

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6274

54th Legislature
1996 Regular Session

Passed by the Senate March 5, 1996
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 1, 1996
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6274** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6274

AS AMENDED BY THE HOUSE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long, Hargrove, Roach, Quigley, Wood, Smith, Schow, Winsley, Oke, A. Anderson, Rasmussen, Haugen and McAuliffe)

Read first time 02/01/96.

1 AN ACT Relating to supervision of sex offenders; amending RCW
2 9.94A.120, 9.94A.205, 9.94A.207, 4.24.550, 13.40.215, 13.40.217,
3 9.95.062, and 10.64.025; reenacting and amending RCW 9.94A.030,
4 9A.44.130, and 9A.44.140; creating new sections; prescribing penalties;
5 and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that improving the
8 supervision of convicted sex offenders in the community upon release
9 from incarceration is a substantial public policy goal, in that
10 effective supervision accomplishes many purposes including protecting
11 the community, supporting crime victims, assisting offenders to change,
12 and providing important information to decision makers.

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

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

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

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

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

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

37 (5) In sentencing a first-time offender the court may waive the
38 imposition of a sentence within the sentence range and impose a
39 sentence which may include up to ninety days of confinement in a

1 facility operated or utilized under contract by the county and a
2 requirement that the offender refrain from committing new offenses.
3 The sentence may also include up to two years of community supervision,
4 which, in addition to crime-related prohibitions, may include
5 requirements that the offender perform any one or more of the
6 following:

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

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

11 (c) Pursue a prescribed, secular course of study or vocational
12 training;

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

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

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

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

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

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

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

35 (b) If the midpoint of the standard range is greater than one year
36 and the sentencing judge determines that the offender is eligible for
37 this option and that the offender and the community will benefit from
38 the use of the special drug offender sentencing alternative, the judge
39 may waive imposition of a sentence within the standard range and impose

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

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

1 regardless of whether the total confinement is served as a result of
2 the original sentence, as a result of a sanction imposed by the
3 department, or as a result of a violation found by the court. The term
4 of community supervision shall be tolled by any period of time served
5 in total confinement as a result of a violation found by the court.

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

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

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

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

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

- 37 (A) Frequency and type of contact between offender and therapist;
- 38 (B) Specific issues to be addressed in the treatment and
- 39 description of planned treatment modalities;

1 (C) Monitoring plans, including any requirements regarding living
2 conditions, lifestyle requirements, and monitoring by family members
3 and others;

4 (D) Anticipated length of treatment; and

5 (E) Recommended crime-related prohibitions.

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

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

21 (A) The court shall place the defendant on community
22 (~~supervision~~) custody for the length of the suspended sentence or
23 three years, whichever is greater, and require the offender to comply
24 with any conditions imposed by the department of corrections under
25 subsection (14) of this section; and

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

37 (v) If a violation of conditions occurs during community custody,
38 the department shall either impose sanctions as provided for in RCW
39 9.94A.205(2)(a) or refer the violation to the court and recommend

1 revocation of the suspended sentence as provided for in (a)(vi) of this
2 subsection.

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

10 (~~(vi)~~) (vii) Except as provided in (a)(~~(vii)~~)(viii) of this
11 subsection, after July 1, 1991, examinations and treatment ordered
12 pursuant to this subsection shall only be conducted by sex offender
13 treatment providers certified by the department of health pursuant to
14 chapter 18.155 RCW.

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

25 For purposes of this subsection, "victim" means any person who has
26 sustained emotional, psychological, physical, or financial injury to
27 person or property as a result of the crime charged. "Victim" also
28 means a parent or guardian of a victim who is a minor child unless the
29 parent or guardian is the perpetrator of the offense.

30 (b) When an offender commits any felony sex offense on or after
31 July 1, 1987, and is sentenced to a term of confinement of more than
32 one year but less than six years, the sentencing court may, on its own
33 motion or on the motion of the offender or the state, request the
34 department of corrections to evaluate whether the offender is amenable
35 to treatment and the department may place the offender in a treatment
36 program within a correctional facility operated by the department.

37 Except for an offender who has been convicted of a violation of RCW
38 9A.44.040 or 9A.44.050, if the offender completes the treatment program
39 before the expiration of his or her term of confinement, the department

1 of corrections may request the court to convert the balance of
2 confinement to community supervision and to place conditions on the
3 offender including crime-related prohibitions and requirements that the
4 offender perform any one or more of the following:

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

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

9 (iii) Report as directed to the court and a community corrections
10 officer;

11 (iv) Undergo available outpatient treatment.

12 If the offender violates any of the terms of his or her community
13 supervision, the court may order the offender to serve out the balance
14 of his or her community supervision term in confinement in the custody
15 of the department of corrections.

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

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

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

1 confinement or at such time as the offender is transferred to community
2 custody in lieu of earned early release in accordance with RCW
3 9.94A.150 (1) and (2). When the court sentences an offender under this
4 subsection to the statutory maximum period of confinement then the
5 community placement portion of the sentence shall consist entirely of
6 such community custody to which the offender may become eligible, in
7 accordance with RCW 9.94A.150 (1) and (2). Any period of community
8 custody actually served shall be credited against the community
9 placement portion of the sentence.

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

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

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

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

36 (iv) An offender in community custody shall not unlawfully possess
37 controlled substances;

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

1 (vi) The residence location and living arrangements are subject to
2 the prior approval of the department of corrections during the period
3 of community placement.

4 (c) As a part of any sentence imposed under (a) or (b) of this
5 subsection, 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; or

14 (v) The offender shall comply with any crime-related prohibitions.

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

19 (10)(a) When a court sentences a person to the custody of the
20 department of corrections for an offense categorized as a sex offense
21 committed on or after the effective date of this act, the court shall,
22 in addition to other terms of the sentence, sentence the offender to
23 community custody for three years or up to the period of earned early
24 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
25 longer. The community custody shall begin either upon completion of
26 the term of confinement or at such time as the offender is transferred
27 to community custody in lieu of earned early release in accordance with
28 RCW 9.94A.150 (1) and (2).

29 (b) Unless a condition is waived by the court, the terms of
30 community custody shall be the same as those provided for in subsection
31 (9)(b) of this section and may include those provided for in subsection
32 (9)(c) of this section. As part of any sentence that includes a term
33 of community custody imposed under this subsection, the court shall
34 also require the offender to comply with any conditions imposed by the
35 department of corrections under subsection (14) of this section.

36 (c) At any time prior to the completion of a sex offender's term of
37 community custody, if the court finds that public safety would be
38 enhanced, the court may impose and enforce an order extending any or
39 all of the conditions imposed pursuant to this section for a period up

1 to the maximum allowable sentence for the crime as it is classified in
2 chapter 9A.20 RCW, regardless of the expiration of the offender's term
3 of community custody. If a violation of a condition extended under
4 this subsection occurs after the expiration of the offender's term of
5 community custody, it shall be deemed a violation of the sentence for
6 the purposes of RCW 9.94A.195 and may be punishable as contempt of
7 court as provided for in RCW 7.21.040.

8 (11) If the court imposes a sentence requiring confinement of
9 thirty days or less, the court may, in its discretion, specify that the
10 sentence be served on consecutive or intermittent days. A sentence
11 requiring more than thirty days of confinement shall be served on
12 consecutive days. Local jail administrators may schedule court-ordered
13 intermittent sentences as space permits.

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

35 (~~((12))~~) (13) Except as provided under RCW 9.94A.140(1) and
36 9.94A.142(1), a court may not impose a sentence providing for a term of
37 confinement or community supervision or community placement which
38 exceeds the statutory maximum for the crime as provided in chapter
39 9A.20 RCW.

1 (~~(13)~~) (14) All offenders sentenced to terms involving community
2 supervision, community service, community placement, or legal financial
3 obligation shall be under the supervision of the (~~secretary of the~~)
4 department of corrections (~~or such person as the secretary may~~
5 ~~designate~~) and shall follow explicitly the instructions and conditions
6 of the (~~secretary including~~) department of corrections.

7 (a) The instructions shall include, at a minimum, reporting as
8 directed to a community corrections officer, remaining within
9 prescribed geographical boundaries, notifying the community corrections
10 officer of any change in the offender's address or employment, and
11 paying the supervision fee assessment.

12 (b) For sex offenders sentenced to terms involving community
13 custody for crimes committed on or after the effective date of this
14 act, the department may include, in addition to the instructions in (a)
15 of this subsection, any appropriate conditions of supervision,
16 including but not limited to, prohibiting the offender from having
17 contact with any other specified individuals or specific class of
18 individuals. The conditions authorized under this subsection (14)(b)
19 may be imposed by the department prior to or during a sex offenders'
20 community custody term. If a violation of conditions imposed by the
21 court or the department pursuant to subsection (10) of this section
22 occurs during community custody, it shall be deemed a violation of
23 community placement for the purposes of RCW 9.94A.207 and shall
24 authorize the department to transfer an offender to a more restrictive
25 confinement status as provided in RCW 9.94A.205. At any time prior to
26 the completion of a sex offender's term of community custody, the
27 department may recommend to the court that any or all of the conditions
28 imposed by the court or the department pursuant to subsection (10) of
29 this section be continued beyond the expiration of the offender's term
30 of community custody as authorized in subsection (10)(c) of this
31 section.

32 The department may require offenders to pay for special services
33 rendered on or after July 25, 1993, including electronic monitoring,
34 day reporting, and telephone reporting, dependent upon the offender's
35 ability to pay. The department may pay for these services for
36 offenders who are not able to pay.

37 (~~(14)~~) (15) All offenders sentenced to terms involving community
38 supervision, community service, or community placement under the
39 supervision of the department of corrections shall not own, use, or

1 possess firearms or ammunition. Offenders who own, use, or are found
2 to be in actual or constructive possession of firearms or ammunition
3 shall be subject to the appropriate violation process and sanctions.
4 "Constructive possession" as used in this subsection means the power
5 and intent to control the firearm or ammunition. "Firearm" as used in
6 this subsection means a weapon or device from which a projectile may be
7 fired by an explosive such as gunpowder.

8 ~~((+15+))~~ (16) The sentencing court shall give the offender credit
9 for all confinement time served before the sentencing if that
10 confinement was solely in regard to the offense for which the offender
11 is being sentenced.

12 ~~((+16+))~~ (17) A departure from the standards in RCW 9.94A.400 (1)
13 and (2) governing whether sentences are to be served consecutively or
14 concurrently is an exceptional sentence subject to the limitations in
15 subsections (2) and (3) of this section, and may be appealed by the
16 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

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

24 ~~((+18+))~~ (19) As a part of any sentence, the court may impose and
25 enforce an order that relates directly to the circumstances of the
26 crime for which the offender has been convicted, prohibiting the
27 offender from having any contact with other specified individuals or a
28 specific class of individuals for a period not to exceed the maximum
29 allowable sentence for the crime, regardless of the expiration of the
30 offender's term of community supervision or community placement.

31 ~~((+19+))~~ (20) In any sentence of partial confinement, the court may
32 require the defendant to serve the partial confinement in work release,
33 in a program of home detention, on work crew, or in a combined program
34 of work crew and home detention.

35 ~~((+20+))~~ (21) All court-ordered legal financial obligations
36 collected by the department and remitted to the county clerk shall be
37 credited and paid where restitution is ordered. Restitution shall be
38 paid prior to any other payments of monetary obligations.

1 **Sec. 3.** RCW 9.94A.205 and 1988 c 153 s 4 are each amended to read
2 as follows:

3 (1) If an inmate violates any condition or requirement of community
4 custody, the department may transfer the inmate to a more restrictive
5 confinement status to serve up to the remaining portion of the
6 sentence, less credit for any period actually spent in community
7 custody or in detention awaiting disposition of an alleged violation
8 and subject to the limitations of subsection (2) of this section.

9 (2)(a) For a sex offender sentenced to a term of community custody
10 under RCW 9.94A.120(8) who violates any condition of community custody,
11 the department may impose a sanction of up to sixty days confinement in
12 a local correctional facility for each violation. If the department
13 imposes a sanction, the department shall submit within seventy-two
14 hours a report to the court and the prosecuting attorney outlining the
15 violation or violations and the sanctions imposed.

16 (b) For a sex offender sentenced to a term of community custody
17 under RCW 9.94A.120(10) who violates any condition of community custody
18 after having completed his or her maximum term of total confinement,
19 including time served on community custody in lieu of earned early
20 release, the department may impose a sanction of up to sixty days in a
21 local correctional facility for each violation.

22 (3) If an inmate is accused of violating any condition or
23 requirement of community custody, he or she is entitled to a hearing
24 before the department prior to the imposition of sanctions. The
25 hearing shall be considered as inmate disciplinary proceedings and
26 shall not be subject to chapter 34.05 RCW. The department shall
27 develop hearing procedures and sanctions.

28 **Sec. 4.** RCW 9.94A.207 and 1988 c 153 s 5 are each amended to read
29 as follows:

30 (1) The secretary may issue warrants for the arrest of any offender
31 who violates a condition of community placement. The arrest warrants
32 shall authorize any law enforcement or peace officer or community
33 corrections officer of this state or any other state where such
34 offender may be located, to arrest the offender and place him or her in
35 total confinement pending disposition of the alleged violation. The
36 department shall compensate the local jurisdiction at the office of
37 financial management's adjudicated rate, in accordance with RCW
38 70.48.440. A community corrections officer, if he or she has

1 reasonable cause to believe an offender in community placement has
2 violated a condition of community placement, may suspend the person's
3 community placement status and arrest or cause the arrest and detention
4 in total confinement of the offender, pending the determination of the
5 secretary as to whether the violation has occurred. The community
6 corrections officer shall report to the secretary all facts and
7 circumstances and the reasons for the action of suspending community
8 placement status. A violation of a condition of community placement
9 shall be deemed a violation of the sentence for purposes of RCW
10 9.94A.195. The authority granted to community corrections officers
11 under this section shall be in addition to that set forth in RCW
12 9.94A.195.

13 (2) Inmates, as defined in RCW (~~(72.09.020)~~) 72.09.015, who have
14 been transferred to community custody and who are detained in a local
15 correctional facility are the financial responsibility of the
16 department of corrections, except as provided in subsection (3) of this
17 section. The community custody inmate shall be removed from the local
18 correctional facility, except as provided in subsection (3) of this
19 section, not later than eight days, excluding weekends and holidays,
20 following admittance to the local correctional facility and
21 notification that the inmate is available for movement to a state
22 correctional institution. (~~However, if good cause is shown,~~)

23 (3) The department may negotiate with local correctional
24 authorities for an additional period of detention; however, sex
25 offenders sanctioned for community custody violations under RCW
26 9.94A.205(2) to a term of confinement shall remain in the local
27 correctional facility for the complete term of the sanction. For
28 confinement sanctions imposed under RCW 9.94A.205(2)(a), the local
29 correctional facility shall be financially responsible. For
30 confinement sanctions imposed under RCW 9.94A.205(2)(b), the department
31 of corrections shall be financially responsible for that portion of the
32 sanction served during the time in which the sex offender is on
33 community custody in lieu of earned early release, and the local
34 correctional facility shall be financially responsible for that portion
35 of the sanction served by the sex offender after the time in which the
36 sex offender is on community custody in lieu of earned early release.

37 **Sec. 5.** RCW 9.94A.030 and 1995 c 268 s 2, 1995 c 108 s 1, and 1995
38 c 101 s 2 are each reenacted and amended to read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

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

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

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

15 (4) "Community custody" means that portion of an inmate's sentence
16 of confinement in lieu of earned early release time or imposed pursuant
17 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
18 controls placed on the inmate's movement and activities by the
19 department of corrections.

20 (5) "Community placement" means that period during which the
21 offender is subject to the conditions of community custody and/or
22 postrelease supervision, which begins either upon completion of the
23 term of confinement (postrelease supervision) or at such time as the
24 offender is transferred to community custody in lieu of earned early
25 release. Community placement may consist of entirely community
26 custody, entirely postrelease supervision, or a combination of the two.

27 (6) "Community service" means compulsory service, without
28 compensation, performed for the benefit of the community by the
29 offender.

30 (7) "Community supervision" means a period of time during which a
31 convicted offender is subject to crime-related prohibitions and other
32 sentence conditions imposed by a court pursuant to this chapter or RCW
33 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
34 may include crime-related prohibitions and other conditions imposed
35 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
36 for out-of-state supervision of parolees and probationers, RCW
37 9.95.270, community supervision is the functional equivalent of
38 probation and should be considered the same as probation by other
39 states.

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

3 (9) "Conviction" means an adjudication of guilt pursuant to Titles
4 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
5 acceptance of a plea of guilty.

6 (10) "Court-ordered legal financial obligation" means a sum of
7 money that is ordered by a superior court of the state of Washington
8 for legal financial obligations which may include restitution to the
9 victim, statutorily imposed crime victims' compensation fees as
10 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
11 drug funds, court-appointed attorneys' fees, and costs of defense,
12 fines, and any other financial obligation that is assessed to the
13 offender as a result of a felony conviction. Upon conviction for
14 vehicular assault while under the influence of intoxicating liquor or
15 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
16 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
17 legal financial obligations may also include payment to a public agency
18 of the expense of an emergency response to the incident resulting in
19 the conviction, subject to the provisions in RCW 38.52.430.

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

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

32 (b) "Criminal history" shall always include juvenile convictions
33 for sex offenses and serious violent offenses and shall also include a
34 defendant's other prior convictions in juvenile court if: (i) The
35 conviction was for an offense which is a felony or a serious traffic
36 offense and is criminal history as defined in RCW 13.40.020(9); (ii)
37 the defendant was fifteen years of age or older at the time the offense
38 was committed; and (iii) with respect to prior juvenile class B and C
39 felonies or serious traffic offenses, the defendant was less than

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

3 (13) "Day fine" means a fine imposed by the sentencing judge that
4 equals the difference between the offender's net daily income and the
5 reasonable obligations that the offender has for the support of the
6 offender and any dependents.

7 (14) "Day reporting" means a program of enhanced supervision
8 designed to monitor the defendant's daily activities and compliance
9 with sentence conditions, and in which the defendant is required to
10 report daily to a specific location designated by the department or the
11 sentencing judge.

12 (15) "Department" means the department of corrections.

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

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

33 (18) "Drug offense" means:

34 (a) Any felony violation of chapter 69.50 RCW except possession of
35 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
36 controlled substance (RCW 69.50.403);

37 (b) Any offense defined as a felony under federal law that relates
38 to the possession, manufacture, distribution, or transportation of a
39 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 (19) "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 be available for supervision by the
9 department 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 (20) "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 (21) "Fines" means the requirement that the offender pay a specific
21 sum of money over a specific period of time to the court.

22 (22)(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, nor the
27 manufacture, delivery, or possession with intent to deliver
28 methamphetamine, its salts, isomers, and salts of its isomers as
29 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
30 controlled substance or counterfeit substance classified in schedule I,
31 RCW 69.50.204, except leaves and flowering tops of marihuana, and
32 except as provided in (b) of this subsection, who previously has never
33 been convicted of a felony in this state, federal court, or another
34 state, and who has never participated in a program of deferred
35 prosecution for a felony offense.

36 (b) For purposes of (a) of this subsection, a juvenile adjudication
37 for an offense committed before the age of fifteen years is not a
38 previous felony conviction except for adjudications of sex offenses and
39 serious violent offenses.

1 (23) "Most serious offense" means any of the following felonies or
2 a felony attempt to commit any of the following felonies, as now
3 existing or hereafter amended:

4 (a) Any felony defined under any law as a class A felony or
5 criminal solicitation of or criminal conspiracy to commit a class A
6 felony;

7 (b) Assault in the second degree;

8 (c) Assault of a child in the second degree;

9 (d) Child molestation in the second degree;

10 (e) Controlled substance homicide;

11 (f) Extortion in the first degree;

12 (g) Incest when committed against a child under age fourteen;

13 (h) Indecent liberties;

14 (i) Kidnapping in the second degree;

15 (j) Leading organized crime;

16 (k) Manslaughter in the first degree;

17 (l) Manslaughter in the second degree;

18 (m) Promoting prostitution in the first degree;

19 (n) Rape in the third degree;

20 (o) Robbery in the second degree;

21 (p) Sexual exploitation;

22 (q) Vehicular assault;

23 (r) Vehicular homicide, when proximately caused by the driving of
24 any vehicle by any person while under the influence of intoxicating
25 liquor or any drug as defined by RCW 46.61.502, or by the operation of
26 any vehicle in a reckless manner;

27 (s) Any other class B felony offense with a finding of sexual
28 motivation, as "sexual motivation" is defined under this section;

29 (t) Any other felony with a deadly weapon verdict under RCW
30 9.94A.125;

31 (u) Any felony offense in effect at any time prior to December 2,
32 1993, that is comparable to a most serious offense under this
33 subsection, or any federal or out-of-state conviction for an offense
34 that under the laws of this state would be a felony classified as a
35 most serious offense under this subsection.

36 (24) "Nonviolent offense" means an offense which is not a violent
37 offense.

38 (25) "Offender" means a person who has committed a felony
39 established by state law and is eighteen years of age or older or is

1 less than eighteen years of age but whose case has been transferred by
2 the appropriate juvenile court to a criminal court pursuant to RCW
3 13.40.110. Throughout this chapter, the terms "offender" and
4 "defendant" are used interchangeably.

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

13 (27) "Persistent offender" is an offender who:

14 (a) Has been convicted in this state of any felony considered a
15 most serious offense; and

16 (b) Has, before the commission of the offense under (a) of this
17 subsection, been convicted as an offender on at least two separate
18 occasions, whether in this state or elsewhere, of felonies that under
19 the laws of this state would be considered most serious offenses and
20 would be included in the offender score under RCW 9.94A.360; provided
21 that of the two or more previous convictions, at least one conviction
22 must have occurred before the commission of any of the other most
23 serious offenses for which the offender was previously convicted.

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

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

30 (30) "Serious traffic offense" means:

31 (a) Driving while under the influence of intoxicating liquor or any
32 drug (RCW 46.61.502), actual physical control while under the influence
33 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
34 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
35 or

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

1 (31) "Serious violent offense" is a subcategory of violent offense
2 and means:

3 (a) Murder in the first degree, homicide by abuse, murder in the
4 second degree, assault in the first degree, kidnapping in the first
5 degree, or rape in the first degree, assault of a child in the first
6 degree, or an attempt, criminal solicitation, or criminal conspiracy to
7 commit one of these felonies; or

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

11 (32) "Sentence range" means the sentencing court's discretionary
12 range in imposing a nonappealable sentence.

13 (33) "Sex offense" means:

14 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
15 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
16 criminal attempt, criminal solicitation, or criminal conspiracy to
17 commit such crimes;

18 (b) A felony with a finding of sexual motivation under RCW
19 9.94A.127 or 13.40.135; or

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

23 (34) "Sexual motivation" means that one of the purposes for which
24 the defendant committed the crime was for the purpose of his or her
25 sexual gratification.

26 (35) "Total confinement" means confinement inside the physical
27 boundaries of a facility or institution operated or utilized under
28 contract by the state or any other unit of government for twenty-four
29 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

30 (36) "Transition training" means written and verbal instructions
31 and assistance provided by the department to the offender during the
32 two weeks prior to the offender's successful completion of the work
33 ethic camp program. The transition training shall include instructions
34 in the offender's requirements and obligations during the offender's
35 period of community custody.

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

39 (38) "Violent offense" means:

1 (a) Any of the following felonies, as now existing or hereafter
2 amended: Any felony defined under any law as a class A felony or an
3 attempt to commit a class A felony, criminal solicitation of or
4 criminal conspiracy to commit a class A felony, manslaughter in the
5 first degree, manslaughter in the second degree, indecent liberties if
6 committed by forcible compulsion, kidnapping in the second degree,
7 arson in the second degree, assault in the second degree, assault of a
8 child in the second degree, extortion in the first degree, robbery in
9 the second degree, vehicular assault, and vehicular homicide, when
10 proximately caused by the driving of any vehicle by any person while
11 under the influence of intoxicating liquor or any drug as defined by
12 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

19 (39) "Work crew" means a program of partial confinement consisting
20 of civic improvement tasks for the benefit of the community of not less
21 than thirty-five hours per week that complies with RCW 9.94A.135. The
22 civic improvement tasks shall have minimal negative impact on existing
23 private industries or the labor force in the county where the service
24 or labor is performed. The civic improvement tasks shall not affect
25 employment opportunities for people with developmental disabilities
26 contracted through sheltered workshops as defined in RCW 82.04.385.
27 Only those offenders sentenced to a facility operated or utilized under
28 contract by a county or the state are eligible to participate on a work
29 crew. Offenders sentenced for a sex offense as defined in subsection
30 (33) of this section are not eligible for the work crew program.

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

37 (41) "Work release" means a program of partial confinement
38 available to offenders who are employed or engaged as a student in a
39 regular course of study at school. Participation in work release shall

1 be conditioned upon the offender attending work or school at regularly
2 defined hours and abiding by the rules of the work release facility.

3 (42) "Home detention" means a program of partial confinement
4 available to offenders wherein the offender is confined in a private
5 residence subject to electronic surveillance.

6 **Sec. 6.** RCW 4.24.550 and 1994 c 129 s 2 are each amended to read
7 as follows:

8 (1) Public agencies are authorized to release relevant and
9 necessary information regarding sex offenders to the public when the
10 release of the information is necessary for public protection. This
11 authority exists whether or not the public agency received notification
12 about the sex offender from the department of corrections or the
13 department of social and health services or any other public agency.

14 (2) Local law enforcement agencies and officials who decide to
15 release information pursuant to this section shall make a good faith
16 effort to notify the public and residents at least fourteen days before
17 the sex offender is released or if the offender receives a special sex
18 offender disposition alternative under RCW 13.40.160 or special sex
19 offender sentencing alternative under RCW 9.94A.120 at least thirty
20 days after the sex offender is sentenced. If a change occurs in the
21 release plan, this notification provision will not require an extension
22 of the release date. The department of corrections and the department
23 of social and health services shall provide local law enforcement
24 officials with all relevant information on sex offenders about to be
25 released or placed into the community in a timely manner. The juvenile
26 court shall provide local law enforcement officials with all relevant
27 information on sex offenders allowed to remain in the community in a
28 timely manner.

29 (3) An elected public official, public employee, or public agency
30 as defined in RCW 4.24.470 is immune from civil liability for damages
31 for any discretionary decision to release relevant and necessary
32 information, unless it is shown that the official, employee, or agency
33 acted with gross negligence or in bad faith. The authorization and
34 immunity in this section applies to information regarding: (a) A
35 person convicted of, or juvenile found to have committed, a sex offense
36 as defined by RCW 9.94A.030; (b) a person found not guilty of a sex
37 offense by reason of insanity under chapter 10.77 RCW; (c) a person
38 found incompetent to stand trial for a sex offense and subsequently

1 committed under chapter 71.05 or 71.34 RCW; (d) a person committed as
2 a sexual psychopath under chapter 71.06 RCW; or (e) a person committed
3 as a sexually violent predator under chapter 71.09 RCW. The immunity
4 provided under this section applies to the release of relevant
5 information to other employees or officials or to the general public.

6 (4) Except as otherwise provided by statute, nothing in this
7 section shall impose any liability upon a public official, public
8 employee, or public agency for failing to release information as
9 provided in subsections (2) and (3) of this section.

10 (5) Nothing in this section implies that information regarding
11 persons designated in subsections (2) and (3) of this section is
12 confidential except as otherwise provided by statute.

13 **Sec. 7.** RCW 13.40.215 and 1995 c 324 s 1 are each amended to read
14 as follows:

15 (1)(a) Except as provided in subsection (2) of this section, at the
16 earliest possible date, and in no event later than thirty days before
17 discharge, parole, or any other authorized leave or release, or before
18 transfer to a community residential facility, the secretary shall send
19 written notice of the discharge, parole, authorized leave or release,
20 or transfer of a juvenile found to have committed a violent offense, a
21 sex offense, or stalking, to the following:

22 (i) The chief of police of the city, if any, in which the juvenile
23 will reside;

24 (ii) The sheriff of the county in which the juvenile will reside;
25 and

26 (iii) The approved private schools and the common school district
27 board of directors of the district in which the juvenile intends to
28 reside or the approved private school or public school district in
29 which the juvenile last attended school, whichever is appropriate,
30 except when it has been determined by the department that the juvenile
31 is twenty-one years old; is not required to return to school under
32 chapter 28A.225 RCW; or will be in the community for less than seven
33 consecutive days on approved leave and will not be attending school
34 during that time.

35 (b) The same notice as required by (a) of this subsection shall be
36 sent to the following, if such notice has been requested in writing
37 about a specific juvenile:

1 (i) The victim of the offense for which the juvenile was found to
2 have committed or the victim's next of kin if the crime was a homicide;
3 (ii) Any witnesses who testified against the juvenile in any court
4 proceedings involving the offense; and
5 (iii) Any person specified in writing by the prosecuting attorney.
6 Information regarding victims, next of kin, or witnesses requesting the
7 notice, information regarding any other person specified in writing by
8 the prosecuting attorney to receive the notice, and the notice are
9 confidential and shall not be available to the juvenile. The notice to
10 the chief of police or the sheriff shall include the identity of the
11 juvenile, the residence where the juvenile will reside, the identity of
12 the person, if any, responsible for supervising the juvenile, and the
13 time period of any authorized leave.

14 (c) The thirty-day notice requirements contained in this subsection
15 shall not apply to emergency medical furloughs.

16 (d) The existence of the notice requirements in this subsection
17 will not require any extension of the release date in the event the
18 release plan changes after notification.

19 (2)(a) If a juvenile found to have committed a violent offense, a
20 sex offense, or stalking escapes from a facility of the department, the
21 secretary shall immediately notify, by the most reasonable and
22 expedient means available, the chief of police of the city and the
23 sheriff of the county in which the juvenile resided immediately before
24 the juvenile's arrest. If previously requested, the secretary shall
25 also notify the witnesses and the victim of the offense which the
26 juvenile was found to have committed or the victim's next of kin if the
27 crime was a homicide. If the juvenile is recaptured, the secretary
28 shall send notice to the persons designated in this subsection as soon
29 as possible but in no event later than two working days after the
30 department learns of such recapture.

31 (b) The secretary may authorize a leave, for a juvenile found to
32 have committed a violent offense, a sex offense, or stalking, which
33 shall not exceed forty-eight hours plus travel time, to meet an
34 emergency situation such as a death or critical illness of a member of
35 the juvenile's family. The secretary may authorize a leave, which
36 shall not exceed the time medically necessary, to obtain medical care
37 not available in a juvenile facility maintained by the department.
38 Prior to the commencement of an emergency or medical leave, the
39 secretary shall give notice of the leave to the appropriate law

1 enforcement agency in the jurisdiction in which the juvenile will be
2 during the leave period. The notice shall include the identity of the
3 juvenile, the time period of the leave, the residence of the juvenile
4 during the leave, and the identity of the person responsible for
5 supervising the juvenile during the leave. If previously requested,
6 the department shall also notify the witnesses and victim of the
7 offense which the juvenile was found to have committed or the victim's
8 next of kin if the offense was a homicide.

9 In case of an emergency or medical leave the secretary may waive
10 all or any portion of the requirements for leaves pursuant to RCW
11 13.40.205 (2)(a), (3), (4), and (5).

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

15 (4) The secretary shall send the notices required by this chapter
16 to the last address provided to the department by the requesting party.
17 The requesting party shall furnish the department with a current
18 address.

19 (5) Except as provided in subsection (2) of this section, at the
20 earliest possible date, and in no event later than five days after
21 sentencing a sex offender to a special sex offender disposition
22 alternative under RCW 13.40.160(5), the juvenile court shall send
23 written notice of the disposition to the following:

24 (a) The chief of police of the city, if any, in which the juvenile
25 will reside; and

26 (b) The sheriff of the county in which the juvenile will reside.

27 (6) Upon discharge, parole, or other authorized leave or release,
28 a convicted juvenile sex offender shall not attend a public elementary,
29 middle, or high school that is attended by a victim of the sex
30 offender. The parents or legal guardians of the convicted juvenile sex
31 offender shall be responsible for transportation or other costs
32 associated with or required by the sex offender's change in school that
33 otherwise would be paid by a school district. Upon discharge, parole,
34 or other authorized leave or release of a convicted juvenile sex
35 offender, the secretary shall send written notice of the discharge,
36 parole, or other authorized leave or release and the requirements of
37 this subsection to the common school district board of directors of the
38 district in which the sex offender intends to reside or the district in
39 which the sex offender last attended school, whichever is appropriate.

1 (~~(6)~~) (7) For purposes of this section the following terms have
2 the following meanings:

3 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

4 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

5 (c) "Stalking" means the crime of stalking as defined in RCW
6 9A.46.110;

7 (d) "Next of kin" means a person's spouse, parents, siblings, and
8 children.

9 **Sec. 8.** RCW 13.40.217 and 1990 c 3 s 102 are each amended to read
10 as follows:

11 In addition to any other information required to be released under
12 this chapter, the department (~~(is)~~) and juvenile courts are authorized,
13 pursuant to RCW 4.24.550, to release relevant information that is
14 necessary to protect the public concerning juveniles adjudicated of sex
15 offenses.

16 **Sec. 9.** RCW 9.95.062 and 1989 c 276 s 1 are each amended to read
17 as follows:

18 (1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant in
19 a criminal action shall not stay the execution of the judgment of
20 conviction, if the court determines by a preponderance of the evidence
21 that:

22 (a) The defendant is likely to flee or to pose a danger to the
23 safety of any other person or the community if the judgment is stayed;
24 or

25 (b) The delay resulting from the stay will unduly diminish the
26 deterrent effect of the punishment; or

27 (c) A stay of the judgment will cause unreasonable trauma to the
28 victims of the crime or their families; or

29 (d) The defendant has not undertaken to the extent of the
30 defendant's financial ability to pay the financial obligations under
31 the judgment or has not posted an adequate performance bond to assure
32 payment.

33 (2) An appeal by a defendant convicted of one of the following
34 offenses shall not stay execution of the judgment of conviction: Rape
35 in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a
36 child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076,
37 and 9A.44.079); child molestation in the first, second, or third degree

1 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
2 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
3 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
4 9A.40.090); any class A or B felony that is a sexually motivated
5 offense as defined in RCW 9.94A.030; a felony violation of RCW
6 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
7 attempt, solicitation, or conspiracy to commit one of those offenses.

8 (3) In case the defendant has been convicted of a felony, and has
9 been unable to obtain release pending the appeal by posting an appeal
10 bond, cash, adequate security, release on personal recognizance, or any
11 other conditions imposed by the court, the time the defendant has been
12 imprisoned pending the appeal shall be deducted from the term for which
13 the defendant was sentenced, if the judgment is affirmed.

14 **Sec. 10.** RCW 10.64.025 and 1989 c 276 s 2 are each amended to read
15 as follows:

16 (1) A defendant who has been found guilty of a felony and is
17 awaiting sentencing shall be detained unless the court finds by clear
18 and convincing evidence that the defendant is not likely to flee or to
19 pose a danger to the safety of any other person or the community if
20 released. Any bail bond that was posted on behalf of a defendant
21 shall, upon the defendant's conviction, be exonerated.

22 (2) A defendant who has been found guilty of one of the following
23 offenses shall be detained pending sentencing: Rape in the first or
24 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the
25 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and
26 9A.44.079); child molestation in the first, second, or third degree
27 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
28 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
29 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
30 9A.40.090); any class A or B felony that is a sexually motivated
31 offense as defined in RCW 9.94A.030; a felony violation of RCW
32 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
33 attempt, solicitation, or conspiracy to commit one of those offenses.

34 **Sec. 11.** RCW 9A.44.130 and 1995 c 268 s 3, 1995 c 248 s 1, and
35 1995 c 195 s 1 are each reenacted and amended to read as follows:

36 (1) Any adult or juvenile residing in this state who has been found
37 to have committed or has been convicted of any sex offense, or who has

1 been found not guilty by reason of insanity under chapter 10.77 RCW of
2 committing any sex offense, shall register with the county sheriff for
3 the county of the person's residence.

4 (2) The person shall provide the county sheriff with the following
5 information when registering: (a) Name; (b) address; (c) date and
6 place of birth; (d) place of employment; (e) crime for which convicted;
7 (f) date and place of conviction; (g) aliases used; and (h) social
8 security number.

9 (3)(a) Sex offenders shall register within the following deadlines.
10 For purposes of this section the term "conviction" refers to adult
11 convictions and juvenile adjudications for sex offenses:

12 (i) SEX OFFENDERS IN CUSTODY. Sex offenders who committed a sex
13 offense on, before, or after February 28, 1990, and who, on or after
14 July 28, 1991, are in custody, as a result of that offense, of the
15 state department of corrections, the state department of social and
16 health services, a local division of youth services, or a local jail or
17 juvenile detention facility, must register within twenty-four hours
18 from the time of release with the county sheriff for the county of the
19 person's residence. The agency that has jurisdiction over the offender
20 shall provide notice to the sex offender of the duty to register.
21 Failure to register within twenty-four hours of release constitutes a
22 violation of this section and is punishable as provided in subsection
23 (7) of this section.

24 (ii) SEX OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL
25 JURISDICTION. Sex offenders, who, on July 28, 1991, are not in custody
26 but are under the jurisdiction of the indeterminate sentence review
27 board or under the department of correction's active supervision, as
28 defined by the department of corrections, the state department of
29 social and health services, or a local division of youth services, for
30 sex offenses committed before, on, or after February 28, 1990, must
31 register within ten days of July 28, 1991. A change in supervision
32 status of a sex offender who was required to register under this
33 subsection (3)(a)(ii) as of July 28, 1991, shall not relieve the
34 offender of the duty to register or to reregister following a change in
35 residence. The obligation to register shall only cease pursuant to RCW
36 9A.44.140.

37 (iii) SEX OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who,
38 on or after July 23, 1995, as a result of that offense are in the
39 custody of the United States bureau of prisons or other federal or

1 military correctional agency for sex offenses committed before, on, or
2 after February 28, 1990, must register within twenty-four hours from
3 the time of release with the county sheriff for the county of the
4 person's residence. Sex offenders who, on July 23, 1995, are not in
5 custody but are under the jurisdiction of the United States bureau of
6 prisons, United States courts, United States parole commission, or
7 military parole board for sex offenses committed before, on, or after
8 February 28, 1990, must register within ten days of July 23, 1995. A
9 change in supervision status of a sex offender who was required to
10 register under this subsection (3)(a)(iii) as of July 23, 1995, shall
11 not relieve the offender of the duty to register or to reregister
12 following a change in residence. The obligation to register shall only
13 cease pursuant to RCW 9A.44.140.

14 (iv) SEX OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex
15 offenders who are convicted of a sex offense on or after July 28, 1991,
16 for a sex offense that was committed on or after February 28, 1990, but
17 who are not sentenced to serve a term of confinement immediately upon
18 sentencing, shall report to the county sheriff to register immediately
19 upon completion of being sentenced.

20 (v) SEX OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON
21 RESIDENTS. Sex offenders who move to Washington state from another
22 state or a foreign country that are not under the jurisdiction of the
23 state department of corrections, the indeterminate sentence review
24 board, or the state department of social and health services at the
25 time of moving to Washington, must register within thirty days of
26 establishing residence or reestablishing residence if the person is a
27 former Washington resident. The duty to register under this subsection
28 applies to sex offenders convicted under the laws of another state or
29 a foreign country, federal or military statutes, or Washington state
30 for offenses committed on or after February 28, 1990. Sex offenders
31 from other states or a foreign country who, when they move to
32 Washington, are under the jurisdiction of the department of
33 corrections, the indeterminate sentence review board, or the department
34 of social and health services must register within twenty-four hours of
35 moving to Washington. The agency that has jurisdiction over the
36 offender shall notify the offender of the registration requirements
37 before the offender moves to Washington.

38 (vi) SEX OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY. Any
39 adult or juvenile who has been found not guilty by reason of insanity

1 under chapter 10.77 RCW of committing a sex offense on, before, or
2 after February 28, 1990, and who, on or after July 23, 1995, is in
3 custody, as a result of that finding, of the state department of social
4 and health services, must register within twenty-four hours from the
5 time of release with the county sheriff for the county of the person's
6 residence. The state department of social and health services shall
7 provide notice to the adult or juvenile in its custody of the duty to
8 register. Any adult or juvenile who has been found not guilty by
9 reason of insanity of committing a sex offense on, before, or after
10 February 28, 1990, but who was released prior to July 23, 1995, shall
11 be required to register within twenty-four hours of receiving notice of
12 this registration requirement. The state department of social and
13 health services shall make reasonable attempts within available
14 resources to notify offenders who were released prior to July 23, 1995.
15 Failure to register within twenty-four hours of release, or of
16 receiving notice, constitutes a violation of this section and is
17 punishable as provided in subsection (7) of this section.

18 (b) Failure to register within the time required under this section
19 constitutes a per se violation of this section and is punishable as
20 provided in subsection (7) of this section. The county sheriff shall
21 not be required to determine whether the person is living within the
22 county.

23 (c) An arrest on charges of failure to register, service of an
24 information, or a complaint for a violation of this section, or
25 arraignment on charges for a violation of this section, constitutes
26 actual notice of the duty to register. Any person charged with the
27 crime of failure to register under this section who asserts as a
28 defense the lack of notice of the duty to register shall register
29 immediately following actual notice of the duty through arrest,
30 service, or arraignment. Failure to register as required under this
31 subsection (c) constitutes grounds for filing another charge of failing
32 to register. Registering following arrest, service, or arraignment on
33 charges shall not relieve the offender from criminal liability for
34 failure to register prior to the filing of the original charge.

35 (d) The deadlines for the duty to register under this section do
36 not relieve any sex offender of the duty to register under this section
37 as it existed prior to July 28, 1991.

38 (4)(a) If any person required to register pursuant to this section
39 changes his or her residence address within the same county, the person

1 must send written notice of the change of address to the county sheriff
2 (~~within ten~~) at least fourteen days (~~of~~) before moving. If any
3 person required to register pursuant to this section moves to a new
4 county, the person must send written notice of the change of address at
5 least fourteen days before moving to the county sheriff in the new
6 county of residence and must register with (~~the~~) that county sheriff
7 (~~in the new county~~) within (~~ten days~~) twenty-four hours of moving.
8 The person must also send written notice within ten days of the change
9 of address in the new county to the county sheriff with whom the person
10 last registered. If any person required to register pursuant to this
11 section moves out of Washington state, the person must also send
12 written notice within ten days of moving to the new state or a foreign
13 country to the county sheriff with whom the person last registered in
14 Washington state.

15 (b) It is an affirmative defense to a charge that the person failed
16 to send a notice at least fourteen days in advance of moving as
17 required under (a) of this subsection that the person did not know the
18 location of his or her new residence at least fourteen days before
19 moving. The defendant must establish the defense by a preponderance of
20 the evidence and, to prevail on the defense, must also prove by a
21 preponderance that the defendant sent the required notice within
22 twenty-four hours of determining the new address.

23 (5) The county sheriff shall obtain a photograph of the individual
24 and shall obtain a copy of the individual's fingerprints.

25 (6) "Sex offense" for the purpose of RCW 9A.44.130, 10.01.200,
26 43.43.540, 70.48.470, and 72.09.330 means any offense defined as a sex
27 offense by RCW 9.94A.030 and any violation of RCW 9.68A.090 or
28 9A.44.096 as well as any gross misdemeanor that is, under chapter 9A.28
29 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy
30 to commit an offense that is classified as a sex offense under RCW
31 9.94A.030.

32 (7) A person who knowingly fails to register or who moves without
33 notifying the county sheriff as required by this section is guilty of
34 a class C felony if the crime for which the individual was convicted
35 was a class A felony or a federal or out-of-state conviction for an
36 offense that under the laws of this state would be a class A felony.
37 If the crime was other than a class A felony or a federal or out-of-
38 state conviction for an offense that under the laws of this state would
39 be a class A felony, violation of this section is a gross misdemeanor.

1 **Sec. 12.** RCW 9A.44.140 and 1995 c 268 s 4 are each amended to read
2 as follows:

3 (1) The duty to register under RCW 9A.44.130 shall end:

4 (a) For a person convicted of a class A felony: Such person may
5 only be relieved of the duty to register under subsection (3) or (4) of
6 this section.

7 (b) For a person convicted of a class B felony: Fifteen years
8 after the last date of release from confinement, if any, (including
9 full-time residential treatment) pursuant to the conviction, or entry
10 of the judgment and sentence, if the person has spent fifteen
11 consecutive years in the community without being convicted of any new
12 offenses.

13 (c) For a person convicted of a class C felony (~~(or any)~~), a
14 violation of RCW 9.68A.090 or 9A.44.096, or an attempt, solicitation,
15 or conspiracy to commit a class C felony: Ten years after the last
16 date of release from confinement, if any, (including full-time
17 residential treatment) pursuant to the conviction, or entry of the
18 judgment and sentence, if the person has spent ten consecutive years in
19 the community without being convicted of any new offenses.

20 (2) The provisions of subsection (1) of this section shall apply
21 equally to a person who has been found not guilty by reason of insanity
22 under chapter 10.77 RCW of a sex offense.

23 (3) Any person having a duty to register under RCW 9A.44.130 may
24 petition the superior court to be relieved of that duty. The petition
25 shall be made to the court in which the petitioner was convicted of the
26 offense that subjects him or her to the duty to register, or, in the
27 case of convictions in other states, a foreign country, or a federal or
28 military court, to the court in Thurston county. The prosecuting
29 attorney of the county shall be named and served as the respondent in
30 any such petition. The court shall consider the nature of the
31 registrable offense committed, and the criminal and relevant
32 noncriminal behavior of the petitioner both before and after
33 conviction, and may consider other factors. Except as provided in
34 subsection (4) of this section, the court may relieve the petitioner of
35 the duty to register only if the petitioner shows, with clear and
36 convincing evidence, that future registration of the petitioner will
37 not serve the purposes of RCW 9A.44.130, 10.01.200, 43.43.540,
38 46.20.187, 70.48.470, and 72.09.330.

1 (4) An offender having a duty to register under RCW 9A.44.130 for
2 a sex offense committed when the offender was a juvenile may petition
3 the superior court to be relieved of that duty. The court shall
4 consider the nature of the registrable offense committed, and the
5 criminal and relevant noncriminal behavior of the petitioner both
6 before and after adjudication, and may consider other factors. The
7 court may relieve the petitioner of the duty to register for a sex
8 offense that was committed while the petitioner was fifteen years of
9 age or older only if the petitioner shows, with clear and convincing
10 evidence, that future registration of the petitioner will not serve the
11 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
12 and 72.09.330. The court may relieve the petitioner of the duty to
13 register for a sex offense that was committed while the petitioner was
14 under the age of fifteen if the petitioner (a) has not been adjudicated
15 of any additional sex offenses during the twenty-four months following
16 the adjudication for the sex offense giving rise to the duty to
17 register, and (b) the petitioner proves by a preponderance of the
18 evidence that future registration of the petitioner will not serve the
19 purposes of RCW 9A.44.130, 10.01.200, 43.43.540, 46.20.187, 70.48.470,
20 and 72.09.330.

21 (5) Unless relieved of the duty to register pursuant to this
22 section, a violation of RCW 9A.44.130 is an ongoing offense for
23 purposes of the statute of limitations under RCW 9A.04.080.

24 (6) Nothing in RCW 9.94A.220 relating to discharge of an offender
25 shall be construed as operating to relieve the offender of his or her
26 duty to register pursuant to RCW 9A.44.130.

27 NEW SECTION. **Sec. 13.** Sections 6 through 8 of this act are
28 necessary for the immediate preservation of the public peace, health,
29 or safety, or support of the state government and its existing public
30 institutions, and shall take effect immediately.

31 NEW SECTION. **Sec. 14.** Sections 1 through 5 of this act apply to
32 crimes committed on or after the effective date of this act.

33 NEW SECTION. **Sec. 15.** If specific funding for the purposes of
34 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 1996, in the supplemental omnibus appropriations
2 act, this act is null and void.

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