15 a condition of community custody or the laws of this state, any  
16 community corrections officer may arrest or cause the arrest and  
17 detention of the offender pending a determination by the board  
18 whether sanctions should be imposed or the offender's community  
19 custody should be revoked. The community corrections officer shall  
20 report all facts and circumstances surrounding the alleged violation  
21 to the board, with recommendations.

22 (2) If the board or the department causes the arrest or detention  
23 of an offender for a violation that does not amount to a new crime  
24 and the offender is arrested or detained by local law enforcement or  
25 in a local jail, the board or department, whichever caused the arrest  
26 or detention, shall be financially responsible for local costs. Jail  
27 bed costs shall be allocated at the rate established under RCW  
28 9.94A.740.

29 **Sec. 17.** RCW 9.95.430 and 2014 c 130 s 6 are each amended to  
30 read as follows:

31 Any offender released under RCW 9.95.420, 10.95.030(3), (~~( $\text{\textcircled{e}}$ )~~)  
32 9.94A.730, or section 3 of this act who is arrested and detained in  
33 physical custody by the authority of a community corrections officer,  
34 or upon the written order of the board, shall not be released from  
35 custody on bail or personal recognizance, except upon approval of the  
36 board and the issuance by the board of an order reinstating the  
37 offender's release on the same or modified conditions. All chiefs of  
38 police, marshals of cities and towns, sheriffs of counties, and all



1 police, prison, and peace officers and constables shall execute any  
2 such order in the same manner as any ordinary criminal process.

3 **Sec. 18.** RCW 9.95.435 and 2014 c 130 s 7 are each amended to  
4 read as follows:

5 (1) If an offender released by the board under RCW 9.95.420,  
6 10.95.030(3), (~~(e)~~) 9.94A.730, or section 3 of this act violates any  
7 condition or requirement of community custody, the board may transfer  
8 the offender to a more restrictive confinement status to serve up to  
9 the remaining portion of the sentence, less credit for any period  
10 actually spent in community custody or in detention awaiting  
11 disposition of an alleged violation and subject to the limitations of  
12 subsection (2) of this section.

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

25 (3) If an offender released by the board under RCW 9.95.420,  
26 10.95.030(3), (~~(e)~~) 9.94A.730, or section 3 of this act is accused  
27 of violating any condition or requirement of community custody, he or  
28 she is entitled to a hearing before the board or a designee of the  
29 board prior to the imposition of sanctions. The hearing shall be  
30 considered as offender disciplinary proceedings and shall not be  
31 subject to chapter 34.05 RCW. The board shall develop hearing  
32 procedures and a structure of graduated sanctions consistent with the  
33 hearing procedures and graduated sanctions developed pursuant to RCW  
34 9.94A.737. The board may suspend the offender's release to community  
35 custody and confine the offender in a correctional institution owned,  
36 operated by, or operated under contract with the state prior to the  
37 hearing unless the offender has been arrested and confined for a new  
38 criminal offense.

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

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

6 (b) The board shall provide the offender with findings and  
7 conclusions which include the evidence relied upon, and the reasons  
8 the particular sanction was imposed. The board shall notify the  
9 offender of the right to appeal the sanction and the right to file a  
10 personal restraint petition under court rules after the final  
11 decision of the board;

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

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

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

36 (5) Within seven days after the presiding hearing officer's  
37 decision, the offender may appeal the decision to the full board or  
38 to a panel of three reviewing examiners designated by the chair of  
39 the board or by the chair's designee. The sanction shall be reversed  
40 or modified if a majority of the panel finds that the sanction was

1 not reasonably related to any of the following: (a) The crime of  
2 conviction; (b) the violation committed; (c) the offender's risk of  
3 reoffending; or (d) the safety of the community.

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

6 **Sec. 19.** RCW 9.95.440 and 2014 c 130 s 8 are each amended to  
7 read as follows:

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

18 **Sec. 20.** RCW 9.95.009 and 2011 1st sp.s. c 40 s 41 are each  
19 amended to read as follows:

20 (1) On July 1, 1986, the board of prison terms and paroles shall  
21 be redesignated as the indeterminate sentence review board. The  
22 board's membership shall be reduced as follows: On July 1, 1986, and  
23 on July 1st of each year until 1998, the number of board members  
24 shall be reduced in a manner commensurate with the board's remaining  
25 workload as determined by the office of financial management based  
26 upon its population forecast for the indeterminate sentencing system  
27 and in conjunction with the budget process. To meet the statutory  
28 obligations of the indeterminate sentence review board, the number of  
29 board members shall not be reduced to fewer than three members,  
30 although the office of financial management may designate some or all  
31 members as part-time members and specify the extent to which they  
32 shall be less than full-time members. Any reduction shall take place  
33 by the expiration, on that date, of the term or terms having the  
34 least time left to serve.

35 (2) After July 1, 1984, the board shall continue its functions  
36 with respect to persons convicted of crimes committed prior to July  
37 1, 1984, and committed to the department of corrections. When making  
38 decisions on duration of confinement, including those relating to

1 persons committed under a mandatory life sentence, and parole release  
2 under RCW 9.95.100 and 9.95.110, the board shall consider the  
3 purposes, standards, and sentencing ranges under chapter 9.94A RCW of  
4 the sentencing reform act and the minimum term recommendations of the  
5 sentencing judge and prosecuting attorney, and shall attempt to make  
6 decisions reasonably consistent with those ranges, standards,  
7 purposes, and recommendations: PROVIDED, That the board and its  
8 successors shall give adequate written reasons whenever a minimum  
9 term or parole release decision is made which is outside the  
10 sentencing ranges under chapter 9.94A RCW of the sentencing reform  
11 act. In making such decisions, the board and its successors shall  
12 consider the different charging and disposition practices under the  
13 indeterminate sentencing system.

14 (3) Notwithstanding the provisions of subsection (2) of this  
15 section, the indeterminate sentence review board shall give public  
16 safety considerations the highest priority when making all  
17 discretionary decisions on the remaining indeterminate population  
18 regarding the ability for parole, parole release, and conditions of  
19 parole.

20 (4) On and after the effective date of this section, the duties  
21 of the indeterminate sentence review board shall be performed by the  
22 postconviction review board.

23 **Sec. 21.** RCW 9.95.030 and 2011 c 336 s 338 are each amended to  
24 read as follows:

25 At the time the convicted person is transported to the custody of  
26 the department of corrections, the ((indeterminate—sentence))  
27 postconviction review board shall obtain from the sentencing judge  
28 and the prosecuting attorney, a statement of all the facts concerning  
29 the convicted person's crime and any other information of which they  
30 may be possessed relative to him or her, and the sentencing judge and  
31 the prosecuting attorney shall furnish the board with such  
32 information. The sentencing judge and prosecuting attorney shall  
33 indicate to the board, for its guidance, what, in their judgment,  
34 should be the duration of the convicted person's imprisonment.

35 **Sec. 22.** RCW 9.95.045 and 1993 c 144 s 1 are each amended to  
36 read as follows:

1 (1) An inmate convicted of murder may petition the  
2 (~~indefinite sentence~~) postconviction review board to review the  
3 inmate's sentence if the petition alleges the following:

4 (a) The inmate was sentenced for a murder committed prior to July  
5 23, 1989, which was the effective date of section 1, chapter 408,  
6 Laws of 1989, as codified in RCW 9.94A.535(1)(h). RCW 9.94A.535(1)(h)  
7 provides that the sentencing court may consider as a mitigating  
8 factor evidence that the defendant or the defendant's children  
9 suffered a continuing pattern of physical or sexual abuse by the  
10 victim of the offense and the offense was a response to that abuse;

11 (b) RCW 9.94A.535(1)(h), if effective when the defendant  
12 committed the crime, would have provided a basis for the defendant to  
13 seek a mitigated sentence; and

14 (c) The sentencing court when determining what sentence to  
15 impose, did not consider evidence that the victim subjected the  
16 defendant or the defendant's children to a continuing pattern of  
17 sexual or physical abuse and the murder was in response to that  
18 abuse.

19 (2) An inmate who seeks to have his or her sentence reviewed  
20 under this section must petition the board for review no later than  
21 October 1, 1993. The petition may be by letter requesting review.

22 (3)(a) If the inmate was convicted of a murder committed prior to  
23 July 1, 1984, and the inmate is under the jurisdiction of the  
24 (~~indefinite sentence~~) postconviction review board, the board  
25 shall conduct the review as provided in RCW 9.95.047. If the inmate  
26 was sentenced pursuant to chapter 9.94A RCW for a murder committed  
27 after June 30, 1984, but before July 23, 1989, the board shall  
28 conduct the review and may make appropriate recommendations to the  
29 sentencing court as provided in RCW 9.94A.890. The board shall  
30 complete its review of the petitions and submit recommendations to  
31 the sentencing courts or their successors by October 1, 1994.

32 (b) When reviewing petitions, the board shall solicit  
33 recommendations from the prosecuting attorneys of the counties where  
34 the petitioners were convicted, and shall accept input from other  
35 interested parties.

36 **Sec. 23.** RCW 9.95.055 and 2009 c 28 s 23 are each amended to  
37 read as follows:

38 The (~~indefinite sentence~~) postconviction review board is  
39 hereby granted authority, in the event of a declaration by the

1 governor that a war emergency exists, including a general  
2 mobilization, and for the duration thereof only, to reduce downward  
3 the minimum term, as set by the board, of any inmate under the  
4 jurisdiction of the board confined in a state correctional facility,  
5 who will be accepted by and inducted into the armed services:  
6 PROVIDED, That a reduction downward shall not be made under this  
7 section for those inmates who: (1) Are confined for (a) treason; (b)  
8 murder in the first degree; or (c) rape of a child in the first  
9 degree where the victim is under ten years of age or an equivalent  
10 offense under prior law; (2) are being considered for civil  
11 commitment as a sexually violent predator under chapter 71.09 RCW; or  
12 (3) were sentenced under RCW 9.94A.507 for a crime committed on or  
13 after September 1, 2001.

14 **Sec. 24.** RCW 9.95.060 and 1999 c 143 s 18 are each amended to  
15 read as follows:

16 When a convicted person seeks appellate review of his or her  
17 conviction and is at liberty on bond pending the determination of the  
18 proceeding by the supreme court or the court of appeals, credit on  
19 his or her sentence will begin from the date such convicted person is  
20 returned to custody. The date of return to custody shall be certified  
21 to the department of corrections, the ((~~indeterminate sentence~~))  
22 postconviction review board, and the prosecuting attorney of the  
23 county in which such convicted person was convicted and sentenced, by  
24 the sheriff of such county. If such convicted person does not seek  
25 review of the conviction, but is at liberty for a period of time  
26 subsequent to the signing of the judgment and sentence, or becomes a  
27 fugitive, credit on his sentence will begin from the date such  
28 convicted person is returned to custody. The date of return to  
29 custody shall be certified as provided in this section. In all other  
30 cases, credit on a sentence will begin from the date the judgment and  
31 sentence is signed by the court.

32 **Sec. 25.** RCW 9.95.070 and 2009 c 28 s 24 are each amended to  
33 read as follows:

34 (1) Every prisoner, convicted of a crime committed before July 1,  
35 1984, who has a favorable record of conduct at a state correctional  
36 institution, and who performs in a faithful, diligent, industrious,  
37 orderly and peaceable manner the work, duties, and tasks assigned to  
38 him or her to the satisfaction of the superintendent of the

1 institution, and in whose behalf the superintendent of the  
2 institution files a report certifying that his or her conduct and  
3 work have been meritorious and recommending allowance of time credits  
4 to him or her, shall upon, but not until, the adoption of such  
5 recommendation by the (~~indeterminate sentence~~) postconviction  
6 review board, be allowed time credit reductions from the term of  
7 imprisonment fixed by the board.

8 (2) Offenders sentenced under RCW 9.94A.507 for a crime committed  
9 on or after September 1, 2001, are subject to the earned release  
10 provisions for sex offenders established in RCW 9.94A.728.

11 **Sec. 26.** RCW 9.95.115 and 2001 2nd sp.s. c 12 s 332 are each  
12 amended to read as follows:

13 The (~~indeterminate sentence~~) postconviction review board is  
14 hereby granted authority to parole any person sentenced to the  
15 custody of the department of corrections, under a mandatory life  
16 sentence for a crime committed before July 1, 1984, except those  
17 persons sentenced to life without the possibility of parole. No such  
18 person shall be granted parole unless the person has been  
19 continuously confined therein for a period of twenty consecutive  
20 years less earned good time: PROVIDED, That no such person shall be  
21 released under parole who is subject to civil commitment as a  
22 sexually violent predator under chapter 71.09 RCW.

23 **Sec. 27.** RCW 9.95.130 and 2001 2nd sp.s. c 12 s 340 are each  
24 amended to read as follows:

25 From and after the suspension, cancellation, or revocation of the  
26 parole of any offender convicted of a crime committed before July 1,  
27 1984, and until his or her return to custody the offender shall be  
28 deemed an escapee and a fugitive from justice. The (~~indeterminate~~  
29 ~~sentence~~) postconviction review board may deny credit against the  
30 maximum sentence any time during which he or she is an escapee and  
31 fugitive from justice.

32 **Sec. 28.** RCW 9.95.260 and 1999 c 323 s 4 and 1999 c 143 s 29 are  
33 each reenacted and amended to read as follows:

34 (1) The (~~indeterminate sentence~~) postconviction review board  
35 shall, when requested by the governor, pass on the representations  
36 made in support of applications for pardons for convicted persons and  
37 make recommendations thereon to the governor.

1 (2) It will be the duty of the secretary of corrections to  
2 exercise supervision over such convicted persons as have been  
3 conditionally pardoned by the governor, to the end that such persons  
4 shall faithfully comply with the conditions of such pardons. The  
5 (~~indeterminate sentence review~~) board shall also pass on any  
6 representations made in support of applications for restoration of  
7 civil rights of convicted persons, and make recommendations to the  
8 governor. The department of corrections shall prepare materials and  
9 make investigations requested by the (~~indeterminate sentence~~  
10 ~~review~~) board in order to assist the board in passing on the  
11 representations made in support of applications for pardon or for the  
12 restoration of civil rights.

13 (3) The board shall make no recommendations to the governor in  
14 support of an application for pardon until a public hearing has been  
15 held under this section or RCW 9.94A.885(3) upon the application. The  
16 prosecuting attorney of the county where the conviction was obtained  
17 shall be notified at least thirty days prior to the scheduled hearing  
18 that an application for pardon has been filed and the date and place  
19 at which the hearing on the application for pardon will be held. The  
20 board may waive the thirty-day notice requirement in cases where it  
21 determines that waiver is necessary to permit timely action on the  
22 petition. A copy of the application for pardon shall be sent to the  
23 prosecuting attorney. The prosecuting attorney shall make reasonable  
24 efforts to notify victims, survivors of victims, witnesses, and the  
25 law enforcement agency or agencies that conducted the investigation  
26 of the date and place of the hearing. Information regarding victims,  
27 survivors of victims, or witnesses receiving this notice are  
28 confidential and shall not be available to the offender. The board  
29 shall consider written, oral, audio, or videotaped statements  
30 regarding the application for pardon received, personally or by  
31 representation, from the individuals who receive notice pursuant to  
32 this section. This subsection is intended solely for the guidance of  
33 the board. Nothing in this section is intended or may be relied upon  
34 to create a right or benefit, substantive or procedural, enforceable  
35 at law by any person.

36 **Sec. 29.** RCW 4.24.550 and 2015 c 261 s 1 are each amended to  
37 read as follows:

38 (1) In addition to the disclosure under subsection (5) of this  
39 section, public agencies are authorized to release information to the



1 public regarding sex offenders and kidnapping offenders when the  
2 agency determines that disclosure of the information is relevant and  
3 necessary to protect the public and counteract the danger created by  
4 the particular offender. This authorization applies to information  
5 regarding: (a) Any person adjudicated or convicted of a sex offense  
6 as defined in RCW 9A.44.128 or a kidnapping offense as defined by RCW  
7 9A.44.128; (b) any person under the jurisdiction of the  
8 (~~indefinite sentence~~) postconviction review board as the result  
9 of a sex offense or kidnapping offense; (c) any person committed as a  
10 sexually violent predator under chapter 71.09 RCW or as a sexual  
11 psychopath under chapter 71.06 RCW; (d) any person found not guilty  
12 of a sex offense or kidnapping offense by reason of insanity under  
13 chapter 10.77 RCW; and (e) any person found incompetent to stand  
14 trial for a sex offense or kidnapping offense and subsequently  
15 committed under chapter 71.05 or 71.34 RCW.

16 (2) Except for the information specifically required under  
17 subsection (5) of this section, the extent of the public disclosure  
18 of relevant and necessary information shall be rationally related to:  
19 (a) The level of risk posed by the offender to the community; (b) the  
20 locations where the offender resides, expects to reside, or is  
21 regularly found; and (c) the needs of the affected community members  
22 for information to enhance their individual and collective safety.

23 (3) Except for the information specifically required under  
24 subsection (5) of this section, local law enforcement agencies shall  
25 consider the following guidelines in determining the extent of a  
26 public disclosure made under this section: (a) For offenders  
27 classified as risk level I, the agency shall share information with  
28 other appropriate law enforcement agencies and, if the offender is a  
29 student, the public or private school regulated under Title 28A RCW  
30 or chapter 72.40 RCW which the offender is attending, or planning to  
31 attend. The agency may disclose, upon request, relevant, necessary,  
32 and accurate information to any victim or witness to the offense, any  
33 individual community member who lives near the residence where the  
34 offender resides, expects to reside, or is regularly found, and any  
35 individual who requests information regarding a specific offender;  
36 (b) for offenders classified as risk level II, the agency may also  
37 disclose relevant, necessary, and accurate information to public and  
38 private schools, child day care centers, family day care providers,  
39 public libraries, businesses and organizations that serve primarily  
40 children, women, or vulnerable adults, and neighbors and community

1 groups near the residence where the offender resides, expects to  
2 reside, or is regularly found; (c) for offenders classified as risk  
3 level III, the agency may also disclose relevant, necessary, and  
4 accurate information to the public at large; and (d) because more  
5 localized notification is not feasible and homeless and transient  
6 offenders may present unique risks to the community, the agency may  
7 also disclose relevant, necessary, and accurate information to the  
8 public at large for offenders registered as homeless or transient.

9 (4) The county sheriff with whom an offender classified as risk  
10 level III is registered shall release a sex offender community  
11 notification that conforms to the guidelines established under RCW  
12 4.24.5501.

13 (5)(a) When funded by federal grants or other sources, the  
14 Washington association of sheriffs and police chiefs shall create and  
15 maintain a statewide registered kidnapping and sex offender web site,  
16 which shall be available to the public. The web site shall post all  
17 level III and level II registered sex offenders, level I registered  
18 sex offenders only during the time they are out of compliance with  
19 registration requirements under RCW 9A.44.130 or if lacking a fixed  
20 residence as provided in RCW 9A.44.130, and all registered kidnapping  
21 offenders in the state of Washington.

22 (i) For level III offenders, the web site shall contain, but is  
23 not limited to, the registered sex offender's name, relevant criminal  
24 convictions, address by hundred block, physical description, and  
25 photograph. The web site shall provide mapping capabilities that  
26 display the sex offender's address by hundred block on a map. The web  
27 site shall allow citizens to search for registered sex offenders  
28 within the state of Washington by county, city, zip code, last name,  
29 and address by hundred block.

30 (ii) For level II offenders, and level I sex offenders during the  
31 time they are out of compliance with registration requirements under  
32 RCW 9A.44.130, the web site shall contain, but is not limited to, the  
33 same information and functionality as described in (a)(i) of this  
34 subsection, provided that it is permissible under state and federal  
35 law. If it is not permissible, the web site shall be limited to the  
36 information and functionality that is permissible under state and  
37 federal law.

38 (iii) For kidnapping offenders, the web site shall contain, but  
39 is not limited to, the same information and functionality as  
40 described in (a)(i) of this subsection, provided that it is

1 permissible under state and federal law. If it is not permissible,  
2 the web site shall be limited to the information and functionality  
3 that is permissible under state and federal law.

4 (b) Law enforcement agencies must provide information requested  
5 by the Washington association of sheriffs and police chiefs to  
6 administer the statewide registered kidnapping and sex offender web  
7 site.

8 (c) (i) Within five business days of the Washington association of  
9 sheriffs and police chiefs receiving any public record request under  
10 chapter 42.56 RCW for sex offender and kidnapping offender  
11 information, records or web site data it holds or maintains pursuant  
12 to this section or a unified sex offender registry, the Washington  
13 association of sheriffs and police chiefs shall refer the requester  
14 in writing to the appropriate law enforcement agency or agencies for  
15 submission of such a request. The Washington association of sheriffs  
16 and police chiefs shall have no further obligation under chapter  
17 42.56 RCW for responding to such a request.

18 (ii) This ~~((subparagraph))~~ subsection (5)(c) ~~((of this section))~~  
19 is remedial and applies retroactively.

20 (6) (a) Law enforcement agencies responsible for the registration  
21 and dissemination of information regarding offenders required to  
22 register under RCW 9A.44.130 shall assign a risk level classification  
23 to all offenders after consideration of: (i) Any available risk level  
24 classifications provided by the department of corrections, the  
25 department of social and health services, and the ~~((indeterminate  
26 sentence))~~ postconviction review board; (ii) the agency's own  
27 application of a sex offender risk assessment tool; and (iii) other  
28 information and aggravating or mitigating factors known to the agency  
29 and deemed rationally related to the risk posed by the offender to  
30 the community at large.

31 (b) A sex offender shall be classified as a risk level I if his  
32 or her risk assessment and other information or factors deemed  
33 relevant by the law enforcement agency indicate he or she is at a low  
34 risk to sexually reoffend within the community at large. A sex  
35 offender shall be classified as a risk level II if his or her risk  
36 assessment and other information or factors deemed relevant by the  
37 law enforcement agency indicate he or she is at a moderate risk to  
38 sexually reoffend within the community at large. A sex offender shall  
39 be classified as a risk level III if his or her risk assessment and  
40 other information or factors deemed relevant by the law enforcement

1 agency indicate he or she is at a high risk to sexually reoffend  
2 within the community at large.

3 (c) The agency shall make a good faith effort to notify the  
4 public and residents within a reasonable period of time after the  
5 offender registers with the agency.

6 (d) Agencies may develop a process to allow an offender to  
7 petition for review of the offender's assigned risk level  
8 classification. The timing, frequency, and process for review are at  
9 the sole discretion of the agency.

10 (7) An appointed or elected public official, public employee, or  
11 public agency as defined in RCW 4.24.470, or units of local  
12 government and its employees, as provided in RCW 36.28A.010, are  
13 immune from civil liability for damages for any discretionary risk  
14 level classification decisions or release of relevant and necessary  
15 information, unless it is shown that the official, employee, or  
16 agency acted with gross negligence or in bad faith. The immunity in  
17 this section applies to risk level classification decisions and the  
18 release of relevant and necessary information regarding any  
19 individual for whom disclosure is authorized. The decision of a law  
20 enforcement agency or official to classify an offender to a risk  
21 level other than the one assigned by the department of corrections,  
22 the department of social and health services, or the (~~indeterminate~~  
23 ~~sentence~~) postconviction review board, or the release of any  
24 relevant and necessary information based on that different  
25 classification shall not, by itself, be considered gross negligence  
26 or bad faith. The immunity provided under this section applies to the  
27 release of relevant and necessary information to other public  
28 officials, public employees, or public agencies, and to the general  
29 public.

30 (8) Except as may otherwise be provided by law, nothing in this  
31 section shall impose any liability upon a public official, public  
32 employee, or public agency for failing to release information  
33 authorized under this section.

34 (9) Nothing in this section implies that information regarding  
35 persons designated in subsection (1) of this section is confidential  
36 except as may otherwise be provided by law.

37 (10) When a law enforcement agency or official classifies an  
38 offender differently than the offender is classified by the end of  
39 sentence review committee at the time of the offender's release from  
40 confinement, the law enforcement agency or official shall notify the

1 end of sentence review committee and the Washington state patrol and  
2 submit its reasons supporting the change in classification.

3 (11) As used in this section, "law enforcement agency" means a  
4 general authority Washington law enforcement agency as defined in RCW  
5 10.93.020.

6 **Sec. 30.** RCW 4.24.5501 and 2006 c 137 s 1 are each amended to  
7 read as follows:

8 (1) When funded, the Washington association of sheriffs and  
9 police chiefs shall convene a sex offender model policy work group to  
10 develop a model policy for law enforcement agencies and other  
11 criminal justice personnel. The model policy shall provide guidelines  
12 for sex offender registration, community notification, and strategies  
13 for sex offender management.

14 (2) In developing the policy, the association shall consult with  
15 representatives of the following agencies and professions: (a) The  
16 department of corrections; (b) the department of social and health  
17 services; (c) the (~~indeterminate sentence~~) postconviction review  
18 board; (d) the Washington state council of police officers; (e) local  
19 correctional agencies; (f) the Washington association of prosecuting  
20 attorneys; (g) the Washington public defender association; (h) the  
21 Washington association for the treatment of sexual abusers; (i) the  
22 office of the superintendent of public instruction; (j) the criminal  
23 justice training commission; (k) the Washington association of  
24 criminal defense lawyers; (l) the association of Washington cities;  
25 (m) the Washington coalition of sexual assault programs; and (n)  
26 victim advocates.

27 The sex offender model policy work group, once convened, shall  
28 first conduct a series of community meetings around the state to  
29 assess the practices and needs of communities, identify best  
30 practices on sex offender registration, community notification, and  
31 strategies for sex offender management. Once the sex offender model  
32 policy work group has received input from stakeholders on a final  
33 draft of the model policy, the policy shall be presented to the  
34 Washington association of sheriffs and police chiefs for adoption or  
35 rejection. Following the adoption of a model policy, the sex offender  
36 model policy work group shall conduct a series of meetings around the  
37 state with local law enforcement agencies and other criminal justice  
38 personnel to review the model policy and conduct training as needed.  
39 The sex offender model policy work group shall then be dissolved,

1 and, when funded, the Washington association of sheriffs and police  
2 chiefs shall be responsible for the continued promotion of the model  
3 policy, including annual or biennial regional workshops with local  
4 law enforcement agencies and other criminal justice personnel to  
5 encourage sex offender registration, community notification, and  
6 strategies for sex offender management policies and practices that  
7 best fit the needs, characteristics, and risks of each community.

8 (3) The model policy shall, at a minimum, include recommendations  
9 to address the following issues: (a) Procedures for local agencies or  
10 officials to accomplish the notifications required under RCW  
11 4.24.550(10), including the identification of best practices for  
12 community notification, as they relate to the specific needs and  
13 characteristics to each community and the risk posed to that  
14 community; (b) contents and form of community notification documents,  
15 including procedures for ensuring the accuracy of factual information  
16 contained in the notification documents, and ways of protecting the  
17 privacy of victims of the offenders' crimes; (c) methods of  
18 distributing community notification documents, including distribution  
19 to schools; (d) methods of providing follow-up notifications to  
20 community residents at specified intervals and of disclosing  
21 information about offenders to law enforcement agencies in other  
22 jurisdictions if necessary to protect the public; (e) methods of  
23 educating community residents at public meetings on how they can use  
24 the information in the notification document in a reasonable manner  
25 to enhance their individual and collective safety; (f) procedures for  
26 educating community members regarding the right of sex offenders not  
27 to be the subject of harassment or criminal acts as a result of the  
28 notification process; (g) procedures and documents for local law  
29 enforcement agencies to provide appropriate notification when a sex  
30 offender risk level is reclassified, including strategies to monitor  
31 the reclassification of sex offender risk levels by local law  
32 enforcement agencies; (h) formulas and instructions on standard sex  
33 offender risk assessment instruments; (i) strategies for sex offender  
34 management; and (j) other matters the Washington association of  
35 sheriffs and police chiefs deems necessary as it relates to sex  
36 offender registration, community notification, and management.

37 **Sec. 31.** RCW 4.100.070 and 2013 c 175 s 7 are each amended to  
38 read as follows:

1 (1) On or after July 28, 2013, when a court grants judicial  
2 relief, such as reversal and vacation of a person's conviction,  
3 consistent with the criteria established in RCW 4.100.040, the court  
4 must provide to the claimant a copy of RCW 4.100.020 through  
5 4.100.090, 28B.15.395, and 72.09.750 at the time the relief is  
6 granted.

7 (2) The clemency and pardons board or the (~~indeterminate~~  
8 ~~sentence~~) postconviction review board, whichever is applicable, upon  
9 issuance of a pardon by the governor on grounds consistent with  
10 innocence on or after July 28, 2013, must provide a copy of RCW  
11 4.100.020 through 4.100.090, 28B.15.395, and 72.09.750 to the  
12 individual pardoned.

13 (3) If an individual entitled to receive the information required  
14 under this section shows that he or she was not provided with the  
15 information, he or she has an additional twelve months, beyond the  
16 statute of limitations under RCW 4.100.090, to bring a claim under  
17 this chapter.

18 **Sec. 32.** RCW 7.68.120 and 1995 c 33 s 1 are each amended to read  
19 as follows:

20 Any person who has committed a criminal act which resulted in  
21 injury compensated under this chapter may be required to make  
22 reimbursement to the department as provided in this section.

23 (1) Any payment of benefits to or on behalf of a victim under  
24 this chapter creates a debt due and owing to the department by any  
25 person found to have committed the criminal act in either a civil or  
26 criminal court proceeding in which he or she is a party. If there has  
27 been a superior or district court order, or an order of the  
28 (~~indeterminate—sentence~~) postconviction review board or the  
29 department of social and health services, as provided in subsection  
30 (4) of this section, the debt shall be limited to the amount provided  
31 for in the order. A court order shall prevail over any other order.  
32 If, in a criminal proceeding, a person has been found to have  
33 committed the criminal act that results in the payment of benefits to  
34 a victim and the court in the criminal proceeding does not enter a  
35 restitution order, the department shall, within one year of  
36 imposition of the sentence, petition the court for entry of a  
37 restitution order.

38 (2) (a) The department may issue a notice of debt due and owing to  
39 the person found to have committed the criminal act, and shall serve

1 the notice on the person in the manner prescribed for the service of  
2 a summons in a civil action or by certified mail. The department  
3 shall file the notice of debt due and owing along with proof of  
4 service with the superior court of the county where the criminal act  
5 took place. The person served the notice shall have thirty days from  
6 the date of service to respond to the notice by requesting a hearing  
7 in superior court.

8 (b) If a person served a notice of debt due and owing fails to  
9 respond within thirty days, the department may seek a default  
10 judgment. Upon entry of a judgment in an action brought pursuant to  
11 (a) of this subsection, the clerk shall enter the order in the  
12 execution docket. The filing fee shall be added to the amount of the  
13 debt indicated in the judgment. The judgment shall become a lien upon  
14 all real and personal property of the person named in the judgment as  
15 in other civil cases. The judgment shall be subject to execution,  
16 garnishment, or other procedures for collection of a judgment.

17 (3) (a) The director, or the director's designee, may issue to any  
18 person or organization an order to withhold and deliver property of  
19 any kind if there is reason to believe that the person or  
20 organization possesses property that is due, owing, or belonging to  
21 any person against whom a judgment for a debt due and owing has been  
22 entered under subsection (2) of this section. For purposes of this  
23 subsection, "person or organization" includes any individual, firm,  
24 association, corporation, political subdivision of the state, or  
25 agency of the state.

26 (b) The order to withhold and deliver must be served in the  
27 manner prescribed for the service of a summons in a civil action or  
28 by certified mail, return receipt requested. Any person or  
29 organization upon whom service has been made shall answer the order  
30 within twenty days exclusive of the day of service, under oath and in  
31 writing, and shall make true answers to the matters inquired of  
32 therein.

33 (c) If there is in the possession of the person or organization  
34 served with the order any property that might be subject to the claim  
35 of the department, the person or organization must immediately  
36 withhold such property and deliver the property to the director or  
37 the director's authorized representative immediately upon demand.

38 (d) If the person or organization served the order fails to  
39 timely answer the order, the court may render judgment by default



1 against the person or organization for the full amount claimed by the  
2 director in the order plus costs.

3 (e) If an order to withhold and deliver is served upon an  
4 employer and the property found to be subject to the notice is wages,  
5 the employer may assert in the answer all exemptions to which the  
6 wage earner might be entitled as provided by RCW 6.27.150.

7 (4) Upon being placed on work release pursuant to chapter 72.65  
8 RCW, or upon release from custody of a state correctional facility on  
9 parole, any convicted person who owes a debt to the department as a  
10 consequence of a criminal act may have the schedule or amount of  
11 payments therefor set as a condition of work release or parole by the  
12 department of social and health services or (~~indeterminate~~  
13 ~~sentence~~) postconviction review board respectively, subject to  
14 modification based on change of circumstances. Such action shall be  
15 binding on the department.

16 (5) Any requirement for payment due and owing the department by a  
17 convicted person under this chapter may be waived, modified downward  
18 or otherwise adjusted by the department in the interest of justice,  
19 the well-being of the victim, and the rehabilitation of the  
20 individual.

21 (6) The department shall not seek payment for a debt due and  
22 owing if such action would deprive the victim of the crime giving  
23 rise to the claim under this chapter of the benefit of any property  
24 to which the victim would be entitled under RCW 26.16.030.

25 **Sec. 33.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to  
26 read as follows:

27 Unless the context clearly requires otherwise, the definitions in  
28 this section apply throughout this chapter.

29 (1) "Board" means the (~~indeterminate—sentence~~) postconviction  
30 review board created under chapter 9.95 RCW.

31 (2) "Collect," or any derivative thereof, "collect and remit," or  
32 "collect and deliver," when used with reference to the department,  
33 means that the department, either directly or through a collection  
34 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
35 and enforcing the offender's sentence with regard to the legal  
36 financial obligation, receiving payment thereof from the offender,  
37 and, consistent with current law, delivering daily the entire payment  
38 to the superior court clerk without depositing it in a departmental  
39 account.

- 1 (3) "Commission" means the sentencing guidelines commission.
- 2 (4) "Community corrections officer" means an employee of the  
3 department who is responsible for carrying out specific duties in  
4 supervision of sentenced offenders and monitoring of sentence  
5 conditions.
- 6 (5) "Community custody" means that portion of an offender's  
7 sentence of confinement in lieu of earned release time or imposed as  
8 part of a sentence under this chapter and served in the community  
9 subject to controls placed on the offender's movement and activities  
10 by the department.
- 11 (6) "Community protection zone" means the area within eight  
12 hundred eighty feet of the facilities and grounds of a public or  
13 private school.
- 14 (7) "Community restitution" means compulsory service, without  
15 compensation, performed for the benefit of the community by the  
16 offender.
- 17 (8) "Confinement" means total or partial confinement.
- 18 (9) "Conviction" means an adjudication of guilt pursuant to Title  
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
20 and acceptance of a plea of guilty.
- 21 (10) "Crime-related prohibition" means an order of a court  
22 prohibiting conduct that directly relates to the circumstances of the  
23 crime for which the offender has been convicted, and shall not be  
24 construed to mean orders directing an offender affirmatively to  
25 participate in rehabilitative programs or to otherwise perform  
26 affirmative conduct. However, affirmative acts necessary to monitor  
27 compliance with the order of a court may be required by the  
28 department.
- 29 (11) "Criminal history" means the list of a defendant's prior  
30 convictions and juvenile adjudications, whether in this state, in  
31 federal court, or elsewhere, and any issued certificates of  
32 restoration of opportunity pursuant to RCW 9.97.020.
- 33 (a) The history shall include, where known, for each conviction  
34 (i) whether the defendant has been placed on probation and the length  
35 and terms thereof; and (ii) whether the defendant has been  
36 incarcerated and the length of incarceration.
- 37 (b) A conviction may be removed from a defendant's criminal  
38 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
39 9.95.240, or a similar out-of-state statute, or if the conviction has  
40 been vacated pursuant to a governor's pardon.

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

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

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

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

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

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

29 (c) To exact revenge or retribution for the gang or any member of  
30 the gang;

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

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

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

1 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
2 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
3 9.68 RCW).

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

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

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

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

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

34 (20) "Domestic violence" has the same meaning as defined in RCW  
35 10.99.020 and 26.50.010.

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

40 (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) "Electronic monitoring" means tracking the location of an  
13 individual, whether pretrial or posttrial, through the use of  
14 technology that is capable of determining or identifying the  
15 monitored individual's presence or absence at a particular location  
16 including, but not limited to:

17 (a) Radio frequency signaling technology, which detects if the  
18 monitored individual is or is not at an approved location and  
19 notifies the monitoring agency of the time that the monitored  
20 individual either leaves the approved location or tampers with or  
21 removes the monitoring device; or

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

25 (25) "Escape" means:

26 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
27 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
28 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
29 willful failure to return from work release (RCW 72.65.070), or  
30 willful failure to be available for supervision by the department  
31 while in community custody (RCW 72.09.310); or

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

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

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

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

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

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

6 (33) "Most serious offense" means any of the following felonies  
7 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 (34) "Nonviolent offense" means an offense which is not a violent  
24 offense.

25 (35) "Offender" means a person who has committed a felony  
26 established by state law and is eighteen years of age or older or is  
27 less than eighteen years of age but whose case is under superior  
28 court jurisdiction under RCW 13.04.030 or has been transferred by the  
29 appropriate juvenile court to a criminal court pursuant to RCW  
30 13.40.110. In addition, for the purpose of community custody  
31 requirements under this chapter, "offender" also means a misdemeanor  
32 or gross misdemeanor probationer ordered by a superior court to  
33 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and  
34 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 (36) "Partial confinement" means confinement for no more than one  
38 year in a facility or institution operated or utilized under contract  
39 by the state or any other unit of government, or, if home detention,  
40 electronic monitoring, or work crew has been ordered by the court or



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

7 (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 (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 (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 (39) "Predatory" means: (a) The perpetrator of the crime was a  
10 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 (40) "Private school" means a school regulated under chapter  
34 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

20 (45) "Serious traffic offense" means:

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

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

29 (46) "Serious violent offense" is a subcategory of violent  
30 offense and means:

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

32 (ii) Homicide by abuse;

33 (iii) Murder in the second degree;

34 (iv) Manslaughter in the first degree;

35 (v) Assault in the first degree;

36 (vi) Kidnapping in the first degree;

37 (vii) Rape in the first degree;

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

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

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

4 (47) "Sex offense" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (55) "Violent offense" means:

11 (a) Any of the following felonies:

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

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

16 (iii) Manslaughter in the first degree;

17 (iv) Manslaughter in the second degree;

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

19 (vi) Kidnapping in the second degree;

20 (vii) Arson in the second degree;

21 (viii) Assault in the second degree;

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

23 (x) Extortion in the first degree;

24 (xi) Robbery in the second degree;

25 (xii) Drive-by shooting;

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

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

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

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

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

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

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

14 **Sec. 34.** RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended  
15 to read as follows:

16 (1) The department shall supervise the following offenders who  
17 are sentenced to probation in superior court, pursuant to RCW  
18 9.92.060, 9.95.204, or 9.95.210:

19 (a) Offenders convicted of:

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

21 (ii) Custodial sexual misconduct second degree;

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

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

24 (b) Offenders who have:

25 (i) A current conviction for a repetitive domestic violence  
26 offense where domestic violence has been pleaded and proven after  
27 August 1, 2011; and

28 (ii) A prior conviction for a repetitive domestic violence  
29 offense or domestic violence felony offense where domestic violence  
30 has been pleaded and proven after August 1, 2011.

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

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

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

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

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

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

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

14 (e)(i) Has a current conviction for a domestic violence felony  
15 offense where domestic violence has been pleaded and proven after  
16 August 1, 2011, and a prior conviction for a repetitive domestic  
17 violence offense or domestic violence felony offense where domestic  
18 violence was pleaded and proven after August 1, 2011. This subsection  
19 (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

20 (ii) Has a current conviction for a domestic violence felony  
21 offense where domestic violence was pleaded and proven. The state and  
22 its officers, agents, and employees shall not be held criminally or  
23 civilly liable for its supervision of an offender under this  
24 subsection (4)(e)(ii) unless the state and its officers, agents, and  
25 employees acted with gross negligence;

26 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or  
27 9.94A.670;

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

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

32 (5) The department shall supervise any offender who is released  
33 by the (~~indeterminate sentence~~) postconviction review board and who  
34 was sentenced to community custody or subject to community custody  
35 under the terms of release.

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



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

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

9 **Sec. 35.** RCW 9.94A.730 and 2015 c 134 s 6 are each amended to  
10 read as follows:

11 (1) Notwithstanding any other provision of this chapter, any  
12 person convicted of one or more crimes committed prior to the  
13 person's eighteenth birthday may petition the (~~indeterminate~~  
14 ~~sentence~~) postconviction review board for early release after  
15 serving no less than (~~twenty~~) fifteen years of total confinement,  
16 provided the person has not been convicted for any crime committed  
17 subsequent to the person's eighteenth birthday, the person has not  
18 committed a disqualifying serious infraction as defined by the  
19 department in the twelve months prior to filing the petition for  
20 early release, and the current sentence was not imposed under RCW  
21 10.95.030 or 9.94A.507.

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

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

1 such conditions, it is more likely than not that the person will  
2 commit new criminal law violations if released. The board shall give  
3 public safety considerations the highest priority when making all  
4 discretionary decisions regarding the ability for release and  
5 conditions of release.

6 (4) In a hearing conducted under subsection (3) of this section,  
7 the board shall provide opportunities for victims and survivors of  
8 victims of any crimes for which the offender has been convicted to  
9 present statements as set forth in RCW 7.69.032. The procedures for  
10 victim and survivor of victim input shall be provided by rule. To  
11 facilitate victim and survivor of victim involvement, county  
12 prosecutor's offices shall ensure that any victim impact statements  
13 and known contact information for victims of record and survivors of  
14 victims are forwarded as part of the judgment and sentence.

15 (5) An offender released by the board is subject to the  
16 supervision of the department for a period of time to be determined  
17 by the board, up to the length of the court-imposed term of  
18 incarceration. The department shall monitor the offender's compliance  
19 with conditions of community custody imposed by the court or board  
20 and promptly report any violations to the board. Any violation of  
21 conditions of community custody established or modified by the board  
22 are subject to the provisions of RCW 9.95.425 through 9.95.440.

23 (6) An offender whose petition for release is denied may file a  
24 new petition for release five years from the date of denial or at an  
25 earlier date as may be set by the board.

26 (7) An offender released under the provisions of this section may  
27 be returned to the institution at the discretion of the board if the  
28 offender is found to have violated a condition of community custody.  
29 The offender is entitled to a hearing pursuant to RCW 9.95.435. If  
30 the board finds that the offender has committed a new violation, the  
31 board may return the offender to the institution for up to the  
32 remainder of the court-imposed term of incarceration. The offender  
33 may file a new petition for release five years from the date of  
34 return to the institution or at an earlier date as may be set by the  
35 board.

36 **Sec. 36.** RCW 9.94A.840 and 1992 c 45 s 1 are each amended to  
37 read as follows:

38 (1)(a) When it appears that a person who has been convicted of a  
39 sexually violent offense may meet the criteria of a sexually violent

1 predator as defined in RCW 71.09.020(~~((1+))~~) (18), the agency with  
2 jurisdiction over the person shall refer the person in writing to the  
3 prosecuting attorney of the county where that person was convicted,  
4 three months prior to the anticipated release from total confinement.

5 (b) The agency shall inform the prosecutor of the following:

6 (i) The person's name, identifying factors, anticipated future  
7 residence, and offense history; and

8 (ii) Documentation of institutional adjustment and any treatment  
9 received.

10 (2) This section applies to acts committed before, on, or after  
11 March 26, 1992.

12 (3) The agency with jurisdiction, its employees, and officials  
13 shall be immune from liability for any good-faith conduct under this  
14 section.

15 (4) As used in this section, "agency with jurisdiction" means  
16 that agency with the authority to direct the release of a person  
17 serving a sentence or term of confinement and includes the department  
18 of corrections, the (~~(indefinite sentence)~~) postconviction review  
19 board, and the department of social and health services.

20 **Sec. 37.** RCW 9.94A.860 and 2016 c 179 s 3 are each amended to  
21 read as follows:

22 (1) The sentencing guidelines commission is hereby created,  
23 located within the office of financial management. Except as provided  
24 in RCW 9.94A.875, the commission shall serve to advise the governor  
25 and the legislature as necessary on issues relating to adult and  
26 juvenile sentencing. The commission may meet, as necessary, to  
27 accomplish these purposes within funds appropriated.

28 (2) The commission consists of twenty voting members, one of whom  
29 the governor shall designate as chairperson. With the exception of ex  
30 officio voting members, the voting members of the commission shall be  
31 appointed by the governor, or his or her designee, subject to  
32 confirmation by the senate.

33 (3) The voting membership consists of the following:

34 (a) The head of the state agency having general responsibility  
35 for adult correction programs, as an ex officio member;

36 (b) The director of financial management or designee, as an ex  
37 officio member;

38 (c) The chair of the (~~(indefinite sentence)~~) postconviction  
39 review board, as an ex officio member;

1 (d) The head of the state agency, or the agency head's designee,  
2 having responsibility for juvenile corrections programs, as an ex  
3 officio member;

4 (e) Two prosecuting attorneys;

5 (f) Two attorneys with particular expertise in defense work;

6 (g) Four persons who are superior court judges;

7 (h) One person who is the chief law enforcement officer of a  
8 county or city;

9 (i) Four members of the public who are not prosecutors, defense  
10 attorneys, judges, or law enforcement officers, one of whom is a  
11 victim of crime or a crime victims' advocate;

12 (j) One person who is an elected official of a county government,  
13 other than a prosecuting attorney or sheriff;

14 (k) One person who is an elected official of a city government;

15 (l) One person who is an administrator of juvenile court  
16 services.

17 In making the appointments, the governor shall endeavor to assure  
18 that the commission membership includes adequate representation and  
19 expertise relating to both the adult criminal justice system and the  
20 juvenile justice system. In making the appointments, the governor  
21 shall seek the recommendations of Washington prosecutors in respect  
22 to the prosecuting attorney members, of the Washington state bar  
23 association in respect to the defense attorney members, of the  
24 superior court judges' association in respect to the members who are  
25 judges, of the Washington association of sheriffs and police chiefs  
26 in respect to the member who is a law enforcement officer, of the  
27 Washington state association of counties in respect to the member who  
28 is a county official, of the association of Washington cities in  
29 respect to the member who is a city official, of the office of crime  
30 victims advocacy and other organizations of crime victims in respect  
31 to the member who is a victim of crime or a crime victims' advocate,  
32 and of the Washington association of juvenile court administrators in  
33 respect to the member who is an administrator of juvenile court  
34 services.

35 (4)(a) All voting members of the commission, except ex officio  
36 voting members, shall serve terms of three years and until their  
37 successors are appointed and confirmed.

38 (b) The governor shall stagger the terms of the members appointed  
39 under subsection (3)(j), (k), and (l) of this section by appointing

1 one of them for a term of one year, one for a term of two years, and  
2 one for a term of three years.

3 (5) The speaker of the house of representatives and the president  
4 of the senate may each appoint two nonvoting members to the  
5 commission, one from each of the two largest caucuses in each house.  
6 The members so appointed shall serve two-year terms, or until they  
7 cease to be members of the house from which they were appointed,  
8 whichever occurs first.

9 (6) The members of the commission may be reimbursed for travel  
10 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative  
11 members may be reimbursed by their respective houses as provided  
12 under RCW 44.04.120. Except for the reimbursement of travel expenses,  
13 members shall not be compensated.

14 **Sec. 38.** RCW 9.94A.8673 and 2011 1st sp.s. c 40 s 37 are each  
15 amended to read as follows:

16 (1) Within funds appropriated for this purpose, the sentencing  
17 guidelines commission shall establish and maintain a sex offender  
18 policy board.

19 (2)(a) The board shall serve to advise the governor and the  
20 legislature as necessary on issues relating to sex offender  
21 management.

22 (b) At such times as the governor or a legislative committee of  
23 jurisdiction may request, the sex offender policy board may be  
24 convened to:

25 (i) Undertake projects to assist policymakers in making informed  
26 judgments about issues relating to sex offender policy; and

27 (ii) Conduct case reviews of sex offense incidents to understand  
28 performance of Washington's sex offender prevention and response  
29 systems.

30 (3) The sex offender policy board shall consist of thirteen  
31 voting members. Unless the member is specifically named in this  
32 section, the following organizations shall designate a person to sit  
33 on the board. The voting membership shall consist of the following:

34 (a) A representative of the Washington association of sheriffs  
35 and police chiefs;

36 (b) A representative of the Washington association of prosecuting  
37 attorneys;

38 (c) A representative of the Washington association of criminal  
39 defense lawyers;

1 (d) The chair of the (~~indeterminate sentence~~) postconviction  
2 review board or his or her designee;

3 (e) A representative of the Washington association for the  
4 treatment of sex abusers;

5 (f) The secretary of the department of corrections or his or her  
6 designee;

7 (g) A representative of the Washington state superior court  
8 judges' association;

9 (h) The assistant secretary of the juvenile rehabilitation  
10 administration or his or her designee;

11 (i) The office of crime victims advocacy in the department of  
12 commerce;

13 (j) A representative of the Washington state association of  
14 counties;

15 (k) A representative of the association of Washington cities;

16 (l) A representative of the Washington association of sexual  
17 assault programs; and

18 (m) The director of the special commitment center or his or her  
19 designee.

20 (4) The board shall choose its chair by majority vote from among  
21 its voting membership. The chair's term shall be two years.

22 (5) As appropriate, the board shall consult with the criminal  
23 justice division in the attorney general's office and the Washington  
24 institute for public policy.

25 (6) Members of the board shall receive no compensation but may be  
26 reimbursed for travel expenses as provided in RCW 43.03.050 and  
27 43.03.060.

28 **Sec. 39.** RCW 9.94A.890 and 2000 c 28 s 42 are each amended to  
29 read as follows:

30 (1) The sentencing court or the court's successor shall consider  
31 recommendations from the (~~indeterminate sentence~~) postconviction  
32 review board for resentencing offenders convicted of murder if the  
33 (~~indeterminate sentence review~~) board advises the court of the  
34 following:

35 (a) The offender was convicted for a murder committed prior to  
36 July 23, 1989;

37 (b) RCW 9.94A.535(1)(h), if effective when the offender committed  
38 the crime, would have provided a basis for the offender to seek a  
39 mitigated sentence; and

1 (c) Upon review of the sentence, the (~~indeterminate sentence~~  
2 ~~review~~) board believes that the sentencing court, when originally  
3 sentencing the offender for the murder, did not consider evidence  
4 that the victim subjected the offender or the offender's children to  
5 a continuing pattern of sexual or physical abuse and the murder was  
6 in response to that abuse.

7 (2) The court may resentence the offender in light of RCW  
8 9.94A.535(1)(h) and impose an exceptional mitigating sentence  
9 pursuant to that provision. Prior to resentencing, the court shall  
10 consider any other recommendation and evidence concerning the issue  
11 of whether the offender committed the crime in response to abuse.

12 (3) The court shall render its decision regarding reducing the  
13 inmate's sentence no later than six months after receipt of the  
14 (~~indeterminate sentence review~~) board's recommendation to reduce  
15 the sentence imposed.

16 **Sec. 40.** RCW 9.96.050 and 2011 1st sp.s. c 40 s 22 are each  
17 amended to read as follows:

18 (1)(a) When an offender on parole has performed all obligations  
19 of his or her release, including any and all legal financial  
20 obligations, for such time as shall satisfy the (~~indeterminate~~  
21 ~~sentence~~) postconviction review board that his or her final release  
22 is not incompatible with the best interests of society and the  
23 welfare of the paroled individual, the board may make a final order  
24 of discharge and issue a certificate of discharge to the offender.

25 (b) The board retains the jurisdiction to issue a certificate of  
26 discharge after the expiration of the offender's or parolee's maximum  
27 statutory sentence. If not earlier granted and any and all legal  
28 financial obligations have been paid, the board shall issue a final  
29 order of discharge three years from the date of parole unless the  
30 parolee is on suspended or revoked status at the expiration of the  
31 three years.

32 (c) The discharge, regardless of when issued, shall have the  
33 effect of restoring all civil rights not already restored by RCW  
34 29A.08.520, and the certification of discharge shall so state.

35 (d) This restoration of civil rights shall not restore the right  
36 to receive, possess, own, or transport firearms.

37 (e) The board shall issue a certificate of discharge to the  
38 offender in person or by mail to the offender's last known address.

1 (2) A copy of every signed certificate of discharge for offender  
2 sentences under the authority of the department of corrections shall  
3 be placed in the department's files.

4 (3) The discharge provided for in this section shall be  
5 considered as a part of the sentence of the convicted person and  
6 shall not in any manner be construed as affecting the powers of the  
7 governor to pardon any such person.

8 **Sec. 41.** RCW 9.98.010 and 2011 c 336 s 345 are each amended to  
9 read as follows:

10 (1) Whenever a person has entered upon a term of imprisonment in  
11 a penal or correctional institution of this state, and whenever  
12 during the continuance of the term of imprisonment there is pending  
13 in this state any untried indictment, information, or complaint  
14 against the prisoner, he or she shall be brought to trial within one  
15 hundred twenty days after he or she shall have caused to be delivered  
16 to the prosecuting attorney and the superior court of the county in  
17 which the indictment, information, or complaint is pending written  
18 notice of the place of his or her imprisonment and his or her request  
19 for a final disposition to be made of the indictment, information, or  
20 complaint: PROVIDED, That for good cause shown in open court, the  
21 prisoner or his or her counsel shall have the right to be present,  
22 the court having jurisdiction of the matter may grant any necessary  
23 or reasonable continuance. The request of the prisoner shall be  
24 accompanied by a certificate of the superintendent having custody of  
25 the prisoner, stating the term of commitment under which the prisoner  
26 is being held, the time already served, the time remaining to be  
27 served on the sentence, the amount of good time earned, the time of  
28 parole eligibility of the prisoner, and any decisions of the  
29 (~~indeterminate sentence~~) postconviction review board relating to  
30 the prisoner.

31 (2) The written notice and request for final disposition referred  
32 to in subsection (1) of this section shall be given or sent by the  
33 prisoner to the superintendent having custody of him or her, who  
34 shall promptly forward it together with the certificate to the  
35 appropriate prosecuting attorney and superior court by certified  
36 mail, return receipt requested.

37 (3) The superintendent having custody of the prisoner shall  
38 promptly inform him or her in writing of the source and contents of  
39 any untried indictment, information, or complaint against him or her



1 concerning which the superintendent has knowledge and of his or her  
2 right to make a request for final disposition thereof.

3 (4) Escape from custody by the prisoner subsequent to his or her  
4 execution of the request for final disposition referred to in  
5 subsection (1) of this section shall void the request.

6 **Sec. 42.** RCW 9A.44.045 and 1982 c 192 s 12 are each amended to  
7 read as follows:

8 No person convicted of rape in the first degree shall be granted  
9 a deferred or suspended sentence except for the purpose of commitment  
10 to an inpatient treatment facility: PROVIDED, That every person  
11 convicted of rape in the first degree shall be confined for a minimum  
12 of three years: PROVIDED FURTHER, That the postconviction review  
13 board (~~(of prison terms and paroles)~~) shall have authority to set a  
14 period of confinement greater than three years but shall never reduce  
15 the minimum three-year period of confinement; nor shall the board  
16 release the convicted person during the first three years of  
17 confinement as a result of any type of good time calculation; nor  
18 shall the department of corrections permit the convicted person to  
19 participate in any work release program or furlough program during  
20 the first three years of confinement. This section applies only to  
21 offenses committed prior to July 1, 1984.

22 **Sec. 43.** RCW 9A.46.020 and 2011 c 64 s 1 are each amended to  
23 read as follows:

24 (1) A person is guilty of harassment if:  
25 (a) Without lawful authority, the person knowingly threatens:  
26 (i) To cause bodily injury immediately or in the future to the  
27 person threatened or to any other person; or  
28 (ii) To cause physical damage to the property of a person other  
29 than the actor; or  
30 (iii) To subject the person threatened or any other person to  
31 physical confinement or restraint; or  
32 (iv) Maliciously to do any other act which is intended to  
33 substantially harm the person threatened or another with respect to  
34 his or her physical or mental health or safety; and  
35 (b) The person by words or conduct places the person threatened  
36 in reasonable fear that the threat will be carried out. "Words or  
37 conduct" includes, in addition to any other form of communication or  
38 conduct, the sending of an electronic communication.

1 (2) (a) Except as provided in (b) of this subsection, a person who  
2 harasses another is guilty of a gross misdemeanor.

3 (b) A person who harasses another is guilty of a class C felony  
4 if any of the following apply: (i) The person has previously been  
5 convicted in this or any other state of any crime of harassment, as  
6 defined in RCW 9A.46.060, of the same victim or members of the  
7 victim's family or household or any person specifically named in a  
8 no-contact or no-harassment order; (ii) the person harasses another  
9 person under subsection (1) (a) (i) of this section by threatening to  
10 kill the person threatened or any other person; (iii) the person  
11 harasses a criminal justice participant who is performing his or her  
12 official duties at the time the threat is made; or (iv) the person  
13 harasses a criminal justice participant because of an action taken or  
14 decision made by the criminal justice participant during the  
15 performance of his or her official duties. For the purposes of  
16 (b) (iii) and (iv) of this subsection, the fear from the threat must  
17 be a fear that a reasonable criminal justice participant would have  
18 under all the circumstances. Threatening words do not constitute  
19 harassment if it is apparent to the criminal justice participant that  
20 the person does not have the present and future ability to carry out  
21 the threat.

22 (3) Any criminal justice participant who is a target for threats  
23 or harassment prohibited under subsection (2) (b) (iii) or (iv) of this  
24 section, and any family members residing with him or her, shall be  
25 eligible for the address confidentiality program created under RCW  
26 40.24.030.

27 (4) For purposes of this section, a criminal justice participant  
28 includes any (a) federal, state, or local law enforcement agency  
29 employee; (b) federal, state, or local prosecuting attorney or deputy  
30 prosecuting attorney; (c) staff member of any adult corrections  
31 institution or local adult detention facility; (d) staff member of  
32 any juvenile corrections institution or local juvenile detention  
33 facility; (e) community corrections officer, probation, or parole  
34 officer; (f) member of the (~~indefinite sentence~~) postconviction  
35 review board; (g) advocate from a crime victim/witness program; or  
36 (h) defense attorney.

37 (5) The penalties provided in this section for harassment do not  
38 preclude the victim from seeking any other remedy otherwise available  
39 under law.

1       **Sec. 44.** RCW 9A.46.110 and 2013 c 84 s 29 are each amended to  
2 read as follows:

3       (1) A person commits the crime of stalking if, without lawful  
4 authority and under circumstances not amounting to a felony attempt  
5 of another crime:

6       (a) He or she intentionally and repeatedly harasses or repeatedly  
7 follows another person; and

8       (b) The person being harassed or followed is placed in fear that  
9 the stalker intends to injure the person, another person, or property  
10 of the person or of another person. The feeling of fear must be one  
11 that a reasonable person in the same situation would experience under  
12 all the circumstances; and

13       (c) The stalker either:

14       (i) Intends to frighten, intimidate, or harass the person; or

15       (ii) Knows or reasonably should know that the person is afraid,  
16 intimidated, or harassed even if the stalker did not intend to place  
17 the person in fear or intimidate or harass the person.

18       (2)(a) It is not a defense to the crime of stalking under  
19 subsection (1)(c)(i) of this section that the stalker was not given  
20 actual notice that the person did not want the stalker to contact or  
21 follow the person; and

22       (b) It is not a defense to the crime of stalking under subsection  
23 (1)(c)(ii) of this section that the stalker did not intend to  
24 frighten, intimidate, or harass the person.

25       (3) It shall be a defense to the crime of stalking that the  
26 defendant is a licensed private investigator acting within the  
27 capacity of his or her license as provided by chapter 18.165 RCW.

28       (4) Attempts to contact or follow the person after being given  
29 actual notice that the person does not want to be contacted or  
30 followed constitutes prima facie evidence that the stalker intends to  
31 intimidate or harass the person. "Contact" includes, in addition to  
32 any other form of contact or communication, the sending of an  
33 electronic communication to the person.

34       (5)(a) Except as provided in (b) of this subsection, a person who  
35 stalks another person is guilty of a gross misdemeanor.

36       (b) A person who stalks another is guilty of a class B felony if  
37 any of the following applies: (i) The stalker has previously been  
38 convicted in this state or any other state of any crime of  
39 harassment, as defined in RCW 9A.46.060, of the same victim or  
40 members of the victim's family or household or any person

1 specifically named in a protective order; (ii) the stalking violates  
2 any protective order protecting the person being stalked; (iii) the  
3 stalker has previously been convicted of a gross misdemeanor or  
4 felony stalking offense under this section for stalking another  
5 person; (iv) the stalker was armed with a deadly weapon, as defined  
6 in RCW 9.94A.825, while stalking the person; (v) (A) the stalker's  
7 victim is or was a law enforcement officer; judge; juror; attorney;  
8 victim advocate; legislator; community corrections' officer; an  
9 employee, contract staff person, or volunteer of a correctional  
10 agency; court employee, court clerk, or courthouse facilitator; or an  
11 employee of the child protective, child welfare, or adult protective  
12 services division within the department of social and health  
13 services; and (B) the stalker stalked the victim to retaliate against  
14 the victim for an act the victim performed during the course of  
15 official duties or to influence the victim's performance of official  
16 duties; or (vi) the stalker's victim is a current, former, or  
17 prospective witness in an adjudicative proceeding, and the stalker  
18 stalked the victim to retaliate against the victim as a result of the  
19 victim's testimony or potential testimony.

20 (6) As used in this section:

21 (a) "Correctional agency" means a person working for the  
22 department of natural resources in a correctional setting or any  
23 state, county, or municipally operated agency with the authority to  
24 direct the release of a person serving a sentence or term of  
25 confinement and includes but is not limited to the department of  
26 corrections, the ~~((indeterminate—sentence))~~ postconviction review  
27 board, and the department of social and health services.

28 (b) "Follows" means deliberately maintaining visual or physical  
29 proximity to a specific person over a period of time. A finding that  
30 the alleged stalker repeatedly and deliberately appears at the  
31 person's home, school, place of employment, business, or any other  
32 location to maintain visual or physical proximity to the person is  
33 sufficient to find that the alleged stalker follows the person. It is  
34 not necessary to establish that the alleged stalker follows the  
35 person while in transit from one location to another.

36 (c) "Harasses" means unlawful harassment as defined in RCW  
37 10.14.020.

38 (d) "Protective order" means any temporary or permanent court  
39 order prohibiting or limiting violence against, harassment of,

1 contact or communication with, or physical proximity to another  
2 person.

3 (e) "Repeatedly" means on two or more separate occasions.

4 **Sec. 45.** RCW 10.64.140 and 2009 c 325 s 5 are each amended to  
5 read as follows:

6 (1) When a person is convicted of a felony, the court shall  
7 require the defendant to sign a statement acknowledging that:

8 (a) The defendant's right to vote has been lost due to the felony  
9 conviction;

10 (b) If the defendant is registered to vote, the voter  
11 registration will be canceled;

12 (c) The right to vote is provisionally restored as long as the  
13 defendant is not under the authority of the department of  
14 corrections;

15 (d) The defendant must reregister before voting;

16 (e) The provisional right to vote may be revoked if the defendant  
17 fails to comply with all the terms of his or her legal financial  
18 obligations or an agreement for the payment of legal financial  
19 obligations;

20 (f) The right to vote may be permanently restored by one of the  
21 following for each felony conviction:

22 (i) A certificate of discharge issued by the sentencing court, as  
23 provided in RCW 9.94A.637;

24 (ii) A court order issued by the sentencing court restoring the  
25 right, as provided in RCW 9.92.066;

26 (iii) A final order of discharge issued by the (~~indeterminate~~  
27 ~~sentence~~) postconviction review board, as provided in RCW 9.96.050;  
28 or

29 (iv) A certificate of restoration issued by the governor, as  
30 provided in RCW 9.96.020; and

31 (g) Voting before the right is restored is a class C felony under  
32 RCW 29A.84.660.

33 (2) For the purposes of this section, a person is under the  
34 authority of the department of corrections if the person is:

35 (a) Serving a sentence of confinement in the custody of the  
36 department of corrections; or

37 (b) Subject to community custody as defined in RCW 9.94A.030.

1       **Sec. 46.** RCW 10.77.210 and 1998 c 297 s 45 are each amended to  
2 read as follows:

3       (1) Any person involuntarily detained, hospitalized, or committed  
4 pursuant to the provisions of this chapter shall have the right to  
5 adequate care and individualized treatment. The person who has  
6 custody of the patient or is in charge of treatment shall keep  
7 records detailing all medical, expert, and professional care and  
8 treatment received by a committed person, and shall keep copies of  
9 all reports of periodic examinations of the patient that have been  
10 filed with the secretary pursuant to this chapter. Except as provided  
11 in RCW 10.77.205 and 4.24.550 regarding the release of information  
12 concerning insane offenders who are acquitted of sex offenses and  
13 subsequently committed pursuant to this chapter, all records and  
14 reports made pursuant to this chapter, shall be made available only  
15 upon request, to the committed person, to his or her attorney, to his  
16 or her personal physician, to the supervising community corrections  
17 officer, to the prosecuting attorney, to the court, to the protection  
18 and advocacy agency, or other expert or professional persons who,  
19 upon proper showing, demonstrates a need for access to such records.  
20 All records and reports made pursuant to this chapter shall also be  
21 made available, upon request, to the department of corrections or the  
22 (~~indefinite sentence~~) postconviction review board if the person  
23 was on parole, probation, or community supervision at the time of  
24 detention, hospitalization, or commitment or the person is  
25 subsequently convicted for the crime for which he or she was  
26 detained, hospitalized, or committed pursuant to this chapter.

27       (2) All relevant records and reports as defined by the department  
28 in rule shall be made available, upon request, to criminal justice  
29 agencies as defined in RCW 10.97.030.

30       **Sec. 47.** RCW 10.95.020 and 2003 c 53 s 96 are each amended to  
31 read as follows:

32       A person is guilty of aggravated first degree murder, a class A  
33 felony, if he or she commits first degree murder as defined by RCW  
34 9A.32.030(1)(a), as now or hereafter amended, and one or more of the  
35 following aggravating circumstances exist:

36       (1) The victim was a law enforcement officer, corrections  
37 officer, or firefighter who was performing his or her official duties  
38 at the time of the act resulting in death and the victim was known or

1 reasonably should have been known by the person to be such at the  
2 time of the killing;

3 (2) At the time of the act resulting in the death, the person was  
4 serving a term of imprisonment, had escaped, or was on authorized or  
5 unauthorized leave in or from a state facility or program for the  
6 incarceration or treatment of persons adjudicated guilty of crimes;

7 (3) At the time of the act resulting in death, the person was in  
8 custody in a county or county-city jail as a consequence of having  
9 been adjudicated guilty of a felony;

10 (4) The person committed the murder pursuant to an agreement that  
11 he or she would receive money or any other thing of value for  
12 committing the murder;

13 (5) The person solicited another person to commit the murder and  
14 had paid or had agreed to pay money or any other thing of value for  
15 committing the murder;

16 (6) The person committed the murder to obtain or maintain his or  
17 her membership or to advance his or her position in the hierarchy of  
18 an organization, association, or identifiable group;

19 (7) The murder was committed during the course of or as a result  
20 of a shooting where the discharge of the firearm, as defined in RCW  
21 9.41.010, is either from a motor vehicle or from the immediate area  
22 of a motor vehicle that was used to transport the shooter or the  
23 firearm, or both, to the scene of the discharge;

24 (8) The victim was:

25 (a) A judge; juror or former juror; prospective, current, or  
26 former witness in an adjudicative proceeding; prosecuting attorney;  
27 deputy prosecuting attorney; defense attorney; a member of the  
28 (~~indeterminate—sentence~~) postconviction review board; or a  
29 probation or parole officer; and

30 (b) The murder was related to the exercise of official duties  
31 performed or to be performed by the victim;

32 (9) The person committed the murder to conceal the commission of  
33 a crime or to protect or conceal the identity of any person  
34 committing a crime, including, but specifically not limited to, any  
35 attempt to avoid prosecution as a persistent offender as defined in  
36 RCW 9.94A.030;

37 (10) There was more than one victim and the murders were part of  
38 a common scheme or plan or the result of a single act of the person;

39 (11) The murder was committed in the course of, in furtherance  
40 of, or in immediate flight from one of the following crimes:

- 1 (a) Robbery in the first or second degree;
- 2 (b) Rape in the first or second degree;
- 3 (c) Burglary in the first or second degree or residential
- 4 burglary;
- 5 (d) Kidnapping in the first degree; or
- 6 (e) Arson in the first degree;

7 (12) The victim was regularly employed or self-employed as a  
8 newsreporter and the murder was committed to obstruct or hinder the  
9 investigative, research, or reporting activities of the victim;

10 (13) At the time the person committed the murder, there existed a  
11 court order, issued in this or any other state, which prohibited the  
12 person from either contacting the victim, molesting the victim, or  
13 disturbing the peace of the victim, and the person had knowledge of  
14 the existence of that order;

15 (14) At the time the person committed the murder, the person and  
16 the victim were "family or household members" as that term is defined  
17 in \*RCW 10.99.020(1), and the person had previously engaged in a  
18 pattern or practice of three or more of the following crimes  
19 committed upon the victim within a five-year period, regardless of  
20 whether a conviction resulted:

- 21 (a) Harassment as defined in RCW 9A.46.020; or
- 22 (b) Any criminal assault.

23 **Sec. 48.** RCW 10.95.030 and 2015 c 134 s 5 are each amended to  
24 read as follows:

25 (1) Except as provided in subsections (2) and (3) of this  
26 section, any person convicted of the crime of aggravated first degree  
27 murder shall be sentenced to life imprisonment without possibility of  
28 release or parole. A person sentenced to life imprisonment under this  
29 section shall not have that sentence suspended, deferred, or commuted  
30 by any judicial officer and the ~~((indeterminate—sentence))~~  
31 postconviction review board or its successor may not parole such  
32 prisoner nor reduce the period of confinement in any manner  
33 whatsoever including but not limited to any sort of good-time  
34 calculation. The department of social and health services or its  
35 successor or any executive official may not permit such prisoner to  
36 participate in any sort of release or furlough program.

37 (2) If, pursuant to a special sentencing proceeding held under  
38 RCW 10.95.050, the trier of fact finds that there are not sufficient  
39 mitigating circumstances to merit leniency, the sentence shall be



1 death. In no case, however, shall a person be sentenced to death if  
2 the person had an intellectual disability at the time the crime was  
3 committed, under the definition of intellectual disability set forth  
4 in (a) of this subsection. A diagnosis of intellectual disability  
5 shall be documented by a licensed psychiatrist or licensed  
6 psychologist designated by the court, who is an expert in the  
7 diagnosis and evaluation of intellectual disabilities. The defense  
8 must establish an intellectual disability by a preponderance of the  
9 evidence and the court must make a finding as to the existence of an  
10 intellectual disability.

11 (a) "Intellectual disability" means the individual has: (i)  
12 Significantly subaverage general intellectual functioning; (ii)  
13 existing concurrently with deficits in adaptive behavior; and (iii)  
14 both significantly subaverage general intellectual functioning and  
15 deficits in adaptive behavior were manifested during the  
16 developmental period.

17 (b) "General intellectual functioning" means the results obtained  
18 by assessment with one or more of the individually administered  
19 general intelligence tests developed for the purpose of assessing  
20 intellectual functioning.

21 (c) "Significantly subaverage general intellectual functioning"  
22 means intelligence quotient seventy or below.

23 (d) "Adaptive behavior" means the effectiveness or degree with  
24 which individuals meet the standards of personal independence and  
25 social responsibility expected for his or her age.

26 (e) "Developmental period" means the period of time between  
27 conception and the eighteenth birthday.

28 (3) (a) (i) Any person convicted of the crime of aggravated first  
29 degree murder for an offense committed prior to the person's  
30 sixteenth birthday shall be sentenced to a maximum term of life  
31 imprisonment and a minimum term of total confinement of twenty-five  
32 years.

33 (ii) Any person convicted of the crime of aggravated first degree  
34 murder for an offense committed when the person is at least sixteen  
35 years old but less than eighteen years old shall be sentenced to a  
36 maximum term of life imprisonment and a minimum term of total  
37 confinement of no less than twenty-five years. A minimum term of life  
38 may be imposed, in which case the person will be ineligible for  
39 parole or early release.

1 (b) In setting a minimum term, the court must take into account  
2 mitigating factors that account for the diminished culpability of  
3 youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012)  
4 including, but not limited to, the age of the individual, the youth's  
5 childhood and life experience, the degree of responsibility the youth  
6 was capable of exercising, and the youth's chances of becoming  
7 rehabilitated.

8 (c) A person sentenced under this subsection shall serve the  
9 sentence in a facility or institution operated, or utilized under  
10 contract, by the state. During the minimum term of total confinement,  
11 the person shall not be eligible for community custody, earned  
12 release time, furlough, home detention, partial confinement, work  
13 crew, work release, or any other form of early release authorized  
14 under RCW 9.94A.728, or any other form of authorized leave or absence  
15 from the correctional facility while not in the direct custody of a  
16 corrections officer. The provisions of this subsection shall not  
17 apply: (i) In the case of an offender in need of emergency medical  
18 treatment; or (ii) for an extraordinary medical placement when  
19 authorized under RCW 9.94A.728(~~(+3)~~) (1)(c).

20 (d) Any person sentenced pursuant to this subsection shall be  
21 subject to community custody under the supervision of the department  
22 of corrections and the authority of the (~~indeterminate sentence~~)  
23 postconviction review board. As part of any sentence under this  
24 subsection, the court shall require the person to comply with any  
25 conditions imposed by the board.

26 (e) No later than five years prior to the expiration of the  
27 person's minimum term, the department of corrections shall conduct an  
28 assessment of the offender and identify programming and services that  
29 would be appropriate to prepare the offender for return to the  
30 community. To the extent possible, the department shall make  
31 programming available as identified by the assessment.

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

1 board shall order the person released, under such affirmative and  
2 other conditions as the board determines appropriate, unless the  
3 board determines by a preponderance of the evidence that, despite  
4 such conditions, it is more likely than not that the person will  
5 commit new criminal law violations if released. If the board does not  
6 order the person released, the board shall set a new minimum term not  
7 to exceed five additional years. The board shall give public safety  
8 considerations the highest priority when making all discretionary  
9 decisions regarding the ability for release and conditions of  
10 release.

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

20 (h) An offender released by the board is subject to the  
21 supervision of the department of corrections for a period of time to  
22 be determined by the board. The department shall monitor the  
23 offender's compliance with conditions of community custody imposed by  
24 the court or board and promptly report any violations to the board.  
25 Any violation of conditions of community custody established or  
26 modified by the board are subject to the provisions of RCW 9.95.425  
27 through 9.95.440.

28 (i) An offender released or discharged under this section may be  
29 returned to the institution at the discretion of the board if the  
30 offender is found to have violated a condition of community custody.  
31 The offender is entitled to a hearing pursuant to RCW 9.95.435. The  
32 board shall set a new minimum term of incarceration not to exceed  
33 five years.

34 **Sec. 49.** RCW 10.98.160 and 2011 1st sp.s. c 40 s 33 are each  
35 amended to read as follows:

36 In the development and modification of the procedures,  
37 definitions, and reporting capabilities of the section, the  
38 department, the office of financial management, and the responsible  
39 agencies and persons shall consider the needs of other criminal

1 justice agencies such as the administrative office of the courts,  
2 local law enforcement agencies, local jails, the (~~indeterminate~~  
3 ~~sentence~~) postconviction review board, the clemency board,  
4 prosecuting attorneys, and affected state agencies such as the office  
5 of financial management and legislative committees dealing with  
6 criminal justice issues. The Washington integrated justice  
7 information board shall review and provide recommendations to state  
8 justice agencies and the courts for development and modification of  
9 the statewide justice information network.

10 **Sec. 50.** RCW 10.110.020 and 2015 c 267 s 1 are each amended to  
11 read as follows:

12 Any individual in custody for a violent offense or a sex offense  
13 as those terms are defined in RCW 9.94A.030 who is brought by, or  
14 accompanied by, an officer to a hospital must continue to be  
15 accompanied or otherwise secured by an officer during the time that  
16 the individual is receiving care at the hospital. However, this  
17 section does not apply to an individual being supervised by the  
18 department of corrections if the individual's custody is the result  
19 solely of a sanction imposed by the department of corrections, the  
20 (~~indeterminate sentence~~) postconviction review board, or the court,  
21 in response to a violation of conditions.

22 **Sec. 51.** RCW 29A.08.520 and 2013 c 11 s 19 are each amended to  
23 read as follows:

24 (1) For a felony conviction in a Washington state court, the  
25 right to vote is provisionally restored as long as the person is not  
26 under the authority of the department of corrections. For a felony  
27 conviction in a federal court or any state court other than a  
28 Washington state court, the right to vote is restored as long as the  
29 person is no longer incarcerated.

30 (2)(a) Once the right to vote has been provisionally restored,  
31 the sentencing court may revoke the provisional restoration of voting  
32 rights if the sentencing court determines that a person has willfully  
33 failed to comply with the terms of his or her order to pay legal  
34 financial obligations.

35 (b) If the person has failed to make three payments in a  
36 twelve-month period and the county clerk or restitution recipient  
37 requests, the prosecutor shall seek revocation of the provisional  
38 restoration of voting rights from the court.

1 (c) To the extent practicable, the prosecutor and county clerk  
2 shall inform a restitution recipient of the recipient's right to ask  
3 for the revocation of the provisional restoration of voting rights.

4 (3) If the court revokes the provisional restoration of voting  
5 rights, the revocation shall remain in effect until, upon motion by  
6 the person whose provisional voting rights have been revoked, the  
7 person shows that he or she has made a good faith effort to pay as  
8 defined in RCW 10.82.090.

9 (4) The county clerk shall enter into a database maintained by  
10 the administrator for the courts the names of all persons whose  
11 provisional voting rights have been revoked, and update the database  
12 for any person whose voting rights have subsequently been restored  
13 pursuant to subsection (6) of this section.

14 (5) At least twice a year, the secretary of state shall compare  
15 the list of registered voters to a list of felons who are not  
16 eligible to vote as provided in subsections (1) and (3) of this  
17 section. If a registered voter is not eligible to vote as provided in  
18 this section, the secretary of state or county auditor shall confirm  
19 the match through a date of birth comparison and suspend the voter  
20 registration from the official state voter registration list. The  
21 secretary of state or county auditor shall send to the person at his  
22 or her last known voter registration address and at the department of  
23 corrections, if the person is under the authority of the department,  
24 a notice of the proposed cancellation and an explanation of the  
25 requirements for provisionally and permanently restoring the right to  
26 vote and reregistering. To the extent possible, the secretary of  
27 state shall time the comparison required by this subsection to allow  
28 notice and cancellation of voting rights for ineligible voters prior  
29 to a primary or general election.

30 (6) The right to vote may be permanently restored by one of the  
31 following for each felony conviction:

32 (a) A certificate of discharge issued by the sentencing court, as  
33 provided in RCW 9.94A.637;

34 (b) A court order restoring the right, as provided in RCW  
35 9.92.066;

36 (c) A final order of discharge issued by the (~~indefinite~~  
37 ~~sentence~~) postconviction review board, as provided in RCW 9.96.050;  
38 or

39 (d) A certificate of restoration issued by the governor, as  
40 provided in RCW 9.96.020.

1 (7) For the purposes of this section, a person is under the  
2 authority of the department of corrections if the person is:

3 (a) Serving a sentence of confinement in the custody of the  
4 department of corrections; or

5 (b) Subject to community custody as defined in RCW 9.94A.030.

6 **Sec. 52.** RCW 34.05.030 and 2015 3rd sp.s. c 1 s 309 are each  
7 amended to read as follows:

8 (1) This chapter shall not apply to:

9 (a) The state militia, or

10 (b) The board of clemency and pardons, or

11 (c) The department of corrections or the (~~indeterminate~~  
12 ~~sentencing~~) postconviction review board with respect to persons who  
13 are in their custody or are subject to the jurisdiction of those  
14 agencies.

15 (2) The provisions of RCW 34.05.410 through 34.05.598 shall not  
16 apply:

17 (a) To adjudicative proceedings of the board of industrial  
18 insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

19 (b) Except for actions pursuant to chapter 46.29 RCW, to the  
20 denial, suspension, or revocation of a driver's license by the  
21 department of licensing;

22 (c) To the department of labor and industries where another  
23 statute expressly provides for review of adjudicative proceedings of  
24 a department action, order, decision, or award before the board of  
25 industrial insurance appeals;

26 (d) To actions of the Washington personnel resources board, the  
27 director of financial management, and the department of enterprise  
28 services when carrying out their duties under chapter 41.06 RCW;

29 (e) To adjustments by the department of revenue of the amount of  
30 the surcharge imposed under RCW 82.04.261; or

31 (f) To the extent they are inconsistent with any provisions of  
32 chapter 43.43 RCW.

33 (3) Unless a party makes an election for a formal hearing  
34 pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through  
35 34.05.598 do not apply to a review hearing conducted by the board of  
36 tax appeals.

37 (4) The rule-making provisions of this chapter do not apply to:

38 (a) Reimbursement unit values, fee schedules, arithmetic  
39 conversion factors, and similar arithmetic factors used to determine

1 payment rates that apply to goods and services purchased under  
2 contract for clients eligible under chapter 74.09 RCW; and

3 (b) Adjustments by the department of revenue of the amount of the  
4 surcharge imposed under RCW 82.04.261.

5 (5) All other agencies, whether or not formerly specifically  
6 excluded from the provisions of all or any part of the administrative  
7 procedure act, shall be subject to the entire act.

8 **Sec. 53.** RCW 42.17A.705 and 2017 3rd sp.s. c 6 s 111 are each  
9 amended to read as follows:

10 For the purposes of RCW 42.17A.700, "executive state officer"  
11 includes:

12 (1) The chief administrative law judge, the director of  
13 agriculture, the director of the department of services for the  
14 blind, the secretary of children, youth, and families, the director  
15 of the state system of community and technical colleges, the director  
16 of commerce, the director of the consolidated technology services  
17 agency, the secretary of corrections, the director of ecology, the  
18 commissioner of employment security, the chair of the energy facility  
19 site evaluation council, the director of enterprise services, the  
20 secretary of the state finance committee, the director of financial  
21 management, the director of fish and wildlife, the executive  
22 secretary of the forest practices appeals board, the director of the  
23 gambling commission, the secretary of health, the administrator of  
24 the Washington state health care authority, the executive secretary  
25 of the health care facilities authority, the executive secretary of  
26 the higher education facilities authority, the executive secretary of  
27 the horse racing commission, the executive secretary of the human  
28 rights commission, the executive secretary of the (~~indeterminate~~  
29 ~~sentence~~) postconviction review board, the executive director of the  
30 state investment board, the director of labor and industries, the  
31 director of licensing, the director of the lottery commission, the  
32 director of the office of minority and women's business enterprises,  
33 the director of parks and recreation, the executive director of the  
34 public disclosure commission, the executive director of the Puget  
35 Sound partnership, the director of the recreation and conservation  
36 office, the director of retirement systems, the director of revenue,  
37 the secretary of social and health services, the chief of the  
38 Washington state patrol, the executive secretary of the board of tax  
39 appeals, the secretary of transportation, the secretary of the

1 utilities and transportation commission, the director of veterans  
2 affairs, the president of each of the regional and state universities  
3 and the president of The Evergreen State College, and each district  
4 and each campus president of each state community college;

5 (2) Each professional staff member of the office of the governor;

6 (3) Each professional staff member of the legislature; and

7 (4) Central Washington University board of trustees, the boards  
8 of trustees of each community college and each technical college,  
9 each member of the state board for community and technical colleges,  
10 state convention and trade center board of directors, Eastern  
11 Washington University board of trustees, Washington economic  
12 development finance authority, Washington energy northwest executive  
13 board, The Evergreen State College board of trustees, executive  
14 ethics board, fish and wildlife commission, forest practices appeals  
15 board, forest practices board, gambling commission, Washington health  
16 care facilities authority, student achievement council, higher  
17 education facilities authority, horse racing commission, state  
18 housing finance commission, human rights commission, (~~indeterminate~~  
19 ~~sentence~~) postconviction review board, board of industrial insurance  
20 appeals, state investment board, commission on judicial conduct,  
21 legislative ethics board, life sciences discovery fund authority  
22 board of trustees, state liquor and cannabis board, lottery  
23 commission, Pacific Northwest electric power and conservation  
24 planning council, parks and recreation commission, Washington  
25 personnel resources board, board of pilotage commissioners, pollution  
26 control hearings board, public disclosure commission, public  
27 employees' benefits board, recreation and conservation funding board,  
28 salmon recovery funding board, shorelines hearings board, board of  
29 tax appeals, transportation commission, University of Washington  
30 board of regents, utilities and transportation commission, Washington  
31 State University board of regents, and Western Washington University  
32 board of trustees.

33 **Sec. 54.** RCW 43.43.745 and 1994 c 129 s 7 are each amended to  
34 read as follows:

35 (1) It shall be the duty of the sheriff or director of public  
36 safety of every county, of the chief of police of each city or town,  
37 or of every chief officer of other law enforcement agencies operating  
38 within this state, to record the fingerprints of all persons held in  
39 or remanded to their custody when convicted of any crime as provided



1 for in RCW 43.43.735 for which the penalty of imprisonment might be  
2 imposed and to disseminate and file such fingerprints in the same  
3 manner as those recorded upon arrest pursuant to RCW 43.43.735 and  
4 43.43.740.

5 (2) Every time the secretary authorizes a furlough as provided  
6 for in RCW 72.66.012 the department of corrections shall notify,  
7 thirty days prior to the beginning of such furlough, the sheriff or  
8 director of public safety of the county to which the prisoner is  
9 being furloughed, the nearest Washington state patrol district  
10 facility in the county wherein the furloughed prisoner is to be  
11 residing, and other similar criminal justice agencies that the named  
12 prisoner has been granted a furlough, the place to which furloughed,  
13 and the dates and times during which the prisoner will be on furlough  
14 status. In the case of an emergency furlough the thirty-day time  
15 period shall not be required but notification shall be made as  
16 promptly as possible and before the prisoner is released on furlough.

17 (3) Disposition of the charge for which the arrest was made shall  
18 be reported to the section at whatever stage in the proceedings a  
19 final disposition occurs by the arresting law enforcement agency,  
20 county prosecutor, city attorney, or court having jurisdiction over  
21 the offense: PROVIDED, That the chief shall promulgate rules pursuant  
22 to chapter 34.05 RCW to carry out the provisions of this subsection.

23 (4) Whenever a person serving a sentence for a term of  
24 confinement in a state correctional facility for convicted felons,  
25 pursuant to court commitment, is released on an order of the ((state  
26 ~~indeterminate—sentence~~) postconviction review board, or is  
27 discharged from custody on expiration of sentence, the department of  
28 corrections shall promptly notify the sheriff or director of public  
29 safety, the nearest Washington state patrol district facility, and  
30 other similar criminal justice agencies that the named person has  
31 been released or discharged, the place to which such person has been  
32 released or discharged, and the conditions of his or her release or  
33 discharge.

34 Local law enforcement agencies shall require persons convicted of  
35 sex offenses to register pursuant to RCW 9A.44.130. In addition,  
36 nothing in this section shall be construed to prevent any local law  
37 enforcement authority from recording the residency and other  
38 information concerning any convicted felon or other person convicted  
39 of a criminal offense when such information is obtained from a source

1 other than from registration pursuant to RCW 9A.44.130 which source  
2 may include any officer or other agency or subdivision of the state.

3 (5) The existence of the notice requirement in subsection (2) of  
4 this section will not require any extension of the release date in  
5 the event the release plan changes after notification.

6 **Sec. 55.** RCW 69.50.410 and 2003 c 53 s 342 are each amended to  
7 read as follows:

8 (1) Except as authorized by this chapter it is a class C felony  
9 for any person to sell for profit any controlled substance or  
10 counterfeit substance classified in Schedule I, RCW 69.50.204, except  
11 leaves and flowering tops of marihuana.

12 For the purposes of this section only, the following words and  
13 phrases shall have the following meanings:

14 (a) "To sell" means the passing of title and possession of a  
15 controlled substance from the seller to the buyer for a price whether  
16 or not the price is paid immediately or at a future date.

17 (b) "For profit" means the obtaining of anything of value in  
18 exchange for a controlled substance.

19 (c) "Price" means anything of value.

20 (2)(a) Any person convicted of a violation of subsection (1) of  
21 this section shall receive a sentence of not more than five years in  
22 a correctional facility of the department of social and health  
23 services for the first offense.

24 (b) Any person convicted on a second or subsequent cause, the  
25 sale having transpired after prosecution and conviction on the first  
26 cause, of subsection (1) of this section shall receive a mandatory  
27 sentence of five years in a correctional facility of the department  
28 of social and health services and no judge of any court shall suspend  
29 or defer the sentence imposed for the second or subsequent violation  
30 of subsection (1) of this section.

31 (3)(a) Any person convicted of a violation of subsection (1) of  
32 this section by selling heroin shall receive a mandatory sentence of  
33 two years in a correctional facility of the department of social and  
34 health services and no judge of any court shall suspend or defer the  
35 sentence imposed for such violation.

36 (b) Any person convicted on a second or subsequent sale of  
37 heroin, the sale having transpired after prosecution and conviction  
38 on the first cause of the sale of heroin shall receive a mandatory  
39 sentence of ten years in a correctional facility of the department of

1 social and health services and no judge of any court shall suspend or  
2 defer the sentence imposed for this second or subsequent violation:  
3 PROVIDED, That the (~~indeterminate sentence~~) postconviction review  
4 board under RCW 9.95.040 shall not reduce the minimum term imposed  
5 for a violation under this subsection.

6 (4) Whether or not a mandatory minimum term has expired, an  
7 offender serving a sentence under this section may be granted an  
8 extraordinary medical placement when authorized under RCW  
9 9.94A.728(~~(4)~~) (1)(c).

10 (5) In addition to the sentences provided in subsection (2) of  
11 this section, any person convicted of a violation of subsection (1)  
12 of this section shall be fined in an amount calculated to at least  
13 eliminate any and all proceeds or profits directly or indirectly  
14 gained by such person as a result of sales of controlled substances  
15 in violation of the laws of this or other states, or the United  
16 States, up to the amount of five hundred thousand dollars on each  
17 count.

18 (6) Any person, addicted to the use of controlled substances, who  
19 voluntarily applies to the department of social and health services  
20 for the purpose of participating in a rehabilitation program approved  
21 by the department for addicts of controlled substances shall be  
22 immune from prosecution for subsection (1) offenses unless a filing  
23 of an information or indictment against such person for a violation  
24 of subsection (1) of this section is made prior to his or her  
25 voluntary participation in the program of the department of social  
26 and health services. All applications for immunity under this section  
27 shall be sent to the department of social and health services in  
28 Olympia. It shall be the duty of the department to stamp each  
29 application received pursuant to this section with the date and time  
30 of receipt.

31 (7) This section shall not apply to offenses defined and  
32 punishable under the provisions of RCW 69.50.401 through 69.50.4015.

33 **Sec. 56.** RCW 70.02.260 and 2018 c 201 s 8005 are each amended to  
34 read as follows:

35 (1)(a) A mental health service agency shall release to the  
36 persons authorized under subsection (2) of this section, upon  
37 request:

1 (i) The fact, place, and date of an involuntary commitment, the  
2 fact and date of discharge or release, and the last known address of  
3 a person who has been committed under chapter 71.05 RCW.

4 (ii) Information and records related to mental health services,  
5 in the format determined under subsection (9) of this section,  
6 concerning a person who:

7 (A) Is currently committed to the custody or supervision of the  
8 department of corrections or the ((~~indeterminate—sentence~~))  
9 postconviction review board under chapter 9.94A or 9.95 RCW;

10 (B) Has been convicted or found not guilty by reason of insanity  
11 of a serious violent offense; or

12 (C) Was charged with a serious violent offense and the charges  
13 were dismissed under RCW 10.77.086.

14 (b) Legal counsel may release such information to the persons  
15 authorized under subsection (2) of this section on behalf of the  
16 mental health service agency, so long as nothing in this subsection  
17 requires the disclosure of attorney work product or attorney-client  
18 privileged information.

19 (2) The information subject to release under subsection (1) of  
20 this section must be released to law enforcement officers, personnel  
21 of a county or city jail, designated mental health professionals or  
22 designated crisis responders, as appropriate, public health officers,  
23 therapeutic court personnel as defined in RCW 71.05.020, or personnel  
24 of the department of corrections, including the ((~~indeterminate~~  
25 ~~sentence~~)) postconviction review board and personnel assigned to  
26 perform board-related duties, when such information is requested  
27 during the course of business and for the purpose of carrying out the  
28 responsibilities of the requesting person's office. No mental health  
29 service agency or person employed by a mental health service agency,  
30 or its legal counsel, may be liable for information released to or  
31 used under the provisions of this section or rules adopted under this  
32 section except under RCW 71.05.680.

33 (3) A person who requests information under subsection (1)(a)(ii)  
34 of this section must comply with the following restrictions:

35 (a) Information must be requested only for the purposes permitted  
36 by this subsection and for the purpose of carrying out the  
37 responsibilities of the requesting person's office. Appropriate  
38 purposes for requesting information under this section include:

39 (i) Completing presentence investigations or risk assessment  
40 reports;

1 (ii) Assessing a person's risk to the community;

2 (iii) Assessing a person's risk of harm to self or others when  
3 confined in a city or county jail;

4 (iv) Planning for and provision of supervision of an offender,  
5 including decisions related to sanctions for violations of conditions  
6 of community supervision; and

7 (v) Responding to an offender's failure to report for department  
8 of corrections supervision;

9 (b) Information may not be requested under this section unless  
10 the requesting person has reasonable suspicion that the individual  
11 who is the subject of the information:

12 (i) Has engaged in activity indicating that a crime or a  
13 violation of community custody or parole has been committed or, based  
14 upon his or her current or recent past behavior, is likely to be  
15 committed in the near future; or

16 (ii) Is exhibiting signs of a deterioration in mental functioning  
17 which may make the individual appropriate for civil commitment under  
18 chapter 71.05 RCW; and

19 (c) Any information received under this section must be held  
20 confidential and subject to the limitations on disclosure outlined in  
21 this chapter, except:

22 (i) The information may be shared with other persons who have the  
23 right to request similar information under subsection (2) of this  
24 section, solely for the purpose of coordinating activities related to  
25 the individual who is the subject of the information in a manner  
26 consistent with the official responsibilities of the persons  
27 involved;

28 (ii) The information may be shared with a prosecuting attorney  
29 acting in an advisory capacity for a person who receives information  
30 under this section. A prosecuting attorney under this subsection is  
31 subject to the same restrictions and confidentiality limitations as  
32 the person who requested the information; and

33 (iii) As provided in RCW 72.09.585.

34 (4) A request for information and records related to mental  
35 health services under this section does not require the consent of  
36 the subject of the records. The request must be provided in writing,  
37 except to the extent authorized in subsection (5) of this section. A  
38 written request may include requests made by email or facsimile so  
39 long as the requesting person is clearly identified. The request must  
40 specify the information being requested.

1 (5) In the event of an emergency situation that poses a  
2 significant risk to the public or the offender, a mental health  
3 service agency, or its legal counsel, shall release information  
4 related to mental health services delivered to the offender and, if  
5 known, information regarding where the offender is likely to be found  
6 to the department of corrections or law enforcement upon request. The  
7 initial request may be written or oral. All oral requests must be  
8 subsequently confirmed in writing. Information released in response  
9 to an oral request is limited to a statement as to whether the  
10 offender is or is not being treated by the mental health service  
11 agency and the address or information about the location or  
12 whereabouts of the offender.

13 (6) Disclosure under this section to state or local law  
14 enforcement authorities is mandatory for the purposes of the federal  
15 health insurance portability and accountability act.

16 (7) Whenever federal law or federal regulations restrict the  
17 release of information contained in the treatment records of any  
18 patient who receives treatment for alcoholism or drug dependency, the  
19 release of the information may be restricted as necessary to comply  
20 with federal law and regulations.

21 (8) This section does not modify the terms and conditions of  
22 disclosure of information related to sexually transmitted diseases  
23 under this chapter.

24 (9) In collaboration with interested organizations, the authority  
25 shall develop a standard form for requests for information related to  
26 mental health services made under this section and a standard format  
27 for information provided in response to the requests. Consistent with  
28 the goals of the health information privacy provisions of the federal  
29 health insurance portability and accountability act, in developing  
30 the standard form for responsive information, the authority shall  
31 design the form in such a way that the information disclosed is  
32 limited to the minimum necessary to serve the purpose for which the  
33 information is requested.

34 **Sec. 57.** RCW 71.05.232 and 2004 c 166 s 18 are each amended to  
35 read as follows:

36 (1) When a state hospital admits a person for evaluation or  
37 treatment under this chapter who has a history of one or more violent  
38 acts and:

39 (a) Has been transferred from a correctional facility; or

1 (b) Is or has been under the authority of the department of  
2 corrections or the ((~~indeterminate sentence~~)) postconviction review  
3 board, the state hospital shall consult with the appropriate  
4 corrections and chemical dependency personnel and the appropriate  
5 forensic staff at the state hospital to conduct a discharge review to  
6 determine whether the person presents a likelihood of serious harm  
7 and whether the person is appropriate for release to a less  
8 restrictive alternative.

9 (2) When a state hospital returns a person who was reviewed under  
10 subsection (1) of this section to a correctional facility, the  
11 hospital shall notify the correctional facility that the person was  
12 subject to a discharge review pursuant to this section.

13 **Sec. 58.** RCW 71.06.091 and 2012 c 117 s 435 are each amended to  
14 read as follows:

15 A sexual psychopath committed pursuant to RCW 71.06.060 shall be  
16 retained by the superintendent of the institution involved until in  
17 the superintendent's opinion he or she is safe to be at large, or  
18 until he or she has received the maximum benefit of treatment, or is  
19 not amenable to treatment, but the superintendent is unable to render  
20 an opinion that he or she is safe to be at large. Thereupon, the  
21 superintendent of the institution involved shall so inform whatever  
22 court committed the sexual psychopath. The court then may order such  
23 further examination and investigation of such person as seems  
24 necessary, and may at its discretion, summon such person before it  
25 for further hearing, together with any witnesses whose testimony may  
26 be pertinent, and together with any relevant documents and other  
27 evidence. On the basis of such reports, investigation, and possible  
28 hearing, the court shall determine whether the person before it shall  
29 be released unconditionally from custody as a sexual psychopath,  
30 released conditionally, returned to the custody of the institution as  
31 a sexual psychopath, or transferred to the department of corrections  
32 to serve the original sentence imposed upon him or her. The power of  
33 the court to grant conditional release for any such person before it  
34 shall be the same as its power to grant, amend, and revoke probation  
35 as provided by chapter 9.95 RCW. When the sexual psychopath has  
36 entered upon the conditional release, the ((~~indeterminate sentence~~))  
37 postconviction review board shall supervise such person pursuant to  
38 the terms and conditions of the conditional release, as set by the  
39 court: PROVIDED, That the superintendent of the institution involved

1 shall never release the sexual psychopath from custody without a  
2 court release as herein set forth.

3 **Sec. 59.** RCW 71.06.100 and 2012 c 117 s 436 are each amended to  
4 read as follows:

5 Where under RCW 71.06.091 the superintendent renders his or her  
6 opinion to the committing court, he or she shall provide the  
7 committing court, and, in the event of conditional release, the  
8 (~~indeterminate sentence~~) postconviction review board, with a copy  
9 of the hospital medical record concerning the sexual psychopath.

10 **Sec. 60.** RCW 71.06.270 and 1983 c 196 s 5 are each amended to  
11 read as follows:

12 The records, files, and other written information prepared by the  
13 department of social and health services for individuals committed  
14 under this chapter shall be made available upon request to the  
15 department of corrections or the postconviction review board (~~of~~  
16 ~~prison terms and paroles~~) for persons who are the subject of the  
17 records who are committed to the custody of the department of  
18 corrections or the board of prison terms and paroles.

19 **Sec. 61.** RCW 71.09.025 and 2009 c 409 s 2 are each amended to  
20 read as follows:

21 (1)(a) When it appears that a person may meet the criteria of a  
22 sexually violent predator as defined in RCW 71.09.020(~~(+16)~~) (18),  
23 the agency with jurisdiction shall refer the person in writing to the  
24 prosecuting attorney of the county in which an action under this  
25 chapter may be filed pursuant to RCW 71.09.030 and the attorney  
26 general, three months prior to:

27 (i) The anticipated release from total confinement of a person  
28 who has been convicted of a sexually violent offense;

29 (ii) The anticipated release from total confinement of a person  
30 found to have committed a sexually violent offense as a juvenile;

31 (iii) Release of a person who has been charged with a sexually  
32 violent offense and who has been determined to be incompetent to  
33 stand trial pursuant to RCW 10.77.086(4); or

34 (iv) Release of a person who has been found not guilty by reason  
35 of insanity of a sexually violent offense pursuant to RCW  
36 10.77.020(3).



1 (b) The agency shall provide the prosecuting agency with all  
2 relevant information including but not limited to the following  
3 information:

4 (i) A complete copy of the institutional records compiled by the  
5 department of corrections relating to the person, and any such out-  
6 of-state department of corrections' records, if available;

7 (ii) A complete copy, if applicable, of any file compiled by the  
8 (~~indeterminate sentence~~) postconviction review board relating to  
9 the person;

10 (iii) All records relating to the psychological or psychiatric  
11 evaluation and/or treatment of the person;

12 (iv) A current record of all prior arrests and convictions, and  
13 full police case reports relating to those arrests and convictions;  
14 and

15 (v) A current mental health evaluation or mental health records  
16 review.

17 (c) The prosecuting agency has the authority, consistent with RCW  
18 72.09.345(~~(+3)~~) (4), to obtain all records relating to the person if  
19 the prosecuting agency deems such records are necessary to fulfill  
20 its duties under this chapter. The prosecuting agency may only  
21 disclose such records in the course of performing its duties pursuant  
22 to this chapter, unless otherwise authorized by law.

23 (d) The prosecuting agency has the authority to utilize the  
24 inquiry judge procedures of chapter 10.27 RCW prior to the filing of  
25 any action under this chapter to seek the issuance of compulsory  
26 process for the production of any records necessary for a  
27 determination of whether to seek the civil commitment of a person  
28 under this chapter. Any records obtained pursuant to this process may  
29 only be disclosed by the prosecuting agency in the course of  
30 performing its duties pursuant to this chapter, or unless otherwise  
31 authorized by law.

32 (2) The agency, its employees, and officials shall be immune from  
33 liability for any good-faith conduct under this section.

34 (3) As used in this section, "agency with jurisdiction" means  
35 that agency with the authority to direct the release of a person  
36 serving a sentence or term of confinement and includes the department  
37 of corrections, the (~~indeterminate sentence~~) postconviction review  
38 board, and the department of social and health services.

1           **Sec. 62.** RCW 72.02.100 and 2017 c 214 s 1 are each amended to  
2 read as follows:

3           (1) Any person serving a sentence for a term of confinement in a  
4 state correctional facility for convicted felons, pursuant to court  
5 commitment, who is thereafter released upon an order of parole of the  
6 (~~indeterminate sentence~~) postconviction review board, or who is  
7 discharged from custody upon expiration of sentence, or who is  
8 ordered discharged from custody by a court of appropriate  
9 jurisdiction, shall be entitled to retain his or her earnings from  
10 labor or employment while in confinement and shall be supplied by the  
11 superintendent of the state correctional facility with suitable and  
12 presentable clothing, the sum of forty dollars for subsistence, and  
13 transportation by the least expensive method of public transportation  
14 not to exceed the cost of one hundred dollars to his or her place of  
15 residence or the place designated in his or her parole plan, or to  
16 the place from which committed if such person is being discharged on  
17 expiration of sentence, or discharged from custody by a court of  
18 appropriate jurisdiction: PROVIDED, That up to sixty additional  
19 dollars may be made available to the parolee for necessary personal  
20 and living expenses upon application to and approval by such person's  
21 community corrections officer. If in the opinion of the  
22 superintendent suitable arrangements have been made to provide the  
23 person to be released with suitable clothing and/or the expenses of  
24 transportation, the superintendent may consent to such arrangement.  
25 If the superintendent has reasonable cause to believe that the person  
26 to be released has ample funds, with the exception of earnings from  
27 labor or employment while in confinement, to assume the expenses of  
28 clothing, transportation, or the expenses for which payments made  
29 pursuant to this section or RCW 72.02.110 or any one or more of such  
30 expenses, the person released shall be required to assume such  
31 expenses.

32           (2) Within existing resources, the department of corrections may  
33 provide temporary housing assistance for a person being released from  
34 the Washington corrections center for women or mission creek  
35 corrections center for women through the use of rental vouchers, for  
36 a period not to exceed three months, if such assistance will support  
37 the person's release into the community. The department's authority  
38 to provide vouchers under this section is independent of its  
39 authority under RCW 9.94A.729.

1       **Sec. 63.** RCW 72.02.110 and 2012 c 117 s 456 are each amended to  
2 read as follows:

3       As state, federal or other funds are available, the secretary of  
4 corrections or his or her designee is authorized, in his or her  
5 discretion, not to provide the forty dollars subsistence money or the  
6 optional sixty dollars to a person or persons released as described  
7 in RCW 72.02.100, and instead to utilize the authorization and  
8 procedure contained in this section relative to such person or  
9 persons.

10       Any person designated by the secretary serving a sentence for a  
11 term of confinement in a state correctional facility for convicted  
12 felons, pursuant to court commitment, who is thereafter released upon  
13 an order of parole of the (~~indefinite sentence~~) postconviction  
14 review board, or is discharged from custody upon expiration of  
15 sentence, or is ordered discharged from custody by a court of  
16 appropriate jurisdiction, shall receive the sum of fifty-five dollars  
17 per week for a period of up to six weeks. The initial weekly payment  
18 shall be made to such person upon his or her release or parole by the  
19 superintendent of the institution. Subsequent weekly payments shall  
20 be made to such person by the community corrections officer at the  
21 office of such officer. In addition to the initial six weekly  
22 payments provided for in this section, a community corrections  
23 officer and his or her supervisor may, at their discretion, continue  
24 such payments up to a maximum of twenty additional weeks when they  
25 are satisfied that such person is actively seeking employment and  
26 that such payments are necessary to continue the efforts of such  
27 person to gain employment: PROVIDED, That if, at the time of release  
28 or parole, in the opinion of the superintendent funds are otherwise  
29 available to such person, with the exception of earnings from labor  
30 or employment while in confinement, such weekly sums of money or part  
31 thereof shall not be provided to such person.

32       When a person receiving such payments provided for in this  
33 section becomes employed, he or she may continue to receive payments  
34 for two weeks after the date he or she becomes employed but payments  
35 made after he or she becomes employed shall be discontinued as of the  
36 date he or she is first paid for such employment: PROVIDED, That no  
37 person shall receive payments for a period exceeding the twenty-six  
38 week maximum as established in this section.

39       The secretary of corrections may annually adjust the amount of  
40 weekly payment provided for in this section to reflect changes in the

1 cost of living and the purchasing power of the sum set for the  
2 previous year.

3 **Sec. 64.** RCW 72.02.220 and 1988 c 143 s 10 are each amended to  
4 read as follows:

5 The (~~indeterminate sentence~~) postconviction review board and  
6 other state agencies shall cooperate with the department in obtaining  
7 necessary investigative materials concerning offenders committed to  
8 the reception unit and supply the reception unit with necessary  
9 information regarding social histories and community background.

10 **Sec. 65.** RCW 72.02.270 and 1993 c 144 s 6 are each amended to  
11 read as follows:

12 The department shall advise all inmates in the department's  
13 custody who were convicted of a murder that the inmate committed  
14 prior to July 23, 1989, about the provisions in RCW 9.95.045,  
15 9.95.047, and 9.94A.890. The department shall advise the inmates of  
16 the method and deadline for submitting petitions to the  
17 (~~indeterminate sentence~~) postconviction review board for review of  
18 the inmate's sentence. The department shall issue the notice to the  
19 inmates no later than July 1, 1993.

20 **Sec. 66.** RCW 72.04A.050 and 1981 c 136 s 81 are each amended to  
21 read as follows:

22 The powers and duties of the state board of prison terms and  
23 paroles, relating to (1) the supervision of parolees of any of the  
24 state penal institutions, (2) the supervision of persons placed on  
25 probation by the courts, and (3) duties with respect to persons  
26 conditionally pardoned by the governor, are transferred to the  
27 secretary of corrections.

28 This section shall not be construed as affecting any of the  
29 remaining powers and duties of the postconviction review board (~~of~~  
30 ~~prison terms and paroles~~) including, but not limited to, the  
31 following:

32 (1) The fixing of minimum terms of confinement of convicted  
33 persons, or the reconsideration of its determination of minimum terms  
34 of confinement;

35 (2) Determining when and under what conditions a convicted person  
36 may be released from custody on parole, and the revocation or

1 suspension of parole or the modification or revision of the  
2 conditions of the parole, of any convicted person.

3 **Sec. 67.** RCW 72.04A.070 and 1981 c 136 s 82 are each amended to  
4 read as follows:

5 The secretary of corrections shall cause to be prepared plans and  
6 recommendations for the conditions of supervision under which each  
7 inmate of any state penal institutions who is eligible for parole may  
8 be released from custody. Such plans and recommendations shall be  
9 submitted to the postconviction review board (~~(of prison terms and~~  
10 ~~parolees)~~) which may, at its discretion, approve, reject, or revise or  
11 amend such plans and recommendations for the conditions of  
12 supervision of release of inmates on parole, and, in addition, the  
13 board may stipulate any special conditions of supervision to be  
14 carried out by a probation and parole officer.

15 **Sec. 68.** RCW 72.04A.080 and 1981 c 136 s 83 are each amended to  
16 read as follows:

17 Each inmate hereafter released on parole shall be subject to the  
18 supervision of the department of corrections, and the probation and  
19 parole officers of the department shall be charged with the  
20 preparation of progress reports of parolees and to give guidance and  
21 supervision to such parolees within the conditions of a parolee's  
22 release from custody. Copies of all progress reports prepared by the  
23 probation and parole officers shall be supplied to the postconviction  
24 review board (~~(of prison terms and parolees)~~) for their files and  
25 records.

26 **Sec. 69.** RCW 72.04A.090 and 2012 c 117 s 457 are each amended to  
27 read as follows:

28 Whenever a parolee breaches a condition or conditions under which  
29 he or she was granted parole, or violates any law of the state or  
30 rules and regulations of the (~~indeterminate sentencing [sentence]~~)  
31 postconviction review board, any probation and parole officer may  
32 arrest, or cause the arrest and suspension of parole of, such parolee  
33 without a warrant, pending a determination by the board. The facts  
34 and circumstances of such conduct of the parolee shall be reported by  
35 the probation and parole officer, with recommendations, to the  
36 (~~indeterminate sentence review~~) board, who may order the revocation  
37 or suspension of parole, revise or modify the conditions of parole or

1 take such other action as may be deemed appropriate in accordance  
2 with RCW 9.95.120. The (~~indeterminate sentence~~) postconviction  
3 review board, after consultation with the secretary of corrections,  
4 shall make all rules and regulations concerning procedural matters,  
5 which shall include the time when state probation and parole officers  
6 shall file with the board reports required by this section,  
7 procedures pertaining thereto and the filing of such information as  
8 may be necessary to enable the (~~indeterminate sentence review~~)  
9 board to perform its functions under this section.

10 The probation and parole officers shall have like authority and  
11 power regarding the arrest and detention of a probationer who has  
12 breached a condition or conditions under which he or she was granted  
13 probation by the superior court, or violates any law of the state,  
14 pending a determination by the superior court.

15 In the event a probation and parole officer shall arrest or cause  
16 the arrest and suspension of parole of a parolee or probationer in  
17 accordance with the provisions of this section, such parolee or  
18 probationer shall be confined and detained in the county jail of the  
19 county in which the parolee or probationer was taken into custody,  
20 and the sheriff of such county shall receive and keep in the county  
21 jail, where room is available, all prisoners delivered thereto by the  
22 probation and parole officer, and such parolees shall not be released  
23 from custody on bail or personal recognizance, except upon approval  
24 of the (~~indeterminate sentence~~) postconviction review board and the  
25 issuance by the board of an order of reinstatement on parole on the  
26 same or modified conditions of parole.

27 **Sec. 70.** RCW 72.09.335 and 2017 c 144 s 1 are each amended to  
28 read as follows:

29 (1) The department shall determine placement for sex offender  
30 treatment by assessing the offender's risk for sexual reoffense as  
31 the primary factor. The department shall offer offenders the  
32 opportunity for sex offender treatment during incarceration based on  
33 the following priority:

- 34 (a) Offenders who are assessed as high risk for sexual reoffense;  
35 (b) Offenders sentenced under RCW 9.94A.507 who are assessed as  
36 moderate risk for sexual reoffense;  
37 (c) Offenders not sentenced under RCW 9.94A.507 who are assessed  
38 as moderate risk for sexual reoffense;

1 (d) Offenders sentenced under RCW 9.94A.507 who are assessed as  
2 low risk for sexual reoffense but whose potential release under RCW  
3 9.95.420 will require participation in sex offender treatment, as  
4 determined by the (~~indeterminate sentence~~) postconviction review  
5 board.

6 (2) As capacity allows, offenders not sentenced under RCW  
7 9.94A.507 who are assessed as low risk for sexual reoffense may be  
8 offered the opportunity for sex offender treatment during  
9 incarceration.

10 (3) This section creates no enforceable right to participate in  
11 sex offender treatment.

12 **Sec. 71.** RCW 72.09.337 and 2017 3rd sp.s. c 6 s 631 are each  
13 amended to read as follows:

14 The secretary of corrections, the secretary of social and health  
15 services, the secretary of children, youth, and families, and the  
16 (~~indeterminate sentence~~) postconviction review board may adopt  
17 rules to implement chapter 12, Laws of 2001 2nd sp. sess.

18 **Sec. 72.** RCW 72.09.370 and 2018 c 201 s 9012 are each amended to  
19 read as follows:

20 (1) The offender reentry community safety program is established  
21 to provide intensive services to offenders identified under this  
22 subsection and to thereby promote public safety. The secretary shall  
23 identify offenders in confinement or partial confinement who: (a) Are  
24 reasonably believed to be dangerous to themselves or others; and (b)  
25 have a mental disorder. In determining an offender's dangerousness,  
26 the secretary shall consider behavior known to the department and  
27 factors, based on research, that are linked to an increased risk for  
28 dangerousness of offenders with mental illnesses and shall include  
29 consideration of an offender's chemical dependency or abuse.

30 (2) Prior to release of an offender identified under this  
31 section, a team consisting of representatives of the department of  
32 corrections, the health care authority, and, as necessary, the  
33 (~~indeterminate sentence~~) postconviction review board, divisions or  
34 administrations within the department of social and health services,  
35 specifically including the division of developmental disabilities,  
36 the appropriate behavioral health organization, and the providers, as  
37 appropriate, shall develop a plan, as determined necessary by the  
38 team, for delivery of treatment and support services to the offender

1 upon release. In developing the plan, the offender shall be offered  
2 assistance in executing a mental health directive under chapter 71.32  
3 RCW, after being fully informed of the benefits, scope, and purposes  
4 of such directive. The team may include a school district  
5 representative for offenders under the age of twenty-one. The team  
6 shall consult with the offender's counsel, if any, and, as  
7 appropriate, the offender's family and community. The team shall  
8 notify the crime victim/witness program, which shall provide notice  
9 to all people registered to receive notice under RCW 72.09.712 of the  
10 proposed release plan developed by the team. Victims, witnesses, and  
11 other interested people notified by the department may provide  
12 information and comments to the department on potential safety risk  
13 to specific individuals or classes of individuals posed by the  
14 specific offender. The team may recommend: (a) That the offender be  
15 evaluated by the designated crisis responder, as defined in chapter  
16 71.05 RCW; (b) department-supervised community treatment; or (c)  
17 voluntary community mental health or chemical dependency or abuse  
18 treatment.

19 (3) Prior to release of an offender identified under this  
20 section, the team shall determine whether or not an evaluation by a  
21 designated crisis responder is needed. If an evaluation is  
22 recommended, the supporting documentation shall be immediately  
23 forwarded to the appropriate designated crisis responder. The  
24 supporting documentation shall include the offender's criminal  
25 history, history of judicially required or administratively ordered  
26 involuntary antipsychotic medication while in confinement, and any  
27 known history of involuntary civil commitment.

28 (4) If an evaluation by a designated crisis responder is  
29 recommended by the team, such evaluation shall occur not more than  
30 ten days, nor less than five days, prior to release.

31 (5) A second evaluation by a designated crisis responder shall  
32 occur on the day of release if requested by the team, based upon new  
33 information or a change in the offender's mental condition, and the  
34 initial evaluation did not result in an emergency detention or a  
35 summons under chapter 71.05 RCW.

36 (6) If the designated crisis responder determines an emergency  
37 detention under chapter 71.05 RCW is necessary, the department shall  
38 release the offender only to a state hospital or to a consenting  
39 evaluation and treatment facility. The department shall arrange  
40 transportation of the offender to the hospital or facility.



1 (7) If the designated crisis responder believes that a less  
2 restrictive alternative treatment is appropriate, he or she shall  
3 seek a summons, pursuant to the provisions of chapter 71.05 RCW, to  
4 require the offender to appear at an evaluation and treatment  
5 facility. If a summons is issued, the offender shall remain within  
6 the corrections facility until completion of his or her term of  
7 confinement and be transported, by corrections personnel on the day  
8 of completion, directly to the identified evaluation and treatment  
9 facility.

10 (8) The secretary shall adopt rules to implement this section.

11 **Sec. 73.** RCW 72.09.585 and 2018 c 201 s 9015 are each amended to  
12 read as follows:

13 (1) When the department is determining an offender's risk  
14 management level, the department shall inquire of the offender and  
15 shall be told whether the offender is subject to court-ordered  
16 treatment for mental health services or chemical dependency services.  
17 The department shall request and the offender shall provide an  
18 authorization to release information form that meets applicable state  
19 and federal requirements and shall provide the offender with written  
20 notice that the department will request the offender's mental health  
21 and substance use disorder treatment information. An offender's  
22 failure to inform the department of court-ordered treatment is a  
23 violation of the conditions of supervision if the offender is in the  
24 community and an infraction if the offender is in confinement, and  
25 the violation or infraction is subject to sanctions.

26 (2) When an offender discloses that he or she is subject to  
27 court-ordered mental health services or chemical dependency  
28 treatment, the department shall provide the mental health services  
29 provider or chemical dependency treatment provider with a written  
30 request for information and any necessary authorization to release  
31 information forms. The written request shall comply with rules  
32 adopted by the health care authority or protocols developed jointly  
33 by the department and the health care authority. A single request  
34 shall be valid for the duration of the offender's supervision in the  
35 community. Disclosures of information related to mental health  
36 services made pursuant to a department request shall not require  
37 consent of the offender.

38 (3) The information received by the department under RCW  
39 71.05.445 or 70.02.250 may be released to the ((indeterminate

1 sentence)) postconviction review board as relevant to carry out its  
2 responsibility of planning and ensuring community protection with  
3 respect to persons under its jurisdiction. Further disclosure by the  
4 (~~indeterminate sentence review~~) board is subject to the limitations  
5 set forth in subsections (5) and (6) of this section and must be  
6 consistent with the written policy of the (~~indeterminate sentence  
7 review~~) board. The decision to disclose or not shall not result in  
8 civil liability for the (~~indeterminate sentence review~~) board or  
9 staff assigned to perform board-related duties provided that the  
10 decision was reached in good faith and without gross negligence.

11 (4) The information received by the department under RCW  
12 71.05.445 or 70.02.250 may be used to meet the statutory duties of  
13 the department to provide evidence or report to the court. Disclosure  
14 to the public of information provided to the court by the department  
15 related to mental health services shall be limited in accordance with  
16 RCW 9.94A.500 or this section.

17 (5) The information received by the department under RCW  
18 71.05.445 or 70.02.250 may be disclosed by the department to other  
19 state and local agencies as relevant to plan for and provide  
20 offenders transition, treatment, and supervision services, or as  
21 relevant and necessary to protect the public and counteract the  
22 danger created by a particular offender, and in a manner consistent  
23 with the written policy established by the secretary. The decision to  
24 disclose or not shall not result in civil liability for the  
25 department or its employees so long as the decision was reached in  
26 good faith and without gross negligence. The information received by  
27 a state or local agency from the department shall remain confidential  
28 and subject to the limitations on disclosure set forth in chapters  
29 70.02, 71.05, and 71.34 RCW and, subject to these limitations, may be  
30 released only as relevant and necessary to counteract the danger  
31 created by a particular offender.

32 (6) The information received by the department under RCW  
33 71.05.445 or 70.02.250 may be disclosed by the department to  
34 individuals only with respect to offenders who have been determined  
35 by the department to have a high risk of reoffending by a risk  
36 assessment, as defined in RCW 9.94A.030, only as relevant and  
37 necessary for those individuals to take reasonable steps for the  
38 purpose of self-protection, or as provided in RCW 72.09.370(2). The  
39 information may not be disclosed for the purpose of engaging the  
40 public in a system of supervision, monitoring, and reporting offender

1 behavior to the department. The department must limit the disclosure  
2 of information related to mental health services to the public to  
3 descriptions of an offender's behavior, risk he or she may present to  
4 the community, and need for mental health treatment, including  
5 medications, and shall not disclose or release to the public copies  
6 of treatment documents or records, except as otherwise provided by  
7 law. All disclosure of information to the public must be done in a  
8 manner consistent with the written policy established by the  
9 secretary. The decision to disclose or not shall not result in civil  
10 liability for the department or its employees so long as the decision  
11 was reached in good faith and without gross negligence. Nothing in  
12 this subsection prevents any person from reporting to law enforcement  
13 or the department behavior that he or she believes creates a public  
14 safety risk.

15 **Sec. 74.** RCW 72.60.102 and 1989 c 185 s 11 are each amended to  
16 read as follows:

17 From and after July 1, 1973, any inmate employed in classes I,  
18 II, and IV of correctional industries as defined in RCW 72.09.100 is  
19 eligible for industrial insurance benefits as provided by Title 51  
20 RCW. However, eligibility for benefits for either the inmate or the  
21 inmate's dependents or beneficiaries for temporary disability or  
22 permanent total disability as provided in RCW 51.32.090 or 51.32.060,  
23 respectively, shall not take effect until the inmate is released  
24 pursuant to an order of parole by the (~~indefinite sentence~~)  
25 postconviction review board, or discharged from custody upon  
26 expiration of the sentence, or discharged from custody by order of a  
27 court of appropriate jurisdiction. Nothing in this section shall be  
28 construed to confer eligibility for any industrial insurance benefits  
29 to any inmate who is employed in class III or V of correctional  
30 industries as defined in RCW 72.09.100.

31 **Sec. 75.** RCW 72.64.065 and 2012 c 117 s 480 are each amended to  
32 read as follows:

33 From and after July 1, 1973, any inmate working in a department  
34 of natural resources adult honor camp established and operated  
35 pursuant to RCW 72.64.050, 72.64.060, and 72.64.100 shall be eligible  
36 for the benefits provided by Title 51 RCW, as now or hereafter  
37 amended, relating to industrial insurance, with the exceptions herein  
38 provided.

1 No inmate as herein described, until released upon an order of  
2 parole by the ((~~state indeterminate sentence~~)) postconviction review  
3 board, or discharged from custody upon expiration of sentence, or  
4 discharged from custody by order of a court of appropriate  
5 jurisdiction, or his or her dependents or beneficiaries, shall be  
6 entitled to any payment for temporary disability or permanent total  
7 disability as provided for in RCW 51.32.090 or 51.32.060  
8 respectively, as now or hereafter enacted, or to the benefits of  
9 chapter 51.36 RCW relating to medical aid.

10 Any and all premiums or assessments as may arise under this  
11 section pursuant to the provisions of Title 51 RCW shall be the  
12 obligation of and be paid by the state department of natural  
13 resources.

14 **Sec. 76.** RCW 72.65.130 and 1971 ex.s. c 58 s 1 are each amended  
15 to read as follows:

16 This chapter shall not be construed as affecting the authority of  
17 the postconviction review board ((~~of prison terms and paroles~~))  
18 pursuant to the provisions of chapter 9.95 RCW over any person who  
19 has been approved for participation in the work release program.

20 **Sec. 77.** RCW 72.68.031 and 2012 c 117 s 499 are each amended to  
21 read as follows:

22 When, in the judgment of the secretary, the welfare of any person  
23 committed to or confined in any state correctional institution or  
24 facility necessitates that such person be transferred or moved for  
25 observation, diagnosis, or treatment to any state institution or  
26 facility for the care of the mentally ill, the secretary, with the  
27 consent of the secretary of social and health services, is authorized  
28 to order and effect such move or transfer: PROVIDED, That the  
29 sentence of such person shall continue to run as if he or she  
30 remained confined in a correctional institution or facility, and that  
31 such person shall not continue so detained or confined beyond the  
32 maximum term to which he or she was sentenced: PROVIDED, FURTHER,  
33 That the secretary and the ((~~indeterminate sentence~~)) postconviction  
34 review board shall adopt and implement procedures to assure that  
35 persons so transferred shall, while detained or confined at such  
36 institution or facility for the care of the mentally ill, be provided  
37 with substantially similar opportunities for parole or early release

1 evaluation and determination as persons detained or confined in the  
2 state correctional institutions or facilities.

3 **Sec. 78.** RCW 72.70.040 and 1979 c 141 s 291 are each amended to  
4 read as follows:

5 The secretary and members of the postconviction review board (~~(of~~  
6 ~~prison terms and paroles)~~) are hereby authorized and directed to hold  
7 such hearings as may be requested by any other party state pursuant  
8 to Article IV(f) of the Western Interstate Corrections Compact.  
9 Additionally, the secretary and members of the board (~~(of~~  
10 ~~prison terms and paroles)~~) may hold out-of-state hearings in connection with  
11 the case of any inmate of this state confined in an institution of  
12 another state party to the Western Interstate Corrections Compact.

13 NEW SECTION. **Sec. 79.** This act applies retroactively to persons  
14 incarcerated on the effective date of this section, regardless of the  
15 date of the offense or conviction.

16 NEW SECTION. **Sec. 80.** This act does not create any right or  
17 entitlement to release from incarceration before the end of a term of  
18 incarceration imposed by the court, but instead creates a right to  
19 petition and have a potential hearing by the postconviction review  
20 board on the petition.

--- END ---