BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: S-3973.1/08

ATTY/TYPIST: KK:cro

BRIEF DESCRIPTION: Modifying criminal sentencing requirements.

AN ACT Relating to felony sentencing; amending RCW 9.94A.510, 9.94A.535, 9.94A.190, and 9.94A.850; and prescribing penalties.

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

Sec. 1. RCW 9.94A.510 and 2002 c 290 s 10 are each amended to read as follows:

((~~TABLE 1~~

~~Sentencing Grid~~

~~SERIOUSNESS LEVEL~~	~~OFFENDER SCORE~~									
	~~0~~	~~1~~	~~2~~	~~3~~	~~4~~	~~5~~	~~6~~	~~7~~	~~8~~	~~9 or more~~
~~XVI~~	~~Life Sentence without Parole/Death Penalty~~									
~~XV~~	~~23y4m 240-320~~	~~24y4m 250-333~~	~~25y4m 261-347~~	~~26y4m 271-361~~	~~27y4m 281-374~~	~~28y4m 291-388~~	~~30y4m 312-416~~	~~32y10m 338-450~~	~~36y 370-493~~	~~40y 411-548~~
~~XIV~~	~~14y4m~~	~~15y4m~~	~~16y2m~~	~~17y~~	~~17y11m~~	~~18y9m~~	~~20y5m~~	~~22y2m~~	~~25y7m~~	~~29y~~

	~~123-~~	~~134-~~	~~144-~~	~~154-~~	~~165-~~	~~175-~~	~~195-~~	~~216-~~	~~257-~~	~~298-~~
	~~220~~	~~234~~	~~244~~	~~254~~	~~265~~	~~275~~	~~295~~	~~316~~	~~357~~	~~397~~
~~XIII~~	~~12y~~	~~13y~~	~~14y~~	~~15y~~	~~16y~~	~~17y~~	~~19y~~	~~21y~~	~~25y~~	~~29y~~
	~~123-~~	~~134-~~	~~144-~~	~~154-~~	~~165-~~	~~175-~~	~~195-~~	~~216-~~	~~257-~~	~~298-~~
	~~164~~	~~178~~	~~192~~	~~205~~	~~219~~	~~233~~	~~260~~	~~288~~	~~342~~	~~397~~
~~XII~~	~~9y~~	~~9y11m~~	~~10y9m~~	~~11y8m~~	~~12y6m~~	~~13y5m~~	~~15y9m~~	~~17y3m~~	~~20y3m~~	~~23y3m~~
	~~93-~~	~~102-~~	~~111-~~	~~120-~~	~~129-~~	~~138-~~	~~162-~~	~~178-~~	~~209-~~	~~240-~~
	~~123~~	~~136~~	~~147~~	~~160~~	~~171~~	~~184~~	~~216~~	~~236~~	~~277~~	~~318~~
~~XI~~	~~7y6m~~	~~8y4m~~	~~9y2m~~	~~9y11m~~	~~10y9m~~	~~11y7m~~	~~14y2m~~	~~15y5m~~	~~17y11m~~	~~20y5m~~
	~~78-~~	~~86-~~	~~95-~~	~~102-~~	~~111-~~	~~120-~~	~~146-~~	~~159-~~	~~185-~~	~~210-~~
	~~102~~	~~114~~	~~125~~	~~136~~	~~147~~	~~158~~	~~194~~	~~211~~	~~245~~	~~280~~
~~X~~	~~5y~~	~~5y6m~~	~~6y~~	~~6y6m~~	~~7y~~	~~7y6m~~	~~9y6m~~	~~10y6m~~	~~12y6m~~	~~14y6m~~
	~~51-~~	~~57-~~	~~62-~~	~~67-~~	~~72-~~	~~77-~~	~~98-~~	~~108-~~	~~129-~~	~~149-~~
	~~68~~	~~75~~	~~82~~	~~89~~	~~96~~	~~102~~	~~130~~	~~144~~	~~171~~	~~198~~
~~IX~~	~~3y~~	~~3y6m~~	~~4y~~	~~4y6m~~	~~5y~~	~~5y6m~~	~~7y6m~~	~~8y6m~~	~~10y6m~~	~~12y6m~~
	~~31-~~	~~36-~~	~~41-~~	~~46-~~	~~51-~~	~~57-~~	~~77-~~	~~87-~~	~~108-~~	~~129-~~
	~~41~~	~~48~~	~~54~~	~~61~~	~~68~~	~~75~~	~~102~~	~~116~~	~~144~~	~~171~~
~~VIII~~	~~2y~~	~~2y6m~~	~~3y~~	~~3y6m~~	~~4y~~	~~4y6m~~	~~6y6m~~	~~7y6m~~	~~8y6m~~	~~10y6m~~
	~~21-~~	~~26-~~	~~31-~~	~~36-~~	~~41-~~	~~46-~~	~~67-~~	~~77-~~	~~87-~~	~~108-~~
	~~27~~	~~34~~	~~41~~	~~48~~	~~54~~	~~61~~	~~89~~	~~102~~	~~116~~	~~144~~
~~VII~~	~~18m~~	~~2y~~	~~2y6m~~	~~3y~~	~~3y6m~~	~~4y~~	~~5y6m~~	~~6y6m~~	~~7y6m~~	~~8y6m~~
	~~15-~~	~~21-~~	~~26-~~	~~31-~~	~~36-~~	~~41-~~	~~57-~~	~~67-~~	~~77-~~	~~87-~~
	~~20~~	~~27~~	~~34~~	~~41~~	~~48~~	~~54~~	~~75~~	~~89~~	~~102~~	~~116~~
~~VI~~	~~13m~~	~~18m~~	~~2y~~	~~2y6m~~	~~3y~~	~~3y6m~~	~~4y6m~~	~~5y6m~~	~~6y6m~~	~~7y6m~~
	~~12+-~~	~~15-~~	~~21-~~	~~26-~~	~~31-~~	~~36-~~	~~46-~~	~~57-~~	~~67-~~	~~77-~~
	~~14~~	~~20~~	~~27~~	~~34~~	~~41~~	~~48~~	~~61~~	~~75~~	~~89~~	~~102~~
~~V~~	~~9m~~	~~13m~~	~~15m~~	~~18m~~	~~2y2m~~	~~3y2m~~	~~4y~~	~~5y~~	~~6y~~	~~7y~~
	~~6-~~	~~12+-~~	~~13-~~	~~15-~~	~~22-~~	~~33-~~	~~41-~~	~~51-~~	~~62-~~	~~72-~~
	~~12~~	~~14~~	~~17~~	~~20~~	~~29~~	~~43~~	~~54~~	~~68~~	~~82~~	~~96~~
~~IV~~	~~6m~~	~~9m~~	~~13m~~	~~15m~~	~~18m~~	~~2y2m~~	~~3y2m~~	~~4y2m~~	~~5y2m~~	~~6y2m~~
	~~3-~~	~~6-~~	~~12+-~~	~~13-~~	~~15-~~	~~22-~~	~~33-~~	~~43-~~	~~53-~~	~~63-~~
	~~9~~	~~12~~	~~14~~	~~17~~	~~20~~	~~29~~	~~43~~	~~57~~	~~70~~	~~84~~
~~III~~	~~2m~~	~~5m~~	~~8m~~	~~11m~~	~~14m~~	~~20m~~	~~2y2m~~	~~3y2m~~	~~4y2m~~	~~5y~~
	~~1-~~	~~3-~~	~~4-~~	~~9-~~	~~12+-~~	~~17-~~	~~22-~~	~~33-~~	~~43-~~	~~51-~~
	~~3~~	~~8~~	~~12~~	~~12~~	~~16~~	~~22~~	~~29~~	~~43~~	~~57~~	~~68~~
~~II~~		~~4m~~	~~6m~~	~~8m~~	~~13m~~	~~16m~~	~~20m~~	~~2y2m~~	~~3y2m~~	~~4y2m~~
	~~0-90~~	~~2-~~	~~3-~~	~~4-~~	~~12+-~~	~~14-~~	~~17-~~	~~22-~~	~~33-~~	~~43-~~
	~~Days~~	~~6~~	~~9~~	~~12~~	~~14~~	~~18~~	~~22~~	~~29~~	~~43~~	~~57~~
~~I~~			~~3m~~	~~4m~~	~~5m~~	~~8m~~	~~13m~~	~~16m~~	~~20m~~	~~2y2m~~
	~~0-60~~	~~0-90~~	~~2-~~	~~2-~~	~~3-~~	~~4-~~	~~12+-~~	~~14-~~	~~17-~~	~~22-~~
	~~Days~~	~~Days~~	~~5~~	~~6~~	~~8~~	~~12~~	~~14~~	~~18~~	~~22~~	~~29~~))

TABLE 1

Sentencing Grid

SERIOUSNESS LEVEL	OFFENDER SCORE										
	0	1	2	3	4	5	6	7	8	9	10 or more
XVI	Life Sentence without Parole/Death Penalty										
XV	225-337	233-350	243-365	262-393	272-408	289-435	289-435	315-473	345-518	383-575	383-862
XIV	123-220	134-234	144-244	154-254	165-265	175-275	195-295	216-316	257-357	298-397	298-595
XIII	115-172	125-187	134-202	144-216	154-230	163-245	182-273	201-301	238-357	277-416	277-624
XII	88-132	95-143	103-155	112-168	120-180	128-194	151-227	166-248	193-290	222-333	222-500
XI	72-107	80-120	88-132	95-143	100-150	112-168	136-204	148-222	172-257	196-295	196-442
X	43-71	47-79	52-86	56-93	61-100	64-107	79-132	90-150	108-180	127-208	127-312
IX	26-43	29-50	34-57	38-64	43-71	47-79	64-107	72-120	90-150	108-180	108-270
VIII	17-28	21-36	26-43	30-50	34-57	38-64	56-93	64-107	72-120	90-150	90-225
VII	14-21	17-28	21-36	26-43	30-50	34-57	47-79	55-93	64-107	72-120	72-180
VI	10+-17	14-21	17-28	21-36	26-43	30-50	38-64	47-79	55-93	64-107	64-157
V	6-12	10+-17	12+-18	14-21	17-30	27-45	34-57	43-71	52-86	61-100	61-120
IV	3-9	6-12	10+-17	12+-18	14-21	17-30	27-45	34-57	44-74	52-86	52-120
III	1-3	3-8	4-12	9-12	10+-17	16-23	17-30	27-45	36-60	43-71	43-120
II	0-90 Days	2-6	3-9	4-12	10+-17	13-19	16-23	17-30	27-45	36-60	36-120
I	0-60 Days	0-90 Days	2-5	2-6	3-8	4-12	10+-17	13-19	16-23	17-30	17-60

Numbers in the first and second horizontal rows of each seriousness category ((~~represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows~~)) represent standard sentence ranges in months, or in days if so designated. 12+ equals one year and one day. 10+ equals ten months and one day.

Sec. 2. RCW 9.94A.535 and 2007 c 377 s 10 are each amended to read as follows:

The court may impose a sentence outside the standard sentence range for an offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence. Facts supporting aggravated sentences, other than the fact of a prior conviction, shall be determined pursuant to the provisions of RCW 9.94A.537.

Whenever a sentence outside the standard sentence range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard sentence range shall be a determinate sentence.

If the sentencing court finds that an exceptional sentence outside the standard sentence range should be imposed, the sentence is subject to review only as provided for in RCW 9.94A.585(4).

A departure from the standards in RCW 9.94A.589 (1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in this section, and may be appealed by the offender or the state as set forth in RCW 9.94A.585 (2) through (6).

(1) Mitigating Circumstances - Court to Consider

The court may impose an exceptional sentence below the standard range if it finds that mitigating circumstances are established by a preponderance of the evidence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion,

threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his or her conduct, or to conform his or her conduct to the requirements of the law, was significantly impaired. Voluntary use of drugs or alcohol is excluded.

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.589 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(i) The offender score due to other current offenses, as opposed to prior offenses, results in a presumptive sentence that is clearly excessive.

(2) Aggravating Circumstances - Considered and Imposed by the Court

The trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances:

((~~(a)~~)) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

((~~(b) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.~~

~~(c) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.~~

~~(d) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW~~

~~9.94A.525 results in a presumptive sentence that is clearly too lenient.~~))

(3) Aggravating Circumstances - Considered by a Jury -Imposed by the Court

Except for circumstances listed in subsection (2) of this section, the following circumstances are an exclusive list of factors that can support a sentence above the standard range. Such facts should be determined by procedures specified in RCW 9.94A.537.

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance.

(c) The current offense was a violent offense, and the defendant knew that the victim of the current offense was pregnant.

(d) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time; or

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(e) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so;

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;

(iii) The current offense involved the manufacture of controlled substances for use by other parties;

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy;

(v) The current offense involved a high degree of sophistication or planning, occurred over a lengthy period of time, or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional).

(f) The current offense included a finding of sexual motivation pursuant to RCW 9.94A.835.

(g) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time.

(h) The current offense involved domestic violence, as defined in RCW 10.99.020, and one or more of the following was present:

(i) The offense was part of an ongoing pattern of psychological, physical, or sexual abuse of the victim manifested by multiple incidents over a prolonged period of time;

(ii) The offense occurred within sight or sound of the victim's or the offender's minor children under the age of eighteen years; or

(iii) The offender's conduct during the commission of the current offense manifested deliberate cruelty or intimidation of the victim.

(i) The offense resulted in the pregnancy of a child victim of rape.

(j) The defendant knew that the victim of the current offense was a youth who was not residing with a legal custodian and the defendant established or promoted the relationship for the primary purpose of victimization.

(k) The offense was committed with the intent to obstruct or impair human or animal health care or agricultural or forestry research or commercial production.

(l) The current offense is trafficking in the first degree or trafficking in the second degree and any victim was a minor at the time of the offense.

(m) The offense involved a high degree of sophistication or planning.

(n) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(o) The defendant committed a current sex offense, has a history of sex offenses, and is not amenable to treatment.

(p) The offense involved an invasion of the victim's privacy.

(q) The defendant demonstrated or displayed an egregious lack of remorse.

(r) The offense involved a destructive and foreseeable impact on persons other than the victim.

(s) The defendant committed the offense to obtain or maintain his or her membership or to advance his or her position in the hierarchy of an organization, association, or identifiable group.

(t) The defendant committed the current offense shortly after being released from incarceration.

(u) The current offense is a burglary and the victim of the burglary was present in the building or residence when the crime was committed.

(v) The offense was committed against a law enforcement officer who was performing his or her official duties at the time of the offense, the offender knew that the victim was a law enforcement officer, and the victim's status as a law enforcement officer is not an element of the offense.

(w) The defendant committed the offense against a victim who was acting as a good samaritan.

(x) The defendant committed the offense against a public official or officer of the court in retaliation of the public official's performance of his or her duty to the criminal justice system.

(y) The victim's injuries substantially exceed the level of bodily harm necessary to satisfy the elements of the offense. This aggravator is not an exception to RCW 9.94A.530(2).

(z) <u>The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.</u>

(aa) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(bb) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

(cc)(i)(A) The current offense is theft in the first degree, theft in the second degree, possession of stolen property in the first degree, or possession of stolen property in the second degree; (B) the stolen property involved is metal property; and (C) the property damage to the victim caused in the course of the theft of metal property is more than three times the value of the stolen metal property, or the theft of the metal property creates a public hazard.

(ii) For purposes of this subsection, "metal property" means commercial metal property or nonferrous metal property, as defined in RCW 19.290.010.

Sec. 3. RCW 9.94A.190 and 2001 2nd sp.s. c 12 s 313 are each amended to read as follows:

(1) A sentence that includes a term or terms of confinement totaling more than one year, or a sentence set under RCW 9.94A.510 based on a sentence range with a minimum sentence of more than ten months, shall be served in a facility or institution operated, or utilized under contract, by the state. Except as provided in this subsection or subsection (3) or (5) of this section, a sentence of not more than one year of confinement shall be served in a facility operated, licensed, or utilized under contract, by the county, or if home detention or work crew has been ordered by the court, in the residence of either the offender or a member of the offender's immediate family.

(2) If a county uses a state partial confinement facility for the partial confinement of a person sentenced to confinement for not more than one year, the county shall reimburse the state for the use of the facility as provided in this subsection. The office of financial management shall set the rate of reimbursement based upon the average per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall

be reduced or eliminated because of funds provided by the legislature to the department for the purpose of covering the cost of county use of state partial confinement facilities. The office of financial management shall reestablish reimbursement rates each even-numbered year.

(3) A person who is sentenced for a felony to a term of not more than one year, and who is committed or returned to incarceration in a state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter shall serve all terms of confinement, including a sentence of not more than one year, in a facility or institution operated, or utilized under contract, by the state, consistent with the provisions of RCW 9.94A.589.

(4) Notwithstanding any other provision of this section, a sentence imposed pursuant to RCW 9.94A.660 which has a standard sentence range of over one year, regardless of length, shall be served in a facility or institution operated, or utilized under contract, by the state.

(5) Sentences imposed pursuant to RCW 9.94A.712 shall be served in a facility or institution operated, or utilized under contract, by the state.

Sec. 4. RCW 9.94A.850 and 2005 c 282 s 19 are each amended to read as follows:

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The legislature finds that the commission, having accomplished its original statutory directive to implement this chapter, and having expertise in sentencing practice and policies, shall:

(a) Evaluate state sentencing policy, to include whether the sentencing ranges and standards are consistent with and further:

(i) The purposes of this chapter as defined in RCW 9.94A.010; and

(ii) The intent of the legislature to emphasize confinement for the violent offender and alternatives to confinement for the nonviolent offender.

The commission shall provide the governor and the legislature with its evaluation and recommendations under this subsection not later than December 1, 1996, and every two years thereafter;

(b) Recommend to the legislature revisions or modifications to the standard sentence ranges, state sentencing policy, prosecuting standards, and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity;

(c) Study the existing criminal code and from time to time make recommendations to the legislature for modification;

(d)(i) Serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; (ii) develop and maintain a computerized adult and juvenile sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons; and (iii) conduct ongoing research regarding adult and juvenile sentencing guidelines, use of total confinement and alternatives to total confinement, plea bargaining, and other matters relating to the improvement of the adult criminal justice system and the juvenile justice system;

(e) Assume the powers and duties of the juvenile disposition standards commission after June 30, 1996;

(f) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally, specifically review the guidelines relating to the confinement of minor and first-time offenders as well as the use of diversion, and review the application of current and proposed juvenile sentencing standards and guidelines for potential adverse impacts on the sentencing outcomes of racial and ethnic minority youth;

(g) Solicit the comments and suggestions of the juvenile justice community concerning disposition standards, and make recommendations to the legislature regarding revisions or modifications of the standards. The evaluations shall be submitted to the legislature on December 1 of each odd-numbered year. The department of social and health services shall provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders, and with recommendations for

modification of the disposition standards. The administrative office of the courts shall provide the commission with available data on diversion, including the use of youth court programs, and dispositions of juvenile offenders under chapter 13.40 RCW; and

(h) Not later than December 1, 1997, and at least every two years thereafter, based on available information, report to the governor and the legislature on:

(i) Racial disproportionality in juvenile and adult sentencing, and, if available, the impact that diversions, such as youth courts, have on racial disproportionality in juvenile prosecution, adjudication, and sentencing;

(ii) The capacity of state and local juvenile and adult facilities and resources; and

(iii) Recidivism information on adult and juvenile offenders.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community restitution, and a fine.

(4) The standard sentence ranges of total and partial confinement under this chapter, except as provided in RCW 9.94A.517, are subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than ((~~seventy-five~~)) sixty percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range and except that for any offense with an offender score of ten or more, the minimum term in the range shall be no less than twenty-five percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(5)(a) Not later than December 31, 1999, the commission shall propose to the legislature the initial community custody ranges to be included in sentences under RCW 9.94A.715 for crimes committed on or

after July 1, 2000. Not later than December 31 of each year, the commission may propose modifications to the ranges. The ranges shall be based on the principles in RCW 9.94A.010, and shall take into account the funds available to the department for community custody. The minimum term in each range shall not be less than one-half of the maximum term.

(b) The legislature may, by enactment of a legislative bill, adopt or modify the community custody ranges proposed by the commission. If the legislature fails to adopt or modify the initial ranges in its next regular session after they are proposed, the proposed ranges shall take effect without legislative approval for crimes committed on or after July 1, 2000.

(c) When the commission proposes modifications to ranges pursuant to this subsection, the legislature may, by enactment of a bill, adopt or modify the ranges proposed by the commission for crimes committed on or after July 1 of the year after they were proposed. Unless the legislature adopts or modifies the commission's proposal in its next regular session, the proposed ranges shall not take effect.

(6) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW.

--- END ---