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HOUSE BILL 1153

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Ballasiotes, Sheahan, Skinner, Radcliff, Mitchell, K. Schmidt, Hankins, Costa, Kessler, Dickerson, Quall, Talcott, Cairnes, Hatfield, Blalock, DeBolt, Conway, Lantz, Keiser, Thompson, Poulsen, O'Brien, Sheldon, Schoesler, Cooper, Gombosky, Dunn, Koster and Anderson

Read first time 01/15/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to sex offenses; amending RCW 9.94A.310; reenacting  
2 and amending RCW 9.94A.320 and 9.94A.120; adding a new section to  
3 chapter 9.94A RCW; prescribing penalties; providing an effective date;  
4 and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW  
7 to read as follows:

8 (1) The legislature finds that:

9 (a) Rape and other sex offenses involving forcible compulsion are  
10 among the most terrifying and demeaning criminal acts an individual can  
11 perpetrate against another human being and the personal trauma and  
12 anguish suffered by the victims of rape and indecent liberties and by  
13 their families can create devastating difficulties which often take  
14 years to overcome;

15 (b) The pain and complications caused by rape and indecent  
16 liberties are even more severe where deadly weapons are involved, where  
17 the victim is kidnapped or receives serious physical injuries, where  
18 the victim is less than fourteen years old, where the perpetrator has

1 wrongfully entered the building or vehicle where the victim is  
 2 situated, or where forcible compulsion is used; and

3 (c) The severity of punishment for those who commit rape or  
 4 indecent liberties should be commensurate with the crime the  
 5 perpetrators have forced upon their victims and strict penalties for  
 6 such cruel and humiliating violations of a person's dignity and honor  
 7 are both appropriate and just.

8 (2) The legislature hereby intends to ensure that the penalties  
 9 imposed for rape and indecent liberties are significant and that the  
 10 victims of rape and indecent liberties will be better able to lead  
 11 lives free of fear knowing that the perpetrators of such crimes against  
 12 them will be incarcerated for a substantial length of time.

13 **Sec. 2.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read  
 14 as follows:

15 (1) TABLE 1

16 Sentencing Grid

17 SERIOUSNESS

18 SCORE

OFFENDER SCORE

19 9 or  
 20 more

	0	1	2	3	4	5	6	7	8	9 or more
<del>((XV))</del> <u>XIV</u>	Life Sentence without Parole/Death Penalty									
<del>((XIV))</del> <u>XIII</u>	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548
<del>((XIII))</del> <u>XII</u>	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397
<del>((XII))</del> <u>XI</u>	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318
<del>((XI))</del> <u>X</u>	<del>7y6m</del>	<del>8y4m</del>	<del>9y2m</del>	<del>9y11m</del>	<del>10y9m</del>	<del>11y7m</del>	<del>14y2m</del>	<del>15y5m</del>	<del>17y11m</del>	<del>20y5m</del>
	<del>78</del>	<del>86</del>	<del>95</del>	<del>102</del>	<del>111</del>	<del>120</del>	<del>146</del>	<del>159</del>	<del>185</del>	<del>210</del>
	402	114	125	136	147	158	194	211	245	280))

1											
2	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
3		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
4		68	75	82	89	96	102	130	144	171	198
5											
6	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
7		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
8		41	48	54	61	68	75	102	116	144	171
9											
10	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
11		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
12		27	34	41	48	54	61	89	102	116	144
13											
14	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
15		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
16		20	27	34	41	48	54	75	89	102	116
17											
18	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
19		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
20		14	20	27	34	41	48	61	75	89	102
21											
22	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
23		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
24		12	14	17	20	29	43	54	68	82	96
25											
26	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
27		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
28		9	12	14	17	20	29	43	57	70	84
29											
30	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
31		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
32		3	8	12	12	16	22	29	43	57	68
33											
34	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
35		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
36		Days	6	9	12	14	18	22	29	43	57
37											
38	I			3m	4m	5m	8m	13m	16m	20m	2y2m
39		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
40		Days	Days	5	6	8	12	14	18	22	29
41											

1 NOTE: Numbers in the first horizontal row of each seriousness category  
2 represent sentencing midpoints in years(y) and months(m). Numbers in  
3 the second and third rows represent presumptive sentencing ranges in  
4 months, or in days if so designated. 12+ equals one year and one day.

5 (2) For persons convicted of the anticipatory offenses of criminal  
6 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
7 presumptive sentence is determined by locating the sentencing grid  
8 sentence range defined by the appropriate offender score and the  
9 seriousness level of the completed crime, and multiplying the range by  
10 75 percent.

11 (3) The following additional times shall be added to the  
12 presumptive sentence for felony crimes committed after July 23, 1995,  
13 if the offender or an accomplice was armed with a firearm as defined in  
14 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
15 listed in this subsection as eligible for any firearm enhancements  
16 based on the classification of the completed felony crime. If the  
17 offender or an accomplice was armed with a firearm as defined in RCW  
18 9.41.010 and the offender is being sentenced for an anticipatory  
19 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
20 this subsection as eligible for any firearm enhancements, the following  
21 additional times shall be added to the presumptive sentence determined  
22 under subsection (2) of this section based on the felony crime of  
23 conviction as classified under RCW 9A.28.020:

24 (a) Five years for any felony defined under any law as a class A  
25 felony or with a maximum sentence of at least twenty years, or both,  
26 and not covered under (f) of this subsection.

27 (b) Three years for any felony defined under any law as a class B  
28 felony or with a maximum sentence of ten years, or both, and not  
29 covered under (f) of this subsection.

30 (c) Eighteen months for any felony defined under any law as a  
31 class C felony or with a maximum sentence of five years, or both, and  
32 not covered under (f) of this subsection.

33 (d) If the offender is being sentenced for any firearm  
34 enhancements under (a), (b), and/or (c) of this subsection and the  
35 offender has previously been sentenced for any deadly weapon  
36 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
37 subsection or subsection (4) (a), (b), and/or (c) of this section, or  
38 both, any and all firearm enhancements under this subsection shall be  
39 twice the amount of the enhancement listed.

1 (e) Notwithstanding any other provision of law, any and all  
2 firearm enhancements under this section are mandatory, shall be served  
3 in total confinement, and shall not run concurrently with any other  
4 sentencing provisions.

5 (f) The firearm enhancements in this section shall apply to all  
6 felony crimes except the following: Possession of a machine gun,  
7 possessing a stolen firearm, reckless endangerment in the first degree,  
8 theft of a firearm, unlawful possession of a firearm in the first and  
9 second degree, and use of a machine gun in a felony.

10 (g) If the presumptive sentence under this section exceeds the  
11 statutory maximum for the offense, the statutory maximum sentence shall  
12 be the presumptive sentence unless the offender is a persistent  
13 offender as defined in RCW 9.94A.030.

14 (4) The following additional times shall be added to the  
15 presumptive sentence for felony crimes committed after July 23, 1995,  
16 if the offender or an accomplice was armed with a deadly weapon as  
17 defined in this chapter other than a firearm as defined in RCW 9.41.010  
18 and the offender is being sentenced for one of the crimes listed in  
19 this subsection as eligible for any deadly weapon enhancements based on  
20 the classification of the completed felony crime. If the offender or  
21 an accomplice was armed with a deadly weapon other than a firearm as  
22 defined in RCW 9.41.010 and the offender is being sentenced for an  
23 anticipatory offense under chapter 9A.28 RCW to commit one of the  
24 crimes listed in this subsection as eligible for any deadly weapon  
25 enhancements, the following additional times shall be added to the  
26 presumptive sentence determined under subsection (2) of this section  
27 based on the felony crime of conviction as classified under RCW  
28 9A.28.020:

29 (a) Two years for any felony defined under any law as a class A  
30 felony or with a maximum sentence of at least twenty years, or both,  
31 and not covered under (f) of this subsection.

32 (b) One year for any felony defined under any law as a class B  
33 felony or with a maximum sentence of ten years, or both, and not  
34 covered under (f) of this subsection.

35 (c) Six months for any felony defined under any law as a class C  
36 felony or with a maximum sentence of five years, or both, and not  
37 covered under (f) of this subsection.

38 (d) If the offender is being sentenced under (a), (b), and/or (c)  
39 of this subsection for any deadly weapon enhancements and the offender

1 has previously been sentenced for any deadly weapon enhancements after  
2 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
3 subsection (3) (a), (b), and/or (c) of this section, or both, any and  
4 all deadly weapon enhancements under this subsection shall be twice the  
5 amount of the enhancement listed.

6 (e) Notwithstanding any other provision of law, any and all deadly  
7 weapon enhancements under this section are mandatory, shall be served  
8 in total confinement, and shall not run concurrently with any other  
9 sentencing provisions.

10 (f) The deadly weapon enhancements in this section shall apply to  
11 all felony crimes except the following: Possession of a machine gun,  
12 possessing a stolen firearm, reckless endangerment in the first degree,  
13 theft of a firearm, unlawful possession of a firearm in the first and  
14 second degree, and use of a machine gun in a felony.

15 (g) If the presumptive sentence under this section exceeds the  
16 statutory maximum for the offense, the statutory maximum sentence shall  
17 be the presumptive sentence unless the offender is a persistent  
18 offender as defined in RCW 9.94A.030.

19 (5) The following additional times shall be added to the  
20 presumptive sentence if the offender or an accomplice committed the  
21 offense while in a county jail or state correctional facility as that  
22 term is defined in this chapter and the offender is being sentenced for  
23 one of the crimes listed in this subsection. If the offender or an  
24 accomplice committed one of the crimes listed in this subsection while  
25 in a county jail or state correctional facility as that term is defined  
26 in this chapter, and the offender is being sentenced for an  
27 anticipatory offense under chapter 9A.28 RCW to commit one of the  
28 crimes listed in this subsection, the following additional times shall  
29 be added to the presumptive sentence determined under subsection (2) of  
30 this section:

31 (a) Eighteen months for offenses committed under RCW  
32 69.50.401(a)(1) (i) or (ii) or 69.50.410;

33 (b) Fifteen months for offenses committed under RCW  
34 69.50.401(a)(1) (iii), (iv), and (v);

35 (c) Twelve months for offenses committed under RCW 69.50.401(d).

36 For the purposes of this subsection, all of the real property of  
37 a state correctional facility or county jail shall be deemed to be part  
38 of that facility or county jail.

1 (6) An additional twenty-four months shall be added to the  
2 presumptive sentence for any ranked offense involving a violation of  
3 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

4 **Sec. 3.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and  
5 1996 c 36 s 2 are each reenacted and amended to read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

8 ((XV))  
9 XIV Aggravated Murder 1 (RCW 10.95.020)

10 ((XIV))  
11 XIII Murder 1 (RCW 9A.32.030)  
12 Homicide by abuse (RCW 9A.32.055)  
13 Rape 1 (RCW 9A.44.050)  
14 Rape of a Child 1 (RCW 9A.44.073)

15 ((XIII))  
16 XII Murder 2 (RCW 9A.32.050)  
17 Rape 2 (with forcible compulsion) (RCW  
18 9A.44.050(1)(a))  
19 Rape of a Child 2 (RCW 9A.44.076)

20 ((XII))  
21 XI Assault 1 (RCW 9A.36.011)  
22 Assault of a Child 1 (RCW 9A.36.120)  
23 Indecent Liberties (with forcible compulsion)  
24 (RCW 9A.44.100(1)(a))

25 ((XI) ~~Rape 1 (RCW 9A.44.040)~~  
26 ~~Rape of a Child 1 (RCW 9A.44.073))~~

27 X Kidnapping 1 (RCW 9A.40.020)  
28 Rape 2 (without forcible compulsion) (RCW  
29 9A.44.050(1) (b), (c), (d), and (e))  
30 ~~((Rape of a Child 2 (RCW 9A.44.076))~~)  
31 Child Molestation 1 (RCW 9A.44.083)  
32 Damaging building, etc., by explosion with  
33 threat to human being (RCW 70.74.280(1))

1 Over 18 and deliver heroin or narcotic from  
2 Schedule I or II to someone under 18  
3 (RCW 69.50.406)  
4 Leading Organized Crime (RCW 9A.82.060(1)(a))  
5 IX Assault of a Child 2 (RCW 9A.36.130)  
6 Robbery 1 (RCW 9A.56.200)  
7 Manslaughter 1 (RCW 9A.32.060)  
8 Explosive devices prohibited (RCW 70.74.180)  
9 (~~Indecent Liberties (with forcible~~  
10 ~~compulsion) (RCW 9A.44.100(1)(a))~~)  
11 Endangering life and property by explosives  
12 with threat to human being (RCW  
13 70.74.270)  
14 Over 18 and deliver narcotic from Schedule  
15 III, IV, or V or a nonnarcotic from  
16 Schedule I-V to someone under 18 and 3  
17 years junior (RCW 69.50.406)  
18 Controlled Substance Homicide (RCW 69.50.415)  
19 Sexual Exploitation (RCW 9.68A.040)  
20 Inciting Criminal Profiteering (RCW  
21 9A.82.060(1)(b))  
22 Vehicular Homicide, by being under the  
23 influence of intoxicating liquor or any  
24 drug (RCW 46.61.520)  
25 VIII Arson 1 (RCW 9A.48.020)  
26 Promoting Prostitution 1 (RCW 9A.88.070)  
27 Selling for profit (controlled or  
28 counterfeit) any controlled substance  
29 (RCW 69.50.410)  
30 Manufacture, deliver, or possess with intent  
31 to deliver heroin or cocaine (RCW  
32 69.50.401(a)(1)(i))  
33 Manufacture, deliver, or possess with intent  
34 to deliver methamphetamine (RCW  
35 69.50.401(a)(1)(ii))  
36 Possession of ephedrine or pseudoephedrine  
37 with intent to manufacture  
38 methamphetamine (RCW 69.50.440)



1            Vehicular Homicide, by the operation of any  
2            vehicle in a reckless manner (RCW  
3            46.61.520)

4        VII        Burglary 1 (RCW 9A.52.020)  
5            Vehicular Homicide, by disregard for the  
6            safety of others (RCW 46.61.520)  
7            Introducing Contraband 1 (RCW 9A.76.140)  
8            Indecent Liberties (without forcible  
9            compulsion) (RCW 9A.44.100(1) (b) and  
10           (c))  
11           Child Molestation 2 (RCW 9A.44.086)  
12           Dealing in depictions of minor engaged in  
13           sexually explicit conduct (RCW  
14           9.68A.050)  
15           Sending, bringing into state depictions of  
16           minor engaged in sexually explicit  
17           conduct (RCW 9.68A.060)  
18           Involving a minor in drug dealing (RCW  
19           69.50.401(f))  
20           Reckless Endangerment 1 (RCW 9A.36.045)  
21           Unlawful Possession of a Firearm in the first  
22           degree (RCW 9.41.040(1)(a))

23        VI        Bribery (RCW 9A.68.010)  
24            Manslaughter 2 (RCW 9A.32.070)  
25            Rape of a Child 3 (RCW 9A.44.079)  
26            Intimidating a Juror/Witness (RCW 9A.72.110,  
27            9A.72.130)  
28            Damaging building, etc., by explosion with no  
29            threat to human being (RCW 70.74.280(2))  
30            Endangering life and property by explosives  
31            with no threat to human being (RCW  
32            70.74.270)  
33            Incest 1 (RCW 9A.64.020(1))  
34            Manufacture, deliver, or possess with intent  
35            to deliver narcotics from Schedule I or  
36            II (except heroin or cocaine) (RCW  
37            69.50.401(a)(1)(i))

1 Intimidating a Judge (RCW 9A.72.160)  
2 Bail Jumping with Murder 1 (RCW  
3 9A.76.170(2)(a))  
4 Theft of a Firearm (RCW 9A.56.300)

5 V Persistent prison misbehavior (RCW 9.94.070)  
6 Criminal Mistreatment 1 (RCW 9A.42.020)  
7 Abandonment of dependent person 1 (RCW  
8 9A.42.060)  
9 Rape 3 (RCW 9A.44.060)  
10 Sexual Misconduct with a Minor 1 (RCW  
11 9A.44.093)  
12 Child Molestation 3 (RCW 9A.44.089)  
13 Kidnapping 2 (RCW 9A.40.030)  
14 Extortion 1 (RCW 9A.56.120)  
15 Incest 2 (RCW 9A.64.020(2))  
16 Perjury 1 (RCW 9A.72.020)  
17 Extortionate Extension of Credit (RCW  
18 9A.82.020)  
19 Advancing money or property for extortionate  
20 extension of credit (RCW 9A.82.030)  
21 Extortionate Means to Collect Extensions of  
22 Credit (RCW 9A.82.040)  
23 Rendering Criminal Assistance 1 (RCW  
24 9A.76.070)  
25 Bail Jumping with class A Felony (RCW  
26 9A.76.170(2)(b))  
27 Sexually Violating Human Remains (RCW  
28 9A.44.105)  
29 Delivery of imitation controlled substance by  
30 person eighteen or over to person under  
31 eighteen (RCW 69.52.030(2))  
32 Possession of a Stolen Firearm (RCW  
33 9A.56.310)

34 IV Residential Burglary (RCW 9A.52.025)  
35 Theft of Livestock 1 (RCW 9A.56.080)  
36 Robbery 2 (RCW 9A.56.210)  
37 Assault 2 (RCW 9A.36.021)  
38 Escape 1 (RCW 9A.76.110)

1 Arson 2 (RCW 9A.48.030)  
2 Commercial Bribery (RCW 9A.68.060)  
3 Bribing a Witness/Bribe Received by Witness  
4 (RCW 9A.72.090, 9A.72.100)  
5 Malicious Harassment (RCW 9A.36.080)  
6 Threats to Bomb (RCW 9.61.160)  
7 Willful Failure to Return from Furlough (RCW  
8 72.66.060)  
9 Hit and Run -- Injury Accident (RCW  
10 46.52.020(4))  
11 Hit and Run with Vessel -- Injury Accident  
12 (RCW 88.12.155(3))  
13 Vehicular Assault (RCW 46.61.522)  
14 Manufacture, deliver, or possess with intent  
15 to deliver narcotics from Schedule III,  
16 IV, or V or nonnarcotics from Schedule  
17 I-V (except marijuana or  
18 methamphetamines) (RCW 69.50.401(a)(1)  
19 (iii) through (v))  
20 Influencing Outcome of Sporting Event (RCW  
21 9A.82.070)  
22 Use of Proceeds of Criminal Profiteering (RCW  
23 9A.82.080 (1) and (2))  
24 Knowingly Trafficking in Stolen Property (RCW  
25 9A.82.050(2))  
26 III Criminal Mistreatment 2 (RCW 9A.42.030)  
27 Abandonment of dependent person 2 (RCW  
28 9A.42.070)  
29 Extortion 2 (RCW 9A.56.130)  
30 Unlawful Imprisonment (RCW 9A.40.040)  
31 Assault 3 (RCW 9A.36.031)  
32 Assault of a Child 3 (RCW 9A.36.140)  
33 Custodial Assault (RCW 9A.36.100)  
34 Unlawful possession of firearm in the second  
35 degree (RCW 9.41.040(1)(b))  
36 Harassment (RCW 9A.46.020)  
37 Promoting Prostitution 2 (RCW 9A.88.080)  
38 Willful Failure to Return from Work Release  
39 (RCW 72.65.070)

1 Burglary 2 (RCW 9A.52.030)  
2 Introducing Contraband 2 (RCW 9A.76.150)  
3 Communication with a Minor for Immoral  
4 Purposes (RCW 9.68A.090)  
5 Patronizing a Juvenile Prostitute (RCW  
6 9.68A.100)  
7 Escape 2 (RCW 9A.76.120)  
8 Perjury 2 (RCW 9A.72.030)  
9 Bail Jumping with class B or C Felony (RCW  
10 9A.76.170(2)(c))  
11 Intimidating a Public Servant (RCW 9A.76.180)  
12 Tampering with a Witness (RCW 9A.72.120)  
13 Manufacture, deliver, or possess with intent  
14 to deliver marijuana (RCW  
15 69.50.401(a)(1)(iii))  
16 Delivery of a material in lieu of a  
17 controlled substance (RCW 69.50.401(c))  
18 Manufacture, distribute, or possess with  
19 intent to distribute an imitation  
20 controlled substance (RCW 69.52.030(1))  
21 Recklessly Trafficking in Stolen Property  
22 (RCW 9A.82.050(1))  
23 Theft of livestock 2 (RCW 9A.56.080)  
24 Securities Act violation (RCW 21.20.400)

25 II Unlawful Practice of Law (RCW 2.48.180)  
26 Malicious Mischief 1 (RCW 9A.48.070)  
27 Possession of Stolen Property 1 (RCW  
28 9A.56.150)  
29 Theft 1 (RCW 9A.56.030)  
30 Trafficking in Insurance Claims (RCW  
31 48.30A.015)  
32 Unlicensed Practice of a Profession or  
33 Business (RCW 18.130.190(7))  
34 Health Care False Claims (RCW 48.80.030)  
35 Possession of controlled substance that is  
36 either heroin or narcotics from Schedule  
37 I or II (RCW 69.50.401(d))  
38 Possession of phencyclidine (PCP) (RCW  
39 69.50.401(d))

1 Create, deliver, or possess a counterfeit  
2 controlled substance (RCW 69.50.401(b))  
3 Computer Trespass 1 (RCW 9A.52.110)  
4 Escape from Community Custody (RCW 72.09.310)  
5 I Theft 2 (RCW 9A.56.040)  
6 Possession of Stolen Property 2 (RCW  
7 9A.56.160)  
8 Forgery (RCW 9A.60.020)  
9 Taking Motor Vehicle Without Permission (RCW  
10 9A.56.070)  
11 Vehicle Prowl 1 (RCW 9A.52.095)  
12 Attempting to Elude a Pursuing Police Vehicle  
13 (RCW 46.61.024)  
14 Malicious Mischief 2 (RCW 9A.48.080)  
15 Reckless Burning 1 (RCW 9A.48.040)  
16 Unlawful Issuance of Checks or Drafts (RCW  
17 9A.56.060)  
18 Unlawful Use of Food Stamps (RCW 9.91.140 (2)  
19 and (3))  
20 False Verification for Welfare (RCW  
21 74.08.055)  
22 Forged Prescription (RCW 69.41.020)  
23 Forged Prescription for a Controlled  
24 Substance (RCW 69.50.403)  
25 Possess Controlled Substance that is a  
26 Narcotic from Schedule III, IV, or V or  
27 Non-narcotic from Schedule I-V (except  
28 phencyclidine) (RCW 69.50.401(d))

29 **Sec. 4.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c  
30 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as  
31 follows:

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

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

37 (2) The court may impose a sentence outside the standard sentence  
38 range for that offense if it finds, considering the purpose of this

1 chapter, that there are substantial and compelling reasons justifying  
2 an exceptional sentence.

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

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

32 (5) In sentencing a first-time offender the court may waive the  
33 imposition of a sentence within the sentence range and impose a  
34 sentence which may include up to ninety days of confinement in a  
35 facility operated or utilized under contract by the county and a  
36 requirement that the offender refrain from committing new offenses.  
37 The sentence may also include up to two years of community supervision,  
38 which, in addition to crime-related prohibitions, may include

1 requirements that the offender perform any one or more of the  
2 following:

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

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

7 (c) Pursue a prescribed, secular course of study or vocational  
8 training;

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

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

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

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

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

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

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

31 (b) If the midpoint of the standard range is greater than one year  
32 and the sentencing judge determines that the offender is eligible for  
33 this option and that the offender and the community will benefit from  
34 the use of the special drug offender sentencing alternative, the judge  
35 may waive imposition of a sentence within the standard range and impose  
36 a sentence that must include a period of total confinement in a state  
37 facility for one-half of the midpoint of the standard range. During  
38 incarceration in the state facility, offenders sentenced under this  
39 subsection shall undergo a comprehensive substance abuse assessment and

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

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



1 of community supervision shall be tolled by any period of time served  
2 in total confinement as a result of a violation found by the court.

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

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

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

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

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

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

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

37 (C) Monitoring plans, including any requirements regarding living  
38 conditions, lifestyle requirements, and monitoring by family members  
39 and others;

- 1 (D) Anticipated length of treatment; and
- 2 (E) Recommended crime-related prohibitions.

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

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

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

24 (B) The court shall order treatment for any period up to three  
25 years in duration. The court in its discretion shall order outpatient  
26 sex offender treatment or inpatient sex offender treatment, if  
27 available. A community mental health center may not be used for such  
28 treatment unless it has an appropriate program designed for sex  
29 offender treatment. The offender shall not change sex offender  
30 treatment providers or treatment conditions without first notifying the  
31 prosecutor, the community corrections officer, and the court, and shall  
32 not change providers without court approval after a hearing if the  
33 prosecutor or community corrections officer object to the change. In  
34 addition, as conditions of the suspended sentence, the court may impose  
35 other sentence conditions including up to six months of confinement,  
36 not to exceed the sentence range of confinement for that offense,  
37 crime-related prohibitions, and requirements that the offender perform  
38 any one or more of the following:

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

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

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

18 (iv) At the time of sentencing, the court shall set a treatment  
19 termination hearing for three months prior to the anticipated date for  
20 completion of treatment. Prior to the treatment termination hearing,  
21 the treatment professional and community corrections officer shall  
22 submit written reports to the court and parties regarding the  
23 defendant's compliance with treatment and monitoring requirements, and  
24 recommendations regarding termination from treatment, including  
25 proposed community supervision conditions. Either party may request  
26 and the court may order another evaluation regarding the advisability  
27 of termination from treatment. The defendant shall pay the cost of any  
28 additional evaluation ordered unless the court finds the defendant to  
29 be indigent in which case the state shall pay the cost. At the  
30 treatment termination hearing the court may: (A) Modify conditions of  
31 community custody, and either (B) terminate treatment, or (C) extend  
32 treatment for up to the remaining period of community custody.

33 (v) If a violation of conditions occurs during community custody,  
34 the department shall either impose sanctions as provided for in RCW  
35 9.94A.205(2)(a) or refer the violation to the court and recommend  
36 revocation of the suspended sentence as provided for in (a)(vi) of this  
37 subsection.

38 (vi) The court may revoke the suspended sentence at any time  
39 during the period of community custody and order execution of the

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

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

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

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

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

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

38 (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  
12 such 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 committed on or after July 1, 1990, but  
8 before June 6, 1996, a serious violent offense, vehicular homicide, or  
9 vehicular assault, committed on or after July 1, 1990, the court shall  
10 in addition to other terms of the sentence, sentence the offender to  
11 community placement for two years or up to the period of earned early  
12 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is  
13 longer. The community placement shall begin either upon completion of  
14 the term of confinement or at such time as the offender is transferred  
15 to community custody in lieu of earned early release in accordance with  
16 RCW 9.94A.150 (1) and (2). When the court sentences an offender under  
17 this subsection to the statutory maximum period of confinement then the  
18 community placement portion of the sentence shall consist entirely of  
19 the community custody to which the offender may become eligible, in  
20 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
21 custody actually served shall be credited against the community  
22 placement portion of the sentence. Unless a condition is waived by the  
23 court, the terms of community placement for offenders sentenced  
24 pursuant to this section shall include the following conditions:

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

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

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

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

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

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

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

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

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

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

10 (iv) The offender shall not consume alcohol;

11 (v) The offender shall comply with any crime-related prohibitions;

12 or

13 (vi) For an offender convicted of a felony sex offense against a  
14 minor victim after June 6, 1996, the offender shall comply with any  
15 terms and conditions of community placement imposed by the department  
16 of corrections relating to contact between the sex offender and a minor  
17 victim or a child of similar age or circumstance as a previous victim.

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

22 (10)(a) When a court sentences a person to the custody of the  
23 department of corrections for an offense categorized as a sex offense  
24 committed on or after June 6, 1996, the court shall, in addition to  
25 other terms of the sentence, sentence the offender to community custody  
26 for three years or up to the period of earned early release awarded  
27 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
28 community custody shall begin either upon completion of the term of  
29 confinement or at such time as the offender is transferred to community  
30 custody in lieu of earned early release in accordance with RCW  
31 9.94A.150 (1) and (2).

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

1 (c) At any time prior to the completion of a sex offender's term  
2 of community custody, if the court finds that public safety would be  
3 enhanced, the court may impose and enforce an order extending any or  
4 all of the conditions imposed pursuant to this section for a period up  
5 to the maximum allowable sentence for the crime as it is classified in  
6 chapter 9A.20 RCW, regardless of the expiration of the offender's term  
7 of community custody. If a violation of a condition extended under  
8 this subsection occurs after the expiration of the offender's term of  
9 community custody, it shall be deemed a violation of the sentence for  
10 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
11 court as provided for in RCW 7.21.040.

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

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



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

5 (14) All offenders sentenced to terms involving community  
6 supervision, community service, community placement, or legal financial  
7 obligation shall be under the supervision of the department of  
8 corrections and shall follow explicitly the instructions and conditions  
9 of the department of corrections.

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

15 (b) For sex offenders sentenced to terms involving community  
16 custody for crimes committed on or after June 6, 1996, the department  
17 may include, in addition to the instructions in (a) of this subsection,  
18 any appropriate conditions of supervision, including but not limited  
19 to, prohibiting the offender from having contact with any other  
20 specified individuals or specific class of individuals. The conditions  
21 authorized under this subsection (14)(b) may be imposed by the  
22 department prior to or during a sex offender's community custody term.  
23 If a violation of conditions imposed by the court or the department  
24 pursuant to subsection (10) of this section occurs during community  
25 custody, it shall be deemed a violation of community placement for the  
26 purposes of RCW 9.94A.207 and shall authorize the department to  
27 transfer an offender to a more restrictive confinement status as  
28 provided in RCW 9.94A.205. At any time prior to the completion of a  
29 sex offender's term of community custody, the department may recommend  
30 to the court that any or all of the conditions imposed by the court or  
31 the department pursuant to subsection (10) of this section be continued  
32 beyond the expiration of the offender's term of community custody as  
33 authorized in subsection (10)(c) of this section.

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

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

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

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

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

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

34 (20) In any sentence of partial confinement, the court may require  
35 the defendant to serve the partial confinement in work release, in a  
36 program of home detention, on work crew, or in a combined program of  
37 work crew and home detention.

38 (21) All court-ordered legal financial obligations collected by  
39 the department and remitted to the county clerk shall be credited and

1 paid where restitution is ordered. Restitution shall be paid prior to  
2 any other payments of monetary obligations.

3 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and takes effect  
6 July 1, 1997.

7 NEW SECTION. **Sec. 6.** If any provision of this act or its  
8 application to any person or circumstance is held invalid, the  
9 remainder of the act or the application of the provision to other  
10 persons or circumstances is not affected.

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