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**SUBSTITUTE SENATE BILL 6620**

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**State of Washington**

**54th Legislature**

**1996 Regular Session**

**By** Senate Committee on Human Services & Corrections (originally sponsored by Senators Quigley and Oke)

Read first time 02/02/96.

1 AN ACT Relating to released sex offenders; amending RCW 72.09.340,  
2 9.94A.120, 71.09.092, and 71.09.096; reenacting and amending RCW  
3 9.94A.155; adding a new section to chapter 71.09 RCW; and prescribing  
4 penalties.

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

6 **Sec. 1.** RCW 72.09.340 and 1990 c 3 s 708 are each amended to read  
7 as follows:

8 (1) In making all discretionary decisions regarding release plans  
9 for and supervision of ((sexually violent)) sex offenders, the  
10 department ((of corrections)) shall set priorities and make decisions  
11 based on an assessment of public safety risks ((rather than the legal  
12 category of the sentences)).

13 (2) The department shall, no later than September 1, 1996,  
14 implement a policy governing the department's evaluation and approval  
15 of release plans for sex offenders. The policy shall include, at a  
16 minimum, a formal process by which victims, witnesses, and other  
17 interested people may provide information and comments to the  
18 department on potential safety risks to specific individuals or classes  
19 of individuals posed by a specific sex offender. The department shall

1 make all reasonable efforts to publicize the availability of this  
2 process through currently existing mechanisms and shall seek the  
3 assistance of courts, prosecutors, law enforcement, and victims'  
4 advocacy groups in doing so. Notice of an offender's proposed  
5 residence shall be provided to all people registered to receive notice  
6 of an offender's release under RCW 9.94A.155(2), except that in no case  
7 may this notification requirement be construed to require an extension  
8 of an offender's release date.

9 (3) For any offender convicted of a felony sex offense against a  
10 minor victim after the effective date of this act, the department shall  
11 not approve a residence location if the proposed residence: (a)  
12 Includes a minor victim or child of similar age or circumstance as a  
13 previous victim who the department determines may be put at substantial  
14 risk of harm by the offender's residence in the household; or (b) is  
15 within close proximity of the current residence of a minor victim,  
16 unless the whereabouts of the minor victim cannot be determined or  
17 unless such a restriction would impede family reunification efforts  
18 ordered by the court or directed by the department of social and health  
19 services. The department is further authorized to reject a residence  
20 location if the proposed residence is within close proximity to  
21 schools, child care centers, or other facilities where children of  
22 similar age or circumstance as a previous victim are present who the  
23 department determines may be put at substantial risk of harm by the sex  
24 offender's residence at that location.

25 (4) When the department requires supervised visitation as a term or  
26 condition of a sex offender's community placement under RCW  
27 9.94A.120(9)(c)(vi), the department shall, prior to approving a  
28 supervisor, consider the following:

29 (a) The relationships between the proposed supervisor, the  
30 offender, and the minor; (b) the proposed supervisor's acknowledgment  
31 and understanding of the offender's prior criminal conduct, general  
32 knowledge of the dynamics of child sexual abuse, and willingness and  
33 ability to protect the minor from the potential risks posed by contact  
34 with the offender; and (c) recommendations made by the department of  
35 social and health services about the best interests of the child.

36 **Sec. 2.** RCW 9.94A.120 and 1995 c 108 s 3 are each amended to read  
37 as follows:

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

3       (1) Except as authorized in subsections (2), (4), (5), (6), and (8)  
4 of this section, the court shall impose a sentence within the sentence  
5 range for the offense.

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

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

14       (4) A persistent offender shall be sentenced to a term of total  
15 confinement for life without the possibility of parole or, when  
16 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
17 first degree, sentenced to death, notwithstanding the maximum sentence  
18 under any other law. An offender convicted of the crime of murder in  
19 the first degree shall be sentenced to a term of total confinement not  
20 less than twenty years. An offender convicted of the crime of assault  
21 in the first degree or assault of a child in the first degree where the  
22 offender used force or means likely to result in death or intended to  
23 kill the victim shall be sentenced to a term of total confinement not  
24 less than five years. An offender convicted of the crime of rape in  
25 the first degree shall be sentenced to a term of total confinement not  
26 less than five years. The foregoing minimum terms of total confinement  
27 are mandatory and shall not be varied or modified as provided in  
28 subsection (2) of this section. In addition, all offenders subject to  
29 the provisions of this subsection shall not be eligible for community  
30 custody, earned early release time, furlough, home detention, partial  
31 confinement, work crew, work release, or any other form of early  
32 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
33 or any other form of authorized leave of absence from the correctional  
34 facility while not in the direct custody of a corrections officer or  
35 officers during such minimum terms of total confinement except in the  
36 case of an offender in need of emergency medical treatment or for the  
37 purpose of commitment to an inpatient treatment facility in the case of  
38 an offender convicted of the crime of rape in the first degree.

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

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

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

14 (c) Pursue a prescribed, secular course of study or vocational  
15 training;

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

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

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

23 (6)(a) An offender is eligible for the special drug offender  
24 sentencing alternative if:

25 (i) The offender is convicted of the manufacture, delivery, or  
26 possession with intent to manufacture or deliver a controlled substance  
27 classified in Schedule I or II that is a narcotic drug or a felony that  
28 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
29 criminal solicitation, or criminal conspiracy to commit such crimes,  
30 and the violation does not involve a sentence enhancement under RCW  
31 9.94A.310 (3) or (4);

32 (ii) The offender has no prior convictions for a felony in this  
33 state, another state, or the United States; and

34 (iii) The offense involved only a small quantity of the particular  
35 controlled substance as determined by the judge upon consideration of  
36 such factors as the weight, purity, packaging, sale price, and street  
37 value of the controlled substance.

38 (b) If the midpoint of the standard range is greater than one year  
39 and the sentencing judge determines that the offender is eligible for

1 this option and that the offender and the community will benefit from  
2 the use of the special drug offender sentencing alternative, the judge  
3 may waive imposition of a sentence within the standard range and impose  
4 a sentence that must include a period of total confinement in a state  
5 facility for one-half of the midpoint of the standard range. During  
6 incarceration in the state facility, offenders sentenced under this  
7 subsection shall undergo a comprehensive substance abuse assessment and  
8 receive, within available resources, treatment services appropriate for  
9 the offender. The treatment services shall be designed by the division  
10 of alcohol and substance abuse of the department of social and health  
11 services, in cooperation with the department of corrections. If the  
12 midpoint of the standard range is twenty-four months or less, no more  
13 than three months of the sentence may be served in a work release  
14 status. The court shall also impose one year of concurrent community  
15 custody and community supervision that must include appropriate  
16 outpatient substance abuse treatment, crime-related prohibitions  
17 including a condition not to use illegal controlled substances, and a  
18 requirement to submit to urinalysis or other testing to monitor that  
19 status. The court may require that the monitoring for controlled  
20 substances be conducted by the department or by a treatment  
21 (~~alternative[s]~~) alternatives to street crime program or a comparable  
22 court or agency-referred program. The offender may be required to pay  
23 thirty dollars per month while on community custody to offset the cost  
24 of monitoring. In addition, the court shall impose three or more of  
25 the following conditions:

- 26 (i) Devote time to a specific employment or training;  
27 (ii) Remain within prescribed geographical boundaries and notify  
28 the court or the community corrections officer before any change in the  
29 offender's address or employment;  
30 (iii) Report as directed to a community corrections officer;  
31 (iv) Pay all court-ordered legal financial obligations;  
32 (v) Perform community service work;  
33 (vi) Stay out of areas designated by the sentencing judge.  
34 (c) If the offender violates any of the sentence conditions in (b)  
35 of this subsection, the department shall impose sanctions  
36 administratively, with notice to the prosecuting attorney and the  
37 sentencing court. Upon motion of the court or the prosecuting  
38 attorney, a violation hearing shall be held by the court. If the court  
39 finds that conditions have been willfully violated, the court may

1 impose confinement consisting of up to the remaining one-half of the  
2 midpoint of the standard range. All total confinement served during  
3 the period of community custody shall be credited to the offender,  
4 regardless of whether the total confinement is served as a result of  
5 the original sentence, as a result of a sanction imposed by the  
6 department, or as a result of a violation found by the court. The term  
7 of community supervision shall be tolled by any period of time served  
8 in total confinement as a result of a violation found by the court.

9 (d) The department shall determine the rules for calculating the  
10 value of a day fine based on the offender's income and reasonable  
11 obligations which the offender has for the support of the offender and  
12 any dependents. These rules shall be developed in consultation with  
13 the administrator for the courts, the office of financial management,  
14 and the commission.

15 (7) If a sentence range has not been established for the  
16 defendant's crime, the court shall impose a determinate sentence which  
17 may include not more than one year of confinement, community service  
18 work, a term of community supervision not to exceed one year, and/or  
19 other legal financial obligations. The court may impose a sentence  
20 which provides more than one year of confinement if the court finds,  
21 considering the purpose of this chapter, that there are substantial and  
22 compelling reasons justifying an exceptional sentence.

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

30 The report of the examination shall include at a minimum the  
31 following: The defendant's version of the facts and the official  
32 version of the facts, the defendant's offense history, an assessment of  
33 problems in addition to alleged deviant behaviors, the offender's  
34 social and employment situation, and other evaluation measures used.  
35 The report shall set forth the sources of the evaluator's information.

36 The examiner shall assess and report regarding the defendant's  
37 amenability to treatment and relative risk to the community. A  
38 proposed treatment plan shall be provided and shall include, at a  
39 minimum:

- 1 (A) Frequency and type of contact between offender and therapist;
- 2 (B) Specific issues to be addressed in the treatment and
- 3 description of planned treatment modalities;
- 4 (C) Monitoring plans, including any requirements regarding living
- 5 conditions, lifestyle requirements, and monitoring by family members
- 6 and others;
- 7 (D) Anticipated length of treatment; and
- 8 (E) Recommended crime-related prohibitions.

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

15 (ii) After receipt of the reports, the court shall consider whether  
16 the offender and the community will benefit from use of this special  
17 sexual offender sentencing alternative and consider the victim's  
18 opinion whether the offender should receive a treatment disposition  
19 under this subsection. If the court determines that this special sex  
20 offender sentencing alternative is appropriate, the court shall then  
21 impose a sentence within the sentence range. If this sentence is less  
22 than eight years of confinement, the court may suspend the execution of  
23 the sentence and impose the following conditions of suspension:

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

27 (B) The court shall order treatment for any period up to three  
28 years in duration. The court in its discretion shall order outpatient  
29 sex offender treatment or inpatient sex offender treatment, if  
30 available. A community mental health center may not be used for such  
31 treatment unless it has an appropriate program designed for sex  
32 offender treatment. The offender shall not change sex offender  
33 treatment providers or treatment conditions without first notifying the  
34 prosecutor, the community corrections officer, and the court, and shall  
35 not change providers without court approval after a hearing if the  
36 prosecutor or community corrections officer object to the change. In  
37 addition, as conditions of the suspended sentence, the court may impose  
38 other sentence conditions including up to six months of confinement,  
39 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  
31 additional evaluation ordered unless the court finds the defendant to  
32 be indigent in which case the state shall pay the cost. At the  
33 treatment termination hearing the court may: (A) Modify conditions of  
34 community supervision, and either (B) terminate treatment, or (C)  
35 extend treatment for up to the remaining period of community  
36 supervision.

37 (v) The court may revoke the suspended sentence at any time during  
38 the period of community supervision and order execution of the sentence  
39 if: (A) The defendant violates the conditions of the suspended



1 sentence, or (B) the court finds that the defendant is failing to make  
2 satisfactory progress in treatment. All confinement time served during  
3 the period of community supervision shall be credited to the offender  
4 if the suspended sentence is revoked.

5 (vi) Except as provided in (a)(vii) of this subsection, after July  
6 1, 1991, examinations and treatment ordered pursuant to this subsection  
7 shall only be conducted by sex offender treatment providers certified  
8 by the department of health pursuant to chapter 18.155 RCW.

9 (vii) A sex offender therapist who examines or treats a sex  
10 offender pursuant to this subsection (8) does not have to be certified  
11 by the department of health pursuant to chapter 18.155 RCW if the court  
12 finds that: (A) The offender has already moved to another state or  
13 plans to move to another state for reasons other than circumventing the  
14 certification requirements; (B) no certified providers are available  
15 for treatment within a reasonable geographical distance of the  
16 offender's home; and (C) the evaluation and treatment plan comply with  
17 this subsection (8) and the rules adopted by the department of health.

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 commits any felony sex offense on or after  
24 July 1, 1987, and is sentenced to a term of confinement of more than  
25 one year but less than six years, the sentencing court may, on its own  
26 motion or on the motion of the offender or the state, request the  
27 department of corrections to evaluate whether the offender is amenable  
28 to treatment and the department may place the offender in a treatment  
29 program within a correctional facility operated by the department.

30 Except for an offender who has been convicted of a violation of RCW  
31 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
32 before the expiration of his or her term of confinement, the department  
33 of corrections may request the court to convert the balance of  
34 confinement to community supervision and to place conditions on the  
35 offender including crime-related prohibitions and requirements that the  
36 offender perform any one or more of the following:

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

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

4 (iii) Report as directed to the court and a community corrections  
5 officer;

6 (iv) Undergo available outpatient treatment.

7 If the offender violates any of the terms of his or her community  
8 supervision, the court may order the offender to serve out the balance  
9 of his or her community supervision term in confinement in the custody  
10 of the department of corrections.

11 Nothing in this subsection (8)(b) shall confer eligibility for such  
12 programs for offenders convicted and sentenced for a sex offense  
13 committed prior to July 1, 1987. This subsection (8)(b) does not apply  
14 to any crime committed after July 1, 1990.

15 (c) Offenders convicted and sentenced for a sex offense committed  
16 prior to July 1, 1987, may, subject to available funds, request an  
17 evaluation by the department of corrections to determine whether they  
18 are amenable to treatment. If the offender is determined to be  
19 amenable to treatment, the offender may request placement in a  
20 treatment program within a correctional facility operated by the  
21 department. Placement in such treatment program is subject to  
22 available funds.

23 (9)(a) When a court sentences a person to a term of total  
24 confinement to the custody of the department of corrections for an  
25 offense categorized as a sex offense or a serious violent offense  
26 committed after July 1, 1988, but before July 1, 1990, assault in the  
27 second degree, assault of a child in the second degree, any crime  
28 against a person where it is determined in accordance with RCW  
29 9.94A.125 that the defendant or an accomplice was armed with a deadly  
30 weapon at the time of commission, or any felony offense under chapter  
31 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,  
32 committed on or after July 1, 1988, the court shall in addition to the  
33 other terms of the sentence, sentence the offender to a one-year term  
34 of community placement beginning either upon completion of the term of  
35 confinement or at such time as the offender is transferred to community  
36 custody in lieu of earned early release in accordance with RCW  
37 9.94A.150 (1) and (2). When the court sentences an offender under this  
38 subsection to the statutory maximum period of confinement then the  
39 community placement portion of the sentence shall consist entirely of

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

30 (iv) An offender in community custody shall not unlawfully possess  
31 controlled substances;

32 (v) The offender shall pay supervision fees as determined by the  
33 department of corrections; and

34 (vi) The residence location and living arrangements are subject to  
35 the prior approval of the department of corrections during the period  
36 of community placement.

37 (c) As a part of any sentence imposed under (a) or (b) of this  
38 subsection, the court may also order any of the following special  
39 conditions:

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

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

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

7 (iv) The offender shall not consume alcohol; (~~or~~)

8 (v) The offender shall comply with any crime-related prohibitions;  
9 or

10 (vi) For an offender convicted of a felony sex offense against a  
11 minor victim after the effective date of this act, the offender shall  
12 comply with any terms and conditions of community placement imposed by  
13 the department of corrections relating to contact between the sex  
14 offender and a minor victim or a child of similar age or circumstance  
15 as a previous victim.

16 (d) Prior to transfer to, or during, community placement, any  
17 conditions of community placement may be removed or modified so as not  
18 to be more restrictive by the sentencing court, upon recommendation of  
19 the department of corrections. Prior to transfer to, or during,  
20 community placement of an offender convicted of a felony sex offense  
21 against a minor victim after the effective date of this act, any  
22 conditions of community placement imposed under (b) or (c) of this  
23 subsection may be modified, added, or extended by the sentencing court  
24 upon recommendation of the department of corrections, if the court  
25 finds by clear, cogent, and convincing evidence at a hearing that such  
26 modification, addition, or extension is necessary to reduce the  
27 likelihood the offender will commit a new offense. An order extending  
28 any conditions under this subsection may remain in effect for up to the  
29 maximum allowable sentence for the crime as it is classified in chapter  
30 9A.20 RCW, regardless of the expiration of the offender's term of  
31 community placement, except that the court shall specify a time for  
32 periodic review of the order. Violations of a court order issued under  
33 this subsection that occur after the expiration of an offender's term  
34 of community placement shall be deemed a violation of the sentence for  
35 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
36 court as provided for in RCW 7.21.040.

37 (10) If the court imposes a sentence requiring confinement of  
38 thirty days or less, the court may, in its discretion, specify that the  
39 sentence be served on consecutive or intermittent days. A sentence

1 requiring more than thirty days of confinement shall be served on  
2 consecutive days. Local jail administrators may schedule court-ordered  
3 intermittent sentences as space permits.

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

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

29 (13) All offenders sentenced to terms involving community  
30 supervision, community service, community placement, or legal financial  
31 obligation shall be under the supervision of the secretary of the  
32 department of corrections or such person as the secretary may designate  
33 and shall follow explicitly the instructions of the secretary including  
34 reporting as directed to a community corrections officer, remaining  
35 within prescribed geographical boundaries, notifying the community  
36 corrections officer of any change in the offender's address or  
37 employment, and paying the supervision fee assessment. The department  
38 may require offenders to pay for special services rendered on or after  
39 July 25, 1993, including electronic monitoring, day reporting, and

1 telephone reporting, dependent upon the offender's ability to pay. The  
2 department may pay for these services for offenders who are not able to  
3 pay.

4 (14) All offenders sentenced to terms involving community  
5 supervision, community service, or community placement under the  
6 supervision of the department of corrections shall not own, use, or  
7 possess firearms or ammunition. Offenders who own, use, or are found  
8 to be in actual or constructive possession of firearms or ammunition  
9 shall be subject to the appropriate violation process and sanctions.  
10 "Constructive possession" as used in this subsection means the power  
11 and intent to control the firearm or ammunition. "Firearm" as used in  
12 this subsection means a weapon or device from which a projectile may be  
13 fired by an explosive such as gunpowder.

14 (15) The sentencing court shall give the offender credit for all  
15 confinement time served before the sentencing if that confinement was  
16 solely in regard to the offense for which the offender is being  
17 sentenced.

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

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

30 (18) As a part of any sentence, the court may impose and enforce an  
31 order that relates directly to the circumstances of the crime for which  
32 the offender has been convicted, prohibiting the offender from having  
33 any contact with other specified individuals or a specific class of  
34 individuals for a period not to exceed the maximum allowable sentence  
35 for the crime, regardless of the expiration of the offender's term of  
36 community supervision or community placement.

37 (19) In any sentence of partial confinement, the court may require  
38 the defendant to serve the partial confinement in work release, in a

1 program of home detention, on work crew, or in a combined program of  
2 work crew and home detention.

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

7 **Sec. 3.** RCW 71.09.092 and 1995 c 216 s 10 are each amended to read  
8 as follows:

9 Before the court may enter an order directing conditional release  
10 to a less restrictive alternative, it must find the following: (1) The  
11 person will be treated by a treatment provider who is qualified to  
12 provide such treatment in the state of Washington under chapter 18.155  
13 RCW; (2) the treatment provider has presented a specific course of  
14 treatment and has agreed to assume responsibility for such treatment  
15 and will report progress to the court on a regular basis, and will  
16 report violations immediately to the court, the prosecutor, the  
17 supervising community corrections officer, and the superintendent of  
18 the special commitment center; (3) ~~((housing exists that is  
19 sufficiently secure to protect the community, and the person or agency  
20 providing housing to the conditionally released person has agreed in  
21 writing to accept the person, to provide the level of security required  
22 by the court, and immediately to report to the court, the prosecutor,  
23 the supervising community corrections officer, and the superintendent  
24 of the special commitment center if the person leaves the housing to  
25 which he or she has been assigned without authorization))~~ the person or  
26 agency providing housing to the conditionally released person meets the  
27 qualifications established by the department of social and health  
28 services under section 4 of this act and agrees in writing to (a)  
29 accept the person; (b) provide the level of security required by the  
30 court; and (c) immediately report to the court, the prosecutor, the  
31 supervising community corrections officer, and the superintendent of  
32 the special commitment center if the person leaves, without  
33 authorization, the housing to which he or she has been assigned; (4)  
34 the person is willing to comply with the treatment provider and all  
35 requirements imposed by the treatment provider and by the court; and  
36 (5) the person is willing to comply with supervision requirements  
37 imposed by the department of corrections.

1        NEW SECTION.    **Sec. 4.**    A new section is added to chapter 71.09 RCW  
2 to read as follows:

3        The department of social and health services shall adopt rules  
4 establishing the qualifications for any person or agency seeking to  
5 provide housing to a person on conditional release pursuant to this  
6 chapter. The rules shall address, at a minimum, public safety concerns  
7 relating to (1) the proximity of the proposed housing to vulnerable  
8 populations; (2) the appropriate level of security at the facility,  
9 including physical requirements of the building or grounds and minimum  
10 staffing levels; and (3) the minimum education, training, and  
11 experience requirements of staff.

12        **Sec. 5.**    RCW 71.09.096 and 1995 c 216 s 12 are each amended to read  
13 as follows:

14        (1) If the court or jury determines that conditional release to a  
15 less restrictive alternative is in the best interest of the person and  
16 will adequately protect the community, and the court determines that  
17 the minimum conditions set forth in (~~section 9 of this act~~) RCW  
18 71.09.092 are met, the court shall enter judgment and direct a  
19 conditional release.

20        (2) The court shall impose any additional conditions necessary to  
21 ensure compliance with treatment and to protect the community. If the  
22 court finds that conditions do not exist that will both ensure the  
23 person's compliance with treatment and protect the community, then the  
24 person shall be remanded to the custody of the department of social and  
25 health services for control, care, and treatment in a secure facility  
26 as designated in RCW 71.09.060(1).

27        (3) If the service provider designated to provide inpatient or  
28 outpatient treatment or to monitor or supervise any other terms and  
29 conditions of a person's placement in a less restrictive alternative is  
30 other than the department of social and health services or the  
31 department of corrections, then the service provider so designated must  
32 agree in writing to provide such treatment.

33        (4) Prior to authorizing any release to a less restrictive  
34 alternative, the court shall impose such conditions upon the person as  
35 are necessary to ensure the safety of the community, including  
36 prohibiting the person from living within a specified distance of the  
37 current residence of any minor victimized by the person, unless the  
38 whereabouts of the minor victim cannot be determined. The court shall



1 order the department of corrections to investigate the less restrictive  
2 alternative and recommend any additional conditions to the court.  
3 These conditions shall include, but are not limited to the following:  
4 Specification of residence, including proximity to prior victims,  
5 schools, child care centers, or other facilities with vulnerable  
6 populations; prohibition of contact with potential or past  
7 victims((  )); prohibition of alcohol and other drug use((  ));  
8 participation in a specific course of inpatient or outpatient treatment  
9 that may include monitoring by the use of polygraph and  
10 plethysmograph((  )); supervision by a department of corrections  
11 community corrections officer((  )); a requirement that the person  
12 remain within the state unless the person receives prior authorization  
13 by the court((  )); and any other conditions that the court determines  
14 are in the best interest of the person or others. A copy of the  
15 conditions of release shall be given to the person and to any  
16 designated service providers.

17 (5) Any service provider designated to provide inpatient or  
18 outpatient treatment shall monthly, or as otherwise directed by the  
19 court, submit to the court, to the department of social and health  
20 services facility from which the person was released, to the prosecutor  
21 of the county in which the person was found to be a sexually violent  
22 predator, and to the supervising community corrections officer, a  
23 report stating whether the person is complying with the terms and  
24 conditions of the conditional release to a less restrictive  
25 alternative.

26 (6) Each person released to a less restrictive alternative shall  
27 have his or her case reviewed by the court that released him or her no  
28 later than one year after such release and annually thereafter until  
29 the person is unconditionally discharged. Review may occur in a  
30 shorter time or more frequently, if the court, in its discretion on its  
31 own motion, or on motion of the person, the secretary, or the  
32 prosecuting attorney so determines. The sole question to be determined  
33 by the court is whether the person shall continue to be conditionally  
34 released to a less restrictive alternative. The court in making its  
35 determination shall be aided by the periodic reports filed pursuant to  
36 subsection (5) of this section and the opinions of the secretary and  
37 other experts or professional persons.

1       **Sec. 6.** RCW 9.94A.155 and 1994 c 129 s 3 and 1994 c 77 s 1 are  
2 each reenacted and amended to read as follows:

3       (1) At the earliest possible date, and in no event later than  
4 thirty days before release except in the event of escape or emergency  
5 furloughs as defined in RCW 72.66.010, the department of corrections  
6 shall send written notice of parole, release, community placement, work  
7 release placement, furlough, or escape about a specific inmate  
8 convicted of a violent offense, a sex offense as defined by RCW  
9 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060  
10 or 9A.46.110, to the following:

11       (a) The chief of police of the city, if any, in which the inmate  
12 will reside or in which placement will be made in a work release  
13 program; and

14       (b) The sheriff of the county in which the inmate will reside or in  
15 which placement will be made in a work release program.

16       The sheriff of the county where the offender was convicted shall be  
17 notified if the department does not know where the offender will  
18 reside. The department shall notify the state patrol of the release of  
19 all sex offenders, and that information shall be placed in the  
20 Washington crime information center for dissemination to all law  
21 enforcement.

22       (2) The same notice as required by subsection (1) of this section  
23 shall be sent to the following if such notice has been requested in  
24 writing about a specific inmate convicted of a violent offense, a sex  
25 offense as defined by RCW 9.94A.030, or a felony harassment offense as  
26 defined by RCW 9A.46.060 or 9A.46.110:

27       (a) The victim of the crime for which the inmate was convicted or  
28 the victim's next of kin if the crime was a homicide;

29       (b) Any witnesses who testified against the inmate in any court  
30 proceedings involving the violent offense; (~~and~~)

31       (c) Any person specified in writing by the prosecuting attorney;  
32 and

33       (d) Any person who requests such notice about a specific inmate  
34 convicted of a sex offense as defined by RCW 9.94A.030 from the  
35 department of corrections at least sixty days prior to the expected  
36 release date of the offender.

37       Information regarding victims, next of kin, or witnesses requesting  
38 the notice, information regarding any other person specified in writing  
39 by the prosecuting attorney to receive the notice, and the notice are

1 confidential and shall not be available to the inmate. Whenever the  
2 department of corrections mails notice pursuant to this subsection and  
3 the notice is returned as undeliverable, the department shall attempt  
4 alternative methods of notification, including a telephone call to the  
5 person's last known telephone number.

6 (3) The existence of the notice requirements contained in  
7 subsections (1) and (2) of this section shall not require an extension  
8 of the release date in the event that the release plan changes after  
9 notification.

10 (4) If an inmate convicted of a violent offense, a sex offense as  
11 defined by RCW 9.94A.030, or a felony harassment offense as defined by  
12 RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the  
13 department of corrections shall immediately notify, by the most  
14 reasonable and expedient means available, the chief of police of the  
15 city and the sheriff of the county in which the inmate resided  
16 immediately before the inmate's arrest and conviction. If previously  
17 requested, the department shall also notify the witnesses and the  
18 victim of the crime for which the inmate was convicted or the victim's  
19 next of kin if the crime was a homicide. If the inmate is recaptured,  
20 the department shall send notice to the persons designated in this  
21 subsection as soon as possible but in no event later than two working  
22 days after the department learns of such recapture.

23 (5) If the victim, the victim's next of kin, or any witness is  
24 under the age of sixteen, the notice required by this section shall be  
25 sent to the parents or legal guardian of the child.

26 (6) The department of corrections shall send the notices required  
27 by this chapter to the last address provided to the department by the  
28 requesting party. The requesting party shall furnish the department  
29 with a current address.

30 (7) The department of corrections shall keep, for a minimum of two  
31 years following the release of an inmate, the following:

32 (a) A document signed by an individual as proof that that person is  
33 registered in the victim or witness notification program; and

34 (b) A receipt showing that an individual registered in the victim  
35 or witness notification program was mailed a notice, at the  
36 individual's last known address, upon the release or movement of an  
37 inmate.

38 (8) For purposes of this section the following terms have the  
39 following meanings:

1           (a) "Violent offense" means a violent offense under RCW 9.94A.030;  
2           (b) "Next of kin" means a person's spouse, parents, siblings and  
3 children.  
4           (9) Nothing in this section shall impose any liability upon a chief  
5 of police of a city or sheriff of a county for failing to request in  
6 writing a notice as provided in subsection (1) of this section.

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