
SUBSTITUTE SENATE BILL 5149

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Wilson, L., Becker, Kuderer, Short, and Takko)

1 AN ACT Relating to electronic monitoring with victim notification
2 technology; amending RCW 9.94A.030, 7.90.010, 7.92.020, and
3 10.99.020; and adding a new section to chapter 2.56 RCW.

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

5 **Sec. 1.** RCW 9.94A.030 and 2018 c 166 s 3 are each amended to
6 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (b) A conviction may be removed from a defendant's criminal
37 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,
38 9.95.240, or a similar out-of-state statute, or if the conviction has
39 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 and which
25 may also include electronic monitoring with victim notification
26 technology that is capable of notifying a victim or protected party,
27 either directly or through a monitoring agency, if the monitored
28 individual is at or near a location from which the monitored
29 individual is required to stay away.

30 (25) "Escape" means:

31 (a) Sexually violent predator escape (RCW 9A.76.115), escape in
32 the first degree (RCW 9A.76.110), escape in the second degree (RCW
33 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
34 willful failure to return from work release (RCW 72.65.070), or
35 willful failure to be available for supervision by the department
36 while in community custody (RCW 72.09.310); or

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

40 (26) "Felony traffic offense" means:

1 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
2 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-
3 run injury-accident (RCW 46.52.020(4)), felony driving while under
4 the influence of intoxicating liquor or any drug (RCW 46.61.502(6)),
5 or felony physical control of a vehicle while under the influence of
6 intoxicating liquor or any drug (RCW 46.61.504(6)); or

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

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

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

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

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

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

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

30 (c) A private residence where the individual stays as a transient
31 invitee.

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

1 RCW 46.61.522(1)(b), or vehicular homicide while under the influence
2 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal
3 financial obligations may also include payment to a public agency of
4 the expense of an emergency response to the incident resulting in the
5 conviction, subject to RCW 38.52.430.

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

9 (33) "Most serious offense" means any of the following felonies
10 or a felony attempt to commit any of the following felonies:

11 (a) Any felony defined under any law as a class A felony or
12 criminal solicitation of or criminal conspiracy to commit a class A
13 felony;

14 (b) Assault in the second degree;

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

16 (d) Child molestation in the second degree;

17 (e) Controlled substance homicide;

18 (f) Extortion in the first degree;

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

20 (h) Indecent liberties;

21 (i) Kidnapping in the second degree;

22 (j) Leading organized crime;

23 (k) Manslaughter in the first degree;

24 (l) Manslaughter in the second degree;

25 (m) Promoting prostitution in the first degree;

26 (n) Rape in the third degree;

27 (o) Robbery in the second degree;

28 (p) Sexual exploitation;

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

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

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

39 (t) Any other felony with a deadly weapon verdict under RCW
40 9.94A.825;

1 (u) Any felony offense in effect at any time prior to December 2,
2 1993, that is comparable to a most serious offense under this
3 subsection, or any federal or out-of-state conviction for an offense
4 that under the laws of this state would be a felony classified as a
5 most serious offense under this subsection;

6 (v)(i) A prior conviction for indecent liberties under RCW
7 9A.44.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex.
8 sess. as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b),
9 and (c) as it existed from July 1, 1979, until June 11, 1986, and RCW
10 9A.44.100(1) (a), (b), and (d) as it existed from June 11, 1986,
11 until July 1, 1988;

12 (ii) A prior conviction for indecent liberties under RCW
13 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
14 if: (A) The crime was committed against a child under the age of
15 fourteen; or (B) the relationship between the victim and perpetrator
16 is included in the definition of indecent liberties under RCW
17 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,
18 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,
19 1993, through July 27, 1997;

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

26 (34) "Nonviolent offense" means an offense which is not a violent
27 offense.

28 (35) "Offender" means a person who has committed a felony
29 established by state law and is eighteen years of age or older or is
30 less than eighteen years of age but whose case is under superior
31 court jurisdiction under RCW 13.04.030 or has been transferred by the
32 appropriate juvenile court to a criminal court pursuant to RCW
33 13.40.110. In addition, for the purpose of community custody
34 requirements under this chapter, "offender" also means a misdemeanor
35 or gross misdemeanor probationer ordered by a superior court to
36 probation pursuant to RCW 9.92.060, 9.95.204, or 9.95.210 and
37 supervised by the department pursuant to RCW 9.94A.501 and
38 9.94A.5011. Throughout this chapter, the terms "offender" and
39 "defendant" are used interchangeably.

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

11 (37) "Pattern of criminal street gang activity" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (xvii) Taking a Motor Vehicle Without Permission 1 (RCW
40 9A.56.070);

1 (xviii) Taking a Motor Vehicle Without Permission 2 (RCW
2 9A.56.075);
3 (xix) Extortion 1 (RCW 9A.56.120);
4 (xx) Extortion 2 (RCW 9A.56.130);
5 (xxi) Intimidating a Witness (RCW 9A.72.110);
6 (xxii) Tampering with a Witness (RCW 9A.72.120);
7 (xxiii) Reckless Endangerment (RCW 9A.36.050);
8 (xxiv) Coercion (RCW 9A.36.070);
9 (xxv) Harassment (RCW 9A.46.020); or
10 (xxvi) Malicious Mischief 3 (RCW 9A.48.090);
11 (b) That at least one of the offenses listed in (a) of this
12 subsection shall have occurred after July 1, 2008;
13 (c) That the most recent committed offense listed in (a) of this
14 subsection occurred within three years of a prior offense listed in
15 (a) of this subsection; and
16 (d) Of the offenses that were committed in (a) of this
17 subsection, the offenses occurred on separate occasions or were
18 committed by two or more persons.
19 (38) "Persistent offender" is an offender who:
20 (a) (i) Has been convicted in this state of any felony considered
21 a most serious offense; and
22 (ii) Has, before the commission of the offense under (a) of this
23 subsection, been convicted as an offender on at least two separate
24 occasions, whether in this state or elsewhere, of felonies that under
25 the laws of this state would be considered most serious offenses and
26 would be included in the offender score under RCW 9.94A.525; provided
27 that of the two or more previous convictions, at least one conviction
28 must have occurred before the commission of any of the other most
29 serious offenses for which the offender was previously convicted; or
30 (b) (i) Has been convicted of: (A) Rape in the first degree, rape
31 of a child in the first degree, child molestation in the first
32 degree, rape in the second degree, rape of a child in the second
33 degree, or indecent liberties by forcible compulsion; (B) any of the
34 following offenses with a finding of sexual motivation: Murder in the
35 first degree, murder in the second degree, homicide by abuse,
36 kidnapping in the first degree, kidnapping in the second degree,
37 assault in the first degree, assault in the second degree, assault of
38 a child in the first degree, assault of a child in the second degree,
39 or burglary in the first degree; or (C) an attempt to commit any
40 crime listed in this subsection (38) (b) (i); and

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

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

37 (40) "Private school" means a school regulated under chapter
38 28A.195 or 28A.205 RCW.

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

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

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

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

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

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

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

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

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

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

24 (45) "Serious traffic offense" means:

25 (a) Nonfelony driving while under the influence of intoxicating
26 liquor or any drug (RCW 46.61.502), nonfelony actual physical control
27 while under the influence of intoxicating liquor or any drug (RCW
28 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an
29 attended vehicle (RCW 46.52.020(5)); or

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

33 (46) "Serious violent offense" is a subcategory of violent
34 offense and means:

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

36 (ii) Homicide by abuse;

37 (iii) Murder in the second degree;

38 (iv) Manslaughter in the first degree;

39 (v) Assault in the first degree;

40 (vi) Kidnapping in the first degree;

1 (vii) Rape in the first degree;
2 (viii) Assault of a child in the first degree; or
3 (ix) An attempt, criminal solicitation, or criminal conspiracy to
4 commit one of these felonies; or

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

8 (47) "Sex offense" means:

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

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

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

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

17 (v) A felony violation of RCW 9A.44.132(1) (failure to register
18 as a sex offender) if the person has been convicted of violating RCW
19 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130
20 prior to June 10, 2010, on at least one prior occasion;

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

24 (c) A felony with a finding of sexual motivation under RCW
25 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

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

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

14 (55) "Violent offense" means:

15 (a) Any of the following felonies:

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

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

20 (iii) Manslaughter in the first degree;

21 (iv) Manslaughter in the second degree;

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

23 (vi) Kidnapping in the second degree;

24 (vii) Arson in the second degree;

25 (viii) Assault in the second degree;

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

27 (x) Extortion in the first degree;

28 (xi) Robbery in the second degree;

29 (xii) Drive-by shooting;

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

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

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

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

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

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

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

17 **Sec. 2.** RCW 7.90.010 and 2006 c 138 s 2 are each amended to read
18 as follows:

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

21 (1) "Electronic monitoring" means the same as in RCW 9.94A.030.

22 (2) "Nonconsensual" means a lack of freely given agreement.

23 ~~((2))~~ (3) "Petitioner" means any named petitioner for the
24 sexual assault protection order or any named victim of nonconsensual
25 sexual conduct or nonconsensual sexual penetration on whose behalf
26 the petition is brought.

27 ~~((3))~~ (4) "Sexual assault protection order" means an ex parte
28 temporary order or a final order granted under this chapter, which
29 includes a remedy authorized by RCW 7.90.090.

30 ~~((4))~~ (5) "Sexual conduct" means any of the following:

31 (a) Any intentional or knowing touching or fondling of the
32 genitals, anus, or breasts, directly or indirectly, including through
33 clothing;

34 (b) Any intentional or knowing display of the genitals, anus, or
35 breasts for the purposes of arousal or sexual gratification of the
36 respondent;

37 (c) Any intentional or knowing touching or fondling of the
38 genitals, anus, or breasts, directly or indirectly, including through

1 clothing, that the petitioner is forced to perform by another person
2 or the respondent;

3 (d) Any forced display of the petitioner's genitals, anus, or
4 breasts for the purposes of arousal or sexual gratification of the
5 respondent or others;

6 (e) Any intentional or knowing touching of the clothed or
7 unclothed body of a child under the age of thirteen, if done for the
8 purpose of sexual gratification or arousal of the respondent or
9 others; and

10 (f) Any coerced or forced touching or fondling by a child under
11 the age of thirteen, directly or indirectly, including through
12 clothing, of the genitals, anus, or breasts of the respondent or
13 others.

14 ~~((+5))~~ (6) "Sexual penetration" means any contact, however
15 slight, between the sex organ or anus of one person by an object, the
16 sex organ, mouth, or anus of another person, or any intrusion,
17 however slight, of any part of the body of one person or of any
18 animal or object into the sex organ or anus of another person,
19 including but not limited to cunnilingus, fellatio, or anal
20 penetration. Evidence of emission of semen is not required to prove
21 sexual penetration.

22 ~~((+6))~~ (7) "Nonphysical contact" includes, but is not limited
23 to, telephone calls, mail, email, fax, and written notes.

24 **Sec. 3.** RCW 7.92.020 and 2013 c 84 s 2 are each amended to read
25 as follows:

26 The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.

28 (1) "Electronic monitoring" means the same as in RCW 9.94A.030.

29 (2) "Minor" means a person who is under eighteen years of age.

30 ~~((+2))~~ (3) "Petitioner" means any named petitioner for the
31 stalking protection order or any named victim of stalking conduct on
32 whose behalf the petition is brought.

33 ~~((+3))~~ (4) "Stalking conduct" means any of the following:

34 (a) Any act of stalking as defined under RCW 9A.46.110;

35 (b) Any act of cyberstalking as defined under RCW 9.61.260;

36 (c) Any course of conduct involving repeated or continuing
37 contacts, attempts to contact, monitoring, tracking, keeping under
38 observation, or following of another that:

1 (i) Would cause a reasonable person to feel intimidated,
2 frightened, or threatened and that actually causes such a feeling;

3 (ii) Serves no lawful purpose; and

4 (iii) The stalker knows or reasonably should know threatens,
5 frightens, or intimidates the person, even if the stalker did not
6 intend to intimidate, frighten, or threaten the person.

7 ~~((4))~~ (5) "Stalking no-contact order" means a temporary order
8 or a final order granted under this chapter against a person charged
9 with or arrested for stalking, which includes a remedy authorized
10 under RCW 7.92.160.

11 ~~((5))~~ (6) "Stalking protection order" means an ex parte
12 temporary order or a final order granted under this chapter, which
13 includes a remedy authorized in RCW 7.92.100.

14 **Sec. 4.** RCW 10.99.020 and 2004 c 18 s 2 are each amended to read
15 as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Agency" means a general authority Washington law enforcement
19 agency as defined in RCW 10.93.020.

20 (2) "Association" means the Washington association of sheriffs
21 and police chiefs.

22 (3) "Electronic monitoring" means the same as in RCW 9.94A.030.

23 (4) "Family or household members" means spouses, former spouses,
24 persons who have a child in common regardless of whether they have
25 been married or have lived together at any time, adult persons
26 related by blood or marriage, adult persons who are presently
27 residing together or who have resided together in the past, persons
28 sixteen years of age or older who are presently residing together or
29 who have resided together in the past and who have or have had a
30 dating relationship, persons sixteen years of age or older with whom
31 a person sixteen years of age or older has or has had a dating
32 relationship, and persons who have a biological or legal parent-child
33 relationship, including stepparents and stepchildren and grandparents
34 and grandchildren.

35 ~~((4))~~ (5) "Dating relationship" has the same meaning as in RCW
36 26.50.010.

37 ~~((5))~~ (6) "Domestic violence" includes but is not limited to
38 any of the following crimes when committed by one family or household
39 member against another:

- 1 (a) Assault in the first degree (RCW 9A.36.011);
2 (b) Assault in the second degree (RCW 9A.36.021);
3 (c) Assault in the third degree (RCW 9A.36.031);
4 (d) Assault in the fourth degree (RCW 9A.36.041);
5 (e) Drive-by shooting (RCW 9A.36.045);
6 (f) Reckless endangerment (RCW 9A.36.050);
7 (g) Coercion (RCW 9A.36.070);
8 (h) Burglary in the first degree (RCW 9A.52.020);
9 (i) Burglary in the second degree (RCW 9A.52.030);
10 (j) Criminal trespass in the first degree (RCW 9A.52.070);
11 (k) Criminal trespass in the second degree (RCW 9A.52.080);
12 (l) Malicious mischief in the first degree (RCW 9A.48.070);
13 (m) Malicious mischief in the second degree (RCW 9A.48.080);
14 (n) Malicious mischief in the third degree (RCW 9A.48.090);
15 (o) Kidnapping in the first degree (RCW 9A.40.020);
16 (p) Kidnapping in the second degree (RCW 9A.40.030);
17 (q) Unlawful imprisonment (RCW 9A.40.040);
18 (r) Violation of the provisions of a restraining order, no-
19 contact order, or protection order restraining or enjoining the
20 person or restraining the person from going onto the grounds of or
21 entering a residence, workplace, school, or day care, or prohibiting
22 the person from knowingly coming within, or knowingly remaining
23 within, a specified distance of a location (RCW 10.99.040, 10.99.050,
24 26.09.300, 26.10.220, (~~26.26.138~~) 26.26B.050, 26.44.063, 26.44.150,
25 26.50.060, 26.50.070, 26.50.130, 26.52.070, or 74.34.145);
26 (s) Rape in the first degree (RCW 9A.44.040);
27 (t) Rape in the second degree (RCW 9A.44.050);
28 (u) Residential burglary (RCW 9A.52.025);
29 (v) Stalking (RCW 9A.46.110); and
30 (w) Interference with the reporting of domestic violence (RCW
31 9A.36.150).
32 (~~(6)~~) (7) "Employee" means any person currently employed with
33 an agency.
34 (~~(7)~~) (8) "Sworn employee" means a general authority Washington
35 peace officer as defined in RCW 10.93.020, any person appointed under
36 RCW 35.21.333, and any person appointed or elected to carry out the
37 duties of the sheriff under chapter 36.28 RCW.
38 (~~(8)~~) (9) "Victim" means a family or household member who has
39 been subjected to domestic violence.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 2.56 RCW
2 to read as follows:

3 (1) The administrative office of the courts shall:

4 (a) Develop a list of vendors or enter into a contract with a
5 vendor that provides electronic monitoring with victim notification
6 technology. The office shall provide outreach to counties as to how
7 courts may access the vendor or vendors;

8 (b) Create an informational handout on the opportunity to request
9 electronic monitoring with victim notification technology to be
10 provided to individuals seeking a protection order and for which
11 electronic monitoring with victim notification technology is
12 available. The information must include a description of the
13 technology used, requirements for accessing the technology, any
14 limitations on how the technology may or may not assist the person in
15 maintaining the safety of the victim and the victim's family, and how
16 the person may request electronic monitoring with victim notification
17 technology from the court; and

18 (c) Subject to the availability of amounts appropriated for this
19 specific purpose, provide funding to counties to cover the cost of
20 electronic monitoring with victim notification technology when a
21 respondent is unable to pay for the costs of electronic monitoring.

22 (2) An appointed or elected public official, public employee, or
23 public agency as defined in RCW 4.24.470, or units of local
24 government and its employees, as provided in RCW 36.28A.010, are
25 immune from civil liability for damages resulting from the
26 utilization of electronic monitoring with victim notification
27 technology, unless it is shown that the official, employee, or agency
28 acted with gross negligence or in bad faith.

29 (3) For purposes of this section, electronic monitoring means the
30 same as in RCW 9.94A.030.

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