

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1780

52nd Legislature
1991 Regular Session

Passed by the House April 27, 1991
Yeas 98 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 27, 1991
Yeas 42 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1780** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE HOUSE BILL 1780

AS AMENDED BY THE SENATE

Passed Legislature - 1991 Regular Session

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Human Services (originally sponsored by Representatives Morris, Padden, Appelwick, Riley, H. Myers, Leonard, Belcher, Phillips, Silver, Holland, Paris, R. Johnson, May, Kremen, Rayburn, Cantwell, Broback, D. Sommers, Vance, Ebersole, Inslee, Morton, Cooper, Winsley, Wynne, Hochstatter, Moyer, Rasmussen, Basich, Van Luven, Neher, P. Johnson, Forner, Casada, Roland, Tate, Brumsickle, Orr and Haugen).

Read first time March 6, 1991.

1 AN ACT Relating to work crews for offenders; amending RCW
2 9.94A.030, 9.94A.120, 9.94A.180, 9.94A.190, and 9A.76.010; and adding
3 a new section to chapter 9.94A RCW.

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

5 **Sec. 1.** RCW 9.94A.030 and 1991 c 32 s 1 are each amended to read
6 as follows:

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

9 (1) "Collect," or any derivative thereof, "collect and remit," or
10 "collect and deliver," when used with reference to the department of
11 corrections, means that the department is responsible for monitoring
12 and enforcing the offender's sentence with regard to the legal
13 financial obligation, receiving payment thereof from the offender, and,
14 consistent with current law, delivering daily the entire payment to the
15 superior court clerk without depositing it in a departmental account.

1 (2) "Commission" means the sentencing guidelines commission.

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

6 (4) "Community custody" means that portion of an inmate's sentence
7 of confinement in lieu of earned early release time served in the
8 community subject to controls placed on the inmate's movement and
9 activities by the department of corrections.

10 (5) "Community placement" means that period during which the
11 offender is subject to the conditions of community custody and/or
12 postrelease supervision, which begins either upon completion of the
13 term of confinement (postrelease supervision) or at such time as the
14 offender is transferred to community custody in lieu of earned early
15 release. Community placement may consist of entirely community
16 custody, entirely postrelease supervision, or a combination of the two.

17 (6) "Community service" means compulsory service, without
18 compensation, performed for the benefit of the community by the
19 offender.

20 (7) "Community supervision" means a period of time during which a
21 convicted offender is subject to crime-related prohibitions and other
22 sentence conditions imposed pursuant to this chapter by a court. For
23 first-time offenders, the supervision may include crime-related
24 prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5).
25 For purposes of the interstate compact for out-of-state supervision of
26 parolees and probationers, RCW 9.95.270, community supervision is the
27 functional equivalent of probation and should be considered the same as
28 probation by other states.

29 (8) "Confinement" means total or partial confinement as defined in
30 this section.

1 (9) "Conviction" means an adjudication of guilt pursuant to Titles
2 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
3 acceptance of a plea of guilty.

4 (10) "Court-ordered legal financial obligation" means a sum of
5 money that is ordered by a superior court of the state of Washington
6 for legal financial obligations which may include restitution to the
7 victim, statutorily imposed crime victims' compensation fees as
8 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
9 drug funds, court-appointed attorneys' fees, and costs of defense,
10 fines, and any other financial obligation that is assessed to the
11 offender as a result of a felony conviction.

12 (11) "Crime-related prohibition" means an order of a court
13 prohibiting conduct that directly relates to the circumstances of the
14 crime for which the offender has been convicted, and shall not be
15 construed to mean orders directing an offender affirmatively to
16 participate in rehabilitative programs or to otherwise perform
17 affirmative conduct.

18 (12)(a) "Criminal history" means the list of a defendant's prior
19 convictions, whether in this state, in federal court, or elsewhere.
20 The history shall include, where known, for each conviction (i) whether
21 the defendant has been placed on probation and the length and terms
22 thereof; and (ii) whether the defendant has been incarcerated and the
23 length of incarceration.

24 (b) "Criminal history" shall always include juvenile convictions
25 for sex offenses and shall also include a defendant's other prior
26 convictions in juvenile court if: (i) The conviction was for an offense
27 which is a felony or a serious traffic offense and is criminal history
28 as defined in RCW 13.40.020(6)(a); (ii) the defendant was fifteen years
29 of age or older at the time the offense was committed; and (iii) with
30 respect to prior juvenile class B and C felonies or serious traffic

1 offenses, the defendant was less than twenty-three years of age at the
2 time the offense for which he or she is being sentenced was committed.

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

4 (14) "Determinate sentence" means a sentence that states with
5 exactitude the number of actual years, months, or days of total
6 confinement, of partial confinement, of community supervision, the
7 number of actual hours or days of community service work, or dollars or
8 terms of a legal financial obligation. The fact that an offender
9 through "earned early release" can reduce the actual period of
10 confinement shall not affect the classification of the sentence as a
11 determinate sentence.

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

24 (16) "Drug offense" means:

25 (a) Any felony violation of chapter 69.50 RCW except possession of
26 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
27 controlled substance (RCW 69.50.403);

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

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

4 (17) "Escape" means:

5 (a) Escape in the first degree (RCW 9A.76.110), escape in the
6 second degree (RCW 9A.76.120), willful failure to return from furlough
7 (RCW 72.66.060), willful failure to return from work release (RCW
8 72.65.070), or willful failure to comply with any limitations on the
9 inmate's movements while in community custody (RCW 72.09.310); or

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

13 (18) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
15 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
16 and-run injury-accident (RCW 46.52.020(4)); or

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

20 (19) "Fines" means the requirement that the offender pay a specific
21 sum of money over a specific period of time to the court.

22 (20)(a) "First-time offender" means any person who is convicted of
23 a felony (i) not classified as a violent offense or a sex offense under
24 this chapter, or (ii) that is not the manufacture, delivery, or
25 possession with intent to manufacture or deliver a controlled substance
26 classified in schedule I or II that is a narcotic drug or the selling
27 for profit any controlled substance or counterfeit substance classified
28 in schedule I, RCW 69.50.204, except leaves and flowering tops of
29 marihuana, and except as provided in (b) of this subsection, who
30 previously has never been convicted of a felony in this state, federal

1 court, or another state, and who has never participated in a program of
2 deferred prosecution for a felony offense.

3 (b) For purposes of (a) of this subsection, a juvenile adjudication
4 for an offense committed before the age of fifteen years is not a
5 previous felony conviction except for adjudications of sex offenses.

6 (21) "Nonviolent offense" means an offense which is not a violent
7 offense.

8 (22) "Offender" means a person who has committed a felony
9 established by state law and is eighteen years of age or older or is
10 less than eighteen years of age but whose case has been transferred by
11 the appropriate juvenile court to a criminal court pursuant to RCW
12 13.40.110. Throughout this chapter, the terms "offender" and
13 "defendant" are used interchangeably.

14 (23) "Partial confinement" means confinement for no more than one
15 year in a facility or institution operated or utilized under contract
16 by the state or any other unit of government, or, if home detention or
17 work crew has been ordered by the court, in (~~the residence of either~~
18 ~~the defendant or a member of the defendant's immediate family~~) an
19 approved residence, for a substantial portion of each day with the
20 balance of the day spent in the community. Partial confinement
21 includes work release (~~and~~), home detention, work crew, and a
22 combination of work crew and home detention as defined in this section.

23 (24) "Postrelease supervision" is that portion of an offender's
24 community placement that is not community custody.

25 (25) "Restitution" means the requirement that the offender pay a
26 specific sum of money over a specific period of time to the court as
27 payment of damages. The sum may include both public and private costs.
28 The imposition of a restitution order does not preclude civil redress.

29 (26) "Serious traffic offense" means:

1 (a) Driving while intoxicated (RCW 46.61.502), actual physical
2 control while intoxicated (RCW 46.61.504), reckless driving (RCW
3 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

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

7 (27) "Serious violent offense" is a subcategory of violent offense
8 and means:

9 (a) Murder in the first degree, homicide by abuse, murder in the
10 second degree, assault in the first degree, kidnapping in the first
11 degree, or rape in the first degree, or an attempt, criminal
12 solicitation, or criminal conspiracy to commit one of these felonies;
13 or

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

17 (28) "Sentence range" means the sentencing court's discretionary
18 range in imposing a nonappealable sentence.

19 (29) "Sex offense" means:

20 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
21 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
22 attempt, criminal solicitation, or criminal conspiracy to commit such
23 crimes;

24 (b) A felony with a finding of sexual motivation under RCW
25 9.94A.127; or

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

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

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

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

11 (33) "Violent offense" means:

12 (a) Any of the following felonies, as now existing or hereafter
13 amended: Any felony defined under any law as a class A felony or an
14 attempt to commit a class A felony, criminal solicitation of or
15 criminal conspiracy to commit a class A felony, manslaughter in the
16 first degree, manslaughter in the second degree, indecent liberties if
17 committed by forcible compulsion, kidnapping in the second degree,
18 arson in the second degree, assault in the second degree, extortion in
19 the first degree, robbery in the second degree, vehicular assault, and
20 vehicular homicide, when proximately caused by the driving of any
21 vehicle by any person while under the influence of intoxicating liquor
22 or any drug as defined by RCW 46.61.502, or by the operation of any
23 vehicle in a reckless manner;

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

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

1 (34) "Work crew" means a program of partial confinement consisting
2 of civic improvement tasks for the benefit of the community of not less
3 than thirty-five hours per week that complies with section 2 of this
4 act. The civic improvement tasks shall be performed on public property
5 or on private property owned or operated by nonprofit entities, except
6 that, for emergency purposes only, work crews may perform snow removal
7 on any private property. The civic improvement tasks shall have
8 minimal negative impact on existing private industries or the labor
9 force in the county where the service or labor is performed. The civic
10 improvement tasks shall not affect employment opportunities for people
11 with developmental disabilities contracted through sheltered workshops
12 as defined in RCW 82.04.385. Only those offenders sentenced to a
13 facility operated or utilized under contract by a county are eligible
14 to participate on a work crew. Offenders sentenced for a sex offense
15 as defined in subsection (29) of this section are not eligible for the
16 work crew program.

17 (35) "Work release" means a program of partial confinement
18 available to offenders who are employed or engaged as a student in a
19 regular course of study at school. Participation in work release shall
20 be conditioned upon the offender attending work or school at regularly
21 defined hours and abiding by the rules of the work release facility.

22 (~~(35)~~) (36) "Home detention" means a program of partial
23 confinement available to offenders wherein the offender is confined in
24 a private residence subject to electronic surveillance. Home detention
25 may not be imposed for offenders convicted of a violent offense, any
26 sex offense, any drug offense, reckless burning in the first or second
27 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
28 degree as defined in RCW 9A.36.031, unlawful imprisonment as defined in
29 RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home
30 detention may be imposed for offenders convicted of possession of a

1 controlled substance (RCW 69.50.401(d)) or forged prescription for a
2 controlled substance (RCW 69.50.403) if the offender fulfills the
3 participation conditions set forth in this subsection and is monitored
4 for drug use by treatment alternatives to street crime (TASC) or a
5 comparable court or agency-referred program. Home detention may be
6 imposed for offenders convicted of burglary in the second degree as
7 defined in RCW 9A.52.030 or residential burglary conditioned upon the
8 offender: (a) Successfully completing twenty-one days in a work
9 release program, (b) having no convictions for burglary in the second
10 degree or residential burglary during the preceding two years and not
11 more than two prior convictions for burglary or residential burglary,
12 (c) having no convictions for a violent felony offense during the
13 preceding two years and not more than two prior convictions for a
14 violent felony offense, (d) having no prior charges of escape, and (e)
15 fulfilling the other conditions of the home detention program.

16 Participation in a home detention program shall be conditioned
17 upon: (i) The offender obtaining or maintaining current employment or
18 attending a regular course of school study at regularly defined hours,
19 or the offender performing parental duties to offspring or minors
20 normally in the custody of the offender, (ii) abiding by the rules of
21 the home detention program, and (iii) compliance with court-ordered
22 legal financial obligations. The home detention program may also be
23 made available to offenders whose charges and convictions do not
24 otherwise disqualify them if medical or health-related conditions,
25 concerns or treatment would be better addressed under the home
26 detention program, or where the health and welfare of the offender,
27 other inmates, or staff would be jeopardized by the offender's
28 incarceration. Participation in the home detention program for medical
29 or health-related reasons is conditioned on the offender abiding by the

1 rules of the home detention program and complying with court-ordered
2 restitution.

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

5 Participation in a work crew is conditioned upon the offender's
6 acceptance into the program, abstinence from alcohol and controlled
7 substances as demonstrated by urinalysis and breathalyzer monitoring,
8 with the cost of monitoring to be paid by the offender, unless
9 indigent; and upon compliance with the rules of the program, which
10 rules shall include the requirements that the offender work to the best
11 of his or her abilities and that he or she provide the program with
12 accurate, verified residence information. Work crew may be imposed
13 simultaneously with electronic home detention.

14 Where work crew is imposed as part of a sentence of nine months or
15 more, the offender must serve a minimum of thirty days of total
16 confinement before being eligible for work crew.

17 An offender who has successfully completed four weeks of work crew
18 at thirty-five hours per week shall thereafter receive credit toward
19 the work crew sentence for hours worked at approved, verified
20 employment. Such employment credit may be earned for up to twenty-four
21 hours actual employment per week provided, however, that every such
22 offender shall continue active participation in work crews projects
23 according to a schedule approved by a work crew supervisor until the
24 work crew sentence has been served.

25 The hours served as part of a work crew sentence may include
26 substance abuse counseling and/or job skills training.

27 The civic improvement tasks performed by offenders on work crew
28 shall be unskilled labor for the benefit of the community as determined
29 by the head of the county executive branch or his or her designee.

1 Civic improvement tasks shall not be done on private property unless it
2 is owned or operated by a nonprofit entity, except that, for emergency
3 purposes only, work crews may perform snow removal on any private
4 property. The civic improvement tasks shall have minimal negative
5 impact on existing private industries or the labor force in the county
6 where the service or labor is performed. The civic improvement tasks
7 shall not affect employment opportunities for people with developmental
8 disabilities contracted through sheltered workshops as defined in RCW
9 82.04.385. In case any dispute arises as to a civic improvement task
10 having more than minimum negative impact on existing private industries
11 or labor force in the county where their service or labor is performed,
12 the matter shall be referred by an interested party, as defined in RCW
13 39.12.010(4), for arbitration to the director of the department of
14 labor and industries of the state.

15 Whenever an offender receives credit against a work crew sentence
16 for hours of approved, verified employment, the offender shall pay to
17 the department administering the program the monthly assessment of an
18 amount not less than ten dollars per month nor more than fifty dollars
19 per month. This assessment shall be considered payment of the costs of
20 providing the work crew program to an offender. The court may exempt
21 a person from the payment of all or any part of the assessment based
22 upon any of the following factors:

23 (1) The offender has diligently attempted but has been unable to
24 obtain employment that provided the offender sufficient income to make
25 such payment.

26 (2) The offender is a student in a school, college, university, or
27 a course of vocational or technical training designed to fit the
28 student for gainful employment.

29 (3) The offender has an employment handicap, as determined by an
30 examination acceptable to or ordered by the court.

1 (4) The offender is responsible for the support of dependents and
2 the payment of the assessment constitutes an undue hardship.

3 (5) Other extenuating circumstances as determined by the court.

4 **Sec. 3.** RCW 9.94A.120 and 1990 c 3 s 705 are each amended to read
5 as follows:

6 When a person is convicted of a felony, the court shall impose
7 punishment as provided in this section.

8 (1) Except as authorized in subsections (2), (5), and (7) of this
9 section, the court shall impose a sentence within the sentence range
10 for the offense.

11 (2) The court may impose a sentence outside the standard sentence
12 range for that offense if it finds, considering the purpose of this
13 chapter, that there are substantial and compelling reasons justifying
14 an exceptional sentence.

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

19 (4) An offender convicted of the crime of murder in the first
20 degree shall be sentenced to a term of total confinement not less than
21 twenty years. An offender convicted of the crime of assault in the
22 first degree where the offender used force or means likely to result in
23 death or intended to kill the victim shall be sentenced to a term of
24 total confinement not less than five years. An offender convicted of
25 the crime of rape in the first degree shall be sentenced to a term of
26 total confinement not less than five years, and shall not be eligible
27 for furlough, work release or other authorized leave of absence from
28 the correctional facility during such minimum five-year term except for
29 the purpose of commitment to an inpatient treatment facility. The

1 foregoing minimum terms of total confinement are mandatory and shall
2 not be varied or modified as provided in subsection (2) of this
3 section.

4 (5) In sentencing a first-time offender the court may waive the
5 imposition of a sentence within the sentence range and impose a
6 sentence which may include up to ninety days of confinement in a
7 facility operated or utilized under contract by the county and a
8 requirement that the offender refrain from committing new offenses.
9 The sentence may also include up to two years of community supervision,
10 which, in addition to crime-related prohibitions, may include
11 requirements that the offender perform any one or more of the
12 following:

13 (a) Devote time to a specific employment or occupation;

14 (b) Undergo available outpatient treatment for up to two years, or
15 inpatient treatment not to exceed the standard range of confinement for
16 that offense;

17 (c) Pursue a prescribed, secular course of study or vocational
18 training;

19 (d) Remain within prescribed geographical boundaries and notify the
20 court or the community corrections officer prior to any change in the
21 offender's address or employment;

22 (e) Report as directed to the court and a community corrections
23 officer; or

24 (f) Pay all court-ordered legal financial obligations as provided
25 in RCW 9.94A.030 and/or perform community service work.

26 (6) If a sentence range has not been established for the
27 defendant's crime, the court shall impose a determinate sentence which
28 may include not more than one year of confinement, community service
29 work, a term of community supervision not to exceed one year, and/or
30 other legal financial obligations. The court may impose a sentence

1 which provides more than one year of confinement if the court finds,
2 considering the purpose of this chapter, that there are substantial and
3 compelling reasons justifying an exceptional sentence.

4 (7)(a)(i) When an offender is convicted of a sex offense other than
5 a violation of RCW 9A.44.050 or a sex offense that is also a serious
6 violent offense and has no prior convictions for a sex offense or any
7 other felony sex offenses in this or any other state, the sentencing
8 court, on its own motion or the motion of the state or the defendant,
9 may order an examination to determine whether the defendant is amenable
10 to treatment.

11 The report of the examination shall include at a minimum the
12 following: The defendant's version of the facts and the official
13 version of the facts, the defendant's offense history, an assessment of
14 problems in addition to alleged deviant behaviors, the offender's
15 social and employment situation, and other evaluation measures used.
16 The report shall set forth the sources of the evaluator's information.

17 The examiner shall assess and report regarding the defendant's
18 amenability to treatment and relative risk to the community. A
19 proposed treatment plan shall be provided and shall include, at a
20 minimum:

21 (A) Frequency and type of contact between offender and therapist;

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

24 (C) Monitoring plans, including any requirements regarding living
25 conditions, lifestyle requirements, and monitoring by family members
26 and others;

27 (D) Anticipated length of treatment; and

28 (E) Recommended crime-related prohibitions.

29 The court on its own motion may order, or on a motion by the state
30 shall order, a second examination regarding the offender's amenability

1 to treatment. The evaluator shall be selected by the party making the
2 motion. The defendant shall pay the cost of any second examination
3 ordered unless the court finds the defendant to be indigent in which
4 case the state shall pay the cost.

5 (ii) After receipt of the reports, the court shall consider whether
6 the offender and the community will benefit from use of this special
7 sexual offender sentencing alternative and consider the victim's
8 opinion whether the offender should receive a treatment disposition
9 under this subsection. If the court determines that this special sex
10 offender sentencing alternative is appropriate, the court shall then
11 impose a sentence within the sentence range. If this sentence is less
12 than eight years of confinement, the court may suspend the execution of
13 the sentence and impose the following conditions of suspension:

14 (A) The court shall place the defendant on community supervision
15 for the length of the suspended sentence or three years, whichever is
16 greater; and

17 (B) The court shall order treatment for any period up to three
18 years in duration. The court in its discretion shall order outpatient
19 sex offender treatment or inpatient sex offender treatment, if
20 available. A community mental health center may not be used for such
21 treatment unless it has an appropriate program designed for sex
22 offender treatment. The offender shall not change sex offender
23 treatment providers or treatment conditions without first notifying the
24 prosecutor, the community corrections officer, and the court, and shall
25 not change providers without court approval after a hearing if the
26 prosecutor or community corrections officer object to the change. In
27 addition, as conditions of the suspended sentence, the court may impose
28 other sentence conditions including up to six months of confinement,
29 not to exceed the sentence range of confinement for that offense,

1 crime-related prohibitions, and requirements that the offender perform
2 any one or more of the following:

3 (I) Devote time to a specific employment or occupation;

4 (II) Remain within prescribed geographical boundaries and notify
5 the court or the community corrections officer prior to any change in
6 the offender's address or employment;

7 (III) Report as directed to the court and a community corrections
8 officer;

9 (IV) Pay all court-ordered legal financial obligations as provided
10 in RCW 9.94A.030, perform community service work, or any combination
11 thereof; or

12 (V) Make recoupment to the victim for the cost of any counseling
13 required as a result of the offender's crime.

14 (iii) The sex offender therapist shall submit quarterly reports on
15 the defendant's progress in treatment to the court and the parties.
16 The report shall reference the treatment plan and include at a minimum
17 the following: Dates of attendance, defendant's compliance with
18 requirements, treatment activities, the defendant's relative progress
19 in treatment, and any other material as specified by the court at
20 sentencing.

21 (iv) At the time of sentencing, the court shall set a treatment
22 termination hearing for three months prior to the anticipated date for
23 completion of treatment. Prior to the treatment termination hearing,
24 the treatment professional and community corrections officer shall
25 submit written reports to the court and parties regarding the
26 defendant's compliance with treatment and monitoring requirements, and
27 recommendations regarding termination from treatment, including
28 proposed community supervision conditions. Either party may request
29 and the court may order another evaluation regarding the advisability
30 of termination from treatment. The defendant shall pay the cost of any

1 additional evaluation ordered unless the court finds the defendant to
2 be indigent in which case the state shall pay the cost. At the
3 treatment termination hearing the court may: (A) Modify conditions of
4 community supervision, and either (B) terminate treatment, or (C)
5 extend treatment for up to the remaining period of community
6 supervision.

7 (v) The court may revoke the suspended sentence at any time during
8 the period of community supervision and order execution of the sentence
9 if: (A) The defendant violates the conditions of the suspended
10 sentence, or (B) the court finds that the defendant is failing to make
11 satisfactory progress in treatment. All confinement time served during
12 the period of community supervision shall be credited to the offender
13 if the suspended sentence is revoked.

14 (vi) After July 1, 1991, examinations and treatment ordered
15 pursuant to this subsection shall only be conducted by sex offender
16 treatment providers certified by the department of health pursuant to
17 chapter 18.155 RCW.

18 For purposes of this subsection, "victim" means any person who has
19 sustained emotional, psychological, physical, or financial injury to
20 person or property as a result of the crime charged. "Victim" also
21 means a parent or guardian of a victim who is a minor child unless the
22 parent or guardian is the perpetrator of the offense.

23 (b) When an offender is convicted of any felony sex offense
24 committed before July 1, 1987, and is sentenced to a term of
25 confinement of more than one year but less than six years, the
26 sentencing court may, on its own motion or on the motion of the
27 offender or the state, order the offender committed for up to thirty
28 days to the custody of the secretary of social and health services for
29 evaluation and report to the court on the offender's amenability to
30 treatment at these facilities. If the secretary of social and health

1 services cannot begin the evaluation within thirty days of the court's
2 order of commitment, the offender shall be transferred to the state for
3 confinement pending an opportunity to be evaluated at the appropriate
4 facility. The court shall review the reports and may order that the
5 term of confinement imposed be served in the sexual offender treatment
6 program at the location determined by the secretary of social and
7 health services or the secretary's designee, only if the report
8 indicates that the offender is amenable to the treatment program
9 provided at these facilities. The offender shall be transferred to the
10 state pending placement in the treatment program. Any offender who has
11 escaped from the treatment program shall be referred back to the
12 sentencing court.

13 If the offender does not comply with the conditions of the
14 treatment program, the secretary of social and health services may
15 refer the matter to the sentencing court. The sentencing court shall
16 commit the offender to the department of corrections to serve the
17 balance of the term of confinement.

18 If the offender successfully completes the treatment program before
19 the expiration of the term of confinement, the court may convert the
20 balance of confinement to community supervision and may place
21 conditions on the offender including crime-related prohibitions and
22 requirements that the offender perform any one or more of the
23 following:

24 (i) Devote time to a specific employment or occupation;

25 (ii) Remain within prescribed geographical boundaries and notify
26 the court or the community corrections officer prior to any change in
27 the offender's address or employment;

28 (iii) Report as directed to the court and a community corrections
29 officer;

30 (iv) Undergo available outpatient treatment.

1 If the offender violates any of the terms of community supervision,
2 the court may order the offender to serve out the balance of the
3 community supervision term in confinement in the custody of the
4 department of corrections.

5 After June 30, 1993, this subsection (b) shall cease to have
6 effect.

7 (c) When an offender commits any felony sex offense on or after
8 July 1, 1987, and is sentenced to a term of confinement of more than
9 one year but less than six years, the sentencing court may, on its own
10 motion or on the motion of the offender or the state, request the
11 department of corrections to evaluate whether the offender is amenable
12 to treatment and the department may place the offender in a treatment
13 program within a correctional facility operated by the department.

14 Except for an offender who has been convicted of a violation of RCW
15 9A.44.040 or 9A.44.050, if the offender completes the treatment program
16 before the expiration of his term of confinement, the department of
17 corrections may request the court to convert the balance of confinement
18 to community supervision and to place conditions on the offender
19 including crime-related prohibitions and requirements that the offender
20 perform any one or more of the following:

21 (i) Devote time to a specific employment or occupation;

22 (ii) Remain within prescribed geographical boundaries and notify
23 the court or the community corrections officer prior to any change in
24 the offender's address or employment;

25 (iii) Report as directed to the court and a community corrections
26 officer;

27 (iv) Undergo available outpatient treatment.

28 If the offender violates any of the terms of his community
29 supervision, the court may order the offender to serve out the balance

1 of his community supervision term in confinement in the custody of the
2 department of corrections.

3 Nothing in (c) of this subsection shall confer eligibility for such
4 programs for offenders convicted and sentenced for a sex offense
5 committed prior to July 1, 1987. This subsection (c) does not apply to
6 any crime committed after July 1, 1990.

7 (d) Offenders convicted and sentenced for a sex offense committed
8 prior to July 1, 1987, may, subject to available funds, request an
9 evaluation by the department of corrections to determine whether they
10 are amenable to treatment. If the offender is determined to be
11 amenable to treatment, the offender may request placement in a
12 treatment program within a correctional facility operated by the
13 department. Placement in such treatment program is subject to
14 available funds.

15 (8)(a) When a court sentences a person to a term of total
16 confinement to the custody of the department of corrections for an
17 offense categorized as a sex offense or a serious violent offense
18 committed after July 1, 1988, but before July 1, 1990, assault in the
19 second degree, any crime against a person where it is determined in
20 accordance with RCW 9.94A.125 that the defendant or an accomplice was
21 armed with a deadly weapon at the time of commission, or any felony
22 offense under chapter 69.50 or 69.52 RCW, committed on or after July 1,
23 1988, the court shall in addition to the other terms of the sentence,
24 sentence the offender to a one-year term of community placement
25 beginning either upon completion of the term of confinement or at such
26 time as the offender is transferred to community custody in lieu of
27 earned early release in accordance with RCW 9.94A.150 (1) and (2).
28 When the court sentences an offender under this subsection to the
29 statutory maximum period of confinement then the community placement
30 portion of the sentence shall consist entirely of such community

1 custody to which the offender may become eligible, in accordance with
2 RCW 9.94A.150 (1) and (2). Any period of community custody actually
3 served shall be credited against the community placement portion of the
4 sentence.

5 (b) When a court sentences a person to a term of total confinement
6 to the custody of the department of corrections for an offense
7 categorized as a sex offense or serious violent offense committed on or
8 after July 1, 1990, the court shall in addition to other terms of the
9 sentence, sentence the offender to community placement for two years or
10 up to the period of earned early release awarded pursuant to RCW
11 9.94A.150 (1) and (2), whichever is longer. The community placement
12 shall begin either upon completion of the term of confinement or at
13 such time as the offender is transferred to community custody in lieu
14 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
15 When the court sentences an offender under this subsection to the
16 statutory maximum period of confinement then the community placement
17 portion of the sentence shall consist entirely of the community custody
18 to which the offender may become eligible, in accordance with RCW
19 9.94A.150 (1) and (2). Any period of community custody actually served
20 shall be credited against the community placement portion of the
21 sentence. Unless a condition is waived by the court, the terms of
22 community placement for offenders sentenced pursuant to this section
23 shall include the following conditions:

24 (i) The offender shall report to and be available for contact with
25 the assigned community corrections officer as directed;

26 (ii) The offender shall work at department of corrections-approved
27 education, employment, and/or community service;

28 (iii) The offender shall not consume controlled substances except
29 pursuant to lawfully issued prescriptions;

1 (iv) An offender in community custody shall not unlawfully possess
2 controlled substances; and

3 (v) The offender shall pay supervision fees as determined by the
4 department of corrections.

5 (c) The court may also order any of the following special
6 conditions:

7 (i) The offender shall remain within, or outside of, a specified
8 geographical boundary;

9 (ii) The offender shall not have direct or indirect contact with
10 the victim of the crime or a specified class of individuals;

11 (iii) The offender shall participate in crime-related treatment or
12 counseling services;

13 (iv) The offender shall not consume alcohol;

14 (v) The residence location and living arrangements of a sex
15 offender shall be subject to the prior approval of the department of
16 corrections; or

17 (vi) The offender shall comply with any crime-related prohibitions.

18 (d) Prior to transfer to, or during, community placement, any
19 conditions of community placement may be removed or modified so as not
20 to be more restrictive by the sentencing court, upon recommendation of
21 the department of corrections.

22 (9) If the court imposes a sentence requiring confinement of thirty
23 days or less, the court may, in its discretion, specify that the
24 sentence be served on consecutive or intermittent days. A sentence
25 requiring more than thirty days of confinement shall be served on
26 consecutive days. Local jail administrators may schedule court-ordered
27 intermittent sentences as space permits.

28 (10) If a sentence imposed includes payment of a legal financial
29 obligation, the sentence shall specify the total amount of the legal
30 financial obligation owed, and shall require the offender to pay a

1 specified monthly sum toward that legal financial obligation.
2 Restitution to victims shall be paid prior to any other payments of
3 monetary obligations. Any legal financial obligation that is imposed
4 by the court may be collected by the department, which shall deliver
5 the amount paid to the county clerk for credit. The offender's
6 compliance with payment of legal financial obligations shall be
7 supervised by the department. All monetary payments ordered shall be
8 paid no later than ten years after the last date of release from
9 confinement pursuant to a felony conviction or the date the sentence
10 was entered. Independent of the department, the party or entity to
11 whom the legal financial obligation is owed shall have the authority to
12 utilize any other remedies available to the party or entity to collect
13 the legal financial obligation. Nothing in this section makes the
14 department, the state, or any of its employees, agents, or other
15 persons acting on their behalf liable under any circumstances for the
16 payment of these legal financial obligations. If an order includes
17 restitution as one of the monetary assessments, the county clerk shall
18 make disbursements to victims named in the order.

19 (11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
20 court may not impose a sentence providing for a term of confinement or
21 community supervision or community placement which exceeds the
22 statutory maximum for the crime as provided in chapter 9A.20 RCW.

23 (12) All offenders sentenced to terms involving community
24 supervision, community service, community placement, or legal financial
25 obligation shall be under the supervision of the secretary of the
26 department of corrections or such person as the secretary may designate
27 and shall follow explicitly the instructions of the secretary including
28 reporting as directed to a community corrections officer, remaining
29 within prescribed geographical boundaries, and notifying the community

1 corrections officer of any change in the offender's address or
2 employment.

3 (13) The sentencing court shall give the offender credit for all
4 confinement time served before the sentencing if that confinement was
5 solely in regard to the offense for which the offender is being
6 sentenced.

7 (14) A departure from the standards in RCW 9.94A.400 (1) and (2)
8 governing whether sentences are to be served consecutively or
9 concurrently is an exceptional sentence subject to the limitations in
10 subsections (2) and (3) of this section, and may be appealed by the
11 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

12 (15) The court shall order restitution whenever the offender is
13 convicted of a felony that results in injury to any person or damage to
14 or loss of property, whether the offender is sentenced to confinement
15 or placed under community supervision, unless extraordinary
16 circumstances exist that make restitution inappropriate in the court's
17 judgment. The court shall set forth the extraordinary circumstances in
18 the record if it does not order restitution.

19 (16) As a part of any sentence, the court may impose and enforce an
20 order that relates directly to the circumstances of the crime for which
21 the offender has been convicted, prohibiting the offender from having
22 any contact with other specified individuals or a specific class of
23 individuals for a period not to exceed the maximum allowable sentence
24 for the crime, regardless of the expiration of the offender's term of
25 community supervision or community placement.

26 (17) In any sentence of partial confinement, the court may require
27 the defendant to serve the partial confinement in work release ~~((or))~~,
28 in a program of home detention, on work crew, or in a combined program
29 of work crew and home detention.

1 (18) All court-ordered legal financial obligations collected by the
2 department and remitted to the county clerk shall be credited and paid
3 where restitution is ordered. Restitution shall be paid prior to any
4 other payments of monetary obligations.

5 **Sec. 4.** RCW 9.94A.180 and 1988 c 154 s 4 are each amended to read
6 as follows:

7 (1) An offender sentenced to a term of partial confinement shall be
8 confined in the facility for at least eight hours per day or, if
9 serving a work crew sentence shall comply with the conditions of that
10 sentence as set forth in RCW 9.94A.030(23) and section 2 of this act.
11 The offender shall be required as a condition of partial confinement to
12 report to the facility at designated times. An offender may be
13 required to comply with crime-related prohibitions during the period of
14 partial confinement.

15 (2) An offender in a county jail ordered to serve all or part of a
16 term of less than one year in work release, work crew, or a program of
17 home detention who violates the rules of the work release facility,
18 work crew, or program of home detention or fails to remain employed or
19 enrolled in school may be transferred to the appropriate county
20 detention facility without further court order but shall, upon request,
21 be notified of the right to request an administrative hearing on the
22 issue of whether or not the offender failed to comply with the order
23 and relevant conditions. Pending such hearing, or in the absence of a
24 request for the hearing, the offender shall serve the remainder of the
25 term of confinement as total confinement. This subsection shall not
26 affect transfer or placement of offenders committed to the state
27 department of corrections.

1 **Sec. 5.** RCW 9.94A.190 and 1988 c 154 s 5 are each amended to read
2 as follows:

3 (1) A sentence that includes a term or terms of confinement
4 totaling more than one year shall be served in a facility or
5 institution operated, or utilized under contract, by the state. Except
6 as provided for in subsection (3) of this section, a sentence of not
7 more than one year of confinement shall be served in a facility
8 operated, licensed, or utilized under contract, by the county, or if
9 home detention or work crew has been ordered by the court, in the
10 residence of either the defendant or a member of the defendant's
11 immediate family.

12 (2) If a county uses a state partial confinement facility for the
13 partial confinement of a person sentenced to confinement for not more
14 than one year, the county shall reimburse the state for the use of the
15 facility as provided for in this subsection. The office of financial
16 management shall set the rate of reimbursement based upon the average
17 per diem cost per offender in the facility. The office of financial
18 management shall determine to what extent, if any, reimbursement shall
19 be reduced or eliminated because of funds provided by the legislature
20 to the department of corrections for the purpose of covering the cost
21 of county use of state partial confinement facilities. The office of
22 financial management shall reestablish reimbursement rates each even-
23 numbered year.

24 (3) A person who is sentenced for a felony to a term of not more
25 than one year, and who is committed or returned to incarceration in a
26 state facility on another felony conviction, either under the
27 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter
28 shall serve all terms of confinement, including a sentence of not more
29 than one year, in a facility or institution operated, or utilized under

1 contract, by the state, consistent with the provisions of RCW
2 9.94A.400.

3 **Sec. 6.** RCW 9A.76.010 and 1979 c 155 s 35 are each amended to read
4 as follows:

5 The following definitions are applicable in this chapter unless the
6 context otherwise requires:

7 (1) "Custody" means restraint pursuant to a lawful arrest or an
8 order of a court, or any period of service on a work crew: PROVIDED,
9 That custody pursuant to chapter 13.34 RCW and RCW 74.13.020 and
10 74.13.031 and chapter 13.32A RCW shall not be deemed custody for
11 purposes of this chapter;

12 (2) "Detention facility" means any place used for the confinement
13 of a person (a) arrested for, charged with or convicted of an offense,
14 or (b) charged with being or adjudicated to be a juvenile offender as
15 defined in RCW 13.40.020 as now existing or hereafter amended, or (c)
16 held for extradition or as a material witness, or (d) otherwise
17 confined pursuant to an order of a court, except an order under chapter
18 13.34 RCW or chapter 13.32A RCW, or (e) in any work release, furlough,
19 or other such facility or program;

20 (3) "Contraband" means any article or thing which a person confined
21 in a detention facility is prohibited from obtaining or possessing by
22 statute, rule, regulation, or order of a court.