

2 **SSB 6499** - S AMD 574

3 By Senators Costa, Hargrove and Long

4 ADOPTED 02/15/02

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

7 "**Sec. 1.** RCW 9.94A.545 and 2000 c 28 s 13 are each amended to read
8 as follows:

9 (1) On all sentences of confinement for one year or less, the court
10 may impose up to one year of community custody, subject to conditions
11 and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An
12 offender shall be on community custody as of the date of sentencing.
13 However, during the time for which the offender is in total or partial
14 confinement pursuant to the sentence or a violation of the sentence,
15 the period of community custody shall toll.

16 (2) The department may eliminate or terminate any term of community
17 custody imposed by the court under this section, or any term of
18 community supervision imposed by the court under prior law, for an
19 offender who is classified at the lowest risk level pursuant to a risk
20 assessment by the department. No liability may attach to the state,
21 the department, or any department employee based on the determination
22 to classify an offender at the lowest risk level, or to eliminate or
23 terminate a term of community custody or community supervision, in the
24 absence of gross negligence. The decision to eliminate or terminate
25 community custody or community supervision shall not affect the
26 superior court's jurisdiction over the offender.

27 (3) When the department classifies an offender at the lowest risk
28 level, the department shall notify the sentencing court, the county
29 prosecutor, and the county clerk of the county where the offender was
30 convicted.

31 **Sec. 2.** RCW 9.94A.631 and 1984 c 209 s 11 are each amended to read
32 as follows:

33 If an offender violates any condition or requirement of a sentence,
34 a community corrections officer may arrest or cause the arrest of the
35 offender without a warrant, pending a determination by the court. If

1 there is reasonable cause to believe that an offender has violated a
2 condition or requirement of the sentence, an offender may be required
3 to submit to a search and seizure of the offender's person, residence,
4 automobile, or other personal property. A community corrections
5 officer may also arrest an offender for any crime committed in his or
6 her presence. The facts and circumstances of the conduct of the
7 offender shall be reported by the community corrections officer, with
8 recommendations, to the court.

9 If a community corrections officer arrests or causes the arrest of
10 an offender under this section, the offender shall be confined and
11 detained in the county jail of the county in which the offender was
12 taken into custody, and the sheriff of that county shall receive and
13 keep in the county jail, where room is available, all prisoners
14 delivered to the jail by the community corrections officer, and such
15 offenders shall not be released from custody on bail or personal
16 recognizance, except upon approval of the court, pursuant to a written
17 order.

18 Community corrections officers have no obligation to arrest and
19 detain an offender, or to report a violation to the superior court,
20 where the department has eliminated or terminated supervision pursuant
21 to RCW 9.94A.545, 9.94A.650, 9.94A.690, 9.94A.700, 9.94A.705, and
22 9.94A.715.

23 **Sec. 3.** RCW 9.94A.637 and 2000 c 119 s 3 are each amended to read
24 as follows:

25 (1) When an offender has completed the requirements of the sentence
26 while under the custody or supervision of the department, the secretary
27 of the department or the secretary's designee shall notify the
28 sentencing court, which shall discharge the offender and provide the
29 offender with a certificate of discharge. The department has no
30 obligation to provide notice under this section if the offender is no
31 longer under the custody or supervision of the department at the time
32 the offender completes the requirements of the sentence.

33 (2) An offender who is not convicted of a violent offense or a sex
34 offense and is sentenced to a term involving community supervision may
35 be considered for a discharge of sentence by the sentencing court prior
36 to the completion of community supervision, provided that the offender
37 has completed at least one-half of the term of community supervision
38 and has met all other sentence requirements.

1 (3) Except as provided in subsection (4) of this section, the
2 discharge shall have the effect of restoring all civil rights lost by
3 operation of law upon conviction, and the certificate of discharge
4 shall so state. Nothing in this section prohibits the use of an
5 offender's prior record for purposes of determining sentences for later
6 offenses as provided in this chapter. Nothing in this section affects
7 or prevents use of the offender's prior conviction in a later criminal
8 prosecution either as an element of an offense or for impeachment
9 purposes. A certificate of discharge is not based on a finding of
10 rehabilitation.

11 (4) Unless otherwise ordered by the sentencing court, a certificate
12 of discharge shall not terminate the offender's obligation to comply
13 with an order issued under chapter 10.99 RCW that excludes or prohibits
14 the offender from having contact with a specified person or coming
15 within a set distance of any specified location that was contained in
16 the judgment and sentence. An offender who violates such an order
17 after a certificate of discharge has been issued shall be subject to
18 prosecution according to the chapter under which the order was
19 originally issued.

20 (5) Upon release from custody, the offender may apply to the
21 department for counseling and help in adjusting to the community. This
22 voluntary help may be provided for up to one year following the release
23 from custody.

24 **Sec. 4.** RCW 9.94A.650 and 2000 c 28 s 18 are each amended to read
25 as follows:

26 (1) This section applies to offenders who have never been
27 previously convicted of a felony in this state, federal court, or
28 another state, and who have never participated in a program of deferred
29 prosecution for a felony, and who are convicted of a felony that is
30 not:

31 (a) Classified as a violent offense or a sex offense under this
32 chapter;

33 (b) Manufacture, delivery, or possession with intent to manufacture
34 or deliver a controlled substance classified in Schedule I or II that
35 is a narcotic drug or flunitrazepam classified in Schedule IV;

36 (c) Manufacture, delivery, or possession with intent to deliver a
37 methamphetamine, its salts, isomers, and salts of its isomers as
38 defined in RCW 69.50.206(d)(2); or

1 (d) The selling for profit of any controlled substance or
2 counterfeit substance classified in Schedule I, RCW 69.50.204, except
3 leaves and flowering tops of marihuana.

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

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

15 (b) Undergo available outpatient treatment for up to the period
16 specified in subsection (3) of this section, or inpatient treatment not
17 to exceed the standard range of confinement for that offense;

18 (c) Pursue a prescribed, secular course of study or vocational
19 training;

20 (d) Remain within prescribed geographical boundaries and notify the
21 community corrections officer prior to any change in the offender's
22 address or employment;

23 (e) Report as directed to a community corrections officer; or

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

26 (3) The terms and statuses applicable to sentences under subsection
27 (2) of this section are:

28 (a) For sentences imposed on or after July 25, 1999, for crimes
29 committed before July 1, 2000, up to one year of community supervision.
30 If treatment is ordered, the period of community supervision may
31 include up to the period of treatment, but shall not exceed two years;
32 and

33 (b) For crimes committed on or after July 1, 2000, up to one year
34 of community custody unless treatment is ordered, in which case the
35 period of community custody may include up to the period of treatment,
36 but shall not exceed two years. Any term of community custody imposed
37 under this section is subject to conditions and sanctions as authorized
38 in this section and in RCW 9.94A.715 (2) and (3).

1 (4) The department shall discharge from community supervision any
2 offender sentenced under this section before July 25, 1999, who has
3 served at least one year of community supervision and has completed any
4 treatment ordered by the court.

5 (5) The department may eliminate or terminate any term of community
6 custody or community supervision imposed by the court under this
7 section for an offender who is classified at the lowest risk level
8 pursuant to a risk assessment by the department. No liability may
9 attach to the state, the department, or any department employee based
10 on the determination to classify an offender at the lowest risk level,
11 or to eliminate or terminate a term of community custody or community
12 supervision, in the absence of gross negligence. The decision to
13 eliminate or terminate community custody or community supervision shall
14 not affect the superior court's jurisdiction over the offender.

15 (6) When the department classifies an offender at the lowest risk
16 level, the department shall notify the sentencing court, the county
17 prosecutor, and the county clerk of the county where the offender was
18 convicted.

19 **Sec. 5.** RCW 9.94A.690 and 2000 c 28 s 21 are each amended to read
20 as follows:

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

23 (i) Is sentenced to a term of total confinement of not less than
24 twelve months and one day or more than thirty-six months;

25 (ii) Has no current or prior convictions for any sex offenses or
26 for violent offenses; and

27 (iii) Is not currently subject to a sentence for, or being
28 prosecuted for, a violation of the uniform controlled substances act or
29 a criminal solicitation to commit such a violation under chapter 9A.28
30 or 69.50 RCW.

31 (b) The length of the work ethic camp shall be at least one hundred
32 twenty days and not more than one hundred eighty days.

33 (2) If the sentencing court determines that the offender is
34 eligible for the work ethic camp and is likely to qualify under
35 subsection (3) of this section, the judge shall impose a sentence
36 within the standard sentence range and may recommend that the offender
37 serve the sentence at a work ethic camp. In sentencing an offender to
38 the work ethic camp, the court shall specify: (a) That upon completion

1 of the work ethic camp the offender shall be released on community
2 custody for any remaining time of total confinement; (b) the applicable
3 conditions of supervision on community custody status as required by
4 RCW 9.94A.700(4) and authorized by RCW 9.94A.700(5); and (c) that
5 violation of the conditions may result in a return to total confinement
6 for the balance of the offender's remaining time of confinement.

7 (3) The department shall place the offender in the work ethic camp
8 program, subject to capacity, unless: (a) The department determines
9 that the offender has physical or mental impairments that would prevent
10 participation and completion of the program; (b) the department
11 determines that the offender's custody level prevents placement in the
12 program; (c) the offender refuses to agree to the terms and conditions
13 of the program; (d) the offender has been found by the United States
14 attorney general to be subject to a deportation detainer or order; or
15 (e) the offender has participated in the work ethic camp program in the
16 past.

17 (4) An offender who fails to complete the work ethic camp program,
18 who is administratively terminated from the program, or who otherwise
19 violates any conditions of supervision, as defined by the department,
20 shall be reclassified to serve the unexpired term of his or her
21 sentence as ordered by the sentencing court and shall be subject to all
22 rules relating to earned release time.

23 (5) During the last two weeks prior to release from the work ethic
24 camp program the department shall provide the offender with
25 comprehensive transition training.

26 (6) The department may eliminate or terminate any term of community
27 custody imposed by the court under this section for an offender who is
28 classified at the lowest risk level pursuant to a risk assessment by
29 the department. No liability may attach to the state, the department,
30 or any department employee based on the determination to classify an
31 offender at the lowest risk level, or to eliminate or terminate a term
32 of community custody, in the absence of gross negligence. The decision
33 to eliminate or terminate community custody shall not affect the
34 superior court's jurisdiction over the offender.

35 (7) When the department classifies an offender at the lowest risk
36 level, the department shall notify the sentencing court, the county
37 prosecutor, and the county clerk of the county where the offender was
38 convicted.

1 **Sec. 6.** RCW 9.94A.700 and 2000 c 28 s 22 are each amended to read
2 as follows:

3 When a court sentences an offender to a term of total confinement
4 in the custody of the department for any of the offenses specified in
5 this section, the court shall also sentence the offender to a term of
6 community placement as provided in this section.

7 (1) The court shall order a one-year term of community placement
8 for the following:

9 (a) A sex offense or a serious violent offense committed after July
10 1, 1988, but before July 1, 1990; or

11 (b) An offense committed on or after July 1, 1988, but before July
12 25, 1999, that is:

13 (i) Assault in the second degree;

14 (ii) Assault of a child in the second degree;

15 (iii) A crime against persons where it is determined in accordance
16 with RCW 9.94A.602 that the offender or an accomplice was armed with a
17 deadly weapon at the time of commission; or

18 (iv) A felony offense under chapter 69.50 or 69.52 RCW not
19 sentenced under RCW 9.94A.660.

20 (2) The court shall sentence the offender to a term of community
21 placement of two years or up to the period of earned release awarded
22 pursuant to RCW 9.94A.728, whichever is longer, for:

23 (a) An offense categorized as a sex offense committed on or after
24 July 1, 1990, but before June 6, 1996, including those sex offenses
25 also included in other offense categories;

26 (b) A serious violent offense other than a sex offense committed on
27 or after July 1, 1990, but before July 1, 2000; or

28 (c) A vehicular homicide or vehicular assault committed on or after
29 July 1, 1990, but before July 1, 2000.

30 (3) The community placement ordered under this section shall begin
31 either upon completion of the term of confinement or at such time as
32 the offender is transferred to community custody in lieu of earned
33 release. When the court sentences an offender to the statutory maximum
34 sentence then the community placement portion of the sentence shall
35 consist entirely of the community custody to which the offender may
36 become eligible. Any period of community custody actually served shall
37 be credited against the community placement portion of the sentence.

1 (4) Unless a condition is waived by the court, the terms of any
2 community placement imposed under this section shall include the
3 following conditions:

4 (a) The offender shall report to and be available for contact with
5 the assigned community corrections officer as directed;

6 (b) The offender shall work at department-approved education,
7 employment, or community service, or any combination thereof;

8 (c) The offender shall not possess or consume controlled substances
9 except pursuant to lawfully issued prescriptions;

10 (d) The offender shall pay supervision fees as determined by the
11 department; and

12 (e) The residence location and living arrangements shall be subject
13 to the prior approval of the department during the period of community
14 placement.

15 (5) As a part of any terms of community placement imposed under
16 this section, the court may also order one or more of the following
17 special conditions:

18 (a) The offender shall remain within, or outside of, a specified
19 geographical boundary;

20 (b) The offender shall not have direct or indirect contact with the
21 victim of the crime or a specified class of individuals;

22 (c) The offender shall participate in crime-related treatment or
23 counseling services;

24 (d) The offender shall not consume alcohol; or

25 (e) The offender shall comply with any crime-related prohibitions.

26 (6) An offender convicted of a felony sex offense against a minor
27 victim after June 6, 1996, shall comply with any terms and conditions
28 of community placement imposed by the department relating to contact
29 between the sex offender and a minor victim or a child of similar age
30 or circumstance as a previous victim.

31 (7) Prior to or during community placement, upon recommendation of
32 the department, the sentencing court may remove or modify any
33 conditions of community placement so as not to be more restrictive.

34 (8) The department may eliminate or terminate any term of community
35 placement or community custody imposed by the court under this section
36 for an offender who is classified at the lowest risk level pursuant to
37 a risk assessment by the department. No liability may attach to the
38 state, the department, or any department employee based on the
39 determination to classify an offender at the lowest risk level, or to

1 eliminate or terminate a term of community placement or community
2 custody, in the absence of gross negligence. The decision to eliminate
3 or terminate community placement or community custody shall not affect
4 the superior court's jurisdiction over the offender.

5 (9) When the department classifies an offender at the lowest risk
6 level, the department shall notify the sentencing court, the county
7 prosecutor, and the county clerk of the county where the offender was
8 convicted.

9 **Sec. 7.** RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read
10 as follows:

11 (1) Except for persons sentenced under RCW 9.94A.700(2) or
12 9.94A.710, when a court sentences a person to a term of total
13 confinement to the custody of the department for a violent offense, any
14 crime against persons under RCW 9.94A.411(2), or any felony offense
15 under chapter 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660,
16 committed on or after July 25, 1999, but before July 1, 2000, the court
17 shall in addition to the other terms of the sentence, sentence the
18 offender to a one-year term of community placement beginning either
19 upon completion of the term of confinement or at such time as the
20 offender is transferred to community custody in lieu of earned release
21 in accordance with RCW 9.94A.728 (1) and (2). When the court sentences
22 the offender under this section to the statutory maximum period of
23 confinement, then the community placement portion of the sentence shall
24 consist entirely of such community custody to which the offender may
25 become eligible, in accordance with RCW 9.94A.728 (1) and (2). Any
26 period of community custody actually served shall be credited against
27 the community placement portion of the sentence.

28 (2) The department may eliminate or terminate any term of community
29 placement or community custody imposed by the court under this section
30 for an offender who is classified at the lowest risk level pursuant to
31 a risk assessment by the department. No liability may attach to the
32 state, the department, or any department employee based on the
33 determination to classify an offender at the lowest risk level, or to
34 eliminate or terminate a term of community placement or community
35 custody, in the absence of gross negligence. The decision to eliminate
36 or terminate community placement or community custody shall not affect
37 the superior court's jurisdiction over the offender.

1 (3) When the department classifies an offender at the lowest risk
2 level, the department shall notify the sentencing court, the county
3 prosecutor, and the county clerk of the county where the offender was
4 convicted.

5 **Sec. 8.** RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each
6 amended to read as follows:

7 (1) When a court sentences a person to the custody of the
8 department for a sex offense not sentenced under RCW 9.94A.712, a
9 violent offense, any crime against persons under RCW 9.94A.411(2), or
10 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
11 after July 1, 2000, the court shall in addition to the other terms of
12 the sentence, sentence the offender to community custody for the
13 community custody range established under RCW 9.94A.850 or up to the
14 period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2),
15 whichever is longer. The community custody shall begin: (a) Upon
16 completion of the term of confinement; (b) at such time as the offender
17 is transferred to community custody in lieu of earned release in
18 accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to
19 offenders sentenced under RCW 9.94A.660, upon failure to complete or
20 administrative termination from the special drug offender sentencing
21 alternative program.

22 (2)(a) Unless a condition is waived by the court, the conditions of
23 community custody shall include those provided for in RCW 9.94A.700(4).
24 The conditions may also include those provided for in RCW 9.94A.700(5).
25 The court may also order the offender to participate in rehabilitative
26 programs or otherwise perform affirmative conduct reasonably related to
27 the circumstances of the offense, the offender's risk of reoffending,
28 or the safety of the community, and the department shall enforce such
29 conditions pursuant to subsection (6) of this section.

30 (b) As part of any sentence that includes a term of community
31 custody imposed under this subsection, the court shall also require the
32 offender to comply with any conditions imposed by the department under
33 RCW 9.94A.720. The department shall assess the offender's risk of
34 reoffense and may establish and modify additional conditions of the
35 offender's community custody based upon the risk to community safety.
36 In addition, the department may require the offender to participate in
37 rehabilitative programs, or otherwise perform affirmative conduct, and
38 to obey all laws.

1 (c) The department may not impose conditions that are contrary to
2 those ordered by the court and may not contravene or decrease court
3 imposed conditions except as authorized under subsection (8) of this
4 section. The department shall notify the offender in writing of any
5 such conditions or modifications. In setting, modifying, and enforcing
6 conditions of community custody, the department shall be deemed to be
7 performing a quasi-judicial function.

8 (3) If an offender violates conditions imposed by the court or the
9 department pursuant to this section during community custody, the
10 department may transfer the offender to a more restrictive confinement
11 status and impose other available sanctions as provided in RCW
12 9.94A.737 and 9.94A.740.

13 (4) Except for terms of community custody under RCW 9.94A.670, the
14 department shall discharge the offender from community custody on a
15 date determined by the department, which the department may modify,
16 based on risk and performance of the offender, within the range or at
17 the end of the period of earned release, whichever is later.

18 (5) At any time prior to the completion or termination of a sex
19 offender's term of community custody, if the court finds that public
20 safety would be enhanced, the court may impose and enforce an order
21 extending any or all of the conditions imposed pursuant to this section
22 for a period up to the maximum allowable sentence for the crime as it
23 is classified in chapter 9A.20 RCW, regardless of the expiration of the
24 offender's term of community custody. If a violation of a condition
25 extended under this subsection occurs after the expiration of the
26 offender's term of community custody, it shall be deemed a violation of
27 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
28 contempt of court as provided for in RCW 7.21.040. If the court
29 extends a condition beyond the expiration of the term of community
30 custody, the department is not responsible for supervision of the
31 offender's compliance with the condition.

32 (6) Within the funds available for community custody, the
33 department shall determine conditions and duration of community custody
34 on the basis of risk to community safety, and shall supervise offenders
35 during community custody on the basis of risk to community safety and
36 conditions imposed by the court. The secretary shall adopt rules to
37 implement the provisions of this subsection.

38 (7) By the close of the next business day after receiving notice of
39 a condition imposed or modified by the department, an offender may

1 request an administrative review under rules adopted by the department.
2 The condition shall remain in effect unless the reviewing officer finds
3 that it is not reasonably related to any of the following: (a) The
4 crime of conviction; (b) the offender's risk of reoffending; or (c) the
5 safety of the community.

6 (8) Except for terms of community custody imposed under RCW
7 9.94A.660 and 9.94A.670 or imposed upon a person convicted of a sex
8 offense or a serious violent offense, the department may eliminate or
9 terminate any term of community custody imposed by the court under this
10 section for an offender who is classified at the lowest risk level
11 pursuant to a risk assessment by the department. No liability may
12 attach to the state, the department, or any department employee based
13 on the determination to classify an offender at the lowest risk level,
14 or to eliminate or terminate a term of community custody, in the
15 absence of gross negligence. The decision to eliminate or terminate
16 community custody shall not affect the superior court's jurisdiction
17 over the offender.

18 (9) When the department classifies an offender at the lowest risk
19 level, the department shall notify the sentencing court, the county
20 prosecutor, and the county clerk of the county where the offender was
21 convicted.

22 **Sec. 9.** RCW 9.94A.720 and 2000 c 28 s 26 are each amended to read
23 as follows:

24 (1)(a) Except as provided in RCW 9.94A.545(2), 9.94A.650(5),
25 9.94A.690(6), 9.94A.700(8), 9.94A.705(2), and 9.94A.715(8), all
26 offenders sentenced to terms involving community supervision,
27 ((community service,)) community placement, or community custody((~~or~~
28 legal financial obligation)) shall be under the supervision of the
29 department and shall follow explicitly the instructions and conditions
30 of the department. The department may require an offender to perform
31 affirmative acts it deems appropriate to monitor compliance with the
32 conditions of the sentence imposed.

33 (b) The instructions shall include, at a minimum, reporting as
34 directed to a community corrections officer, remaining within
35 prescribed geographical boundaries, notifying the community corrections
36 officer of any change in the offender's address or employment, and
37 paying the supervision fee assessment.

1 (c) For offenders sentenced to terms involving community custody
2 for crimes committed on or after June 6, 1996, the department may
3 include, in addition to the instructions in (b) of this subsection, any
4 appropriate conditions of supervision, including but not limited to,
5 prohibiting the offender from having contact with any other specified
6 individuals or specific class of individuals.

7 (d) For offenders sentenced to terms of community custody for
8 crimes committed on or after July 1, 2000, the department may impose
9 conditions as specified in RCW 9.94A.715.

10 The conditions authorized under (c) of this subsection may be
11 imposed by the department prior to or during an offender's community
12 custody term. If a violation of conditions imposed by the court or the
13 department pursuant to RCW 9.94A.710 occurs during community custody,
14 it shall be deemed a violation of community placement for the purposes
15 of RCW 9.94A.740 and shall authorize the department to transfer an
16 offender to a more restrictive confinement status as provided in RCW
17 9.94A.737. At any time prior to the completion of an offender's term
18 of community custody, the department may recommend to the court that
19 any or all of the conditions imposed by the court or the department
20 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
21 expiration of the offender's term of community custody as authorized in
22 RCW 9.94A.715 (3) or (5).

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

28 (2) No offender sentenced to terms involving community supervision,
29 community service, community custody, or community placement under the
30 supervision of the department may own, use, or possess firearms or
31 ammunition. Offenders who own, use, or are found to be in actual or
32 constructive possession of firearms or ammunition shall be subject to
33 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
34 9.94A.740. "Constructive possession" as used in this subsection means
35 the power and intent to control the firearm or ammunition. "Firearm"
36 as used in this subsection has the same definition as in RCW 9.41.010.

37 **Sec. 10.** RCW 9.94A.740 and 1999 c 196 s 9 are each amended to read
38 as follows:

1 (1) The secretary may issue warrants for the arrest of any offender
2 who violates a condition of community placement or community custody.
3 The arrest warrants shall authorize any law enforcement or peace
4 officer or community corrections officer of this state or any other
5 state where such offender may be located, to arrest the offender and
6 place him or her in total confinement pending disposition of the
7 alleged violation. The department shall compensate the local
8 jurisdiction at the office of financial management's adjudicated rate,
9 in accordance with RCW 70.48.440. A community corrections officer, if
10 he or she has reasonable cause to believe an offender in community
11 placement or community custody has violated a condition of community
12 placement or community custody, may suspend the person's community
13 placement or community custody status and arrest or cause the arrest
14 and detention in total confinement of the offender, pending the
15 determination of the secretary as to whether the violation has
16 occurred. The community corrections officer shall report to the
17 secretary all facts and circumstances and the reasons for the action of
18 suspending community placement or community custody status. A
19 violation of a condition of community placement or community custody
20 shall be deemed a violation of the sentence for purposes of RCW
21 9.94A.631. The authority granted to community corrections officers
22 under this section shall be in addition to that set forth in RCW
23 9.94A.631. Community corrections officers have no obligation to arrest
24 and detain an offender, or to report a violation to the superior court,
25 where the department has eliminated or terminated supervision pursuant
26 to RCW 9.94A.545, 9.94A.650, 9.94A.690, 9.94A.700, 9.94A.705, and
27 9.94A.715.

28 (2) Inmates, as defined in RCW 72.09.015, who have been transferred
29 to community custody and who are detained in a local correctional
30 facility are the financial responsibility of the department of
31 corrections, except as provided in subsection (3) of this section. The
32 community custody inmate shall be removed from the local correctional
33 facility, except as provided in subsection (3) of this section, not
34 later than eight days, excluding weekends and holidays, following
35 admittance to the local correctional facility and notification that the
36 inmate is available for movement to a state correctional institution.

37 (3) The department may negotiate with local correctional
38 authorities for an additional period of detention; however, sex
39 offenders sanctioned for community custody violations under RCW

1 9.94A.737(2) to a term of confinement shall remain in the local
2 correctional facility for the complete term of the sanction. For
3 confinement sanctions imposed under RCW 9.94A.737(2)(a), the local
4 correctional facility shall be financially responsible. For
5 confinement sanctions imposed under RCW 9.94A.737(2)(b), the department
6 of corrections shall be financially responsible for that portion of the
7 sanction served during the time in which the sex offender is on
8 community custody in lieu of earned release, and the local correctional
9 facility shall be financially responsible for that portion of the
10 sanction served by the sex offender after the time in which the sex
11 offender is on community custody in lieu of earned release. The
12 department, in consultation with the Washington association of sheriffs
13 and police chiefs and those counties in which the sheriff does not
14 operate a correctional facility, shall establish a methodology for
15 determining the department's local correctional facilities bed
16 utilization rate, for each county in calendar year 1998, for offenders
17 being held for violations of conditions of community custody, community
18 placement, or community supervision. For confinement sanctions imposed
19 under RCW 9.94A.737(2) (c) or (d), the local correctional facility
20 shall continue to be financially responsible to the extent of the
21 calendar year 1998 bed utilization rate. If the department's use of
22 bed space in local correctional facilities of any county for
23 confinement sanctions imposed on offenders sentenced to a term of
24 community custody under RCW 9.94A.737(2) (c) or (d) exceeds the 1998
25 bed utilization rate for the county, the department shall compensate
26 the county for the excess use at the per diem rate equal to the lowest
27 rate charged by the county under its contract with a municipal
28 government during the year in which the use occurs.

29 **Sec. 11.** RCW 9.94A.750 and 2000 c 28 s 32 are each amended to read
30 as follows:

31 This section applies to offenses committed on or before July 1,
32 1985.

33 (1) If restitution is ordered, the court shall determine the amount
34 of restitution due at the sentencing hearing or within one hundred
35 eighty days. The court may continue the hearing beyond the one hundred
36 eighty days for good cause. The court shall then set a minimum monthly
37 payment that the offender is required to make towards the restitution
38 that is ordered. The court should take into consideration the total

1 amount of the restitution owed, the offender's present, past, and
2 future ability to pay, as well as any assets that the offender may
3 have.

4 (2) During the period of supervision, the community corrections
5 officer may examine the offender to determine if there has been a
6 change in circumstances that warrants an amendment of the monthly
7 payment schedule. The community corrections officer may recommend a
8 change to the schedule of payment and shall inform the court of the
9 recommended change and the reasons for the change. The sentencing
10 court may then reset the monthly minimum payments based on the report
11 from the community corrections officer of the change in circumstances.

12 (3) Except as provided in subsection (6) of this section,
13 restitution ordered by a court pursuant to a criminal conviction shall
14 be based on easily ascertainable damages for injury to or loss of
15 property, actual expenses incurred for treatment for injury to persons,
16 and lost wages resulting from injury. Restitution shall not include
17 reimbursement for damages for mental anguish, pain and suffering, or
18 other intangible losses, but may include the costs of counseling
19 reasonably related to the offense. The amount of restitution shall not
20 exceed double the amount of the offender's gain or the victim's loss
21 from the commission of the offense.

22 (4) For the purposes of this section, the offender shall remain
23 under the court's jurisdiction for a term of ten years following the
24 offender's release from total confinement or ten years subsequent to
25 the entry of the judgment and sentence, whichever period is longer.
26 Prior to the expiration of the initial ten-year period, the superior
27 court may extend jurisdiction under the criminal judgment an additional
28 ten years for payment of restitution. ~~((If jurisdiction under the
29 eriminal judgment is extended, the department is not responsible for
30 supervision of the offender during the subsequent period.))~~ The
31 portion of the sentence concerning restitution may be modified as to
32 amount, terms and conditions during either the initial ten-year period
33 or subsequent ten-year period if the criminal judgment is extended,
34 regardless of the expiration of the offender's term of community
35 supervision and regardless of the statutory maximum sentence for the
36 crime. The court may not reduce the total amount of restitution
37 ordered because the offender may lack the ability to pay the total
38 amount. The offender's compliance with the restitution shall be
39 supervised by the department during any term of community placement,

1 community custody, or community supervision. The department is not
2 responsible for supervision of the offender during any subsequent
3 period of time the offender remains under the court's jurisdiction.

4 (5) Restitution may be ordered whenever the offender is convicted
5 of an offense which results in injury to any person or damage to or
6 loss of property or as provided in subsection (6) of this section. In
7 addition, restitution may be ordered to pay for an injury, loss, or
8 damage if the offender pleads guilty to a lesser offense or fewer
9 offenses and agrees with the prosecutor's recommendation that the
10 offender be required to pay restitution to a victim of an offense or
11 offenses which are not prosecuted pursuant to a plea agreement.

12 (6) Restitution for the crime of rape of a child in the first,
13 second, or third degree, in which the victim becomes pregnant, shall
14 include: (a) All of the victim's medical expenses that are associated
15 with the rape and resulting pregnancy; and (b) child support for any
16 child born as a result of the rape if child support is ordered pursuant
17 to a proceeding in superior court or administrative order for support
18 for that child. The clerk must forward any restitution payments made
19 on behalf of the victim's child to the Washington state child support
20 registry under chapter 26.23 RCW. Identifying information about the
21 victim and child shall not be included in the order. The offender
22 shall receive a credit against any obligation owing under the
23 administrative or superior court order for support of the victim's
24 child. For the purposes of this subsection, the offender shall remain
25 under the court's jurisdiction until the offender has satisfied support
26 obligations under the superior court or administrative order but not
27 longer than a maximum term of twenty-five years following the
28 offender's release from total confinement or twenty-five years
29 subsequent to the entry of the judgment and sentence, whichever period
30 is longer. The court may not reduce the total amount of restitution
31 ordered because the offender may lack the ability to pay the total
32 amount. The department shall supervise the offender's compliance with
33 the restitution ordered under this subsection during any term of
34 community placement, community custody, or community supervision. The
35 department is not responsible for supervision of the offender during
36 any subsequent period of time the offender remains under the court's
37 jurisdiction.

38 (7) In addition to any sentence that may be imposed, an offender
39 who has been found guilty of an offense involving fraud or other

1 deceptive practice or an organization which has been found guilty of
2 any such offense may be ordered by the sentencing court to give notice
3 of the conviction to the class of persons or to the sector of the
4 public affected by the conviction or financially interested in the
5 subject matter of the offense by mail, by advertising in designated
6 areas or through designated media, or by other appropriate means.

7 (8) This section does not limit civil remedies or defenses
8 available to the victim or offender including support enforcement
9 remedies for support ordered under subsection (6) of this section for
10 a child born as a result of a rape of a child victim. The court shall
11 identify in the judgment and sentence the victim or victims entitled to
12 restitution and what amount is due each victim. The state or victim
13 may enforce the court-ordered restitution in the same manner as a
14 judgment in a civil action. Restitution collected through civil
15 enforcement must be paid through the registry of the court and must be
16 distributed proportionately according to each victim's loss when there
17 is more than one victim.

18 **Sec. 12.** RCW 9.94A.753 and 2000 c 226 s 3 and 2000 c 28 s 33 are
19 each reenacted and amended to read as follows:

20 This section applies to offenses committed after July 1, 1985.

21 (1) When restitution is ordered, the court shall determine the
22 amount of restitution due at the sentencing hearing or within one
23 hundred eighty days except as provided in subsection (7) of this
24 section. The court may continue the hearing beyond the one hundred
25 eighty days for good cause. The court shall then set a minimum monthly
26 payment that the offender is required to make towards the restitution
27 that is ordered. The court should take into consideration the total
28 amount of the restitution owed, the offender's present, past, and
29 future ability to pay, as well as any assets that the offender may
30 have.

31 (2) During the period of supervision, the community corrections
32 officer may examine the offender to determine if there has been a
33 change in circumstances that warrants an amendment of the monthly
34 payment schedule. The community corrections officer may recommend a
35 change to the schedule of payment and shall inform the court of the
36 recommended change and the reasons for the change. The sentencing
37 court may then reset the monthly minimum payments based on the report
38 from the community corrections officer of the change in circumstances.

1 (3) Except as provided in subsection (6) of this section,
2 restitution ordered by a court pursuant to a criminal conviction shall
3 be based on easily ascertainable damages for injury to or loss of
4 property, actual expenses incurred for treatment for injury to persons,
5 and lost wages resulting from injury. Restitution shall not include
6 reimbursement for damages for mental anguish, pain and suffering, or
7 other intangible losses, but may include the costs of counseling
8 reasonably related to the offense. The amount of restitution shall not
9 exceed double the amount of the offender's gain or the victim's loss
10 from the commission of the crime.

11 (4) For the purposes of this section, for an offense committed
12 prior to July 1, 2000, the offender shall remain under the court's
13 jurisdiction for a term of ten years following the offender's release
14 from total confinement or ten years subsequent to the entry of the
15 judgment and sentence, whichever period ends later. Prior to the
16 expiration of the initial ten-year period, the superior court may
17 extend jurisdiction under the criminal judgment an additional ten years
18 for payment of restitution. For an offense committed on or after July
19 1, 2000, the offender shall remain under the court's jurisdiction until
20 the obligation is completely satisfied, regardless of the statutory
21 maximum for the crime. The portion of the sentence concerning
22 restitution may be modified as to amount, terms, and conditions during
23 any period of time the offender remains under the court's jurisdiction,
24 regardless of the expiration of the offender's term of community
25 supervision and regardless of the statutory maximum sentence for the
26 crime. The court may not reduce the total amount of restitution
27 ordered because the offender may lack the ability to pay the total
28 amount. The offender's compliance with the restitution shall be
29 supervised by the department (~~for ten years following the entry of the~~
30 ~~judgment and sentence or ten years following the offender's release~~
31 ~~from total confinement~~) during any term of community placement,
32 community custody, or community supervision. The department is not
33 responsible for supervision of the offender during any subsequent
34 period of time the offender remains under the court's jurisdiction.

35 (5) Restitution shall be ordered whenever the offender is convicted
36 of an offense which results in injury to any person or damage to or
37 loss of property or as provided in subsection (6) of this section
38 unless extraordinary circumstances exist which make restitution
39 inappropriate in the court's judgment and the court sets forth such

1 circumstances in the record. In addition, restitution shall be ordered
2 to pay for an injury, loss, or damage if the offender pleads guilty to
3 a lesser offense or fewer offenses and agrees with the prosecutor's
4 recommendation that the offender be required to pay restitution to a
5 victim of an offense or offenses which are not prosecuted pursuant to
6 a plea agreement.

7 (6) Restitution for the crime of rape of a child in the first,
8 second, or third degree, in which the victim becomes pregnant, shall
9 include: (a) All of the victim's medical expenses that are associated
10 with the rape and resulting pregnancy; and (b) child support for any
11 child born as a result of the rape if child support is ordered pursuant
12 to a civil superior court or administrative order for support for that
13 child. The clerk must forward any restitution payments made on behalf
14 of the victim's child to the Washington state child support registry
15 under chapter 26.23 RCW. Identifying information about the victim and
16 child shall not be included in the order. The offender shall receive
17 a credit against any obligation owing under the administrative or
18 superior court order for support of the victim's child. For the
19 purposes of this subsection, the offender shall remain under the
20 court's jurisdiction until the offender has satisfied support
21 obligations under the superior court or administrative order for the
22 period provided in RCW 4.16.020 or a maximum term of twenty-five years
23 following the offender's release from total confinement or twenty-five
24 years subsequent to the entry of the judgment and sentence, whichever
25 period is longer. The court may not reduce the total amount of
26 restitution ordered because the offender may lack the ability to pay
27 the total amount. The department shall supervise the offender's
28 compliance with the restitution ordered under this subsection during
29 any term of community placement, community custody, or community
30 supervision. The department is not responsible for supervision of the
31 offender during any subsequent period of time the offender remains
32 under the court's jurisdiction.

33 (7) Regardless of the provisions of subsections (1) through (6) of
34 this section, the court shall order restitution in all cases where the
35 victim is entitled to benefits under the crime victims' compensation
36 act, chapter 7.68 RCW. If the court does not order restitution and the
37 victim of the crime has been determined to be entitled to benefits
38 under the crime victims' compensation act, the department of labor and
39 industries, as administrator of the crime victims' compensation

1 program, may petition the court within one year of entry of the
2 judgment and sentence for entry of a restitution order. Upon receipt
3 of a petition from the department of labor and industries, the court
4 shall hold a restitution hearing and shall enter a restitution order.

5 (8) In addition to any sentence that may be imposed, an offender
6 who has been found guilty of an offense involving fraud or other
7 deceptive practice or an organization which has been found guilty of
8 any such offense may be ordered by the sentencing court to give notice
9 of the conviction to the class of persons or to the sector of the
10 public affected by the conviction or financially interested in the
11 subject matter of the offense by mail, by advertising in designated
12 areas or through designated media, or by other appropriate means.

13 (9) This section does not limit civil remedies or defenses
14 available to the victim, survivors of the victim, or offender including
15 support enforcement remedies for support ordered under subsection (6)
16 of this section for a child born as a result of a rape of a child
17 victim. The court shall identify in the judgment and sentence the
18 victim or victims entitled to restitution and what amount is due each
19 victim. The state or victim may enforce the court-ordered restitution
20 in the same manner as a judgment in a civil action. Restitution
21 collected through civil enforcement must be paid through the registry
22 of the court and must be distributed proportionately according to each
23 victim's loss when there is more than one victim.

24 **Sec. 13.** RCW 9.94A.760 and 2001 c 10 s 3 are each amended to read
25 as follows:

26 (1) Whenever a person is convicted of a felony, the court may order
27 the payment of a legal financial obligation as part of the sentence.
28 The court must on either the judgment and sentence or on a subsequent
29 order to pay, designate the total amount of a legal financial
30 obligation and segregate this amount among the separate assessments
31 made for restitution, costs, fines, and other assessments required by
32 law. On the same order, the court is also to set a sum that the
33 offender is required to pay on a monthly basis towards satisfying the
34 legal financial obligation. If the court fails to set the offender
35 monthly payment amount, the department shall set the amount. Upon
36 receipt of an offender's monthly payment, restitution shall be paid
37 prior to any payments of other monetary obligations. After restitution
38 is satisfied, the county clerk shall distribute the payment

1 proportionally among all other fines, costs, and assessments imposed,
2 unless otherwise ordered by the court.

3 (2) If the court determines that the offender, at the time of
4 sentencing, has the means to pay for the cost of incarceration, the
5 court may require the offender to pay for the cost of incarceration at
6 a rate of fifty dollars per day of incarceration. Payment of other
7 court-ordered financial obligations, including all legal financial
8 obligations and costs of supervision shall take precedence over the
9 payment of the cost of incarceration ordered by the court. All funds
10 recovered from offenders for the cost of incarceration in the county
11 jail shall be remitted to the county and the costs of incarceration in
12 a prison shall be remitted to the department.

13 (3) The court may add to the judgment and sentence or subsequent
14 order to pay a statement that a notice of payroll deduction is to be
15 issued immediately. If the court chooses not to order the immediate
16 issuance of a notice of payroll deduction at sentencing, the court
17 shall add to the judgment and sentence or subsequent order to pay a
18 statement that a notice of payroll deduction may be issued or other
19 income-withholding action may be taken, without further notice to the
20 offender if a monthly court-ordered legal financial obligation payment
21 is not paid when due, and an amount equal to or greater than the amount
22 payable for one month is owed.

23 If a judgment and sentence or subsequent order to pay does not
24 include the statement that a notice of payroll deduction may be issued
25 or other income-withholding action may be taken if a monthly legal
26 financial obligation payment is past due, the department may serve a
27 notice on the offender stating such requirements and authorizations.
28 Service shall be by personal service or any form of mail requiring a
29 return receipt.

30 (4) Independent of the department, the party or entity to whom the
31 legal financial obligation is owed shall have the authority to use any
32 other remedies available to the party or entity to collect the legal
33 financial obligation. These remedies include enforcement in the same
34 manner as a judgment in a civil action by the party or entity to whom
35 the legal financial obligation is owed. Restitution collected through
36 civil enforcement must be paid through the registry of the court and
37 must be distributed proportionately according to each victim's loss
38 when there is more than one victim. The judgment and sentence shall
39 identify the party or entity to whom restitution is owed so that the

1 state, party, or entity may enforce the judgment. If restitution is
2 ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of
3 rape of a child or a victim's child born from the rape, the Washington
4 state child support registry shall be identified as the party to whom
5 payments must be made. Restitution obligations arising from the rape
6 of a child in the first, second, or third degree that result in the
7 pregnancy of the victim may be enforced for the time periods provided
8 under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial
9 obligations for an offense committed prior to July 1, 2000, may be
10 enforced at any time during the ten-year period following the
11 offender's release from total confinement or within ten years of entry
12 of the judgment and sentence, whichever period ends later. Prior to
13 the expiration of the initial ten-year period, the superior court may
14 extend the criminal judgment an additional ten years for payment of
15 legal financial obligations including crime victims' assessments. All
16 other legal financial obligations for an offense committed on or after
17 July 1, 2000, may be enforced at any time the offender remains under
18 the court's jurisdiction. For an offense committed on or after July 1,
19 2000, the court shall retain jurisdiction over the offender, for
20 purposes of the offender's compliance with payment of the legal
21 financial obligations, until the obligation is completely satisfied,
22 regardless of the statutory maximum for the crime. The department of
23 corrections shall supervise the offender's compliance with payment of
24 the legal financial obligations (~~((for ten years following the entry of
25 the judgment and sentence, or ten years following the offender's
26 release from total confinement, whichever period ends later))~~) during
27 any term of community placement, community custody, or community
28 supervision. The department is not responsible for supervision of the
29 offender during any subsequent period of time the offender remains
30 under the court's jurisdiction.

31 (5) In order to assist the court in setting a monthly sum that the
32 offender must pay during the period of supervision, the offender is
33 required to report to the department for purposes of preparing a
34 recommendation to the court. When reporting, the offender is required,
35 under oath, to respond truthfully and honestly to all questions
36 concerning present, past, and future earning capabilities and the
37 location and nature of all property or financial assets. The offender
38 is further required to bring all documents requested by the department.

1 (6) After completing the investigation, the department shall make
2 a report to the court on the amount of the monthly payment that the
3 offender should be required to make towards a satisfied legal financial
4 obligation.

5 (7) During the period of supervision, the department may make a
6 recommendation to the court that the offender's monthly payment
7 schedule be modified so as to reflect a change in financial
8 circumstances. If the department sets the monthly payment amount, the
9 department may modify the monthly payment amount without the matter
10 being returned to the court. During the period of supervision, the
11 department may require the offender to report to the department for the
12 purposes of reviewing the appropriateness of the collection schedule
13 for the legal financial obligation. During this reporting, the
14 offender is required under oath to respond truthfully and honestly to
15 all questions concerning earning capabilities and the location and
16 nature of all property or financial assets. The offender shall bring
17 all documents requested by the department in order to prepare the
18 collection schedule.

19 (8) After the judgment and sentence or payment order is entered,
20 the department is authorized, for any period of supervision, to collect
21 the legal financial obligation from the offender. Any amount collected
22 by the department shall be remitted daily to the county clerk for the
23 purpose of disbursements. The department is authorized to accept
24 credit cards as payment for a legal financial obligation, and any costs
25 incurred related to accepting credit card payments shall be the
26 responsibility of the offender.

27 (9) The department or any obligee of the legal financial obligation
28 may seek a mandatory wage assignment for the purposes of obtaining
29 satisfaction for the legal financial obligation pursuant to RCW
30 9.94A.7701.

31 (10) The requirement that the offender pay a monthly sum towards a
32 legal financial obligation constitutes a condition or requirement of a
33 sentence and the offender is subject to the penalties for noncompliance
34 as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

35 (11) The county clerk shall provide the department with
36 individualized monthly billings for each offender with an unsatisfied
37 legal financial obligation and shall provide the department with notice
38 of payments by such offenders no less frequently than weekly.

1 (12) The department may arrange for the collection of unpaid legal
2 financial obligations through the county clerk, or through another
3 entity if the clerk does not assume responsibility for collection. The
4 costs for collection services shall be paid by the offender.

5 (13) Nothing in this chapter makes the department, the state, or
6 any of its employees, agents, or other persons acting on their behalf
7 liable under any circumstances for the payment of these legal financial
8 obligations.

9 **Sec. 14.** RCW 9.92.060 and 1996 c 298 s 5 are each amended to read
10 as follows:

11 (1) Whenever any person is convicted of any crime except murder,
12 burglary in the first degree, arson in the first degree, robbery, rape
13 of a child, or rape, the superior court may, in its discretion, at the
14 time of imposing sentence upon such person, direct that such sentence
15 be stayed and suspended until otherwise ordered by the superior court,
16 and that the sentenced person be placed under the charge of a community
17 corrections officer employed by the department of corrections, or if
18 the county elects to assume responsibility for the supervision of all
19 superior court misdemeanor probationers a probation officer employed
20 or contracted for by the county, upon such terms as the superior court
21 may determine.

22 (2) As a condition to suspension of sentence, the superior court
23 shall require the payment of the penalty assessment required by RCW
24 7.68.035. In addition, the superior court may require the convicted
25 person to make such monetary payments, on such terms as the superior
26 court deems appropriate under the circumstances, as are necessary: (a)
27 To comply with any order of the court for the payment of family
28 support; (b) to make restitution to any person or persons who may have
29 suffered loss or damage by reason of the commission of the crime in
30 question or when the offender pleads guilty to a lesser offense or
31 fewer offenses and agrees with the prosecutor's recommendation that the
32 offender be required to pay restitution to a victim of an offense or
33 offenses which are not prosecuted pursuant to a plea agreement; (c) to
34 pay any fine imposed and not suspended and the court or other costs
35 incurred in the prosecution of the case, including reimbursement of the
36 state for costs of extradition if return to this state by extradition
37 was required; and (d) to contribute to a county or interlocal drug
38 fund.

1 (3) As a condition of the suspended sentence, the superior court
2 may order the probationer to report to the secretary of corrections or
3 such officer as the secretary may designate and as a condition of the
4 probation to follow the instructions of the secretary. If the county
5 legislative authority has elected to assume responsibility for the
6 supervision of superior court misdemeanor probationers within its
7 jurisdiction, the superior court misdemeanor probationer shall report
8 to a probation officer employed or contracted for by the county. In
9 cases where a superior court misdemeanor probationer is sentenced in
10 one county, but resides within another county, there must be provisions
11 for the probationer to report to the agency having supervision
12 responsibility for the probationer's county of residence.

13 (4) If restitution to the victim has been ordered under subsection
14 (2)(b) of this section and the superior court has ordered supervision,
15 the officer supervising the probationer shall make a reasonable effort
16 to ascertain whether restitution has been made as ordered. If the
17 superior court has ordered supervision and restitution has not been
18 made, the officer shall inform the prosecutor of that violation of the
19 terms of the suspended sentence not less than three months prior to the
20 termination of the suspended sentence.

21 (5) In cases where the court has ordered supervision as a condition
22 of probation, the department of corrections may eliminate or terminate
23 the supervision, including supervision for payment of restitution or
24 legal financial obligations, if the department has classified the
25 offender at the lowest risk level pursuant to a risk assessment. No
26 liability shall attach to the state, the department, or any department
27 employee based on the determination to classify an offender at the
28 lowest risk level, or to eliminate or terminate supervision, in the
29 absence of gross negligence. The decision to eliminate or terminate
30 supervision shall not affect the superior court's jurisdiction over the
31 offender.

32 (6) When the department classifies an offender at the lowest risk
33 level, the department shall notify the sentencing court, the county
34 prosecutor, and the county clerk of the county where the offender was
35 convicted.

36 **Sec. 15.** RCW 9.95.204 and 1996 c 298 s 1 are each amended to read
37 as follows:

1 (1) When a superior court places a defendant convicted of a
2 misdemeanor or gross misdemeanor on probation and orders supervision
3 under RCW 9.92.060 or 9.95.210, the department of corrections has
4 initial responsibility for supervision of that defendant. The
5 department may eliminate or terminate supervision, including
6 supervision for payment of restitution or legal financial obligations,
7 if the department has classified the offender at the lowest risk level
8 pursuant to a risk assessment. No liability shall attach to the state,
9 the department, or any department employee based on the determination
10 to classify an offender at the lowest risk level, or to eliminate or
11 terminate supervision, in the absence of gross negligence. The
12 decision to eliminate or terminate supervision shall not affect the
13 superior court's jurisdiction over the offender.

14 (2) A county legislative authority may assume responsibility for
15 the supervision of all defendants within its jurisdiction who have been
16 convicted of a misdemeanor or gross misdemeanor and sentenced to
17 probation by a superior court. The assumption of responsibility shall
18 be made by contract with the department of corrections on a biennial
19 basis.

20 (3) If a county assumes supervision responsibility, the county
21 shall supervise all superior court misdemeanant probationers within
22 that county for the duration of the biennium, as set forth in the
23 contract with the department of corrections.

24 (4) A contract between a county legislative authority and the
25 department of corrections for the transfer of supervision
26 responsibility must include, at a minimum, the following provisions:

27 (a) The county's agreement to supervise all misdemeanant
28 probationers who are sentenced by a superior court within that county
29 and who reside within that county;

30 (b) A reciprocal agreement regarding the supervision of superior
31 court misdemeanant probationers sentenced in one county but who reside
32 in another county;

33 (c) The county's agreement to comply with the minimum standards for
34 classification and supervision of offenders as required under RCW
35 9.95.206;

36 (d) The amount of funds available from the department of
37 corrections to the county for supervision of superior court
38 misdemeanant probationers, calculated according to a formula
39 established by the department of corrections;

1 (e) A method for the payment of funds by the department of
2 corrections to the county;

3 (f) The county's agreement that any funds received by the county
4 under the contract will be expended only to cover costs of supervision
5 of superior court misdemeanor probationers;

6 (g) The county's agreement to account to the department of
7 corrections for the expenditure of all funds received under the
8 contract and to submit to audits for compliance with the supervision
9 standards and financial requirements of this section;

10 (h) Provisions regarding rights and remedies in the event of a
11 possible breach of contract or default by either party; and

12 (i) Provisions allowing for voluntary termination of the contract
13 by either party, with good cause, after sixty days' written notice.

14 (5) If the contract between the county and the department of
15 corrections is terminated for any reason, the department of corrections
16 shall reassume responsibility for supervision of superior court
17 misdemeanor probationers within that county, unless the department has
18 terminated supervision pursuant to subsection (1) of this section. In
19 such an event, the department of corrections retains any and all rights
20 and remedies available by law and under the contract.

21 (6) The state of Washington, the department of corrections and its
22 employees, community corrections officers, and volunteers who assist
23 community corrections officers are not liable for any harm caused by
24 the actions of a superior court misdemeanor probationer who is under
25 the supervision of a county. A county, its probation department and
26 employees, probation officers, and volunteers who assist probation
27 officers are not liable for any harm caused by the actions of a
28 superior court misdemeanor probationer who is under the supervision of
29 the department of corrections. This subsection applies regardless of
30 whether the supervising entity is in compliance with the standards of
31 supervision at the time of the misdemeanor probationer's actions.

32 (7) The state of Washington, the department of corrections and its
33 employees, community corrections officers, any county under contract
34 with the department of corrections pursuant to this section and its
35 employees, probation officers, and volunteers who assist community
36 corrections officers and probation officers in the superior court
37 misdemeanor probation program are not liable for civil damages
38 resulting from any act or omission in the rendering of superior court
39 misdemeanor probation activities unless the act or omission

1 constitutes gross negligence. For purposes of this section,
2 "volunteers" is defined according to RCW 51.12.035.

3 (8) When the department classifies an offender at the lowest risk
4 level, the department shall notify the sentencing court, the county
5 prosecutor, and the county clerk of the county where the offender was
6 convicted.

7 **Sec. 16.** RCW 9.95.210 and 1996 c 298 s 3 are each amended to read
8 as follows:

9 (1) In granting probation, the superior court may suspend the
10 imposition or the execution of the sentence and may direct that the
11 suspension may continue upon such conditions and for such time as it
12 shall designate, not exceeding the maximum term of sentence or two
13 years, whichever is longer.

14 (2) In the order granting probation and as a condition thereof, the
15 superior court may in its discretion imprison the defendant in the
16 county jail for a period not exceeding one year and may fine the
17 defendant any sum not exceeding the statutory limit for the offense
18 committed, and court costs. As a condition of probation, the superior
19 court shall require the payment of the penalty assessment required by
20 RCW 7.68.035. The superior court may also require the defendant to
21 make such monetary payments, on such terms as it deems appropriate
22 under the circumstances, as are necessary: (a) To comply with any
23 order of the court for the payment of family support; (b) to make
24 restitution to any person or persons who may have suffered loss or
25 damage by reason of the commission of the crime in question or when the
26 offender pleads guilty to a lesser offense or fewer offenses and agrees
27 with the prosecutor's recommendation that the offender be required to
28 pay restitution to a victim of an offense or offenses which are not
29 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
30 imposed and court costs, including reimbursement of the state for costs
31 of extradition if return to this state by extradition was required; (d)
32 following consideration of the financial condition of the person
33 subject to possible electronic monitoring, to pay for the costs of
34 electronic monitoring if that monitoring was required by the court as
35 a condition of release from custody or as a condition of probation; (e)
36 to contribute to a county or interlocal drug fund; and (f) to make
37 restitution to a public agency for the costs of an emergency response

1 under RCW 38.52.430, and may require bonds for the faithful observance
2 of any and all conditions imposed in the probation.

3 (3) The superior court shall order restitution in all cases where
4 the victim is entitled to benefits under the crime victims'
5 compensation act, chapter 7.68 RCW. If the superior court does not
6 order restitution and the victim of the crime has been determined to be
7 entitled to benefits under the crime victims' compensation act, the
8 department of labor and industries, as administrator of the crime
9 victims' compensation program, may petition the superior court within
10 one year of imposition of the sentence for entry of a restitution
11 order. Upon receipt of a petition from the department of labor and
12 industries, the superior court shall hold a restitution hearing and
13 shall enter a restitution order.

14 (4) In granting probation, the superior court may order the
15 probationer to report to the secretary of corrections or such officer
16 as the secretary may designate and as a condition of the probation to
17 follow the instructions of the secretary. If the county legislative
18 authority has elected to assume responsibility for the supervision of
19 superior court misdemeanor probationers within its jurisdiction, the
20 superior court misdemeanor probationer shall report to a probation
21 officer employed or contracted for by the county. In cases where a
22 superior court misdemeanor probationer is sentenced in one county, but
23 resides within another county, there must be provisions for the
24 probationer to report to the agency having supervision responsibility
25 for the probationer's county of residence.

26 (5) If the probationer has been ordered to make restitution and the
27 superior court has ordered supervision, the officer supervising the
28 probationer shall make a reasonable effort to ascertain whether
29 restitution has been made. If the superior court has ordered
30 supervision and restitution has not been made as ordered, the officer
31 shall inform the prosecutor of that violation of the terms of probation
32 not less than three months prior to the termination of the probation
33 period. The secretary of corrections will promulgate rules and
34 regulations for the conduct of the person during the term of probation.
35 For defendants found guilty in district court, like functions as the
36 secretary performs in regard to probation may be performed by probation
37 officers employed for that purpose by the county legislative authority
38 of the county wherein the court is located.

1 (6) The department may eliminate or terminate supervision,
2 including supervision for payment of restitution or legal financial
3 obligations, if the department has classified the probationer at the
4 lowest risk level pursuant to a risk assessment. No liability shall
5 attach to the state, the department, or any department employee based
6 on the determination to classify a probationer at the lowest risk
7 level, or to eliminate or terminate supervision, in the absence of
8 gross negligence. The decision to eliminate or terminate supervision
9 shall not affect the superior court's jurisdiction over the
10 probationer.

11 (7) When the department classifies an offender at the lowest risk
12 level, the department shall notify the sentencing court, the county
13 prosecutor, and the county clerk of the county where the offender was
14 convicted.

15 **Sec. 17.** RCW 72.04A.090 and 1981 c 136 s 84 are each amended to
16 read as follows:

17 Whenever a parolee breaches a condition or conditions under which
18 he or she was granted parole, or violates any law of the state or rules
19 and regulations of the indeterminate sentence review board (~~((of prison~~
20 ~~terms and paroles))), any (~~((probation and parole))~~) community corrections
21 officer may arrest, or cause the arrest and suspension of parole of,
22 such parolee without a warrant, pending a determination by the board.
23 The facts and circumstances of such conduct of the parolee shall be
24 reported by the (~~((probation and parole))~~) community corrections officer,
25 with recommendations, to the indeterminate sentence review board (~~((of~~
26 ~~prison terms and paroles))), who may order the revocation or suspension~~
27 of parole, revise or modify the conditions of parole or take such other
28 action as may be deemed appropriate in accordance with RCW 9.95.120.
29 The indeterminate sentence review board (~~((of prison terms and~~
30 ~~paroles))), after consultation with the secretary of corrections, shall~~
31 make all rules and regulations concerning procedural matters, which
32 shall include the time when state (~~((probation and parole))~~) community
33 corrections officers shall file with the board reports required by this
34 section, procedures pertaining thereto and the filing of such
35 information as may be necessary to enable the indeterminate sentence
36 review board (~~((of prison terms and paroles))) to perform its functions~~
37 under this section.~~

1 The (~~probation and parole~~) community corrections officers shall
2 have like authority and power regarding the arrest and detention of a
3 probationer who has breached a condition or conditions under which he
4 or she was granted probation by the superior court, or violates any law
5 of the state, pending a determination by the superior court. Community
6 corrections officers have no obligation to arrest and detain a
7 probationer, or to report a violation to the superior court, where the
8 department has eliminated or terminated supervision pursuant to RCW
9 9.92.060, 9.95.204, or 9.95.210.

10 In the event a (~~probation and parole~~) community corrections
11 officer shall arrest or cause the arrest and suspension of parole of a
12 parolee or probationer in accordance with the provisions of this
13 section, such parolee or probationer shall be confined and detained in
14 the county jail of the county in which the parolee or probationer was
15 taken into custody, and the sheriff of such county shall receive and
16 keep in the county jail, where room is available, all prisoners
17 delivered thereto by the (~~probation and parole~~) community corrections
18 officer, and such parolees shall not be released from custody on bail
19 or personal recognizance, except upon approval of the indeterminate
20 sentence review board (~~of prison terms and paroles~~) and the issuance
21 by the board of an order of reinstatement on parole on the same or
22 modified conditions of parole.

23 **Sec. 18.** RCW 4.56.100 and 1997 c 358 s 4 are each amended to read
24 as follows:

25 (1) When any judgment for the payment of money only shall have been
26 paid or satisfied, the clerk of the court in which such judgment was
27 rendered shall note upon the record in the execution docket
28 satisfaction thereof giving the date of such satisfaction upon either
29 the payment to such clerk of the amount of such judgment, costs and
30 interest and any accrued costs by reason of the issuance of any
31 execution, or the filing with such clerk of a satisfaction entitled in
32 such action and identifying the same executed by the judgment creditor
33 or his or her attorney of record in such action or his or her assignee
34 acknowledged as deeds are acknowledged. The clerk has the authority to
35 note the satisfaction of judgments for criminal and juvenile legal
36 financial obligations when the clerk's record indicates payment in full
37 or as directed by the court. Every satisfaction of judgment and every
38 partial satisfaction of judgment which provides for the payment of

1 money shall clearly designate the judgment creditor and his or her
2 attorney if any, the judgment debtor, the amount or type of
3 satisfaction, whether the satisfaction is full or partial, the cause
4 number, and the date of entry of the judgment. A certificate by such
5 clerk of the entry of such satisfaction by him or her may be filed in
6 the office of the clerk of any county in which an abstract of such
7 judgment has been filed. When so satisfied by the clerk or the filing
8 of such certificate the lien of such judgment shall be discharged.

9 (2) The department of social and health services shall file a
10 satisfaction of judgment for welfare fraud conviction if a person does
11 not pay money through the clerk as required under subsection (1) of
12 this section.

13 ~~((3) The department of corrections shall file a satisfaction of~~
14 ~~judgment if a person does not pay money through the clerk's office as~~
15 ~~required under subsection (1) of this section.))~~

16 **Sec. 19.** RCW 72.65.080 and 1982 1st ex.s. c 48 s 18 are each
17 amended to read as follows:

18 The secretary may enter into contracts with ~~((the appropriate~~
19 ~~authorities)) other governmental agencies or private organizations for
20 the ~~((payment of the cost of feeding and lodging and other expenses of~~
21 ~~housing)) management and operation of work release ~~((participants))~~
22 programs. Such contracts may include any other terms and conditions as
23 may be appropriate for the implementation of the work release program.
24 In addition the secretary is authorized to acquire, by lease or
25 contract, appropriate facilities for the housing of work release
26 participants and providing for their subsistence and supervision. Such
27 work release participants placed in leased or contracted facilities
28 shall be required to reimburse the department the per capita cost of
29 subsistence and lodging in accordance with the provisions and in the
30 priority established by RCW 72.65.050(2). The location of such
31 facilities shall be subject to the zoning laws of the city or county in
32 which they may be situated.~~~~

33 Any work release program in existence on the effective date of this
34 act shall be managed and operated pursuant to a contract with a private
35 organization under this section.

36 **Sec. 20.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to
37 read as follows:

1 Nothing contained in this chapter shall prohibit any department, as
2 defined in RCW 41.06.020, from purchasing services by contract with
3 individuals or business entities if such services were regularly
4 purchased by valid contract by such department prior to April 23, 1979:
5 PROVIDED, That no such contract may be executed or renewed if it would
6 have the effect of terminating classified employees or classified
7 employee positions existing at the time of the execution or renewal of
8 the contract, except as authorized by RCW 72.65.080.

9 NEW SECTION. **Sec. 21.** This act takes effect July 1, 2002. The
10 legislature intends that sections 1 through 18 of this act apply
11 retroactively to sentences imposed and offenders on community custody,
12 community placement, community service, community supervision, legal
13 financial obligations, or probation before, on, or after July 1, 2002."

14 **SSB 6499** - S AMD 574
15 By Senators Costa, Hargrove and Long

16 ADOPTED 02/15/02

17 On page 1, line 1 of the title, after "offenders;" strike the
18 remainder of the title and insert "amending RCW 9.94A.545, 9.94A.631,
19 9.94A.637, 9.94A.650, 9.94A.690, 9.94A.700, 9.94A.705, 9.94A.715,
20 9.94A.720, 9.94A.740, 9.94A.750, 9.94A.760, 9.92.060, 9.95.204,
21 9.95.210, 72.04A.090, 4.56.100, 72.65.080, and 41.06.380; reenacting
22 and amending RCW 9.94A.753; and providing an effective date."

--- END ---