BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-0018.5/21 5th draft

ATTY/TYPIST: JO:jlb

BRIEF DESCRIPTION: Creating a developmentally appropriate response to youth who commit sexual offenses.

AN ACT Relating to creating a developmentally appropriate response to youth who commit sexual offenses; amending RCW 9A.44.130, 9A.44.128, 9A.44.140, 9A.44.142, 9A.44.145, 9A.44.148, 13.50.260, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, 9A.44.040, 9A.44.050, 9A.44.060, 9A.44.100, 9A.44.105, 9A.44.115, 9A.44.196, 9.68A.040, 9.68A.060, 9.68A.090, 9.68A.100, 9.68A.101, 9.68A.102, 9.68A.103, 9.94A.835, 13.04.030, 13.40.0357, 9.94A.515, 9.94A.507, 9.94A.525, and 13.40.162; adding new sections to chapter 9A.44 RCW; adding a new section to chapter 9.68A RCW; adding a new section to chapter 9.94A RCW; creating new sections; repealing RCW 9A.44.143; prescribing penalties; and providing an effective date.

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

PART I
ENDING SEX OFFENDER REGISTRATION FOR JUVENILES WHO ARE NOT SUBJECT TO AUTODECLINE

Sec. 1. RCW 9A.44.130 and 2017 c 174 s 3 are each amended to read as follows:

(1)(a) For the purposes of this section, "adult" means a person who is eighteen years of age or older or who is convicted of an offense in adult court pursuant to RCW 13.04.030(1)(e)(v).

(b) Any adult ((~~or juvenile~~)) residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. When a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, ((~~a local division of youth services,~~)) or a local jail ((~~or juvenile detention facility~~)) as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

((~~(b)~~)) (c) Any adult ((~~or juvenile~~)) who is required to register under ((~~(a)~~)) (b) of this subsection must give notice to the county sheriff of the county with whom the person is registered within three business days:

(i) Prior to arriving at a school or institution of higher education to attend classes;

(ii) Prior to starting work at an institution of higher education; or

(iii) After any termination of enrollment or employment at a school or institution of higher education.

(d) This subsection (1) does not apply to offenses committed when a person is under eighteen years of age unless the person is convicted of an offense in adult court pursuant to RCW 13.04.030(1)(e)(v).

(2)(a) A person required to register under this section must provide the following information when registering: (i) Name and any aliases used; (ii) complete and accurate residential address or, if the person lacks a fixed residence, where he or she plans to stay; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) social security number; (viii) photograph; and (ix) fingerprints.

(b) A person may be required to update any of the information required in this subsection in conjunction with any address

verification conducted by the county sheriff or as part of any notice required by this section.

(c) A photograph or copy of an individual's fingerprints, which may include palmprints may be taken at any time to update an individual's file.

(3) Any person required to register under this section who intends to travel outside the United States must provide, by certified mail, with return receipt requested, or in person, signed written notice of the plan to travel outside the country to the county sheriff of the county with whom the person is registered at least twenty-one days prior to travel. The notice shall include the following information: (a) Name; (b) passport number and country; (c) destination; (d) itinerary details including departure and return dates; (e) means of travel; and (f) purpose of travel. If the offender subsequently cancels or postpones travel outside the United States, the offender must notify the county sheriff not later than three days after cancellation or postponement of the intended travel outside the United States or on the departure date provided in the notification, whichever is earlier. The county sheriff shall notify the United States marshals service as soon as practicable after receipt of the notification. In cases of unexpected travel due to family or work emergencies, or for offenders who travel routinely across international borders for work-related purposes, the notice must be submitted in person at least twenty-four hours prior to travel to the sheriff of the county where such offenders are registered with a written explanation of the circumstances that make compliance with this subsection (3) impracticable.

(4)(a) Offenders shall register with the county sheriff within the following deadlines:

(i) OFFENDERS IN CUSTODY. Sex offenders or kidnapping offenders who are in custody of the state department of corrections, the state department of social and health services, ((~~a local division of youth services,~~)) or a local jail ((~~or juvenile detention facility~~)), must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of

Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

When a person required to register under this section is in the custody of the state department of corrections or a local corrections or probations agency and has been approved for partial confinement as defined in RCW 9.94A.030, the person must register at the time of transfer to partial confinement with the official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county in which the offender is in partial confinement. The offender must also register within three business days from the time of the termination of partial confinement or release from confinement with the county sheriff for the county of the person's residence. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register.

(ii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders or kidnapping offenders who are in the custody of the United States bureau of prisons or other federal or military correctional agency must register within three business days from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation.

(iii) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense and kidnapping offenders who are convicted for a kidnapping offense but who are not sentenced to serve a term of confinement immediately upon sentencing shall report to the county sheriff to register within three business days of being sentenced.

(iv) OFFENDERS WHO ARE NEW RESIDENTS, TEMPORARY RESIDENTS, OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. If the offender is under the jurisdiction of an agency of this state when the offender moves to Washington, the agency shall provide notice to the offender of the duty to register.

Sex offenders and kidnapping offenders who are visiting Washington state and intend to reside or be present in the state for ten days or more shall register his or her temporary address or where he or she plans to stay with the county sheriff of each county where the offender will be staying within three business days of arrival. Registration for temporary residents shall include the information required by subsection (2)(a) of this section, except the photograph and fingerprints.

(v) OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any adult ((~~or juvenile~~)) who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense or a kidnapping offense and who is in custody, as a result of that finding, of the state department of social and health services, must register within three business days from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult ((~~or juvenile~~)) in its custody of the duty to register.

(vi) OFFENDERS WHO LACK A FIXED RESIDENCE. Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than three business days after entering the county and provide the information required in subsection (2)(a) of this section.

(vii) OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION. Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(viii) OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE. Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within three

business days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within three business days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of RCW 9A.44.132, or arraignment on charges for a violation of RCW 9A.44.132, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under RCW 9A.44.132 who asserts as a defense the lack of notice of the duty to register shall register within three business days following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff within three business days of moving.

(b) If any person required to register pursuant to this section moves to a new county, within three business days of moving the person must register with the county sheriff of the county into which the person has moved and provide, by certified mail, with return receipt requested or in person, signed written notice of the change of address to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered is responsible for address verification pursuant to RCW 9A.44.135 until the person completes registration of his or her new residence address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within three

business days after ceasing to have a fixed residence. The notice shall include the information required by subsection (2)(a) of this section, except the photograph, fingerprints, and palmprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The person must keep an accurate accounting of where he or she stays during the week and provide it to the county sheriff upon request. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within three business days of ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vi) or (vii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the

county of the person's residence and to the state patrol within three business days of the entry of the order.

(8) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. RCW 9A.44.128 and 2015 c 261 s 2 are each amended to read as follows:

For the purposes of RCW 9A.44.130 through 9A.44.145, 10.01.200, 43.43.540, 70.48.470, and 72.09.330, the following definitions apply:

(1) "Business day" means any day other than Saturday, Sunday, or a legal local, state, or federal holiday.

(2) "Conviction" means any adult conviction ((~~or juvenile adjudication~~)) for a sex offense or kidnapping offense.

(3) "Disqualifying offense" means a conviction for: Any offense that is a felony; a sex offense as defined in this section; a crime against children or persons as defined in RCW 43.43.830(7) and 9.94A.411(2)(a); an offense with a domestic violence designation as provided in RCW 10.99.020; permitting the commercial sexual abuse of a minor as defined in RCW 9.68A.103; or any violation of chapter 9A.88 RCW.

(4) "Employed" or "carries on a vocation" means employment that is full time or part time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(5) "Fixed residence" means a building that a person lawfully and habitually uses as living quarters a majority of the week. Uses as living quarters means to conduct activities consistent with the common understanding of residing, such as sleeping; eating; keeping personal belongings; receiving mail; and paying utilities, rent, or mortgage. A nonpermanent structure including, but not limited to, a motor home, travel trailer, camper, or boat may qualify as a residence provided it is lawfully and habitually used as living quarters a majority of the week, primarily kept at one location with a physical address, and the location it is kept at is either owned or rented by the person or used by the person with the permission of the owner or renter. A shelter program may qualify as a residence

provided it is a shelter program designed to provide temporary living accommodations for the homeless, provides an offender with a personally assigned living space, and the offender is permitted to store belongings in the living space.

(6) "In the community" means residing outside of confinement or incarceration for a disqualifying offense.

(7) "Institution of higher education" means any public or private institution dedicated to postsecondary education, including any college, university, community college, trade, or professional school.

(8) "Kidnapping offense" means:

(a) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent;

(b) Any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection;

(c) Any federal or out-of-state conviction for: An offense for which the person would be required to register as a kidnapping offender if residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection; and

(d) Any tribal conviction for an offense for which the person would be required to register as a kidnapping offender while residing in the reservation of conviction; or, if not required to register in the reservation of conviction, an offense that under the laws of this state would be classified as a kidnapping offense under this subsection.

(9) "Lacks a fixed residence" means the person does not have a living situation that meets the definition of a fixed residence and includes, but is not limited to, a shelter program designed to provide temporary living accommodations for the homeless, an outdoor sleeping location, or locations where the person does not have permission to stay.

(10) "Sex offense" means:

(a) Any offense defined as a sex offense by RCW 9.94A.030;

(b) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(c) Any violation under RCW 9A.40.100(1)(b)(ii) (trafficking);

(d) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(e) A violation under RCW 9A.88.070 (promoting prostitution in the first degree) or RCW 9A.88.080 (promoting prostitution in the second degree) if the person has a prior conviction for one of these offenses;

(f) Any violation under RCW 9A.40.100(1)(a)(i)(A) (III) or (IV) or (a)(i)(B);

(g) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection;

(h) Any out-of-state conviction for an offense for which the person would be required to register as a sex offender while residing in the state of conviction; or, if not required to register in the state of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection;

(i) Any federal conviction classified as a sex offense under 42 U.S.C. Sec. 16911 (SORNA);

(j) Any military conviction for a sex offense. This includes sex offenses under the uniform code of military justice, as specified by the United States secretary of defense;

(k) Any conviction in a foreign country for a sex offense if it was obtained with sufficient safeguards for fundamental fairness and due process for the accused under guidelines or regulations established pursuant to 42 U.S.C. Sec. 16912;

(l) Any tribal conviction for an offense for which the person would be required to register as a sex offender while residing in the reservation of conviction; or, if not required to register in the reservation of conviction, an offense that under the laws of this state would be classified as a sex offense under this subsection.

(11) "School" means a public or private school regulated under Title 28A RCW or chapter 72.40 RCW.

(12) "Student" means a person who is enrolled, on a full-time or part-time basis, in any school or institution of higher education.

Sec. 3. RCW 9A.44.140 and 2020 c 249 s 2 are each amended to read as follows:

The duty to register under RCW 9A.44.130 shall continue for the duration provided in this section.

(1) For a person convicted in this state of a class A felony, or a person convicted of any sex offense or kidnapping offense who has one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall continue indefinitely.

(2) For a person convicted in this state of a class B felony who does not have one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall end fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(3) For a person convicted in this state of a class C felony, a violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation, or conspiracy to commit a class C felony, and the person does not have one or more prior convictions for a sex offense or kidnapping offense, the duty to register shall end ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period.

(4) Except as provided in RCW 9A.44.142, for a person required to register for a federal, tribal, or out-of-state conviction, the duty to register shall continue indefinitely.

(5) For a person who is or has been determined to be a sexually violent predator pursuant to chapter 71.09 RCW, the duty to register shall continue for the person's lifetime.

(6) Nothing in this section prevents a person from being relieved of the duty to register under RCW 9A.44.142((~~, 9A.44.143, and 13.40.162~~)).

(7) Nothing in RCW 9.94A.637 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to RCW 9A.44.130.

(8) For purposes of determining whether a person has been convicted of more than one sex offense, failure to register as a sex offender or kidnapping offender is not a sex or kidnapping offense.

(9) The provisions of this section and RCW 9A.44.141 ((~~through 9A.44.143~~)) and 9A.44.142 apply equally to a person who has been found not guilty by reason of insanity under chapter 10.77 RCW of a sex offense or kidnapping offense.

Sec. 4. RCW 9A.44.142 and 2017 c 86 s 1 are each amended to read as follows:

(1) A person who is required to register under RCW 9A.44.130 may petition the superior court to be relieved of the duty to register:

(a) ((~~If the person has a duty to register for a sex offense or kidnapping offense committed when the offender was a juvenile, regardless of whether the conviction was in this state, as provided in RCW 9A.44.143;~~

~~(b)~~)) If the person is required to register for a conviction in this state and is not prohibited from petitioning for relief from registration under subsection (2) of this section, when the person has spent ten consecutive years in the community without being convicted of a disqualifying offense during that time period; or

((~~(c)~~)) (b) If the person is required to register for a federal, tribal, or out-of-state conviction, when the person has spent fifteen consecutive years in the community without being convicted of a disqualifying offense during that time period.

(2)(a) A person may not petition for relief from registration if the person has been:

(i) Determined to be a sexually violent predator pursuant to chapter 71.09 RCW; or

(ii) Convicted as an adult of a sex offense or kidnapping offense that is a class A felony and that was committed with forcible compulsion on or after June 8, 2000.

(b) Any person who may not be relieved of the duty to register may petition the court to be exempted from any community notification requirements that the person may be subject to fifteen years after the later of the entry of the judgment and sentence or the last date of release from confinement, including full-time residential treatment, pursuant to the conviction, if the person has spent the time in the community without being convicted of a disqualifying offense.

(3) A petition for relief from registration or exemption from notification under this section shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register or, in the case of convictions in other states, a foreign country, or a federal, tribal, or military court, to the court in the county where the person is registered at the time the petition is sought. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The prosecuting attorney must make reasonable efforts to notify the victim via the victim's choice of telephone, letter, or email, if known.

(4)(a) The court may relieve a petitioner of the duty to register only if the petitioner shows by clear and convincing evidence that the petitioner is sufficiently rehabilitated to warrant removal from the central registry of sex offenders and kidnapping offenders.

(b) In determining whether the petitioner is sufficiently rehabilitated to warrant removal from the registry, the following factors are provided as guidance to assist the court in making its determination:

(i) The nature of the registrable offense committed including the number of victims and the length of the offense history;

(ii) Any subsequent criminal history;

(iii) The petitioner's compliance with supervision requirements;

(iv) The length of time since the charged incident(s) occurred;

(v) Any input from community corrections officers, law enforcement, or treatment providers;

(vi) Participation in sex offender treatment;

(vii) Participation in other treatment and rehabilitative programs;

(viii) The offender's stability in employment and housing;

(ix) The offender's community and personal support system;

(x) Any risk assessments or evaluations prepared by a qualified professional;

(xi) Any updated polygraph examination;

(xii) Any input of the victim;

(xiii) Any other factors the court may consider relevant.

(5) If a person is relieved of the duty to register pursuant to this section, the relief of registration does not constitute a certificate of rehabilitation, or the equivalent of a certificate of

rehabilitation, for the purposes of restoration of firearm possession under RCW 9.41.040.

Sec. 5. RCW 9A.44.145 and 2010 c 267 s 8 are each amended to read as follows:

(1) The state patrol shall notify((÷

~~(a) Registered~~)) registered sex and kidnapping offenders of any change to the registration requirements((~~; and~~

~~(b) No less than annually, an offender having a duty to register under RCW 9A.44.143 for a sex offense or kidnapping offense committed when the offender was a juvenile of their ability to petition for relief from registration as provided in RCW 9A.44.140~~)).

(2) For economic efficiency, the state patrol may combine the notices in this section into one notice.

Sec. 6. RCW 9A.44.148 and 2015 c 261 s 4 are each amended to read as follows:

(1) RCW 9A.44.128 through 9A.44.145 apply to offenders who committed their crimes and were adjudicated within the following time frames:

(a) Sex offenders convicted of a sex offense on or after July 28, 1991, for a sex offense committed on or after February 28, 1990;

(b) Kidnapping offenders convicted of a kidnapping offense on or after July 27, 1997, for a kidnapping offense committed on or after July 27, 1997;

(c) Sex offenders who, on or after July 28, 1991, were in the custody or under the jurisdiction of the department of corrections, the department of social and health services, ((~~a local division of youth services,~~)) or a local jail ((~~or juvenile detention facility~~)) as the result of a sex offense, regardless of when the sex offense was committed;

(d) Kidnapping offenders who, on or after July 27, 1997, were in the custody or under the jurisdiction of the department of corrections, the department of social and health services, ((~~a local division of youth services,~~)) or a local jail ((~~or juvenile detention facility~~)) as the result of a kidnapping offense, regardless of when the kidnapping offense was committed;

(e) Any person who is or has been determined to be a sexually violent predator pursuant to chapter 71.09 RCW;

(f) Sex offenders who, on or after July 23, 1995, were in the custody or under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board as the result of a sex offense, regardless of when the sex offense was committed;

(g) Kidnapping offenders who, on or after July 27, 1997, were in the custody or under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board as the result of a kidnapping offense, regardless of when the kidnapping offense was committed;

(h) Sex offenders who move to Washington state from another state, tribe, or a foreign country and who were convicted of a sex offense under the laws of this state, another state, a foreign country, tribe, or other federal or military tribunal, regardless of when the sex offense was committed or the conviction occurred;

(i) Kidnapping offenders who move to Washington state from another state, tribe, or a foreign country and who were convicted of a kidnapping offense under the laws of this state, another state, a foreign country, tribe, or other federal or military tribunal, regardless of when the kidnapping offense was committed or the conviction occurred;

(j) Any adult ((~~or juvenile~~)) found not guilty by reason of insanity under chapter 10.77 RCW of committing a sex offense or of committing a kidnapping offense, regardless of when the offense was committed.

(2) The provisions of this section do not relieve any sex offender of the duty to register under the law as it existed prior to July 28, 1991.

Sec. 7. RCW 13.50.260 and 2020 c 184 s 1 are each amended to read as follows:

(1)(a) The court shall hold regular sealing hearings. During these regular sealing hearings, the court shall administratively seal an individual's juvenile record pursuant to the requirements of this subsection. Although the juvenile record shall be sealed, the social file may be available to any juvenile justice or care agency when an investigation or case involving the juvenile subject of the records is being prosecuted by the juvenile justice or care agency or when the juvenile justice or care agency is assigned the responsibility of

supervising the juvenile. The juvenile respondent's presence is not required at any administrative sealing hearing.

(b) At the disposition hearing of a juvenile offender, the court shall schedule an administrative sealing hearing to take place during the first regularly scheduled sealing hearing after the latest of the following events that apply:

(i) The respondent's eighteenth birthday;

(ii) Anticipated end date of a respondent's probation, if ordered;

(iii) Anticipated release from confinement at the juvenile rehabilitation administration, or the completion of parole, if the respondent is transferred to the juvenile rehabilitation administration.

(c) The court shall not schedule an administrative sealing hearing at the disposition and no administrative sealing hearing shall occur if one of the offenses for which the court has entered a disposition is at the time of commission of the offense:

(i) A most serious offense, as defined in RCW 9.94A.030;

(ii) A sex offense under chapter 9A.44 RCW; or

(iii) A drug offense, as defined in RCW 9.94A.030.

(d) At the time of the scheduled administrative sealing hearing, the court shall enter a written order sealing the respondent's juvenile court record pursuant to this subsection if the court finds by a preponderance of the evidence that the respondent is no longer on supervision for the case being considered for sealing and has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage. In determining whether the respondent is on supervision or owes restitution, the court shall take judicial notice of court records, including records of the county clerk, and, if necessary, sworn testimony from a representative of the juvenile department.

(e) At the time of the administrative sealing hearing, if the court finds the respondent remains on supervision for the case being considered for sealing, then the court shall continue the administrative sealing hearing to a date within thirty days following the anticipated end date of the respondent's supervision. At the next administrative sealing hearing, the court shall again determine the respondent's eligibility for sealing his or her juvenile court record

pursuant to (d) of this subsection, and, if necessary, continue the hearing again as provided in this subsection.

(f)(i) During the administrative sealing hearing, if the court finds the respondent is no longer on supervision for the case being considered for sealing, but the respondent has not paid the full amount of restitution owing to the individual victim named in the restitution order, excluding any public or private entity providing insurance coverage or health care coverage, the court shall deny sealing the juvenile court record in a written order that: (A) Specifies the amount of restitution that remains unpaid to the original victim, excluding any public or private entity providing insurance coverage or health care coverage; and (B) provides direction to the respondent on how to pursue the sealing of records associated with this cause of action.

(ii) Within five business days of the entry of the written order denying the request to seal a juvenile court record, the juvenile court department staff shall notify the respondent of the denial by providing a copy of the order of denial to the respondent in person or in writing mailed to the respondent's last known address in the department of licensing database or the respondent's address provided to the court, whichever is more recent.

(iii) At any time following entry of the written order denying the request to seal a juvenile court record, the respondent may contact the juvenile court department, provide proof of payment of the remaining unpaid restitution to the original victim, excluding any public or private entity providing insurance coverage or health care coverage, and request an administrative sealing hearing. Upon verification of the satisfaction of the restitution payment, the juvenile court department staff shall circulate for signature an order sealing the file, and file the signed order with the clerk's office, who shall seal the record.

(iv) The administrative office of the courts must ensure that sealed juvenile records remain private in case of an appeal and are either not posted or redacted from any clerks papers that are posted online with the appellate record, as well as taking any other prudent steps necessary to avoid exposing sealed juvenile records to the public.

(2) Except for dismissal of a deferred disposition under RCW 13.40.127, the court shall enter a written order immediately sealing the official juvenile court record upon the acquittal after a fact

finding or upon the dismissal of charges with prejudice, subject to the state's right, if any, to appeal the dismissal.

(3) If a juvenile court record has not already been sealed pursuant to this section, in any case in which information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any; resolve the status of any debts owing; and, subject to RCW 13.50.050(13), order the sealing of the official juvenile court record, the social file, and records of the court and of any other agency in the case, with the exception of identifying information under RCW 13.50.050(13).

(4)(a) The court shall grant any motion to seal records for class A offenses made pursuant to subsection (3) of this section if:

(i) Since the last date of release from confinement, including full-time residential treatment, if any, or entry of disposition, the person has spent five consecutive years in the community without committing any offense or crime that subsequently results in an adjudication or conviction;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person;

(iv) ((~~The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense;~~

~~(v)~~)) The person has not been convicted of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion; and

((~~(vi)~~)) (v) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any public or private entity providing insurance coverage or health care coverage.

(b) The court shall grant any motion to seal records for class B, class C, gross misdemeanor, and misdemeanor offenses and diversions made under subsection (3) of this section if:

(i) Since the date of last release from confinement, including full-time residential treatment, if any, entry of disposition, or

completion of the diversion agreement, the person has spent two consecutive years in the community without being convicted of any offense or crime;

(ii) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense;

(iii) No proceeding is pending seeking the formation of a diversion agreement with that person; and

(iv) ((~~The person is no longer required to register as a sex offender under RCW 9A.44.130 or has been relieved of the duty to register under RCW 9A.44.143 if the person was convicted of a sex offense; and~~

~~(v)~~)) The person has paid the full amount of restitution owing to the individual victim named in the restitution order, excluding restitution owed to any insurance provider authorized under Title 48 RCW.

(c) Notwithstanding the requirements in (a) or (b) of this subsection, the court shall grant any motion to seal records of any deferred disposition vacated under RCW 13.40.127(9) prior to June 7, 2012, if restitution has been paid and the person is eighteen years of age or older at the time of the motion.

(5) The person making a motion pursuant to subsection (3) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose records are sought to be sealed.

(6)(a) If the court enters a written order sealing the juvenile court record pursuant to this section, it shall, subject to RCW 13.50.050(13), order sealed the official juvenile court record, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(b) In the event the subject of the juvenile records receives a full and unconditional pardon, the proceedings in the matter upon which the pardon has been granted shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events upon which the pardon was received. Any agency shall reply to any inquiry concerning the records pertaining

to the events for which the subject received a pardon that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.

(c) Effective July 1, 2019, the department of licensing may release information related to records the court has ordered sealed only to the extent necessary to comply with federal law and regulation.

(7) Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and 13.50.050(13).

(8)(a) Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying a sealing order; however, the court may order the juvenile court record resealed upon disposition of the subsequent matter if the case meets the sealing criteria under this section and the court record has not previously been resealed.

(b) Any charging of an adult felony subsequent to the sealing has the effect of nullifying the sealing order.

(c) The administrative office of the courts shall ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records.

(d) The Washington state patrol shall ensure that the Washington state identification system provides Washington state criminal justice agencies access to sealed juvenile records information.

(9) If the juvenile court record has been sealed pursuant to this section, the record of an employee is not admissible in an action for liability against the employer based on the former juvenile offender's conduct to show that the employer knew or should have known of the juvenile record of the employee. The record may be admissible, however, if a background check conducted or authorized by the employer contained the information in the sealed record.

(10) County clerks may interact or correspond with the respondent, his or her parents, restitution recipients, and any holders of potential assets or wages of the respondent for the purposes of collecting an outstanding legal financial obligation after juvenile court records have been sealed pursuant to this section.

(11) Persons and agencies that obtain sealed juvenile records information pursuant to this section may communicate about this information with the respondent, but may not disseminate or be compelled to release the information to any person or agency not specifically granted access to sealed juvenile records in this section.

(12) All criminal justice agencies must not disclose confidential information or sealed records accessed through the Washington state identification system or other means, and no information can be given to third parties other than Washington state criminal justice agencies about the existence or nonexistence of confidential or sealed records concerning an individual.

NEW SECTION. **Sec. 8.** RCW 9A.44.143 (Relief from duty to register for sex offense or kidnapping offense committed when offender was a juvenile and who has not been determined to be a sexually violent predator—Petition—Exception) and 2017 c 86 s 2, 2015 c 261 s 9, 2011 c 338 s 1, & 2010 c 267 s 7 are each repealed.

NEW SECTION. **Sec. 9.** (1) Section 1 of this act applies retroactively. The legal obligation to register as a sex offender is extinguished for any person based on an offense committed under the age of eighteen, unless the registration offense is a conviction that is in the exclusive jurisdiction of adult court pursuant to RCW 13.04.030(1)(e)(v).

(2) By August 1, 2021, the Washington association of sheriffs and police chiefs shall remove all persons from the sex offender registry whose obligation to register is based on an offense committed while the person was under eighteen years of age, unless the registration offense is a conviction that is in the exclusive jurisdiction of adult court pursuant to RCW 13.04.030(1)(e)(v).

NEW SECTION. **Sec. 10.** By August 1, 2021, the Washington state patrol shall notify all persons whose obligation to register as a sex offender is extinguished by this act. For persons enrolled in school or higher education, the Washington state patrol shall provide similar notice to the school's or institution's designated recipient of records under RCW 9A.44.138.

PART II

CHANGING THE DESIGNATION OF SEXUAL OFFENSES COMMITTED BY JUVENILES

NEW SECTION. **Sec. 11.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) A person under the age of eighteen commits the crime of problem sexual behavior by a minor in the first degree when the person has sexual intercourse with another who is less than twelve years old and not married to the person and the person is at least thirty-six months older than the victim.

(2) Problem sexual behavior by a minor in the first degree is a class B felony.

NEW SECTION. **Sec. 12.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) A person under the age of eighteen commits the crime of problem sexual behavior by a minor in the second degree if:

(a) The person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old and not married to the person and the person is at least thirty-six months older than the victim; or

(b) The person has sexual intercourse with another who is at least twelve years old but less than fourteen years old and not married to the person and the person is at least thirty-six months older than the victim.

(2) Problem sexual behavior by a minor in the second degree is a class B felony.

NEW SECTION. **Sec. 13.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) A person under the age of eighteen commits the crime of problem sexual behavior by a minor in the third degree if the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old and not married to the person and the person is at least thirty-six months older than the victim.

(2) Problem sexual behavior by a minor in the third degree is a class C felony.

Sec. 14. RCW 9A.44.073 and 1988 c 145 s 2 are each amended to read as follows:

(1) A person ((~~is guilty~~)) eighteen years of age or older commits the crime of rape of a child in the first degree when the person has sexual intercourse with another who is less than twelve years old and not married to the perpetrator ((~~and the perpetrator is at least twenty-four months older than the victim~~)).

(2) Rape of a child in the first degree is a class A felony.

Sec. 15. RCW 9A.44.076 and 1990 c 3 s 903 are each amended to read as follows:

(1) A person ((~~is guilty~~)) eighteen years of age or older commits the crime of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator ((~~and the perpetrator is at least thirty-six months older than the victim~~)).

(2) Rape of a child in the second degree is a class A felony.

Sec. 16. RCW 9A.44.079 and 1988 c 145 s 4 are each amended to read as follows:

(1) A person ((~~is guilty~~)) eighteen years of age or older commits the crime of rape of a child in the third degree when the person has sexual intercourse with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

(2) Rape of a child in the third degree is a class C felony.

Sec. 17. RCW 9A.44.083 and 1994 c 271 s 303 are each amended to read as follows:

(1) A person is guilty of child molestation in the first degree when the person is at least eighteen years old and has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old and not married to the perpetrator ((~~and the perpetrator is at least thirty-six months older than the victim~~)).

(2) Child molestation in the first degree is a class A felony.

Sec. 18. RCW 9A.44.086 and 1994 c 271 s 304 are each amended to read as follows:

(1) A person is guilty of child molestation in the second degree when the person is at least eighteen years old and has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator ((~~and the perpetrator is at least thirty-six months older than the victim~~)).

(2) Child molestation in the second degree is a class B felony.

Sec. 19. RCW 9A.44.089 and 1994 c 271 s 305 are each amended to read as follows:

(1) A person is guilty of child molestation in the third degree when the person is at least eighteen years old and has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

(2) Child molestation in the third degree is a class C felony.

Sec. 20. RCW 9A.44.040 and 1998 c 242 s 1 are each amended to read as follows:

(1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person by forcible compulsion where the perpetrator or an accessory:

(a) Uses or threatens to use a deadly weapon or what appears to be a deadly weapon; or

(b) Kidnaps the victim; or

(c) Inflicts serious physical injury, including but not limited to physical injury which renders the victim unconscious; or

(d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a class A felony.

(3) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as rape in the first degree as a minor.

Sec. 21. RCW 9A.44.050 and 2007 c 20 s 1 are each amended to read as follows:

(1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

(a) By forcible compulsion;

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2) Rape in the second degree is a class A felony.

(3) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as rape in the second degree as a minor.

Sec. 22. RCW 9A.44.060 and 2019 c 87 s 3 are each amended to read as follows:

(1) A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person:

(a) Where the victim did not consent as defined in RCW 9A.44.010((~~(7)~~)), to sexual intercourse with the perpetrator; or

(b) Where there is threat of substantial unlawful harm to property rights of the victim.

(2) Rape in the third degree is a class C felony.

(3) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as rape in the third degree as a minor.

Sec. 23. RCW 9A.44.100 and 2013 c 94 s 2 are each amended to read as follows:

(1) A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who is not married to the victim and who:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who is not married to the victim and has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who is not married to the victim and who:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony.

(3) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as indecent liberties as a minor.

Sec. 24. RCW 9A.44.105 and 1994 c 53 s 1 are each amended to read as follows:

(1) Any person who has sexual intercourse or sexual contact with a dead human body is guilty of a class C felony.

(2) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as sexual intercourse or sexual contact with a dead human body as a minor.

(3) As used in this section:

(a) "Sexual intercourse" (i) has its ordinary meaning and occurs upon any penetration, however slight; and (ii) also means any penetration of the vagina or anus however slight, by an object, when committed on a dead human body, except when such penetration is accomplished as part of a procedure authorized or required under chapter 68.50 RCW or other law; and (iii) also means any act of sexual contact between the sex organs of a person and the mouth or anus of a dead human body.

(b) "Sexual contact" means any touching by a person of the sexual or other intimate parts of a dead human body done for the purpose of gratifying the sexual desire of the person.

Sec. 25. RCW 9A.44.115 and 2017 c 292 s 1 are each amended to read as follows:

(1) As used in this section:

(a) "Intimate areas" means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view;

(b) "Photographs" or "films" means the making of a photograph, motion picture film, videotape, digital image, or any other recording or transmission of the image of a person;

(c) "Place where he or she would have a reasonable expectation of privacy" means:

(i) A place where a reasonable person would believe that he or she could disrobe in privacy, without being concerned that his or her undressing was being photographed or filmed by another; or

(ii) A place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance;

(d) "Surveillance" means secret observation of the activities of another person for the purpose of spying upon and invading the privacy of the person;

(e) "Views" means the intentional looking upon of another person for more than a brief period of time, in other than a casual or cursory manner, with the unaided eye or with a device designed or intended to improve visual acuity.

(2)(a) A person commits the crime of voyeurism in the first degree if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films:

(i) Another person without that person's knowledge and consent while the person being viewed, photographed, or filmed is in a place where he or she would have a reasonable expectation of privacy; or

(ii) The intimate areas of another person without that person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(b) Voyeurism in the first degree is a class C felony.

(c) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as voyeurism in the first degree as a minor.

(3)(a) A person commits the crime of voyeurism in the second degree if he or she intentionally photographs or films another person for the purpose of photographing or filming the intimate areas of that person with the intent to distribute or disseminate the photograph or film, without that person's knowledge and consent, and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

(b) Voyeurism in the second degree is a gross misdemeanor.

(c) Voyeurism in the second degree is not a sex offense for the purposes of sentencing or sex offender registration requirements under this chapter.

(d) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as voyeurism in the second degree as a minor.

(4) This section does not apply to viewing, photographing, or filming by personnel of the department of corrections or of a local

jail or correctional facility for security purposes or during investigation of alleged misconduct by a person in the custody of the department of corrections or the local jail or correctional facility.

(5) If a person is convicted of a violation of this section, the court may order the destruction of any photograph, motion picture film, digital image, videotape, or any other recording of an image that was made by the person in violation of this section.

Sec. 26. RCW 9A.44.196 and 2006 c 126 s 6 are each amended to read as follows:

(1) A person is guilty of the crime of criminal trespass against children if he or she:

(a) Is a covered offender as defined in RCW 9A.44.190; and

(b)(i) Is personally served with written notice complying with the requirements of RCW 9A.44.193 that excludes the covered offender from the legal premises of the covered entity and remains upon or reenters the legal premises of the covered entity; or

(ii) Is personally served with written notice complying with the requirements of RCW 9A.44.193 that imposes conditions of entry and use on the covered offender and violates the conditions of entry and use.

(2) Criminal trespass against children is a class C felony.

(3) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as criminal trespass against children as a minor.

Sec. 27. RCW 9.68A.040 and 1989 c 32 s 2 are each amended to read as follows:

(1) A person is guilty of sexual exploitation of a minor if the person:

(a) Compels a minor by threat or force to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance;

(b) Aids, invites, employs, authorizes, or causes a minor to engage in sexually explicit conduct, knowing that such conduct will be photographed or part of a live performance; or

(c) Being a parent, legal guardian, or person having custody or control of a minor, permits the minor to engage in sexually explicit conduct, knowing that the conduct will be photographed or part of a live performance.

(2) Sexual exploitation of a minor is a class B felony punishable under chapter 9A.20 RCW.

(3) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as sexual exploitation of a minor as a minor.

Sec. 28. RCW 9.68A.060 and 2019 c 128 s 5 are each amended to read as follows:

(1)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, a visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through (e).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each depiction or image of visual or printed matter constitutes a separate offense.

(d) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the first degree as a minor.

(2)(a) Except as provided in subsections (3) and (4) of this section, a person commits the crime of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree when he or she knowingly sends or causes to be sent, or brings or causes to be brought, into this state for sale or distribution, any visual or printed matter that depicts a minor engaged in sexually explicit conduct as defined in RCW 9.68A.011(4) (f) or (g).

(b) Sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree is a class B felony punishable under chapter 9A.20 RCW.

(c) For the purposes of determining the unit of prosecution under this subsection, each incident of sending or bringing into the state

one or more depictions or images of visual or printed matter constitutes a separate offense.

(d) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as sending or bringing into the state depictions of a minor engaged in sexually explicit conduct in the second degree as a minor.

(3) This section does not apply to a minor who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting any minor thirteen years of age or older engaged in sexually explicit conduct.

(4) This section does not apply to a person under thirteen years of age who knowingly sends or causes to be sent, or brings or causes to be brought, into this state for distribution, visual or printed matter depicting himself or herself engaged in sexually explicit conduct.

Sec. 29. RCW 9.68A.090 and 2013 c 302 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person who is at least eighteen years of age and communicates with a minor for immoral purposes, or a person who is at least eighteen years of age and communicates with someone the person believes to be a minor for immoral purposes, is guilty of a gross misdemeanor.

(2) A person who communicates with a minor for immoral purposes is guilty of a class C felony punishable according to chapter 9A.20 RCW if the person has previously been convicted under this section or of a felony sexual offense under this chapter ((~~9.68A,~~)) or chapter 9A.44((~~,~~)) or 9A.64 RCW or of any other felony sexual offense in this or any other state or if the person communicates with a minor or with someone the person believes to be a minor for immoral purposes, including the purchase or sale of commercial sex acts and sex trafficking, through the sending of an electronic communication.

(3) For the purposes of this section, "electronic communication" has the same meaning as defined in RCW 9.61.260.

Sec. 30. RCW 9.68A.100 and 2017 c 231 s 3 are each amended to read as follows:

(1) A person is guilty of commercial sexual abuse of a minor if:

(a) He or she provides anything of value to a minor or a third person as compensation for a minor having engaged in sexual conduct with him or her;

(b) He or she provides or agrees to provide anything of value to a minor or a third person pursuant to an understanding that in return therefore such minor will engage in sexual conduct with him or her; or

(c) He or she solicits, offers, or requests to engage in sexual conduct with a minor in return for anything of value.

(2) Commercial sexual abuse of a minor is a class B felony punishable under chapter 9A.20 RCW.

(3) In addition to any other penalty provided under chapter 9A.20 RCW, a person guilty of commercial sexual abuse of a minor is subject to the provisions under RCW 9A.88.130 and 9A.88.140.

(4) Consent of a minor to the sexual conduct does not constitute a defense to any offense listed in this section.

(5) <u>If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as commercial sexual abuse of a minor as a minor.</u>

<u>(6)</u> For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Sec. 31. RCW 9.68A.101 and 2017 c 231 s 4 are each amended to read as follows:

(1) A person is guilty of promoting commercial sexual abuse of a minor if he or she knowingly advances commercial sexual abuse or a sexually explicit act of a minor or profits from a minor engaged in sexual conduct or a sexually explicit act.

(2) Promoting commercial sexual abuse of a minor is a class A felony.

(3) For the purposes of this section:

(a) A person "advances commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct or as a person engaged in commercial sexual abuse of a minor, he or she causes or aids a person to commit or engage in commercial sexual abuse of a minor, procures or solicits customers for commercial sexual abuse of a minor, provides persons or premises for the purposes of engaging in commercial sexual abuse of a minor, operates or assists in the operation of a house or enterprise for the purposes of engaging in commercial sexual abuse of a minor,

or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of commercial sexual abuse of a minor.

(b) A person "profits from commercial sexual abuse of a minor" if, acting other than as a minor receiving compensation for personally rendered sexual conduct, he or she accepts or receives money or anything of value pursuant to an agreement or understanding with any person whereby he or she participates or will participate in the proceeds of commercial sexual abuse of a minor.

(c) A person "advances a sexually explicit act of a minor" if he or she causes or aids a sexually explicit act of a minor, procures or solicits customers for a sexually explicit act of a minor, provides persons or premises for the purposes of a sexually explicit act of a minor, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate a sexually explicit act of a minor.

(d) A "sexually explicit act" is a public, private, or live photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons and for which anything of value is given or received.

(e) A "patron" is a person who provides or agrees to provide anything of value to another person as compensation for a sexually explicit act of a minor or who solicits or requests a sexually explicit act of a minor in return for a fee.

(4) Consent of a minor to the sexually explicit act or sexual conduct does not constitute a defense to any offense listed in this section.

(5) <u>If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as promoting commercial sexual abuse of a minor as a minor.</u>

<u>(6)</u> For purposes of this section, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

Sec. 32. RCW 9.68A.102 and 2013 c 302 s 4 are each amended to read as follows:

(1) A person commits the offense of promoting travel for commercial sexual abuse of a minor if he or she knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be commercial sexual abuse of a minor or promoting commercial sexual abuse of a minor, if occurring in this state.

(2) Promoting travel for commercial sexual abuse of a minor is a class C felony.

(3) Consent of a minor to the travel for commercial sexual abuse, or the sexually explicit act or sexual conduct itself, does not constitute a defense to any offense listed in this section.

(4) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as promoting travel for commercial sexual abuse of a minor as a minor.

(5) For purposes of this section, "travel services" has the same meaning as defined in RCW 19.138.021.

Sec. 33. RCW 9.68A.103 and 2013 c 302 s 5 are each amended to read as follows:

(1) A person is guilty of permitting commercial sexual abuse of a minor if, having possession or control of premises which he or she knows are being used for the purpose of commercial sexual abuse of a minor, he or she fails without lawful excuse to make reasonable effort to halt or abate such use and to make a reasonable effort to notify law enforcement of such use.

(2) Permitting commercial sexual abuse of a minor is a gross misdemeanor.

(3) Consent of a minor to the sexually explicit act or sexual conduct does not constitute a defense to any offense listed in this section.

(4) If the person was under eighteen years old at the time of commission of the offense, this offense shall be known and charged as permitting commercial sexual abuse of a minor as a minor.

Sec. 34. RCW 9.94A.835 and 2009 c 28 s 15 are each amended to read as follows:

(1) The prosecuting attorney shall file a special allegation of sexual motivation in every criminal case, felony, gross misdemeanor, or misdemeanor, other than sex offenses as defined in RCW 9.94A.030 when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.

(2) In a criminal case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation. The court shall

make a finding of fact of whether or not a sexual motivation was present at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation. This finding shall not be applied to sex offenses as defined in RCW 9.94A.030.

(3) The prosecuting attorney shall not withdraw the special allegation of sexual motivation without approval of the court through an order of dismissal of the special allegation. The court shall not dismiss this special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful.

(4) If the person was under the age of eighteen at the time of commission of the offense, the special allegation shall be known and charged as sexual motivation as a minor. After the effective date of this section, convictions for offenses with this designation are not eligible to receive the sexual motivation sentencing enhancement under RCW 9.94A.533 nor may this designation be used to define a persistent offender under RCW 9.94A.030.

Sec. 35. RCW 13.04.030 and 2020 c 41 s 4 are each amended to read as follows:

(1) Except as provided in this section, the juvenile courts in this state shall have exclusive original jurisdiction over all proceedings:

(a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.161;

(c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210;

(d) To approve or disapprove out-of-home placement as provided in RCW 13.32A.170;

(e) Relating to juveniles alleged or found to have committed offenses, traffic or civil infractions, or violations as provided in RCW 13.40.020 through 13.40.230, unless:

(i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110;

(ii) The statute of limitations applicable to adult prosecution for the offense, traffic or civil infraction, or violation has expired;

(iii) The alleged offense or infraction is a traffic, fish, boating, or game offense, or traffic or civil infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction, and no guardian ad litem is required in any such proceeding due to the juvenile's age. If such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters. The jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110 (1) or (2) or (e)(i) of this subsection. Courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060;

(iv) The alleged offense is a traffic or civil infraction, a violation of compulsory school attendance provisions under chapter 28A.225 RCW, or a misdemeanor, and a court of limited jurisdiction has assumed concurrent jurisdiction over those offenses as provided in RCW 13.04.0301; or

(v) The juvenile is sixteen or seventeen years old on the date the alleged offense is committed and the alleged offense is:

(A) A serious violent offense as defined in RCW 9.94A.030; or

(B) A violent offense as defined in RCW 9.94A.030 and the juvenile has a criminal history consisting of: One or more prior serious violent offenses; two or more prior violent offenses; or three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately((~~; or~~

~~(C) Rape of a child in the first degree~~)).

(I) In such a case the adult criminal court shall have exclusive original jurisdiction, except as provided in (e)(v)((~~(C)~~)) (B)(II) and (III) of this subsection.

(II) The juvenile court shall have exclusive jurisdiction over the disposition of any remaining charges in any case in which the juvenile is found not guilty in the adult criminal court of the charge or charges for which he or she was transferred, or is convicted in the adult criminal court of an offense that is not also an offense listed in (e)(v) of this subsection. The juvenile court shall maintain residual juvenile court jurisdiction up to age twenty-five if the juvenile has turned eighteen years of age during the adult criminal court proceedings but only for the purpose of returning a case to juvenile court for disposition pursuant to RCW 13.40.300(3)(d).

(III) The prosecutor and respondent may agree to juvenile court jurisdiction and waive application of exclusive adult criminal jurisdiction in (e)(v)(A) ((~~through (C)~~)) and (B) of this subsection and remove the proceeding back to juvenile court with the court's approval.

If the juvenile challenges the state's determination of the juvenile's criminal history under (e)(v) of this subsection, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

(g) Relating to termination of a diversion agreement under RCW 13.40.080, including a proceeding in which the divertee has attained eighteen years of age;

(h) Relating to court validation of a voluntary consent to an out-of-home placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction; and

(i) Relating to petitions to compel disclosure of information filed by the department of social and health services pursuant to RCW 74.13.042.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) The juvenile court shall have concurrent original jurisdiction with the family court over child custody proceedings under chapter 26.10 or 11.130 RCW and parenting plans or residential schedules under chapter 26.09, 26.26A, or 26.26B RCW as provided for in RCW 13.34.155.

(4) A juvenile subject to adult superior court jurisdiction under subsection (1)(e)(i) through (v) of this section, who is detained pending trial, may be detained in a detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

Sec. 36. RCW 13.40.0357 and 2020 c 18 s 8 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
	Arson and Malicious Mischief	
A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
E	Tampering with Fire Alarm Apparatus with Intent to Commit Arson (9.40.105)	E
A	Possession of Incendiary Device (9.40.120)	B+
	Assault and Other Crimes Involving Physical Harm	
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+

	D+	Assault 4 (9A.36.041)	E
	B+	Drive-By Shooting (9A.36.045) committed at age 15 or under	C+
	A++	Drive-By Shooting (9A.36.045) committed at age 16 or 17	A
	D+	Reckless Endangerment (9A.36.050)	E
	C+	Promoting Suicide Attempt (9A.36.060)	D+
	D+	Coercion (9A.36.070)	E
	C+	Custodial Assault (9A.36.100)	D+
		Burglary and Trespass	
	B+	Burglary 1 (9A.52.020) committed at age 15 or under	C+
	A-	Burglary 1 (9A.52.020) committed at age 16 or 17	B+
	B	Residential Burglary (9A.52.025)	C
	B	Burglary 2 (9A.52.030)	C
	D	Burglary Tools (Possession of) (9A.52.060)	E
	D	Criminal Trespass 1 (9A.52.070)	E
	E	Criminal Trespass 2 (9A.52.080)	E
	C	Mineral Trespass (78.44.330)	C
	C	Vehicle Prowling 1 (9A.52.095)	D
	D	Vehicle Prowling 2 (9A.52.100)	E
		Drugs	
	E	Possession/Consumption of Alcohol (66.44.270)	E
	C	Illegally Obtaining Legend Drug (69.41.020)	D
	C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030(2)(a))	D+
	E	Possession of Legend Drug (69.41.030(2)(b))	E
	B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(2) (a) or (b))	B+

C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(2)(c))	C
E	Possession of Marihuana <40 grams (69.50.4014)	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.4011(2) (a) or (b))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.4011(2) (c), (d), or (e))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4013)	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.4012)	C
	Firearms and Weapons	
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(2)(a) (vi))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
	Homicide	

A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
	Kidnapping	
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
	Obstructing Governmental Operation	
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Criminal Mischief with Weapon (9A.84.010(2)(b))	D+
D+	Criminal Mischief Without Weapon (9A.84.010(2)(a))	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 <u>as a minor</u> (9A.44.040)	B+
B++	Rape 2 <u>as a minor</u> (9A.44.050) committed at age 14 or under	B+
A-	Rape 2 <u>as a minor</u> (9A.44.050) committed at age 15 through age 17	B+
C+	Rape 3 <u>as a minor</u> (9A.44.060)	D+

B++	((~~Rape of a Child 1 (9A.44.073)~~))	B+
	Problem Sexual Behavior by a Minor 1 (section 11 of this act) committed at age 14 or under	
A-	((~~Rape of a Child 1 (9A.44.073)~~))	B+
	Problem Sexual Behavior by a Minor 1 (section 11 of this act) committed at age 15-17	
B+	((~~Rape of a Child 2 (9A.44.076)~~))	C+
	Problem Sexual Behavior by a Minor 2 (section 12 of this act)	
B	Problem Sexual Behavior by a Minor 3 (section 13 of this act)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
((~~E~~	~~O & A (Prostitution) (9A.88.030)~~	~~E~~))
B+	Indecent Liberties as a minor (9A.44.100)	C+
((~~B++~~	~~Child Molestation 1 (9A.44.083) committed at age 14 or under~~	~~B+~~
~~A-~~	~~Child Molestation 1 (9A.44.083) committed at age 15 through age 17~~	~~B+~~
~~B~~	~~Child Molestation 2 (9A.44.086)~~	~~C+~~
~~C~~	~~Failure to Register as a Sex Offender (9A.44.132)~~	~~D~~))
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E

	B	Theft of Livestock 1 and 2 (9A.56.080 and 9A.56.083)	C
	C	Forgery (9A.60.020)	D
	A	Robbery 1 (9A.56.200) committed at age 15 or under	B+
	A++	Robbery 1 (9A.56.200) committed at age 16 or 17	A
	B+	Robbery 2 (9A.56.210)	C+
	B+	Extortion 1 (9A.56.120)	C+
	C+	Extortion 2 (9A.56.130)	D+
	C	Identity Theft 1 (9.35.020(2))	D
	D	Identity Theft 2 (9.35.020(3))	E
	D	Improperly Obtaining Financial Information (9.35.010)	E
	B	Possession of a Stolen Vehicle (9A.56.068)	C
	B	Possession of Stolen Property 1 (9A.56.150)	C
	C	Possession of Stolen Property 2 (9A.56.160)	D
	D	Possession of Stolen Property 3 (9A.56.170)	E
	B	Taking Motor Vehicle Without Permission 1 (9A.56.070)	C
	C	Taking Motor Vehicle Without Permission 2 (9A.56.075)	D
	B	Theft of a Motor Vehicle (9A.56.065)	C
		Motor Vehicle Related Crimes	
	E	Driving Without a License (46.20.005)	E
	B+	Hit and Run - Death (46.52.020(4)(a))	C+
	C	Hit and Run - Injury (46.52.020(4)(b))	D
	D	Hit and Run-Attended (46.52.020(5))	E
	E	Hit and Run-Unattended (46.52.010)	E
	C	Vehicular Assault (46.61.522)	D
	C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
	E	Reckless Driving (46.61.500)	E

	D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
	B+	Felony Driving While Under the Influence (46.61.502(6))	B
	B+	Felony Physical Control of a Vehicle While Under the Influence (46.61.504(6))	B
		Other	
	B	Animal Cruelty 1 (16.52.205)	C
	B	Bomb Threat (9.61.160)	C
	C	Escape 1[1] (9A.76.110)	C
	C	Escape 2[1] (9A.76.120)	C
	D	Escape 3 (9A.76.130)	E
	E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
	A	Other Offense Equivalent to an Adult Class A Felony	B+
	B	Other Offense Equivalent to an Adult Class B Felony	C
	C	Other Offense Equivalent to an Adult Class C Felony	D
	D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
	E	Other Offense Equivalent to an Adult Misdemeanor	E
	V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200)[2]	V

[1]Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 28 days confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

[2]If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, C, or D.

OPTION A

JUVENILE OFFENDER SENTENCING GRID

STANDARD RANGE

	A++	129 to 260 weeks for all category A++ offenses				
	A+	180 weeks to age 21 for all category A+ offenses				
	A	103-129 weeks for all category A offenses				
	A-	30-40 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
	B++	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks
CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
	C	LS	LS	LS	LS	15-36 weeks
	D+	LS	LS	LS	LS	LS
	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
PRIOR		0	1	2	3	4 or more
ADJUDICATIONS						

NOTE: References in the grid to days or weeks mean periods of confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B

SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender:

(a) Is adjudicated of an A+ or A++ offense;

(b) Is fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060);

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), or manslaughter 2 (RCW 9A.32.070); or

(iv) Violation of the uniform controlled substances act (RCW 69.50.401(2) (a) and (b)), when the offense includes infliction of bodily harm upon another or when during the commission or immediate withdrawal from the offense the respondent was armed with a deadly weapon;

(c) Is ordered to serve a disposition for a firearm violation under RCW 13.40.193;

(d) Is adjudicated of a sex offense as defined in RCW 9.94A.030; or

(e) Has a prior option B disposition.

OR

OPTION C

CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed a B++ or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION D

MANIFEST INJUSTICE

If the court determines that a disposition under option A, B, or C would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

Sec. 37. RCW 9.94A.515 and 2020 c 344 s 4 are each amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH

SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055)
	Malicious explosion 1 (RCW 70.74.280(1))
	Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
	Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2))
	Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011)
	Assault of a Child 1 (RCW 9A.36.120)
	Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
	Problem Sexual Behavior by a Minor 1 (section 11 of this act)
	Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)
	Rape 1 (RCW 9A.44.040)
	Rape 1 as a Minor (RCW 9A.44.040)
	Rape of a Child 1 (RCW 9A.44.073)
	Trafficking 2 (RCW 9A.40.100(3))
XI	Manslaughter 1 (RCW 9A.32.060)
	Rape 2 (RCW 9A.44.050)
	Rape 2 as a Minor (RCW 9A.44.050)
	Rape of a Child 2 (RCW 9A.44.076)
	Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
	Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083)

		Criminal Mistreatment 1 (RCW 9A.42.020)
		Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
		Indecent Liberties as a Minor (with forcible compulsion) (RCW 9A.44.100(1)(a))
		Kidnapping 1 (RCW 9A.40.020)
		Leading Organized Crime (RCW 9A.82.060(1)(a))
		Malicious explosion 3 (RCW 70.74.280(3))
		Problem Sexual Behavior by a Minor 2 (section 12 of this act)
		Sexually Violent Predator Escape (RCW 9A.76.115)
	IX	Abandonment of Dependent Person 1 (RCW 9A.42.060)
		Assault of a Child 2 (RCW 9A.36.130)
		Explosive devices prohibited (RCW 70.74.180)
		Hit and Run—Death (RCW 46.52.020(4)(a))
		Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
		Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
		Malicious placement of an explosive 2 (RCW 70.74.270(2))
		Robbery 1 (RCW 9A.56.200)
		Sexual Exploitation (RCW 9.68A.040)
	VIII	Arson 1 (RCW 9A.48.020)

		Commercial Sexual Abuse of a Minor (RCW 9.68A.100)
		Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
		Manslaughter 2 (RCW 9A.32.070)
		Promoting Prostitution 1 (RCW 9A.88.070)
		Theft of Ammonia (RCW 69.55.010)
	VII	Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660(2)(b))
		Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660(1)(b))
		Burglary 1 (RCW 9A.52.020)
		Child Molestation 2 (RCW 9A.44.086)
		Civil Disorder Training (RCW 9A.48.120)
		Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))
		Drive-by Shooting (RCW 9A.36.045)
		False Reporting 1 (RCW 9A.84.040(2)(a))
		Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
		Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
		<u>Indecent Liberties as a Minor (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))</u>
		Introducing Contraband 1 (RCW 9A.76.140)

		Malicious placement of an explosive 3 (RCW 70.74.270(3))
		Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650(1)(b))
		Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)
		Problem Sexual Behavior by a Minor 3 (section 13 of this act)
		Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(b))
		Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))
		Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))
		Use of a Machine Gun or Bump-fire Stock in Commission of a Felony (RCW 9.41.225)
		Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
	VI	Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
		Bribery (RCW 9A.68.010)
		Incest 1 (RCW 9A.64.020(1))
		Intimidating a Judge (RCW 9A.72.160)
		Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

		Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
		Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))
		Rape of a Child 3 (RCW 9A.44.079)
		Theft of a Firearm (RCW 9A.56.300)
		Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))
		Unlawful Storage of Ammonia (RCW 69.55.020)
	V	Abandonment of Dependent Person 2 (RCW 9A.42.070)
		Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
		Air bag diagnostic systems (RCW 46.37.660(2)(c))
		Air bag replacement requirements (RCW 46.37.660(1)(c))
		Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
		Child Molestation 3 (RCW 9A.44.089)
		Criminal Mistreatment 2 (RCW 9A.42.030)
		Custodial Sexual Misconduct 1 (RCW 9A.44.160)
		Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))
		Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26B.050, 26.50.110, 26.52.070, or 74.34.145)
		Extortion 1 (RCW 9A.56.120)

		Extortionate Extension of Credit (RCW 9A.82.020)
		Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
		Incest 2 (RCW 9A.64.020(2))
		Kidnapping 2 (RCW 9A.40.030)
		Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650(1)(c))
		Perjury 1 (RCW 9A.72.020)
		Persistent prison misbehavior (RCW 9.94.070)
		Possession of a Stolen Firearm (RCW 9A.56.310)
		Rape 3 (RCW 9A.44.060)
		Rape 3 as a Minor (RCW 9A.44.060)
		Rendering Criminal Assistance 1 (RCW 9A.76.070)
		Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650(2)(c))
		Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))
		Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
		Sexually Violating Human Remains (RCW 9A.44.105)
		Stalking (RCW 9A.46.110)
		Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)
	IV	Arson 2 (RCW 9A.48.030)

Assault 2 (RCW 9A.36.021)

Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031(1)(h))

Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))

Assault by Watercraft (RCW 79A.60.060)

Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)

Cheating 1 (RCW 9.46.1961)

Commercial Bribery (RCW 9A.68.060)

Counterfeiting (RCW 9.16.035(4))

Driving While Under the Influence (RCW 46.61.502(6))

Endangerment with a Controlled Substance (RCW 9A.42.100)

Escape 1 (RCW 9A.76.110)

Hate Crime (RCW 9A.36.080)

Hit and Run—Injury (RCW 46.52.020(4)(b))

Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))

Identity Theft 1 (RCW 9.35.020(2))

Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)

Influencing Outcome of Sporting Event (RCW 9A.82.070)

Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))

Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Trafficking in Stolen Property 1 (RCW 9A.82.050)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(b))

Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))

Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))

Unlawful transaction of insurance business (RCW 48.15.023(3))

Unlicensed practice as an insurance professional (RCW 48.17.063(2))

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))

		Willful Failure to Return from Furlough (RCW 72.66.060)
	III	Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))
		Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))
		Assault of a Child 3 (RCW 9A.36.140)
		Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
		Burglary 2 (RCW 9A.52.030)
		Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
		Criminal Gang Intimidation (RCW 9A.46.120)
		Custodial Assault (RCW 9A.36.100)
		Cyberstalking (subsequent conviction or threat of death) (RCW 9.61.260(3))
		Escape 2 (RCW 9A.76.120)
		Extortion 2 (RCW 9A.56.130)
		False Reporting 2 (RCW 9A.84.040(2)(b))
		Harassment (RCW 9A.46.020)
		Intimidating a Public Servant (RCW 9A.76.180)
		Introducing Contraband 2 (RCW 9A.76.150)
		Malicious Injury to Railroad Property (RCW 81.60.070)
		Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)

Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)

Mortgage Fraud (RCW 19.144.080)

Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)

Organized Retail Theft 1 (RCW 9A.56.350(2))

Perjury 2 (RCW 9A.72.030)

Possession of Incendiary Device (RCW 9.40.120)

Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)

Promoting Prostitution 2 (RCW 9A.88.080)

Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))

Securities Act violation (RCW 21.20.400)

Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))

Theft of Livestock 2 (RCW 9A.56.083)

Theft with the Intent to Resell 1 (RCW 9A.56.340(2))

Trafficking in Stolen Property 2 (RCW 9A.82.055)

Unlawful Hunting of Big Game 1 (RCW 77.15.410(3)(b))

		Unlawful Imprisonment (RCW 9A.40.040)
		Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))
		Unlawful possession of firearm in the second degree (RCW 9.41.040(2))
		Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120(3)(b))
		Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260(3)(b))
		Unlawful Use of a Nondesignated Vessel (RCW 77.15.530(4))
		Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
		Willful Failure to Return from Work Release (RCW 72.65.070)
	II	Commercial Fishing Without a License 1 (RCW 77.15.500(3)(b))
		Computer Trespass 1 (RCW 9A.90.040)
		Counterfeiting (RCW 9.16.035(3))
		Electronic Data Service Interference (RCW 9A.90.060)
		Electronic Data Tampering 1 (RCW 9A.90.080)
		Electronic Data Theft (RCW 9A.90.100)
		Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))
		Escape from Community Custody (RCW 72.09.310)
		Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(3))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

Organized Retail Theft 2 (RCW 9A.56.350(3))

Possession of Stolen Property 1 (RCW 9A.56.150)

Possession of a Stolen Vehicle (RCW 9A.56.068)

Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))

Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)

Theft 1 (RCW 9A.56.030)

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

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at five thousand dollars or more) (RCW 9A.56.096(5)(a))

Theft with the Intent to Resell 2 (RCW 9A.56.340(3))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290(4)(a))

Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))

		Unlawful Practice of Law (RCW 2.48.180)
		Unlawful Purchase or Use of a License (RCW 77.15.650(3)(b))
		Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260(3)(a))
		Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
		Voyeurism 1 (RCW 9A.44.115)
		Voyeurism 1 as a Minor (RCW 9A.44.115)
	I	Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
		False Verification for Welfare (RCW 74.08.055)
		Forgery (RCW 9A.60.020)
		Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)
		Malicious Mischief 2 (RCW 9A.48.080)
		Mineral Trespass (RCW 78.44.330)
		Possession of Stolen Property 2 (RCW 9A.56.160)
		Reckless Burning 1 (RCW 9A.48.040)
		Spotlighting Big Game 1 (RCW 77.15.450(3)(b))
		Suspension of Department Privileges 1 (RCW 77.15.670(3)(b))
		Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)
		Theft 2 (RCW 9A.56.040)
		Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))

Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at seven hundred fifty dollars or more but less than five thousand dollars) (RCW 9A.56.096(5)(b))

Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)

Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630(3)(b))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Possession of Fictitious Identification (RCW 9A.56.320)

Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)

Unlawful Possession of Payment Instruments (RCW 9A.56.320)

Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)

Unlawful Production of Payment Instruments (RCW 9A.56.320)

Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250(2)(b))

Unlawful Trafficking in Food Stamps (RCW 9.91.142)

Unlawful Use of Food Stamps (RCW 9.91.144)

Unlawful Use of Net to Take Fish 1 (RCW 77.15.580(3)(b))

Unlawful Use of Prohibited Aquatic Animal Species (RCW 77.15.253(3))

Vehicle Prowl 1 (RCW 9A.52.095)

Violating Commercial Fishing Area or Time 1 (RCW 77.15.550(3)(b))

NEW SECTION. **Sec. 38.** A new section is added to chapter 9A.44 RCW to read as follows:

(1) Sections 12 through 15, 17, 18, and 20 through 26 of this act are retroactive to the extent that:

(a) A violation of RCW 9A.44.073 adjudicated prior to the effective date of this section committed by a person alleged in the charging documents to have a date of birth that indicates that the person was under the age of eighteen at the time of the offense shall be considered a violation of section 11 of this act;

(b) Violations of RCW 9A.44.083 and 9A.44.076 adjudicated prior to the effective date of this section committed by a person alleged in the charging documents to have a date of birth that indicates that the person was under the age of eighteen at the time of the offense shall be considered violations of section 12 of this act;

(c) A violation of RCW 9A.44.086 adjudicated prior to the effective date of this section committed by a person alleged in the charging documents to have a date of birth that indicates that the person was under the age of eighteen at the time of the offense shall be considered a violation of section 13 of this act; and

(d) Violations of RCW 9A.44.040, 9A.44.050, 9A.44.060, 9A.44.100, 9A.44.105, 9A.44.115, 9A.44.132, and 9A.44.196 adjudicated prior to the effective date of this section committed by a person alleged in the charging documents to have a date of birth that indicates that the person was under the age of eighteen at the time of the offense shall be considered to bear an "as a minor" designation.

(2) Public officials shall refer to the offenses described under subsection (1) of this section prospectively using their new designations in both oral and written communications created after the effective date of this section.

(3) A person convicted or adjudicated for an offense described under subsection (1) of this section committed when the person was under the age of eighteen is entitled to refer to the prior offenses for all purposes using the new designation as provided under subsection (1) of this section.

(4) This act shall not create a basis for vacation, new trial, resentencing, appeal, or modification of judgment and sentence for any conviction or adjudication entered prior to the effective date of this section.

(5) The Washington state patrol shall update its conviction records to reflect new offense designations in accordance with this section by October 1, 2021, and submit updates to all appropriate federal databases.

NEW SECTION. **Sec. 39.** A new section is added to chapter 9.68A RCW to read as follows:

(1) Sections 27 through 33 of this act are retroactive to the extent that violations of RCW 9.68A.040, 9.68A.060, 9.68A.090, 9.68A.100, 9.68A.101, 9.68A.102, and 9.68A.103 adjudicated prior to the effective date of this section and committed by a person alleged in the charging documents to have a date of birth that indicates that the person was under the age of eighteen at the time of the offense shall be considered to bear an "as a minor" designation.

(2) Public officials shall refer to the offenses described under subsection (1) of this section prospectively using their new designations in both oral and written communications created after the effective date of this section.

(3) A person convicted or adjudicated for an offense described in subsection (1) of this section committed when the person was under the age of eighteen is entitled to refer to the prior offense for all purposes using the new designation as provided under subsection (1) of this section.

(4) This act shall not create a basis for vacation, new trial, resentencing, appeal, or modification of judgment and sentence for any conviction or adjudication entered prior to the effective date of this section.

(5) The Washington state patrol shall update its conviction records to reflect the new offense designations in accordance with this section by October 1, 2021, and submit updates to all appropriate federal databases.

NEW SECTION. **Sec. 40.** A new section is added to chapter 9.94A RCW to read as follows:

(1) Section 34 of this act is retroactive to the extent that convictions that include the special allegation under RCW 9.94A.835

adjudicated prior to the effective date of this section and committed by a person alleged in the charging documents to have a date of birth that indicates that the person was under the age of eighteen at the time of the offense shall be considered to bear an "as a minor" designation.

(2) Public officials shall refer to the offenses described under subsection (1) of this section prospectively using their new designations in both oral and written communications created after the effective date of this section.

(3) A person convicted or adjudicated for an offense described in subsection (1) of this section committed when the person was under the age of eighteen is entitled to refer to the prior offense for all purposes using the new designation as provided under subsection (1) of this section.

(4) This act shall not create a basis for vacation, new trial, resentencing, appeal, or modification of judgment and sentence for any conviction or adjudication entered prior to the effective date of this section.

(5) The Washington state patrol shall update its conviction records to reflect the new offense designations in accordance with this section by October 1, 2021, and submit updates to all appropriate federal databases.

PART III
MISCELLANEOUS PROVISIONS

Sec. 41. RCW 9.94A.507 and 2008 c 231 s 33 are each amended to read as follows:

(1) An offender who is not a persistent offender shall be sentenced under this section if the offender:

(a) Is convicted of:

(i) Rape in the first degree, rape in the second degree, rape of a child in the first degree, child molestation in the first degree, rape of a child in the second degree, or indecent liberties by forcible compulsion;

(ii) Any of the following offenses with a finding of sexual motivation: Murder in the first degree, murder in the second degree, homicide by abuse, kidnapping in the first degree, kidnapping in the second degree, assault in the first degree, assault in the second

degree, assault of a child in the first degree, assault of a child in the second degree, or burglary in the first degree; or

(iii) An attempt to commit any crime listed in this subsection (1)(a); or

(b) Has a prior conviction for an offense listed in RCW 9.94A.030(31)(b), and is convicted of any sex offense other than failure to register.

(2) An offender convicted of rape of a child in the first or second degree or child molestation in the first degree who was seventeen years of age or younger at the time of the offense shall not be sentenced under this section.

(3)(a) Upon a finding that the offender is subject to sentencing under this section, the court shall impose a sentence to a maximum term and a minimum term.

(b) The maximum term shall consist of the statutory maximum sentence for the offense.

(c)(i) Except as provided in (c)(ii) of this subsection, the minimum term shall be either within the standard sentence range for the offense, or outside the standard sentence range pursuant to RCW 9.94A.535, if the offender is otherwise eligible for such a sentence.

(ii) If the offense that caused the offender to be sentenced under this section was rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, and there has been a finding that the offense was predatory under RCW 9.94A.836, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section was rape in the first degree, rape in the second degree, indecent liberties by forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding that the victim was under the age of fifteen at the time of the offense under RCW 9.94A.837, the minimum term shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater. If the offense that caused the offender to be sentenced under this section is rape in the first degree, rape in the second degree with forcible compulsion, indecent liberties with forcible compulsion, or kidnapping in the first degree with sexual motivation, and there has been a finding under RCW 9.94A.838 that the victim was, at the time of the offense, developmentally disabled, mentally disordered, or a frail elder or

vulnerable adult, the minimum sentence shall be either the maximum of the standard sentence range for the offense or twenty-five years, whichever is greater.

(d) The minimum terms in (c)(ii) of this subsection do not apply to ((~~a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or (v)~~)) offenses committed by a person who was under the age of eighteen at the time of the offense. The minimum term for such a juvenile shall be imposed under (c)(i) of this subsection.

(4) A person sentenced under subsection (3) of this section shall serve the sentence in a facility or institution operated, or utilized under contract, by the state.

(5) When a court sentences a person to the custody of the department under this section, the court shall, in addition to the other terms of the sentence, sentence the offender to community custody under the supervision of the department and the authority of the board for any period of time the person is released from total confinement before the expiration of the maximum sentence.

(6)(a) As part of any sentence under this section, the court shall also require the offender to comply with any conditions imposed by the board under RCW 9.95.420 through 9.95.435.

(b) An offender released by the board under RCW 9.95.420 is subject to the supervision of the department until the expiration of the maximum term of the sentence. The department shall monitor the offender's compliance with conditions of community custody imposed by the court, department, or board, and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

Sec. 42. RCW 9.94A.525 and 2017 c 272 s 3 are each amended to read as follows:

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

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

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall

be deemed "other current offenses" within the meaning of RCW 9.94A.589.

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

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

(c) Except as provided in (e) of this subsection, class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without committing any crime that subsequently results in a conviction.

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

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

(f) Prior convictions for a repetitive domestic violence offense, as defined in RCW 9.94A.030, shall not be included in the offender score if, since the last date of release from confinement or entry of

judgment and sentence, the offender had spent ten consecutive years in the community without committing any crime that subsequently results in a conviction.

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

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

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

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

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

(ii) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same

date as one offense. Use the conviction for the offense that yields the highest offender score.

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

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

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

(8) If the present conviction is for a violent offense and not covered in subsection (9), (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(9) If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

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

(11) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used

for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for operation of a vessel while under the influence of intoxicating liquor or any drug.

(12) If the present conviction is for homicide by watercraft or assault by watercraft count two points for each adult or juvenile prior conviction for homicide by watercraft or assault by watercraft; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; count one point for each adult and 1/2 point for each juvenile prior conviction for driving under the influence of intoxicating liquor or any drug, actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, or operation of a vessel while under the influence of intoxicating liquor or any drug.

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

(14) If the present conviction is for Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

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

(17) If the present conviction is for a sex offense, count priors as in subsections (7) through (11) and (13) through (16) of this section; however, count three points for each ((~~adult and juvenile~~)) prior sex offense conviction committed while the offender was eighteen years of age or older.

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

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

((~~(20)~~)) (19) If the present conviction is for Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2, count priors as in subsections (7) through ((~~(18)~~)) (17) of this section; however, count one point for prior convictions of Vehicle Prowling 2, and three points for each adult and juvenile prior Theft 1 (of a motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without Permission 2 conviction.

((~~(21)~~)) (20) If the present conviction is for a felony domestic violence offense where domestic violence as defined in RCW 9.94A.030 was pleaded and proven, count priors as in subsections (7) through ((~~(20)~~)) (19) of this section; however, count points as follows:

(a) Count two points for each adult prior conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for any of the following offenses: A felony violation of a no-contact or protection order RCW 26.50.110, felony Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210),

Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

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

(c) Count one point for each second and subsequent juvenile conviction where domestic violence as defined in RCW 9.94A.030 was pleaded and proven after August 1, 2011, for the offenses listed in (a) of this subsection; and

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

((~~(22)~~)) (21) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions. Prior convictions that were not included in criminal history or in the offender score shall be included upon any resentencing to ensure imposition of an accurate sentence.

Sec. 43. RCW 13.40.162 and 2020 c 249 s 1 are each amended to read as follows:

(1) A juvenile offender is eligible for the special sex offender disposition alternative when:

(a) The offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9.94A.030, and the offender has no history of a prior sex offense; or

(b) The offender is found to have committed assault in the fourth degree with sexual motivation, and the offender has no history of a prior sex offense.

(2) If the court finds the offender is eligible for this alternative, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

(a) The report of the examination shall include at a minimum the following:

(i) The respondent's version of the facts and the official version of the facts;

(ii) The respondent's offense history;

(iii) An assessment of problems in addition to alleged deviant behaviors;

(iv) The respondent's social, educational, and employment situation;

(v) Other evaluation measures used.

The report shall set forth the sources of the evaluator's information.

(b) The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(i) The frequency and type of contact between the offender and therapist;

(ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

(c) The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

(3) After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit

from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall ((~~impose a determinate disposition within the standard range for the offense, or if the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D, and the court may suspend~~)) defer the ((~~execution of the~~)) disposition and place the offender on community supervision for at least two years.

(4) As a condition of the ((~~suspended~~)) deferred disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

(a) Devote time to a specific education, employment, or occupation;

(b) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(c) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(d) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(e) Report as directed to the court and a probation counselor;

(f) Pay ((~~all~~)) any court-ordered legal financial obligations, perform community restitution, or any combination thereof;

(g) Make restitution to the victim for the cost of any counseling reasonably related to the offense; or

(h) Comply with the conditions of any court-ordered probation bond.

(5) If the court orders twenty-four hour, continuous monitoring of the offender while on probation, the court shall include the basis for this condition in its findings.

(6)(a) The court must order the offender not to attend the public or approved private elementary, middle, or high school attended by the victim or the victim's siblings.

(b) The parents or legal guardians of the offender are responsible for transportation or other costs associated with the offender's change of school that would otherwise be paid by the school district.

(c) The court shall send notice of the deferred disposition and restriction on attending the same school as the victim or victim's siblings to the public or approved private school the juvenile will attend, if known, or if unknown, to the approved private schools and the public school district board of directors of the district in which the juvenile resides or intends to reside. This notice must be sent at the earliest possible date but not later than ten calendar days after entry of the deferred disposition.

(7) ((~~For offenders required to register under RCW 9A.44.130, at the end of the supervision ordered under this disposition alternative, there is a presumption that the offender is sufficiently rehabilitated to warrant removal from the central registry of sex offenders. The court shall relieve the offender's duty to register unless the court finds that the offender is not sufficiently rehabilitated to warrant removal and may consider the following factors:~~

~~(a) The nature of the offense committed, including the number of victims and the length of the offense history;~~

~~(b) Any subsequent criminal history of the juvenile;~~

~~(c) The juvenile's compliance with supervision requirements;~~

~~(d) The length of time since the charged incident occurred;~~

~~(e) Any input from community corrections officers, juvenile parole or probation officers, law enforcement, or treatment providers;~~

~~(f) The juvenile's participation in sex offender treatment;~~

~~(g) The juvenile's participation in other treatment and rehabilitative programs;~~

~~(h) The juvenile's stability in employment and housing;~~

~~(i) The juvenile's community and personal support system;~~

~~(j) Any risk assessments or evaluations prepared by a qualified professional related to the juvenile;~~

~~(k) Any updated polygraph examination completed by the juvenile;~~

~~(l) Any input of the victim; and~~

~~(m) Any other factors the court may consider relevant.~~

~~(8)~~))(a) The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

(b) At the time of the deferred disposition, the court may set treatment review hearings as the court considers appropriate.

(c) Except as provided in this subsection, examinations and treatment ordered pursuant to this subsection shall be conducted by qualified professionals as described under (d) of this subsection, certified sex offender treatment providers, or certified affiliate sex offender treatment providers under chapter 18.155 RCW.

(d) A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the therapist is a professional licensed under chapter 18.225 or 18.83 RCW and the treatment employed is evidence-based for sex offender treatment, or if the court finds that: (i) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (ii) no certified sex offender treatment providers or certified affiliate sex offender treatment providers are available for treatment within a reasonable geographical distance of the offender's home; and (iii) the evaluation and treatment plan comply with this subsection and the rules adopted by the department of health.

((~~(9)~~)) (8)(a) If the offender violates any condition of the deferred disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may ((~~revoke~~)):

(i) Revoke the ((~~suspension and order execution of the~~)) deferred disposition ((~~or the court may impose~~));

(ii) Impose a penalty of up to thirty days confinement for violating conditions of the deferred disposition((~~.~~

~~(b) The court may order both execution of the~~)); or

(iii) Both revoke the deferred disposition and order up to thirty days confinement for the violation of the conditions of the deferred disposition.

((~~(c)~~)) (b) If the court revokes the deferred disposition, the court shall impose a determinate disposition within the standard range for the offense. If the court concludes, and enters reasons for its conclusions, that such disposition would cause a manifest injustice, the court shall impose a disposition under option D. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the ((~~suspension~~)) deferred disposition is being revoked.

(9) Unless the deferred disposition is revoked, the court shall schedule a dismissal hearing at the end of the period of supervision. At the conclusion of that hearing, the court shall vacate the respondent's conviction and dismiss the charges unless the state proves by clear and convincing evidence that dismissal of charges is not in the best interest of the respondent and the community.

(10) For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(11) A disposition entered under this section is not appealable under RCW 13.40.230.

NEW SECTION. **Sec. 44.** Sections 3 through 8 and 43 of this act take effect August 1, 2021.

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