

2 **ESHB 1922** - S COMM AMD

3 By Committee on Law & Justice

4 ADOPTED W/000763 4/13/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that high crime rates
8 and a heightened sense of vulnerability have led to increased public
9 pressure on criminal justice officials to increase offender punishment
10 and remove the most dangerous criminals from the streets. As a result,
11 there is unprecedented growth in the corrections populations and
12 overcrowding of prisons and local jails. Skyrocketing costs and high
13 rates of recidivism have become issues of major public concern.
14 Attention must be directed towards implementing a long-range
15 corrections strategy that focuses on inmate responsibility through
16 intensive work ethic training.

17 The legislature finds that many offenders lack basic life skills
18 and have been largely unaffected by traditional correctional
19 philosophies and programs. In addition, many first-time offenders who
20 enter the prison system learn more about how to be criminals than the
21 important qualities, values, and skills needed to successfully adapt to
22 a life without crime.

23 The legislature finds that opportunities for offenders to improve
24 themselves are extremely limited and there has not been adequate
25 emphasis on alternatives to total confinement for nonviolent offenders.

26 The legislature finds that the explosion of drug crimes since the
27 inception of the sentencing reform act and the response of the criminal
28 justice system have resulted in a much higher proportion of substance
29 abuse-affected offenders in the state's prisons and jails. The needs
30 of this population differ from those of other offenders and present a
31 great challenge to the system. The problems are exacerbated by the
32 shortage of drug treatment and counseling programs both in and outside
33 of prisons.

34 The legislature finds that the concept of a work ethic camp that
35 requires the offender to complete an appropriate and balanced
36 combination of highly structured and goal-oriented work programs such

1 as correctional industries based work camps and/or class I and class II
2 work projects, drug rehabilitation, and intensive life management work
3 ethic training, can successfully reduce offender recidivism and lower
4 the overall cost of incarceration.

5 It is the purpose and intent of sections 1 and 3 through 6 of this
6 act to implement a regimented work ethic camp that is designed to
7 directly address the high rate of recidivism, reduce upwardly spiraling
8 prison costs, preserve scarce and high cost prison space for the most
9 dangerous offenders, and provide judges with a tough and sound
10 alternative to traditional incarceration without compromising public
11 safety.

12 **Sec. 2.** RCW 9.94A.030 and 1992 c 145 s 6 and 1992 c 75 s 1 are
13 each reenacted and amended to read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

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

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

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

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

32 (5) "Community placement" means that period during which the
33 offender is subject to the conditions of community custody and/or
34 postrelease supervision, which begins either upon completion of the
35 term of confinement (postrelease supervision) or at such time as the
36 offender is transferred to community custody in lieu of earned early
37 release. Community placement may consist of entirely community
38 custody, entirely postrelease supervision, or a combination of the two.

1 (6) "Community service" means compulsory service, without compensa-
2 tion, performed for the benefit of the community by the offender.

3 (7) "Community supervision" means a period of time during which a
4 convicted offender is subject to crime-related prohibitions and other
5 sentence conditions imposed by a court pursuant to this chapter or RCW
6 46.61.524. For first-time offenders, the supervision may include
7 crime-related prohibitions and other conditions imposed pursuant to RCW
8 9.94A.120(5). For purposes of the interstate compact for out-of-state
9 supervision of parolees and probationers, RCW 9.95.270, community
10 supervision is the functional equivalent of probation and should be
11 considered the same as probation by other states.

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

14 (9) "Conviction" means an adjudication of guilt pursuant to Titles
15 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
16 acceptance of a plea of guilty.

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

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

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

37 (b) "Criminal history" shall always include juvenile convictions
38 for sex offenses and shall also include a defendant's other prior
39 convictions in juvenile court if: (i) The conviction was for an

1 offense which is a felony or a serious traffic offense and is criminal
2 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was
3 fifteen years of age or older at the time the offense was committed;
4 and (iii) with respect to prior juvenile class B and C felonies or
5 serious traffic offenses, the defendant was less than twenty-three
6 years of age at the time the offense for which he or she is being
7 sentenced was committed.

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

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

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

29 (16) "Drug offense" means:

30 (a) Any felony violation of chapter 69.50 RCW except possession of
31 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
32 controlled substance (RCW 69.50.403);

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

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

39 (17) "Escape" means:

1 (a) Escape in the first degree (RCW 9A.76.110), escape in the
2 second degree (RCW 9A.76.120), willful failure to return from furlough
3 (RCW 72.66.060), willful failure to return from work release (RCW
4 72.65.070), or willful failure to be available for supervision by the
5 department while in community custody (RCW 72.09.310); or

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

9 (18) "Felony traffic offense" means:

10 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
11 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
12 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

32 (21) "Nonviolent offense" means an offense which is not a violent
33 offense.

34 (22) "Offender" means a person who has committed a felony
35 established by state law and is eighteen years of age or older or is
36 less than eighteen years of age but whose case has been transferred by
37 the appropriate juvenile court to a criminal court pursuant to RCW
38 13.40.110. Throughout this chapter, the terms "offender" and
39 "defendant" are used interchangeably.

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

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

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

15 (26) "Serious traffic offense" means:

16 (a) Driving while under the influence of intoxicating liquor or any
17 drug (RCW 46.61.502), actual physical control while under the influence
18 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
19 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
20 or

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

24 (27) "Serious violent offense" is a subcategory of violent offense
25 and means:

26 (a) Murder in the first degree, homicide by abuse, murder in the
27 second degree, assault in the first degree, kidnapping in the first
28 degree, or rape in the first degree, assault of a child in the first
29 degree, or an attempt, criminal solicitation, or criminal conspiracy to
30 commit one of these felonies; or

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

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

36 (29) "Sex offense" means:

37 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
38 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal

1 attempt, criminal solicitation, or criminal conspiracy to commit such
2 crimes;

3 (b) A felony with a finding of sexual motivation under RCW
4 9.94A.127; or

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

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

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

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

21 (33) "Victim" means any person who has sustained emotional,
22 psychological, physical, or financial injury to person or property as
23 a direct result of the crime charged.

24 (~~(33)~~) (34) "Violent offense" means:

25 (a) Any of the following felonies, as now existing or hereafter
26 amended: Any felony defined under any law as a class A felony or an
27 attempt to commit a class A felony, criminal solicitation of or
28 criminal conspiracy to commit a class A felony, manslaughter in the
29 first degree, manslaughter in the second degree, indecent liberties if
30 committed by forcible compulsion, kidnapping in the second degree,
31 arson in the second degree, assault in the second degree, assault of a
32 child in the second degree, extortion in the first degree, robbery in
33 the second degree, vehicular assault, and vehicular homicide, when
34 proximately caused by the driving of any vehicle by any person while
35 under the influence of intoxicating liquor or any drug as defined by
36 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

4 (~~(34)~~) (35) "Work crew" means a program of partial confinement
5 consisting of civic improvement tasks for the benefit of the community
6 of not less than thirty-five hours per week that complies with RCW
7 9.94A.135. The civic improvement tasks shall be performed on public
8 property or on private property owned or operated by nonprofit
9 entities, except that, for emergency purposes only, work crews may
10 perform snow removal on any private property. The civic improvement
11 tasks shall have minimal negative impact on existing private industries
12 or the labor force in the county where the service or labor is
13 performed. The civic improvement tasks shall not affect employment
14 opportunities for people with developmental disabilities contracted
15 through sheltered workshops as defined in RCW 82.04.385. Only those
16 offenders sentenced to a facility operated or utilized under contract
17 by a county are eligible to participate on a work crew. Offenders
18 sentenced for a sex offense as defined in subsection (29) of this
19 section are not eligible for the work crew program.

20 (~~(35)~~) (36) "Work ethic camp" means an alternative incarceration
21 program designed to reduce recidivism and lower the cost of corrections
22 by requiring offenders to complete a comprehensive array of real-world
23 job and vocational experiences, character-building work ethics
24 training, life management skills development, substance abuse
25 rehabilitation, counseling, literacy training, and basic adult
26 education.

27 (37) "Work release" means a program of partial confinement
28 available to offenders who are employed or engaged as a student in a
29 regular course of study at school. Participation in work release shall
30 be conditioned upon the offender attending work or school at regularly
31 defined hours and abiding by the rules of the work release facility.

32 (~~(36)~~) (38) "Home detention" means a program of partial
33 confinement available to offenders wherein the offender is confined in
34 a private residence subject to electronic surveillance. Home detention
35 may not be imposed for offenders convicted of a violent offense, any
36 sex offense, any drug offense, reckless burning in the first or second
37 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
38 degree as defined in RCW 9A.36.031, assault of a child in the third
39 degree, unlawful imprisonment as defined in RCW 9A.40.040, or

1 harassment as defined in RCW 9A.46.020. Home detention may be imposed
2 for offenders convicted of possession of a controlled substance (RCW
3 69.50.401(d)) or forged prescription for a controlled substance (RCW
4 69.50.403) if the offender fulfills the participation conditions set
5 forth in this subsection and is monitored for drug use by treatment
6 alternatives to street crime (TASC) or a comparable court or agency-
7 referred program.

8 (a) Home detention may be imposed for offenders convicted of
9 burglary in the second degree as defined in RCW 9A.52.030 or
10 residential burglary conditioned upon the offender: (i) Successfully
11 completing twenty-one days in a work release program, (ii) having no
12 convictions for burglary in the second degree or residential burglary
13 during the preceding two years and not more than two prior convictions
14 for burglary or residential burglary, (iii) having no convictions for
15 a violent felony offense during the preceding two years and not more
16 than two prior convictions for a violent felony offense, (iv) having no
17 prior charges of escape, and (v) fulfilling the other conditions of the
18 home detention program.

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

35 NEW SECTION. **Sec. 3.** The department of corrections shall
36 establish one work ethic camp. The secretary shall locate the work
37 ethic camp within an already existing department compound or facility,
38 or in a facility that is scheduled to come on line within the initial

1 implementation date outlined in this section. The facility selected
2 for the camp shall appropriately accommodate the logistical and cost-
3 effective objectives contained in sections 1 and 3 through 6 of this
4 act. The department shall be ready to assign inmates to the camp one
5 hundred twenty days after the effective date of this act. The
6 department shall establish the work ethic camp program cycle to last
7 from one hundred twenty to one hundred eighty days. The department
8 shall develop all aspects of the work ethic camp program including, but
9 not limited to, program standards, conduct standards, educational
10 components including general education development test achievement,
11 offender incentives, drug rehabilitation program parameters, individual
12 and team work goals, techniques for improving the offender's self-
13 esteem, citizenship skills for successful living in the community,
14 measures to hold the offender accountable for his or her behavior, and
15 the successful completion of the work ethic camp program granted to the
16 offender based on successful attendance, participation, and performance
17 as defined by the secretary. The work ethic camp shall be designed and
18 implemented so that offenders are continually engaged in meaningful
19 activities and unstructured time is kept to a minimum. In addition,
20 the department is encouraged to explore the integration and overlay of
21 a military style approach to the work ethic camp.

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

24 (1) An offender is eligible to be sentenced to a work ethic camp if
25 the offender:

26 (a) Is sentenced to a term of total confinement of not less than
27 twenty-two months or more than thirty-six months;

28 (b) Is between the ages of eighteen and twenty-eight years;

29 (c) Has no current or prior convictions for any sex offenses or
30 violent offenses; and

31 (d) Has no prior convictions for any drug offense.

32 (2) If the sentencing judge determines that the offender is
33 eligible for the work ethic camp and is likely to qualify under
34 subsection (3) of this section, the judge shall impose a sentence
35 within the standard range and may recommend that the offender serve the
36 sentence at a work ethic camp. The sentence shall provide that if the
37 offender successfully completes the program, the department shall
38 convert the period of work ethic camp confinement at the rate of one

1 day of work ethic camp confinement to three days of total standard
2 confinement. The court shall also provide that upon completion of the
3 work ethic camp program, the offender shall be released on community
4 custody for any remaining time of total confinement.

5 (3) The department shall place the offender in the work ethic camp
6 program, subject to capacity, unless the department determines that the
7 offender has physical or mental impairments that would prevent
8 participation and completion of the program, or the offender refuses to
9 agree to the terms and conditions of the program.

10 (4) An inmate who fails to complete the work ethic camp program,
11 who is administratively terminated from the program, or who otherwise
12 violates any conditions of supervision, as defined by the department,
13 shall be reclassified to serve the unexpired term of his or her
14 sentence as ordered by the sentencing judge and shall be subject to all
15 rules relating to earned early release time.

16 (5) The length of the work ethic camp program shall be at least one
17 hundred twenty days and not more than one hundred eighty days. Because
18 of the conversion ratio, earned early release time shall not accrue to
19 offenders who successfully complete the program.

20 (6) During the last two weeks prior to release from the work ethic
21 camp program the department shall provide the offender with
22 comprehensive transition training.

23 NEW SECTION. **Sec. 5.** The work ethic camp program shall employ one
24 hundred percent of all inmates. The employment options available for
25 inmates shall include meaningful work opportunities that provide the
26 offender with real-world skills that help the offender find employment
27 when he or she successfully completes the work ethic camp program. The
28 department shall include in the work ethic camp program, without
29 limitation, class I, class II, and class IV correctional programs. No
30 more than thirty-five percent of the total inmate population in the
31 facility shall be employed in class III correctional industries
32 programs in the first year and thereafter ten percent less per year
33 until a maximum of ten percent of the inmates are working in this
34 employment class. In addition, work options shall also include
35 department-supervised work crews as defined by the department. These
36 work crews shall have the ability to work on public roads conducting
37 litter control, minor emergency repair or other minor tasks that do not
38 negatively impact employment opportunities for people with

1 developmental disabilities contracted through the operation of
2 sheltered workshops as defined in RCW 82.04.385, or have a negative
3 impact on the local labor market or local business community as
4 assessed by the department correctional industries advisory board of
5 directors. The department shall establish, to the extent possible,
6 programs that will positively impact our natural environment such as,
7 but not limited to, recycling programs and minor environmental cleanup
8 programs. If the department is directed by the legislature to increase
9 the percentage of inmates employed in correctional industries programs,
10 inmates employed through work ethic camps shall not be counted towards
11 this total percentage.

12 NEW SECTION. **Sec. 6.** The work ethic camp program established in
13 sections 1 and 3 through 6 of this act shall be considered a pilot
14 alternative incarceration program and remain in effect until July 1,
15 1998. The department and the office of financial management shall
16 monitor and analyze the effectiveness of the work ethic camp program
17 and complete a final outcome evaluation study by January 15, 1998. The
18 study shall include: The recidivism rates of successful program
19 graduates, analysis of the overall program costs, the ability to
20 maintain public safety, and any other pertinent data established by the
21 department. The department may encourage interested universities to
22 participate in studies that will enhance the effectiveness of the
23 program.

24 The department of corrections shall seek the availability of
25 federal funds for the planning, implementation, evaluation, and
26 training of staff for work ethic camp programs, substance abuse
27 programs, and offender education programs.

28 NEW SECTION. **Sec. 7.** Sections 1, 3, 5, and 6 of this act are each
29 added to chapter 72.09 RCW.

30 NEW SECTION. **Sec. 8.** If any provision of this act or its
31 application to any person or circumstance is held invalid, the
32 remainder of the act or the application of the provision to other
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect July 1, 1993."

3 **ESHB 1922** - S COMM AMD
4 By Committee on Law & Justice

5 ADOPTED 4/13/93

6 On page 1, line 1 of the title, after "camp;" strike the remainder
7 of the title and insert "reenacting and amending RCW 9.94A.030; adding
8 new sections to chapter 72.09 RCW; adding a new section to chapter
9 9.94A RCW; providing an effective date; and declaring an emergency."

--- END ---