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HOUSE BILL 2838

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By Representatives Romero, Sheahan, Costa, Wolfe, Alexander, Cooke, O'Brien, Hatfield, Butler, Kessler, Murray, Kenney, McDonald, Linville, Constantine, Ogden, Cooper, Scott, Gardner, Tokuda, Quall, Anderson, Dickerson, Conway and Cole

Read first time 01/21/98. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to domestic violence seminars; amending RCW  
2 10.99.040; and reenacting and amending RCW 9.94A.120.

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

4 **Sec. 1.** RCW 10.99.040 and 1997 c 338 s 54 are each amended to read  
5 as follows:

6 (1) Because of the serious nature of domestic violence, the court  
7 in domestic violence actions:

8 (a) Shall not dismiss any charge or delay disposition because of  
9 concurrent dissolution or other civil proceedings;

10 (b) Shall not require proof that either party is seeking a  
11 dissolution of marriage prior to instigation of criminal proceedings;

12 (c) Shall waive any requirement that the victim's location be  
13 disclosed to any person, other than the attorney of a criminal  
14 defendant, upon a showing that there is a possibility of further  
15 violence: PROVIDED, That the court may order a criminal defense  
16 attorney not to disclose to his or her client the victim's location;  
17 and

18 (d) Shall identify by any reasonable means on docket sheets those  
19 criminal actions arising from acts of domestic violence.

1 (2) Because of the likelihood of repeated violence directed at  
2 those who have been victims of domestic violence in the past, when any  
3 person charged with or arrested for a crime involving domestic violence  
4 is released from custody before arraignment or trial on bail or  
5 personal recognizance, the court authorizing the release may prohibit  
6 that person from having any contact with the victim. The jurisdiction  
7 authorizing the release shall determine whether that person should be  
8 prohibited from having any contact with the victim. If there is no  
9 outstanding restraining or protective order prohibiting that person  
10 from having contact with the victim, the court authorizing release may  
11 issue, by telephone, a no-contact order prohibiting the person charged  
12 or arrested from having contact with the victim. In issuing the order,  
13 the court shall consider the provisions of RCW 9.41.800. The no-  
14 contact order shall also be issued in writing as soon as possible.

15 (3) At the time of arraignment the court shall determine whether a  
16 no-contact order shall be issued or extended. If a no-contact order is  
17 issued or extended, the court may also include in the conditions of  
18 release a requirement that the defendant submit to electronic  
19 monitoring. If electronic monitoring is ordered, the court shall  
20 specify who shall provide the monitoring services, and the terms under  
21 which the monitoring shall be performed. Upon conviction, the court  
22 may require as a condition of the sentence that the defendant reimburse  
23 the providing agency for the costs of the electronic monitoring.

24 (4)(a) Willful violation of a court order issued under subsection  
25 (2) or (3) of this section is a gross misdemeanor except as provided in  
26 (b) and (c) of this subsection (4). Upon conviction and in addition to  
27 other penalties provided by law, the court may require that the  
28 defendant submit to electronic monitoring. The court shall specify who  
29 shall provide the electronic monitoring services and the terms under  
30 which the monitoring must be performed. The court also may include a  
31 requirement that the defendant pay the costs of the monitoring. The  
32 court shall consider the ability of the convicted person to pay for  
33 electronic monitoring.

34 (b) Any assault that is a violation of an order issued under this  
35 section and that does not amount to assault in the first or second  
36 degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable  
37 under chapter 9A.20 RCW, and any conduct in violation of a protective  
38 order issued under this section that is reckless and creates a

1 substantial risk of death or serious physical injury to another person  
2 is a class C felony punishable under chapter 9A.20 RCW.

3 (c) A willful violation of a court order issued under this section  
4 is a class C felony if the offender has at least two previous  
5 convictions for violating the provisions of a no-contact order issued  
6 under this chapter, a domestic violence protection order issued under  
7 chapter 26.09, 26.10, 26.26, or 26.50 RCW, or any federal or out-of-  
8 state order that is comparable to a no-contact order or protection  
9 order issued under Washington law. The previous convictions may  
10 involve the same victim or other victims specifically protected by the  
11 no-contact orders or protection orders the offender violated.

12 (d) The written order releasing the person charged or arrested  
13 shall contain the court's directives and shall bear the legend:  
14 "Violation of this order is a criminal offense under chapter 10.99 RCW  
15 and will subject a violator to arrest; any assault, drive-by shooting,  
16 or reckless endangerment that is a violation of this order is a felony.  
17 You can be arrested even if any person protected by the order invites  
18 or allows you to violate the order's prohibitions. You have the sole  
19 responsibility to avoid or refrain from violating the order's  
20 provisions. Only the court can change the order." A certified copy of  
21 the order shall be provided to the victim. If a no-contact order has  
22 been issued prior to charging, that order shall expire at arraignment  
23 or within seventy-two hours if charges are not filed. Such orders need  
24 not be entered into the computer-based criminal intelligence  
25 information system in this state which is used by law enforcement  
26 agencies to list outstanding warrants.

27 (5) Whenever an order prohibiting contact is issued, modified, or  
28 terminated under subsection (2) or (3) of this section, the clerk of  
29 the court shall forward a copy of the order on or before the next  
30 judicial day to the appropriate law enforcement agency specified in the  
31 order. Upon receipt of the copy of the order the law enforcement  
32 agency shall forthwith enter the order for one year or until the  
33 expiration date specified on the order into any computer-based criminal  
34 intelligence information system available in this state used by law  
35 enforcement agencies to list outstanding warrants. Entry into the law  
36 enforcement information system constitutes notice to all law  
37 enforcement agencies of the existence of the order. The order is fully  
38 enforceable in any jurisdiction in the state.

1       (6) If an offender is convicted of an offense that is domestic  
2 violence, as defined in RCW 10.99.020, and the offender has minor  
3 children or the victim of the offense for which the offender is  
4 convicted has minor children, the court may require the offender, as  
5 part of the offender's sentence, to attend a seminar concerning the  
6 effects of domestic violence on children. The seminar should cover the  
7 emotional impacts of domestic violence on children, the long-term  
8 consequences that exposure to incidents of domestic violence may have  
9 on children, and parenting skills to help the offender control the  
10 events or behavior that lead to incidents of domestic violence. The  
11 offender shall bear the cost of attending the seminar.

12       **Sec. 2.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c  
13 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and  
14 amended to read as follows:

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

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

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

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

28       (4) A persistent offender shall be sentenced to a term of total  
29 confinement for life without the possibility of parole or, when  
30 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
31 first degree, sentenced to death, notwithstanding the maximum sentence  
32 under any other law. An offender convicted of the crime of murder in  
33 the first degree shall be sentenced to a term of total confinement not  
34 less than twenty years. An offender convicted of the crime of assault  
35 in the first degree or assault of a child in the first degree where the  
36 offender used force or means likely to result in death or intended to  
37 kill the victim shall be sentenced to a term of total confinement not  
38 less than five years. An offender convicted of the crime of rape in

1 the first degree shall be sentenced to a term of total confinement not  
2 less than five years. The foregoing minimum terms of total confinement  
3 are mandatory and shall not be varied or modified as provided in  
4 subsection (2) of this section. In addition, all offenders subject to  
5 the provisions of this subsection shall not be eligible for community  
6 custody, earned early release time, furlough, home detention, partial  
7 confinement, work crew, work release, or any other form of early  
8 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
9 or any other form of authorized leave of absence from the correctional  
10 facility while not in the direct custody of a corrections officer or  
11 officers during such minimum terms of total confinement except in the  
12 case of an offender in need of emergency medical treatment or for the  
13 purpose of commitment to an inpatient treatment facility in the case of  
14 an offender convicted of the crime of rape in the first degree.

15 (5) In sentencing a first-time offender the court may waive the  
16 imposition of a sentence within the sentence range and impose a  
17 sentence which may include up to ninety days of confinement in a  
18 facility operated or utilized under contract by the county and a  
19 requirement that the offender refrain from committing new offenses.  
20 The sentence may also include up to two years of community supervision,  
21 which, in addition to crime-related prohibitions, may include  
22 requirements that the offender perform any one or more of the  
23 following:

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

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

28 (c) Pursue a prescribed, secular course of study or vocational  
29 training;

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

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

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

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

1 (i) The offender is convicted of the manufacture, delivery, or  
2 possession with intent to manufacture or deliver a controlled substance  
3 classified in Schedule I or II that is a narcotic drug or a felony that  
4 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
5 criminal solicitation, or criminal conspiracy to commit such crimes,  
6 and the violation does not involve a sentence enhancement under RCW  
7 9.94A.310 (3) or (4);

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

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

14 (b) If the midpoint of the standard range is greater than one year  
15 and the sentencing judge determines that the offender is eligible for  
16 this option and that the offender and the community will benefit from  
17 the use of the special drug offender sentencing alternative, the judge  
18 may waive imposition of a sentence within the standard range and impose  
19 a sentence that must include a period of total confinement in a state  
20 facility for one-half of the midpoint of the standard range. During  
21 incarceration in the state facility, offenders sentenced under this  
22 subsection shall undergo a comprehensive substance abuse assessment and  
23 receive, within available resources, treatment services appropriate for  
24 the offender. The treatment services shall be designed by the division  
25 of alcohol and substance abuse of the department of social and health  
26 services, in cooperation with the department of corrections. If the  
27 midpoint of the standard range is twenty-four months or less, no more  
28 than three months of the sentence may be served in a work release  
29 status. The court shall also impose one year of concurrent community  
30 custody and community supervision that must include appropriate  
31 outpatient substance abuse treatment, crime-related prohibitions  
32 including a condition not to use illegal controlled substances, and a  
33 requirement to submit to urinalysis or other testing to monitor that  
34 status. The court may require that the monitoring for controlled  
35 substances be conducted by the department or by a treatment  
36 alternatives to street crime program or a comparable court or agency-  
37 referred program. The offender may be required to pay thirty dollars  
38 per month while on community custody to offset the cost of monitoring.

1 In addition, the court shall impose three or more of the following  
2 conditions:

3 (i) Devote time to a specific employment or training;

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

7 (iii) Report as directed to a community corrections officer;

8 (iv) Pay all court-ordered legal financial obligations;

9 (v) Perform community service work;

10 (vi) Stay out of areas designated by the sentencing judge.

11 (c) If the offender violates any of the sentence conditions in (b)  
12 of this subsection, the department shall impose sanctions  
13 administratively, with notice to the prosecuting attorney and the  
14 sentencing court. Upon motion of the court or the prosecuting  
15 attorney, a violation hearing shall be held by the court. If the court  
16 finds that conditions have been willfully violated, the court may  
17 impose confinement consisting of up to the remaining one-half of the  
18 midpoint of the standard range. All total confinement served during  
19 the period of community custody shall be credited to the offender,  
20 regardless of whether the total confinement is served as a result of  
21 the original sentence, as a result of a sanction imposed by the  
22 department, or as a result of a violation found by the court. The term  
23 of community supervision shall be tolled by any period of time served  
24 in total confinement as a result of a violation found by the court.

25 (d) The department shall determine the rules for calculating the  
26 value of a day fine based on the offender's income and reasonable  
27 obligations which the offender has for the support of the offender and  
28 any dependents. These rules shall be developed in consultation with  
29 the administrator for the courts, the office of financial management,  
30 and the commission.

31 (7) If a sentence range has not been established for the  
32 defendant's crime, the court shall impose a determinate sentence which  
33 may include not more than one year of confinement, community service  
34 work, a term of community supervision not to exceed one year, and/or  
35 other legal financial obligations. The court may impose a sentence  
36 which provides more than one year of confinement if the court finds,  
37 considering the purpose of this chapter, that there are substantial and  
38 compelling reasons justifying an exceptional sentence.

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

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

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

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

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

21 (C) Monitoring plans, including any requirements regarding living  
22 conditions, lifestyle requirements, and monitoring by family members  
23 and others;

24 (D) Anticipated length of treatment; and

25 (E) Recommended crime-related prohibitions.

26 The court on its own motion may order, or on a motion by the state  
27 shall order, a second examination regarding the offender's amenability  
28 to treatment. The evaluator shall be selected by the party making the  
29 motion. The defendant shall pay the cost of any second examination  
30 ordered unless the court finds the defendant to be indigent in which  
31 case the state shall pay the cost.

32 (ii) After receipt of the reports, the court shall consider whether  
33 the offender and the community will benefit from use of this special  
34 sex offender sentencing alternative and consider the victim's opinion  
35 whether the offender should receive a treatment disposition under this  
36 subsection. If the court determines that this special sex offender  
37 sentencing alternative is appropriate, the court shall then impose a  
38 sentence within the sentence range. If this sentence is less than



1 eleven years of confinement, the court may suspend the execution of the  
2 sentence and impose the following conditions of suspension:

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

7 (B) The court shall order treatment for any period up to three  
8 years in duration. The court in its discretion shall order outpatient  
9 sex offender treatment or inpatient sex offender treatment, if  
10 available. A community mental health center may not be used for such  
11 treatment unless it has an appropriate program designed for sex  
12 offender treatment. The offender shall not change sex offender  
13 treatment providers or treatment conditions without first notifying the  
14 prosecutor, the community corrections officer, and the court, and shall  
15 not change providers without court approval after a hearing if the  
16 prosecutor or community corrections officer object to the change. In  
17 addition, as conditions of the suspended sentence, the court may impose  
18 other sentence conditions including up to six months of confinement,  
19 not to exceed the sentence range of confinement for that offense,  
20 crime-related prohibitions, and requirements that the offender perform  
21 any one or more of the following:

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

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

26 (III) Report as directed to the court and a community corrections  
27 officer;

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

31 (V) Make recoupment to the victim for the cost of any counseling  
32 required as a result of the offender's crime; and

33 (C) Sex offenders sentenced under this special sex offender  
34 sentencing alternative are not eligible to accrue any earned early  
35 release time while serving a suspended sentence.

36 (iii) The sex offender therapist shall submit quarterly reports on  
37 the defendant's progress in treatment to the court and the parties.  
38 The report shall reference the treatment plan and include at a minimum  
39 the following: Dates of attendance, defendant's compliance with

1 requirements, treatment activities, the defendant's relative progress  
2 in treatment, and any other material as specified by the court at  
3 sentencing.

4 (iv) At the time of sentencing, the court shall set a treatment  
5 termination hearing for three months prior to the anticipated date for  
6 completion of treatment. Prior to the treatment termination hearing,  
7 the treatment professional and community corrections officer shall  
8 submit written reports to the court and parties regarding the  
9 defendant's compliance with treatment and monitoring requirements, and  
10 recommendations regarding termination from treatment, including  
11 proposed community supervision conditions. Either party may request  
12 and the court may order another evaluation regarding the advisability  
13 of termination from treatment. The defendant shall pay the cost of any  
14 additional evaluation ordered unless the court finds the defendant to  
15 be indigent in which case the state shall pay the cost. At the  
16 treatment termination hearing the court may: (A) Modify conditions of  
17 community custody, and either (B) terminate treatment, or (C) extend  
18 treatment for up to the remaining period of community custody.

19 (v) If a violation of conditions occurs during community custody,  
20 the department shall either impose sanctions as provided for in RCW  
21 9.94A.205(2)(a) or refer the violation to the court and recommend  
22 revocation of the suspended sentence as provided for in (a)(vi) of this  
23 subsection.

24 (vi) The court may revoke the suspended sentence at any time during  
25 the period of community custody and order execution of the sentence if:  
26 (A) The defendant violates the conditions of the suspended sentence, or  
27 (B) the court finds that the defendant is failing to make satisfactory  
28 progress in treatment. All confinement time served during the period  
29 of community custody shall be credited to the offender if the suspended  
30 sentence is revoked.

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

35 (viii) A sex offender therapist who examines or treats a sex  
36 offender pursuant to this subsection (8) does not have to be certified  
37 by the department of health pursuant to chapter 18.155 RCW if the court  
38 finds that: (A) The offender has already moved to another state or  
39 plans to move to another state for reasons other than circumventing the

1 certification requirements; (B) no certified providers are available  
2 for treatment within a reasonable geographical distance of the  
3 offender's home; and (C) the evaluation and treatment plan comply with  
4 this subsection (8) and the rules adopted by the department of health.

5 (ix) For purposes of this subsection (8), "victim" means any person  
6 who has sustained emotional, psychological, physical, or financial  
7 injury to person or property as a result of the crime charged.  
8 "Victim" also means a parent or guardian of a victim who is a minor  
9 child unless the parent or guardian is the perpetrator of the offense.

10 (x) If the defendant was less than eighteen years of age when the  
11 charge was filed, the state shall pay for the cost of initial  
12 evaluation and treatment.

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

20 Except for an offender who has been convicted of a violation of RCW  
21 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
22 before the expiration of his or her term of confinement, the department  
23 of corrections may request the court to convert the balance of  
24 confinement to community supervision and to place conditions on the  
25 offender including crime-related prohibitions and requirements that the  
26 offender perform any one or more of the following:

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

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

31 (iii) Report as directed to the court and a community corrections  
32 officer;

33 (iv) Undergo available outpatient treatment.

34 If the offender violates any of the terms of his or her community  
35 supervision, the court may order the offender to serve out the balance  
36 of his or her community supervision term in confinement in the custody  
37 of the department of corrections.

38 Nothing in this subsection (8)(b) shall confer eligibility for such  
39 programs for offenders convicted and sentenced for a sex offense

1 committed prior to July 1, 1987. This subsection (8)(b) does not apply  
2 to any crime committed after July 1, 1990.

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

11 (9)(a) When a court sentences a person to a term of total  
12 confinement to the custody of the department of corrections for an  
13 offense categorized as a sex offense or a serious violent offense  
14 committed after July 1, 1988, but before July 1, 1990, assault in the  
15 second degree, assault of a child in the second degree, any crime  
16 against a person where it is determined in accordance with RCW  
17 9.94A.125 that the defendant or an accomplice was armed with a deadly  
18 weapon at the time of commission, or any felony offense under chapter  
19 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,  
20 committed on or after July 1, 1988, the court shall in addition to the  
21 other terms of the sentence, sentence the offender to a one-year term  
22 of community placement beginning either upon completion of the term of  
23 confinement or at such time as the offender is transferred to community  
24 custody in lieu of earned early release in accordance with RCW  
25 9.94A.150 (1) and (2). When the court sentences an offender under this  
26 subsection to the statutory maximum period of confinement then the  
27 community placement portion of the sentence shall consist entirely of  
28 such community custody to which the offender may become eligible, in  
29 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
30 custody actually served shall be credited against the community  
31 placement portion of the sentence.

32 (b) When a court sentences a person to a term of total confinement  
33 to the custody of the department of corrections for an offense  
34 categorized as a sex offense committed on or after July 1, 1990, but  
35 before June 6, 1996, a serious violent offense, vehicular homicide, or  
36 vehicular assault, committed on or after July 1, 1990, the court shall  
37 in addition to other terms of the sentence, sentence the offender to  
38 community placement for two years or up to the period of earned early  
39 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is

1 longer. The community placement shall begin either upon completion of  
2 the term of confinement or at such time as the offender is transferred  
3 to community custody in lieu of earned early release in accordance with  
4 RCW 9.94A.150 (1) and (2). When the court sentences an offender under  
5 this subsection to the statutory maximum period of confinement then the  
6 community placement portion of the sentence shall consist entirely of  
7 the community custody to which the offender may become eligible, in  
8 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
9 custody actually served shall be credited against the community  
10 placement portion of the sentence. Unless a condition is waived by the  
11 court, the terms of community placement for offenders sentenced  
12 pursuant to this section shall include the following conditions:

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

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

17 (iii) The offender shall not possess or consume controlled  
18 substances except pursuant to lawfully issued prescriptions;

19 (iv) The offender shall pay supervision fees as determined by the  
20 department of corrections;

21 (v) The residence location and living arrangements are subject to  
22 the prior approval of the department of corrections during the period  
23 of community placement; and

24 (vi) The offender shall submit to affirmative acts necessary to  
25 monitor compliance with the orders of the court as required by the  
26 department.

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

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

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

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

36 (iv) The offender shall not consume alcohol;

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

38 or

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

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

10 (10)(a) When a court sentences a person to the custody of the  
11 department of corrections for an offense categorized as a sex offense  
12 committed on or after June 6, 1996, the court shall, in addition to  
13 other terms of the sentence, sentence the offender to community custody  
14 for three years or up to the period of earned early release awarded  
15 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
16 community custody shall begin either upon completion of the term of  
17 confinement or at such time as the offender is transferred to community  
18 custody in lieu of earned early release in accordance with RCW  
19 9.94A.150 (1) and (2).

20 (b) Unless a condition is waived by the court, the terms of  
21 community custody shall be the same as those provided for in subsection  
22 (9)(b) of this section and may include those provided for in subsection  
23 (9)(c) of this section. As part of any sentence that includes a term  
24 of community custody imposed under this subsection, the court shall  
25 also require the offender to comply with any conditions imposed by the  
26 department of corrections under subsection (14) of this section.

27 (c) At any time prior to the completion of a sex offender's term of  
28 community custody, if the court finds that public safety would be  
29 enhanced, the court may impose and enforce an order extending any or  
30 all of the conditions imposed pursuant to this section for a period up  
31 to the maximum allowable sentence for the crime as it is classified in  
32 chapter 9A.20 RCW, regardless of the expiration of the offender's term  
33 of community custody. If a violation of a condition extended under  
34 this subsection occurs after the expiration of the offender's term of  
35 community custody, it shall be deemed a violation of the sentence for  
36 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
37 court as provided for in RCW 7.21.040.

38 (11) If the court imposes a sentence requiring confinement of  
39 thirty days or less, the court may, in its discretion, specify that the

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

5 (12) If a sentence imposed includes payment of a legal financial  
6 obligation, the sentence shall specify the total amount of the legal  
7 financial obligation owed, and shall require the offender to pay a  
8 specified monthly sum toward that legal financial obligation.  
9 Restitution to victims shall be paid prior to any other payments of  
10 monetary obligations. Any legal financial obligation that is imposed  
11 by the court may be collected by the department, which shall deliver  
12 the amount paid to the county clerk for credit. The offender's  
13 compliance with payment of legal financial obligations shall be  
14 supervised by the department for ten years following the entry of the  
15 judgment and sentence or ten years following the offender's release  
16 from total confinement. All monetary payments ordered shall be paid no  
17 later than ten years after the last date of release from confinement  
18 pursuant to a felony conviction or the date the sentence was entered  
19 unless the superior court extends the criminal judgment an additional  
20 ten years. If the legal financial obligations including crime victims'  
21 assessments are not paid during the initial ten-year period, the  
22 superior court may extend jurisdiction under the criminal judgment an  
23 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and  
24 9.94A.145. If jurisdiction under the criminal judgment is extended,  
25 the department is not responsible for supervision of the offender  
26 during the subsequent period. Independent of the department, the party  
27 or entity to whom the legal financial obligation is owed shall have the  
28 authority to utilize any other remedies available to the party or  
29 entity to collect the legal financial obligation. Nothing in this  
30 section makes the department, the state, or any of its employees,  
31 agents, or other persons acting on their behalf liable under any  
32 circumstances for the payment of these legal financial obligations. If  
33 an order includes restitution as one of the monetary assessments, the  
34 county clerk shall make disbursements to victims named in the order.

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

1 (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 department of  
4 corrections and shall follow explicitly the instructions and conditions  
5 of the department of corrections. The department may require an  
6 offender to perform affirmative acts it deems appropriate to monitor  
7 compliance with the conditions of the sentence imposed.

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

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

12 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)  
13 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 (18) The court shall order restitution whenever the offender is  
18 convicted of a felony that results in injury to any person or damage to  
19 or loss of property, whether the offender is sentenced to confinement  
20 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 (19) As a part of any sentence, the court may impose and enforce an  
25 order that relates directly to the circumstances of the crime for which  
26 the offender has been convicted, prohibiting the offender from having  
27 any contact with other specified individuals or a specific class of  
28 individuals for a period not to exceed the maximum allowable sentence  
29 for the crime, regardless of the expiration of the offender's term of  
30 community supervision or community placement.

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

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

1       (22) In sentencing an offender who has been convicted of an offense  
2 that is domestic violence as defined in RCW 10.99.020, if the offender  
3 has minor children or if the victim of the offense for which the  
4 offender was convicted has minor children, the court may order as a  
5 part of any term of community supervision, in addition to any crime-  
6 related prohibitions, that the offender attend a seminar on the effects  
7 of domestic violence on children, in accordance with RCW 10.99.040(6).

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