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**SUBSTITUTE HOUSE BILL 1976**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Pellicciotti, Hayes, Riccelli, Irwin, Ortiz-Self, Holy, and Ormsby)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to creating a pilot program for the supervision  
2 of offenders who commit motor vehicle-related and property offenses;  
3 amending RCW 9.94A.030; adding a new section to chapter 9.94A RCW;  
4 and adding a new section to chapter 9.95 RCW; and providing  
5 expiration dates.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A  
8 RCW to read as follows:

9 (1) Subject to the availability of amounts appropriated for this  
10 purpose, a pilot program is established for the supervision of  
11 offenders convicted of felonies relating to the theft or taking of a  
12 motor vehicle.

13 (2) Notwithstanding the provisions of RCW 9.94A.701, until June  
14 30, 2021, a participating court may sentence an offender to community  
15 custody for a term of up to one year when the court sentences the  
16 person for theft of a motor vehicle (RCW 9A.56.065), possession of a  
17 stolen vehicle (RCW 9A.56.068), taking a motor vehicle without  
18 permission in the first degree (RCW 9A.56.070), taking a motor  
19 vehicle without permission in the second degree (RCW 9A.56.075), or  
20 any offense under chapter 9A.56 RCW with a prior conviction for one  
21 of the preceding motor vehicle crimes.

1 (3) Notwithstanding the provisions of RCW 9.94A.501, the  
2 department shall supervise any offender sentenced to community  
3 custody pursuant to subsection (2) of this section.

4 (4) No later than November 1, 2022, the department must submit a  
5 report to the governor and the appropriate committees of the  
6 legislature analyzing the effectiveness of supervision in reducing  
7 recidivism among offenders committing felonies relating to the theft  
8 or taking of a motor vehicle. The department shall consult with the  
9 Washington state institute for public policy in guiding its data  
10 tracking efforts and preparing the report.

11 (5) For purposes of this section, "participating court" means the  
12 Spokane county superior court or Federal Way municipal court,  
13 provided Spokane county or the city of Federal Way have agreed with  
14 the department to participate in the pilot program.

15 (6) This section expires December 31, 2022.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.95 RCW  
17 to read as follows:

18 (1) When a municipal court participating in the pilot program in  
19 section 1 of this act places a defendant convicted of a misdemeanor  
20 or gross misdemeanor on community custody pursuant to the authority  
21 of section 1 of this act, the department of corrections has  
22 responsibility for the supervision of the defendant. Misdemeanor and  
23 gross misdemeanor offenders supervised by the department pursuant to  
24 section 1 of this act must be placed on community custody. The  
25 department shall supervise the defendant according to the terms and  
26 conditions established by the court and impose sanctions for  
27 violations in accordance with the department's authority under  
28 chapter 9.94A RCW.

29 (2) This section expires December 31, 2022.

30 **Sec. 3.** RCW 9.94A.030 and 2016 c 81 s 16 are each amended to  
31 read as follows:

32 Unless the context clearly requires otherwise, the definitions in  
33 this section apply throughout this chapter.

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

36 (2) "Collect," or any derivative thereof, "collect and remit," or  
37 "collect and deliver," when used with reference to the department,  
38 means that the department, either directly or through a collection

1 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
2 and enforcing the offender's sentence with regard to the legal  
3 financial obligation, receiving payment thereof from the offender,  
4 and, consistent with current law, delivering daily the entire payment  
5 to the superior court clerk without depositing it in a departmental  
6 account.

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

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

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

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

20 (7) "Community restitution" means compulsory service, without  
21 compensation, performed for the benefit of the community by the  
22 offender.

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

24 (9) "Conviction" means an adjudication of guilt pursuant to Title  
25 10 or 13 RCW and includes a verdict of guilty, a finding of guilty,  
26 and acceptance of a plea of guilty.

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

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

39 (a) The history shall include, where known, for each conviction  
40 (i) whether the defendant has been placed on probation and the length

1 and terms thereof; and (ii) whether the defendant has been  
2 incarcerated and the length of incarceration.

3 (b) A conviction may be removed from a defendant's criminal  
4 history only if it is vacated pursuant to RCW 9.96.060, 9.94A.640,  
5 9.95.240, or a similar out-of-state statute, or if the conviction has  
6 been vacated pursuant to a governor's pardon.

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

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

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

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

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

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

35 (c) To exact revenge or retribution for the gang or any member of  
36 the gang;

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

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

4 (f) To provide the gang with any advantage in, or any control or  
5 dominance over any criminal market sector, including, but not limited  
6 to, manufacturing, delivering, or selling any controlled substance  
7 (chapter 69.50 RCW); arson (chapter 9A.48 RCW); trafficking in stolen  
8 property (chapter 9A.82 RCW); promoting prostitution (chapter 9A.88  
9 RCW); human trafficking (RCW 9A.40.100); promoting commercial sexual  
10 abuse of a minor (RCW 9.68A.101); or promoting pornography (chapter  
11 9.68 RCW).

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

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

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

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

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

1 include payments made under Title 50 RCW, except as provided in RCW  
2 50.40.020 and 50.40.050, or Title 74 RCW.

3 (20) "Domestic violence" has the same meaning as defined in RCW  
4 10.99.020 and 26.50.010.

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

9 (22) "Drug offense" means:

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

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

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

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

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

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

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

34 (25) "Escape" means:

35 (a) Sexually violent predator escape (RCW 9A.76.115), escape in  
36 the first degree (RCW 9A.76.110), escape in the second degree (RCW  
37 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
38 willful failure to return from work release (RCW 72.65.070), or  
39 willful failure to be available for supervision by the department  
40 while in community custody (RCW 72.09.310); 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 an  
3 escape under (a) of this subsection.

4 (26) "Felony traffic offense" means:

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

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

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

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

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

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

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

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

34 (c) A private residence where the individual stays as a transient  
35 invitee.

36 (31) "Legal financial obligation" means a sum of money that is  
37 ordered by a superior court of the state of Washington for legal  
38 financial obligations which may include restitution to the victim,  
39 statutorily imposed crime victims' compensation fees as assessed  
40 pursuant to RCW 7.68.035, court costs, county or interlocal drug

1 funds, court-appointed attorneys' fees, and costs of defense, fines,  
2 and any other financial obligation that is assessed to the offender  
3 as a result of a felony conviction. Upon conviction for vehicular  
4 assault while under the influence of intoxicating liquor or any drug,  
5 RCW 46.61.522(1)(b), or vehicular homicide while under the influence  
6 of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal  
7 financial obligations may also include payment to a public agency of  
8 the expense of an emergency response to the incident resulting in the  
9 conviction, subject to RCW 38.52.430.

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

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

15 (a) Any felony defined under any law as a class A felony or  
16 criminal solicitation of or criminal conspiracy to commit a class A  
17 felony;

18 (b) Assault in the second degree;

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

20 (d) Child molestation in the second degree;

21 (e) Controlled substance homicide;

22 (f) Extortion in the first degree;

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

24 (h) Indecent liberties;

25 (i) Kidnapping in the second degree;

26 (j) Leading organized crime;

27 (k) Manslaughter in the first degree;

28 (l) Manslaughter in the second degree;

29 (m) Promoting prostitution in the first degree;

30 (n) Rape in the third degree;

31 (o) Robbery in the second degree;

32 (p) Sexual exploitation;

33 (q) Vehicular assault, when caused by the operation or driving of  
34 a vehicle by a person while under the influence of intoxicating  
35 liquor or any drug or by the operation or driving of a vehicle in a  
36 reckless manner;

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

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

3 (t) Any other felony with a deadly weapon verdict under RCW  
4 9.94A.825;

5 (u) Any felony offense in effect at any time prior to December 2,  
6 1993, that is comparable to a most serious offense under this  
7 subsection, or any federal or out-of-state conviction for an offense  
8 that under the laws of this state would be a felony classified as a  
9 most serious offense under this subsection;

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

16 (ii) A prior conviction for indecent liberties under RCW  
17 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
18 if: (A) The crime was committed against a child under the age of  
19 fourteen; or (B) the relationship between the victim and perpetrator  
20 is included in the definition of indecent liberties under RCW  
21 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27,  
22 1997, or RCW 9A.44.100(1) (d) or (e) as it existed from July 25,  
23 1993, through July 27, 1997;

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

30 (34) "Nonviolent offense" means an offense which is not a violent  
31 offense.

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

1 supervised by the department pursuant to RCW 9.94A.501 and  
2 9.94A.5011, and it also means a misdemeanor or gross misdemeanor  
3 probationer ordered by a participating court to community custody  
4 pursuant to sections 1 and 2 of this act. Throughout this chapter,  
5 the terms "offender" and "defendant" are used interchangeably.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (38) "Persistent offender" is an offender who:

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

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

35 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
36 of a child in the first degree, child molestation in the first  
37 degree, rape in the second degree, rape of a child in the second  
38 degree, or indecent liberties by forcible compulsion; (B) any of the  
39 following offenses with a finding of sexual motivation: Murder in the  
40 first degree, murder in the second degree, homicide by abuse,

1 kidnapping in the first degree, kidnapping in the second degree,  
2 assault in the first degree, assault in the second degree, assault of  
3 a child in the first degree, assault of a child in the second degree,  
4 or burglary in the first degree; or (C) an attempt to commit any  
5 crime listed in this subsection (38)(b)(i); and

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

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

1 in authority" does not include the parent or legal guardian of the  
2 victim.

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

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

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

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

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

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

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

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

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

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

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

30 (45) "Serious traffic offense" means:

31 (a) Nonfelony driving while under the influence of intoxicating  
32 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
33 while under the influence of intoxicating liquor or any drug (RCW  
34 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
35 attended vehicle (RCW 46.52.020(5)); or

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

39 (46) "Serious violent offense" is a subcategory of violent  
40 offense and means:

1 (a)(i) Murder in the first degree;  
2 (ii) Homicide by abuse;  
3 (iii) Murder in the second degree;  
4 (iv) Manslaughter in the first degree;  
5 (v) Assault in the first degree;  
6 (vi) Kidnapping in the first degree;  
7 (vii) Rape in the first degree;  
8 (viii) Assault of a child in the first degree; or  
9 (ix) An attempt, criminal solicitation, or criminal conspiracy to  
10 commit one of these felonies; or

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

14 (47) "Sex offense" means:

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

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

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

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

23 (v) A felony violation of RCW 9A.44.132(1) (failure to register  
24 as a sex offender) if the person has been convicted of violating RCW  
25 9A.44.132(1) (failure to register as a sex offender) or 9A.44.130  
26 prior to June 10, 2010, on at least one prior occasion;

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

30 (c) A felony with a finding of sexual motivation under RCW  
31 9.94A.835 or 13.40.135; or

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

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

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

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

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

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

12 (53) "Transition training" means written and verbal instructions  
13 and assistance provided by the department to the offender during the  
14 two weeks prior to the offender's successful completion of the work  
15 ethic camp program. The transition training shall include  
16 instructions in the offender's requirements and obligations during  
17 the offender's period of community custody.

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

21 (55) "Violent offense" means:

22 (a) Any of the following felonies:

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

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

27 (iii) Manslaughter in the first degree;

28 (iv) Manslaughter in the second degree;

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

30 (vi) Kidnapping in the second degree;

31 (vii) Arson in the second degree;

32 (viii) Assault in the second degree;

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

34 (x) Extortion in the first degree;

35 (xi) Robbery in the second degree;

36 (xii) Drive-by shooting;

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

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

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

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

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

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

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

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