
SENATE BILL 6627

State of Washington 57th Legislature

2002 Regular Session

By Senators Costa, Long, Hargrove, Kline, Kohl-Welles and Winsley

Read first time 01/23/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to community service; amending RCW 7.80.130,
2 7.80.160, 7.84.110, 7.84.130, 9.94A.505, 9.94A.589, 9.94A.634,
3 9.94A.650, 9.94A.660, 9.94A.670, 9.94A.680, 9.94A.700, 9.94A.720,
4 9.94A.737, 9.94A.850, 9.95.435, 10.98.040, 13.40.020, 13.40.0357,
5 13.40.080, 13.40.160, 13.40.165, 13.40.180, 13.40.200, 13.40.205,
6 13.40.250, 35.21.209, 35A.21.220, 36.16.139, 46.16.381, 46.20.031,
7 46.30.020, 46.63.110, 46.63.120, 46.64.055, 51.12.035, 51.12.045,
8 66.20.200, 66.44.291, 66.44.325, 69.50.425, 70.93.060, 70.155.080,
9 72.09.060, 72.09.100, 72.09.260, and 79A.05.050; amending 1990 c 66 s
10 1 (uncodified); reenacting and amending RCW 9.94A.030, 13.40.210,
11 28A.225.090, and 70.93.250; and providing an effective date.

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

13 **Sec. 1.** RCW 7.80.130 and 1987 c 456 s 21 are each amended to read
14 as follows:

15 (1) An order entered after the receipt of a response which does not
16 contest the determination, or after it has been established at a
17 hearing that the civil infraction was committed, or after a hearing for
18 the purpose of explaining mitigating circumstances is civil in nature.

1 (2) The court may waive, reduce, or suspend the monetary penalty
2 prescribed for the civil infraction. If the court determines that a
3 person has insufficient funds to pay the monetary penalty, the court
4 may order performance of a number of hours of community ((~~service~~))
5 restitution in lieu of a monetary penalty, at the rate of the then
6 state minimum wage per hour.

7 **Sec. 2.** RCW 7.80.160 and 1989 c 373 s 12 are each amended to read
8 as follows:

9 (1) A person who fails to sign a notice of civil infraction is
10 guilty of a misdemeanor.

11 (2) Any person willfully violating his or her written and signed
12 promise to appear in court or his or her written and signed promise to
13 respond to a notice of civil infraction is guilty of a misdemeanor
14 regardless of the disposition of the notice of civil infraction. A
15 written promise to appear in court or a written promise to respond to
16 a notice of civil infraction may be complied with by an appearance by
17 counsel.

18 (3) A person who willfully fails to pay a monetary penalty or to
19 perform community ((~~service~~)) restitution as required by a court under
20 this chapter may be found in contempt of court as provided in chapter
21 7.21 RCW.

22 **Sec. 3.** RCW 7.84.110 and 1987 c 380 s 11 are each amended to read
23 as follows:

24 (1) An order entered after the receipt of a response which does not
25 contest the determination, or after it has been established at a
26 hearing that the infraction was committed, or after a hearing for the
27 purpose of explaining mitigating circumstances, is civil in nature.

28 (2) The court may, in its discretion, waive, reduce, or suspend the
29 monetary penalty prescribed for the infraction. At the person's
30 request, the court may order performance of a number of hours of
31 community ((~~service~~)) restitution in lieu of a monetary penalty, at the
32 rate of the then state minimum wage per hour.

33 **Sec. 4.** RCW 7.84.130 and 1987 c 380 s 13 are each amended to read
34 as follows:

35 (1) Failure to pay a monetary penalty assessed by a court under the
36 provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

1 (2) Failure to complete community (~~service~~) restitution ordered
2 by a court under the provisions of this chapter is a misdemeanor under
3 chapter 9A.20 RCW.

4 **Sec. 5.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s
5 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Board" means the indeterminate sentence review board created
9 under chapter 9.95 RCW.

10 (2) "Collect," or any derivative thereof, "collect and remit," or
11 "collect and deliver," when used with reference to the department,
12 means that the department, either directly or through a collection
13 agreement authorized by RCW 9.94A.760, is responsible for monitoring
14 and enforcing the offender's sentence with regard to the legal
15 financial obligation, receiving payment thereof from the offender, and,
16 consistent with current law, delivering daily the entire payment to the
17 superior court clerk without depositing it in a departmental account.

18 (3) "Commission" means the sentencing guidelines commission.

19 (4) "Community corrections officer" means an employee of the
20 department who is responsible for carrying out specific duties in
21 supervision of sentenced offenders and monitoring of sentence
22 conditions.

23 (5) "Community custody" means that portion of an offender's
24 sentence of confinement in lieu of earned release time or imposed
25 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
26 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
27 community subject to controls placed on the offender's movement and
28 activities by the department. For offenders placed on community
29 custody for crimes committed on or after July 1, 2000, the department
30 shall assess the offender's risk of reoffense and may establish and
31 modify conditions of community custody, in addition to those imposed by
32 the court, based upon the risk to community safety.

33 (6) "Community custody range" means the minimum and maximum period
34 of community custody included as part of a sentence under RCW
35 9.94A.715, as established by the commission or the legislature under
36 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

37 (7) "Community placement" means that period during which the
38 offender is subject to the conditions of community custody and/or

1 postrelease supervision, which begins either upon completion of the
2 term of confinement (postrelease supervision) or at such time as the
3 offender is transferred to community custody in lieu of earned release.
4 Community placement may consist of entirely community custody, entirely
5 postrelease supervision, or a combination of the two.

6 (8) "Community (~~service~~) restitution" means compulsory service,
7 without compensation, performed for the benefit of the community by the
8 offender.

9 (9) "Community supervision" means a period of time during which a
10 convicted offender is subject to crime-related prohibitions and other
11 sentence conditions imposed by a court pursuant to this chapter or RCW
12 16.52.200(6) or 46.61.524. Where the court finds that any offender has
13 a chemical dependency that has contributed to his or her offense, the
14 conditions of supervision may, subject to available resources, include
15 treatment. For purposes of the interstate compact for out-of-state
16 supervision of parolees and probationers, RCW 9.95.270, community
17 supervision is the functional equivalent of probation and should be
18 considered the same as probation by other states.

19 (10) "Confinement" means total or partial confinement.

20 (11) "Conviction" means an adjudication of guilt pursuant to Titles
21 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
22 acceptance of a plea of guilty.

23 (12) "Crime-related prohibition" means an order of a court
24 prohibiting conduct that directly relates to the circumstances of the
25 crime for which the offender has been convicted, and shall not be
26 construed to mean orders directing an offender affirmatively to
27 participate in rehabilitative programs or to otherwise perform
28 affirmative conduct. However, affirmative acts necessary to monitor
29 compliance with the order of a court may be required by the department.

30 (13) "Criminal history" means the list of a defendant's prior
31 convictions and juvenile adjudications, whether in this state, in
32 federal court, or elsewhere. The history shall include, where known,
33 for each conviction (a) whether the defendant has been placed on
34 probation and the length and terms thereof; and (b) whether the
35 defendant has been incarcerated and the length of incarceration.

36 (14) "Day fine" means a fine imposed by the sentencing court that
37 equals the difference between the offender's net daily income and the
38 reasonable obligations that the offender has for the support of the
39 offender and any dependents.

1 (15) "Day reporting" means a program of enhanced supervision
2 designed to monitor the offender's daily activities and compliance with
3 sentence conditions, and in which the offender is required to report
4 daily to a specific location designated by the department or the
5 sentencing court.

6 (16) "Department" means the department of corrections.

7 (17) "Determinate sentence" means a sentence that states with
8 exactitude the number of actual years, months, or days of total
9 confinement, of partial confinement, of community supervision, the
10 number of actual hours or days of community (~~service~~) restitution
11 work, or dollars or terms of a legal financial obligation. The fact
12 that an offender through earned release can reduce the actual period of
13 confinement shall not affect the classification of the sentence as a
14 determinate sentence.

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

27 (19) "Drug offender sentencing alternative" is a sentencing option
28 available to persons convicted of a felony offense other than a violent
29 offense or a sex offense and who are eligible for the option under RCW
30 9.94A.660.

31 (20) "Drug offense" means:

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

35 (b) Any offense defined as a felony under federal law that relates
36 to the possession, manufacture, distribution, or transportation of a
37 controlled substance; or

1 (c) Any out-of-state conviction for an offense that under the laws
2 of this state would be a felony classified as a drug offense under (a)
3 of this subsection.

4 (21) "Earned release" means earned release from confinement as
5 provided in RCW 9.94A.728.

6 (22) "Escape" means:

7 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
8 first degree (RCW 9A.76.110), escape in the second degree (RCW
9 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
10 willful failure to return from work release (RCW 72.65.070), or willful
11 failure to be available for supervision by the department while in
12 community custody (RCW 72.09.310); or

13 (b) Any federal or out-of-state conviction for an offense that
14 under the laws of this state would be a felony classified as an escape
15 under (a) of this subsection.

16 (23) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
18 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
19 and-run injury-accident (RCW 46.52.020(4)); or

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

23 (24) "Fine" means a specific sum of money ordered by the sentencing
24 court to be paid by the offender to the court over a specific period of
25 time.

26 (25) "First-time offender" means any person who has no prior
27 convictions for a felony and is eligible for the first-time offender
28 waiver under RCW 9.94A.650.

29 (26) "Home detention" means a program of partial confinement
30 available to offenders wherein the offender is confined in a private
31 residence subject to electronic surveillance.

32 (27) "Legal financial obligation" means a sum of money that is
33 ordered by a superior court of the state of Washington for legal
34 financial obligations which may include restitution to the victim,
35 statutorily imposed crime victims' compensation fees as assessed
36 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
37 court-appointed attorneys' fees, and costs of defense, fines, and any
38 other financial obligation that is assessed to the offender as a result
39 of a felony conviction. Upon conviction for vehicular assault while

1 under the influence of intoxicating liquor or any drug, RCW
2 46.61.522(1)(b), or vehicular homicide while under the influence of
3 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
4 obligations may also include payment to a public agency of the expense
5 of an emergency response to the incident resulting in the conviction,
6 subject to RCW 38.52.430.

7 (28) "Most serious offense" means any of the following felonies or
8 a felony attempt to commit any of the following felonies:

9 (a) Any felony defined under any law as a class A felony or
10 criminal solicitation of or criminal conspiracy to commit a class A
11 felony;

12 (b) Assault in the second degree;

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

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

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

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Robbery in the second degree;

26 (p) Sexual exploitation;

27 (q) Vehicular assault, when caused by the operation or driving of
28 a vehicle by a person while under the influence of intoxicating liquor
29 or any drug or by the operation or driving of a vehicle in a reckless
30 manner;

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

35 (s) Any other class B felony offense with a finding of sexual
36 motivation;

37 (t) Any other felony with a deadly weapon verdict under RCW
38 9.94A.602;

1 (u) Any felony offense in effect at any time prior to December 2,
2 1993, that is comparable to a most serious offense under this
3 subsection, or any federal or out-of-state conviction for an offense
4 that under the laws of this state would be a felony classified as a
5 most serious offense under this subsection;

6 (v)(i) A prior conviction for indecent liberties under RCW
7 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
8 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
9 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
10 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

11 (ii) A prior conviction for indecent liberties under RCW
12 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
13 if: (A) The crime was committed against a child under the age of
14 fourteen; or (B) the relationship between the victim and perpetrator is
15 included in the definition of indecent liberties under RCW
16 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
17 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
18 through July 27, 1997.

19 (29) "Nonviolent offense" means an offense which is not a violent
20 offense.

21 (30) "Offender" means a person who has committed a felony
22 established by state law and is eighteen years of age or older or is
23 less than eighteen years of age but whose case is under superior court
24 jurisdiction under RCW 13.04.030 or has been transferred by the
25 appropriate juvenile court to a criminal court pursuant to RCW
26 13.40.110. Throughout this chapter, the terms "offender" and
27 "defendant" are used interchangeably.

28 (31) "Partial confinement" means confinement for no more than one
29 year in a facility or institution operated or utilized under contract
30 by the state or any other unit of government, or, if home detention or
31 work crew has been ordered by the court, in an approved residence, for
32 a substantial portion of each day with the balance of the day spent in
33 the community. Partial confinement includes work release, home
34 detention, work crew, and a combination of work crew and home
35 detention.

36 (32) "Persistent offender" is an offender who:

37 (a)(i) Has been convicted in this state of any felony considered a
38 most serious offense; and

1 (ii) Has, before the commission of the offense under (a) of this
2 subsection, been convicted as an offender on at least two separate
3 occasions, whether in this state or elsewhere, of felonies that under
4 the laws of this state would be considered most serious offenses and
5 would be included in the offender score under RCW 9.94A.525; provided
6 that of the two or more previous convictions, at least one conviction
7 must have occurred before the commission of any of the other most
8 serious offenses for which the offender was previously convicted; or

9 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
10 of a child in the first degree, child molestation in the first degree,
11 rape in the second degree, rape of a child in the second degree, or
12 indecent liberties by forcible compulsion; (B) any of the following
13 offenses with a finding of sexual motivation: Murder in the first
14 degree, murder in the second degree, homicide by abuse, kidnapping in
15 the first degree, kidnapping in the second degree, assault in the first
16 degree, assault in the second degree, assault of a child in the first
17 degree, or burglary in the first degree; or (C) an attempt to commit
18 any crime listed in this subsection (32)(b)(i); and

19 (ii) Has, before the commission of the offense under (b)(i) of this
20 subsection, been convicted as an offender on at least one occasion,
21 whether in this state or elsewhere, of an offense listed in (b)(i) of
22 this subsection or any federal or out-of-state offense or offense under
23 prior Washington law that is comparable to the offenses listed in
24 (b)(i) of this subsection. A conviction for rape of a child in the
25 first degree constitutes a conviction under (b)(i) of this subsection
26 only when the offender was sixteen years of age or older when the
27 offender committed the offense. A conviction for rape of a child in
28 the second degree constitutes a conviction under (b)(i) of this
29 subsection only when the offender was eighteen years of age or older
30 when the offender committed the offense.

31 (33) "Postrelease supervision" is that portion of an offender's
32 community placement that is not community custody.

33 (34) "Restitution" means a specific sum of money ordered by the
34 sentencing court to be paid by the offender to the court over a
35 specified period of time as payment of damages. The sum may include
36 both public and private costs.

37 (35) "Risk assessment" means the application of an objective
38 instrument supported by research and adopted by the department for the
39 purpose of assessing an offender's risk of reoffense, taking into

1 consideration the nature of the harm done by the offender, place and
2 circumstances of the offender related to risk, the offender's
3 relationship to any victim, and any information provided to the
4 department by victims. The results of a risk assessment shall not be
5 based on unconfirmed or unconfirmable allegations.

6 (36) "Serious traffic offense" means:

7 (a) Driving while under the influence of intoxicating liquor or any
8 drug (RCW 46.61.502), actual physical control while under the influence
9 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
10 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
11 or

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

15 (37) "Serious violent offense" is a subcategory of violent offense
16 and means:

17 (a)(i) Murder in the first degree;

18 (ii) Homicide by abuse;

19 (iii) Murder in the second degree;

20 (iv) Manslaughter in the first degree;

21 (v) Assault in the first degree;

22 (vi) Kidnapping in the first degree;

23 (vii) Rape in the first degree;

24 (viii) Assault of a child in the first degree; or

25 (ix) An attempt, criminal solicitation, or criminal conspiracy to
26 commit one of these felonies; or

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

30 (38) "Sex offense" means:

31 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
32 RCW 9A.44.130(11);

33 (ii) A violation of RCW 9A.64.020;

34 (iii) A felony that is a violation of chapter 9.68A RCW other than
35 RCW 9.68A.070 or 9.68A.080; or

36 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
37 criminal solicitation, or criminal conspiracy to commit such crimes;

1 (b) Any conviction for a felony offense in effect at any time prior
2 to July 1, 1976, that is comparable to a felony classified as a sex
3 offense in (a) of this subsection;

4 (c) A felony with a finding of sexual motivation under RCW
5 9.94A.835 or 13.40.135; or

6 (d) Any federal or out-of-state conviction for an offense that
7 under the laws of this state would be a felony classified as a sex
8 offense under (a) of this subsection.

9 (39) "Sexual motivation" means that one of the purposes for which
10 the defendant committed the crime was for the purpose of his or her
11 sexual gratification.

12 (40) "Standard sentence range" means the sentencing court's
13 discretionary range in imposing a nonappealable sentence.

14 (41) "Statutory maximum sentence" means the maximum length of time
15 for which an offender may be confined as punishment for a crime as
16 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
17 crime, or other statute defining the maximum penalty for a crime.

18 (42) "Total confinement" means confinement inside the physical
19 boundaries of a facility or institution operated or utilized under
20 contract by the state or any other unit of government for twenty-four
21 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

22 (43) "Transition training" means written and verbal instructions
23 and assistance provided by the department to the offender during the
24 two weeks prior to the offender's successful completion of the work
25 ethic camp program. The transition training shall include instructions
26 in the offender's requirements and obligations during the offender's
27 period of community custody.

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

31 (45) "Violent offense" means:

32 (a) Any of the following felonies:

33 (i) Any felony defined under any law as a class A felony or an
34 attempt to commit a class A felony;

35 (ii) Criminal solicitation of or criminal conspiracy to commit a
36 class A felony;

37 (iii) Manslaughter in the first degree;

38 (iv) Manslaughter in the second degree;

39 (v) Indecent liberties if committed by forcible compulsion;

1 (vi) Kidnapping in the second degree;
2 (vii) Arson in the second degree;
3 (viii) Assault in the second degree;
4 (ix) Assault of a child in the second degree;
5 (x) Extortion in the first degree;
6 (xi) Robbery in the second degree;
7 (xii) Drive-by shooting;
8 (xiii) Vehicular assault, when caused by the operation or driving
9 of a vehicle by a person while under the influence of intoxicating
10 liquor or any drug or by the operation or driving of a vehicle in a
11 reckless manner; and

12 (xiv) Vehicular homicide, when proximately caused by the driving of
13 any vehicle by any person while under the influence of intoxicating
14 liquor or any drug as defined by RCW 46.61.502, or by the operation of
15 any vehicle in a reckless manner;

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

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

22 (46) "Work crew" means a program of partial confinement consisting
23 of civic improvement tasks for the benefit of the community that
24 complies with RCW 9.94A.725.

25 (47) "Work ethic camp" means an alternative incarceration program
26 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
27 the cost of corrections by requiring offenders to complete a
28 comprehensive array of real-world job and vocational experiences,
29 character-building work ethics training, life management skills
30 development, substance abuse rehabilitation, counseling, literacy
31 training, and basic adult education.

32 (48) "Work release" means a program of partial confinement
33 available to offenders who are employed or engaged as a student in a
34 regular course of study at school.

35 **Sec. 6.** RCW 9.94A.505 and 2001 2nd sp.s. c 12 s 312 are each
36 amended to read as follows:

37 (1) When a person is convicted of a felony, the court shall impose
38 punishment as provided in this chapter.

1 (2)(a) The court shall impose a sentence as provided in the
2 following sections and as applicable in the case:

3 (i) Unless another term of confinement applies, the court shall
4 impose a sentence within the standard sentence range established in RCW
5 9.94A.510;

6 (ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

7 (iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

8 (iv) RCW 9.94A.545, relating to community custody for offenders
9 whose term of confinement is one year or less;

10 (v) RCW 9.94A.570, relating to persistent offenders;

11 (vi) RCW 9.94A.540, relating to mandatory minimum terms;

12 (vii) RCW 9.94A.650, relating to the first-time offender waiver;

13 (viii) RCW 9.94A.660, relating to the drug offender sentencing
14 alternative;

15 (ix) RCW 9.94A.670, relating to the special sex offender sentencing
16 alternative;

17 (x) RCW 9.94A.712, relating to certain sex offenses;

18 (xi) RCW 9.94A.535, relating to exceptional sentences;

19 (xii) RCW 9.94A.589, relating to consecutive and concurrent
20 sentences.

21 (b) If a standard sentence range has not been established for the
22 offender's crime, the court shall impose a determinate sentence which
23 may include not more than one year of confinement; community
24 (~~service~~) restitution work; until July 1, 2000, a term of community
25 supervision not to exceed one year and on and after July 1, 2000, a
26 term of community custody not to exceed one year, subject to conditions
27 and sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other
28 legal financial obligations. The court may impose a sentence which
29 provides more than one year of confinement if the court finds reasons
30 justifying an exceptional sentence as provided in RCW 9.94A.535.

31 (3) If the court imposes a sentence requiring confinement of thirty
32 days or less, the court may, in its discretion, specify that the
33 sentence be served on consecutive or intermittent days. A sentence
34 requiring more than thirty days of confinement shall be served on
35 consecutive days. Local jail administrators may schedule court-ordered
36 intermittent sentences as space permits.

37 (4) If a sentence imposed includes payment of a legal financial
38 obligation, it shall be imposed as provided in RCW 9.94A.750,
39 9.94A.753, and 9.94A.760.

1 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
2 court may not impose a sentence providing for a term of confinement or
3 community supervision, community placement, or community custody which
4 exceeds the statutory maximum for the crime as provided in chapter
5 9A.20 RCW.

6 (6) The sentencing court shall give the offender credit for all
7 confinement time served before the sentencing if that confinement was
8 solely in regard to the offense for which the offender is being
9 sentenced.

10 (7) The court shall order restitution as provided in RCW 9.94A.750
11 and 9.94A.753.

12 (8) As a part of any sentence, the court may impose and enforce
13 crime-related prohibitions and affirmative conditions as provided in
14 this chapter.

15 (9) The court may order an offender whose sentence includes
16 community placement or community supervision to undergo a mental status
17 evaluation and to participate in available outpatient mental health
18 treatment, if the court finds that reasonable grounds exist to believe
19 that the offender is a mentally ill person as defined in RCW 71.24.025,
20 and that this condition is likely to have influenced the offense. An
21 order requiring mental status evaluation or treatment must be based on
22 a presentence report and, if applicable, mental status evaluations that
23 have been filed with the court to determine the offender's competency
24 or eligibility for a defense of insanity. The court may order
25 additional evaluations at a later date if deemed appropriate.

26 (10) In any sentence of partial confinement, the court may require
27 the offender to serve the partial confinement in work release, in a
28 program of home detention, on work crew, or in a combined program of
29 work crew and home detention.

30 (11) In sentencing an offender convicted of a crime of domestic
31 violence, as defined in RCW 10.99.020, if the offender has a minor
32 child, or if the victim of the offense for which the offender was
33 convicted has a minor child, the court may, as part of any term of
34 community supervision, community placement, or community custody, order
35 the offender to participate in a domestic violence perpetrator program
36 approved under RCW 26.50.150.

37 **Sec. 7.** RCW 9.94A.589 and 2000 c 28 s 14 are each amended to read
38 as follows:

1 (1)(a) Except as provided in (b) or (c) of this subsection,
2 whenever a person is to be sentenced for two or more current offenses,
3 the sentence range for each current offense shall be determined by
4 using all other current and prior convictions as if they were prior
5 convictions for the purpose of the offender score: PROVIDED, That if
6 the court enters a finding that some or all of the current offenses
7 encompass the same criminal conduct then those current offenses shall
8 be counted as one crime. Sentences imposed under this subsection shall
9 be served concurrently. Consecutive sentences may only be imposed
10 under the exceptional sentence provisions of RCW 9.94A.535. "Same
11 criminal conduct," as used in this subsection, means two or more crimes
12 that require the same criminal intent, are committed at the same time
13 and place, and involve the same victim. This definition applies in
14 cases involving vehicular assault or vehicular homicide even if the
15 victims occupied the same vehicle.

16 (b) Whenever a person is convicted of two or more serious violent
17 offenses arising from separate and distinct criminal conduct, the
18 standard sentence range for the offense with the highest seriousness
19 level under RCW 9.94A.515 shall be determined using the offender's
20 prior convictions and other current convictions that are not serious
21 violent offenses in the offender score and the standard sentence range
22 for other serious violent offenses shall be determined by using an
23 offender score of zero. The standard sentence range for any offenses
24 that are not serious violent offenses shall be determined according to
25 (a) of this subsection. All sentences imposed under (b) of this
26 subsection shall be served consecutively to each other and concurrently
27 with sentences imposed under (a) of this subsection.

28 (c) If an offender is convicted under RCW 9.41.040 for unlawful
29 possession of a firearm in the first or second degree and for the
30 felony crimes of theft of a firearm or possession of a stolen firearm,
31 or both, the standard sentence range for each of these current offenses
32 shall be determined by using all other current and prior convictions,
33 except other current convictions for the felony crimes listed in this
34 subsection (1)(c), as if they were prior convictions. The offender
35 shall serve consecutive sentences for each conviction of the felony
36 crimes listed in this subsection (1)(c), and for each firearm
37 unlawfully possessed.

38 (2)(a) Except as provided in (b) of this subsection, whenever a
39 person while under sentence for conviction of a felony commits another

1 felony and is sentenced to another term of confinement, the latter term
2 shall not begin until expiration of all prior terms.

3 (b) Whenever a second or later felony conviction results in
4 community supervision with conditions not currently in effect, under
5 the prior sentence or sentences of community supervision the court may
6 require that the conditions of community supervision contained in the
7 second or later sentence begin during the immediate term of community
8 supervision and continue throughout the duration of the consecutive
9 term of community supervision.

10 (3) Subject to subsections (1) and (2) of this section, whenever a
11 person is sentenced for a felony that was committed while the person
12 was not under sentence for conviction of a felony, the sentence shall
13 run concurrently with any felony sentence which has been imposed by any
14 court in this or another state or by a federal court subsequent to the
15 commission of the crime being sentenced unless the court pronouncing
16 the current sentence expressly orders that they be served
17 consecutively.

18 (4) Whenever any person granted probation under RCW 9.95.210 or
19 9.92.060, or both, has the probationary sentence revoked and a prison
20 sentence imposed, that sentence shall run consecutively to any sentence
21 imposed pursuant to this chapter, unless the court pronouncing the
22 subsequent sentence expressly orders that they be served concurrently.

23 (5) In the case of consecutive sentences, all periods of total
24 confinement shall be served before any partial confinement, community
25 ((service)) restitution, community supervision, or any other
26 requirement or conditions of any of the sentences. Except for
27 exceptional sentences as authorized under RCW 9.94A.535, if two or more
28 sentences that run consecutively include periods of community
29 supervision, the aggregate of the community supervision period shall
30 not exceed twenty-four months.

31 **Sec. 8.** RCW 9.94A.634 and 1998 c 260 s 4 are each amended to read
32 as follows:

33 (1) If an offender violates any condition or requirement of a
34 sentence, the court may modify its order of judgment and sentence and
35 impose further punishment in accordance with this section.

36 (2) In cases where conditions from a second or later sentence of
37 community supervision begin prior to the term of the second or later
38 sentence, the court shall treat a violation of such conditions as a

1 violation of the sentence of community supervision currently being
2 served.

3 (3) If an offender fails to comply with any of the requirements or
4 conditions of a sentence the following provisions apply:

5 (a)(i) Following the violation, if the offender and the department
6 make a stipulated agreement, the department may impose sanctions such
7 as work release, home detention with electronic monitoring, work crew,
8 community ((service)) restitution, inpatient treatment, daily
9 reporting, curfew, educational or counseling sessions, supervision
10 enhanced through electronic monitoring, jail time, or other sanctions
11 available in the community.

12 (ii) Within seventy-two hours of signing the stipulated agreement,
13 the department shall submit a report to the court and the prosecuting
14 attorney outlining the violation or violations, and sanctions imposed.
15 Within fifteen days of receipt of the report, if the court is not
16 satisfied with the sanctions, the court may schedule a hearing and may
17 modify the department's sanctions. If this occurs, the offender may
18 withdraw from the stipulated agreement.

19 (iii) If the offender fails to comply with the sanction
20 administratively imposed by the department, the court may take action
21 regarding the original noncompliance. Offender failure to comply with
22 the sanction administratively imposed by the department may be
23 considered an additional violation.

24 (b) In the absence of a stipulated agreement, or where the court is
25 not satisfied with the department's sanctions as provided in (a) of
26 this subsection, the court, upon the motion of the state, or upon its
27 own motion, shall require the offender to show cause why the offender
28 should not be punished for the noncompliance. The court may issue a
29 summons or a warrant of arrest for the offender's appearance;

30 (c) The state has the burden of showing noncompliance by a
31 preponderance of the evidence. If the court finds that the violation
32 has occurred, it may order the offender to be confined for a period not
33 to exceed sixty days for each violation, and may (i) convert a term of
34 partial confinement to total confinement, (ii) convert community
35 ((service)) restitution obligation to total or partial confinement,
36 (iii) convert monetary obligations, except restitution and the crime
37 victim penalty assessment, to community ((service)) restitution hours
38 at the rate of the state minimum wage as established in RCW 49.46.020
39 for each hour of community ((service)) restitution, or (iv) order one

1 or more of the penalties authorized in (a)(i) of this subsection. Any
2 time served in confinement awaiting a hearing on noncompliance shall be
3 credited against any confinement order by the court;

4 (d) If the court finds that the violation was not willful, the
5 court may modify its previous order regarding payment of legal
6 financial obligations and regarding community (~~service~~) restitution
7 obligations; and

8 (e) If the violation involves a failure to undergo or comply with
9 mental status evaluation and/or outpatient mental health treatment, the
10 community corrections officer shall consult with the treatment provider
11 or proposed treatment provider. Enforcement of orders concerning
12 outpatient mental health treatment must reflect the availability of
13 treatment and must pursue the least restrictive means of promoting
14 participation in treatment. If the offender's failure to receive care
15 essential for health and safety presents a risk of serious physical
16 harm or probable harmful consequences, the civil detention and
17 commitment procedures of chapter 71.05 RCW shall be considered in
18 preference to incarceration in a local or state correctional facility.

19 (4) The community corrections officer may obtain information from
20 the offender's mental health treatment provider on the offender's
21 status with respect to evaluation, application for services,
22 registration for services, and compliance with the supervision plan,
23 without the offender's consent, as described under RCW 71.05.630.

24 (5) An offender under community placement or community supervision
25 who is civilly detained under chapter 71.05 RCW, and subsequently
26 discharged or conditionally released to the community, shall be under
27 the supervision of the department of corrections for the duration of
28 his or her period of community placement or community supervision.
29 During any period of inpatient mental health treatment that falls
30 within the period of community placement or community supervision, the
31 inpatient treatment provider and the supervising community corrections
32 officer shall notify each other about the offender's discharge,
33 release, and legal status, and shall share other relevant information.

34 (6) Nothing in this section prohibits the filing of escape charges
35 if appropriate.

36 **Sec. 9.** RCW 9.94A.650 and 2000 c 28 s 18 are each amended to read
37 as follows:

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

6 (a) Classified as a violent offense or a sex offense under this
7 chapter;

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

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

14 (d) The selling for profit of any controlled substance or
15 counterfeit substance classified in Schedule I, RCW 69.50.204, except
16 leaves and flowering tops of marijuana.

17 (2) In sentencing a first-time offender the court may waive the
18 imposition of a sentence within the standard sentence range and impose
19 a sentence which may include up to ninety days of confinement in a
20 facility operated or utilized under contract by the county and a
21 requirement that the offender refrain from committing new offenses.
22 The sentence may also include a term of community supervision or
23 community custody as specified in subsection (3) of this section,
24 which, in addition to crime-related prohibitions, may include
25 requirements that the offender perform any one or more of the
26 following:

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

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

31 (c) Pursue a prescribed, secular course of study or vocational
32 training;

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

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

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

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

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

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

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

18 **Sec. 10.** RCW 9.94A.660 and 2001 c 10 s 4 are each amended to read
19 as follows:

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

22 (a) The offender is convicted of a felony that is not a violent
23 offense or sex offense and the violation does not involve a sentence
24 enhancement under RCW 9.94A.510 (3) or (4);

25 (b) The offender has no current or prior convictions for a sex
26 offense or violent offense in this state, another state, or the United
27 States;

28 (c) For a violation of the Uniform Controlled Substances Act under
29 chapter 69.50 RCW or a criminal solicitation to commit such a violation
30 under chapter 9A.28 RCW, the offense involved only a small quantity of
31 the particular controlled substance as determined by the judge upon
32 consideration of such factors as the weight, purity, packaging, sale
33 price, and street value of the controlled substance; and

34 (d) The offender has not been found by the United States attorney
35 general to be subject to a deportation detainer or order and does not
36 become subject to a deportation order during the period of the
37 sentence.

1 (2) If the standard sentence range is greater than one year and the
2 sentencing court determines that the offender is eligible for this
3 alternative and that the offender and the community will benefit from
4 the use of the alternative, the judge may waive imposition of a
5 sentence within the standard sentence range and impose a sentence that
6 must include a period of total confinement in a state facility for one-
7 half of the midpoint of the standard sentence range. During
8 incarceration in the state facility, offenders sentenced under this
9 subsection shall undergo a comprehensive substance abuse assessment and
10 receive, within available resources, treatment services appropriate for
11 the offender. The treatment services shall be designed by the division
12 of alcohol and substance abuse of the department of social and health
13 services, in cooperation with the department of corrections.

14 The court shall also impose:

15 (a) The remainder of the midpoint of the standard range as a term
16 of community custody which must include appropriate substance abuse
17 treatment in a program that has been approved by the division of
18 alcohol and substance abuse of the department of social and health
19 services;

20 (b) Crime-related prohibitions including a condition not to use
21 illegal controlled substances;

22 (c) A requirement to submit to urinalysis or other testing to
23 monitor that status; and

24 (d) A term of community custody pursuant to RCW 9.94A.715 to be
25 imposed upon failure to complete or administrative termination from the
26 special drug offender sentencing alternative program.

27 The court may prohibit the offender from using alcohol or
28 controlled substances and may require that the monitoring for
29 controlled substances be conducted by the department or by a treatment
30 alternatives to street crime program or a comparable court or agency-
31 referred program. The offender may be required to pay thirty dollars
32 per month while on community custody to offset the cost of monitoring.
33 In addition, the court shall impose three or more of the following
34 conditions:

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

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

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

- 1 (iv) Pay all court-ordered legal financial obligations;
- 2 (v) Perform community ((~~service~~)) restitution work;
- 3 (vi) Stay out of areas designated by the sentencing court;
- 4 (vii) Such other conditions as the court may require such as
- 5 affirmative conditions.

6 (3) If the offender violates any of the sentence conditions in
7 subsection (2) of this section or is found by the United States
8 attorney general to be subject to a deportation order, a violation
9 hearing shall be held by the department unless waived by the offender.

10 (a) If the department finds that conditions have been willfully
11 violated, the offender may be reclassified to serve the remaining
12 balance of the original sentence.

13 (b) If the department finds that the offender is subject to a valid
14 deportation order, the department may administratively terminate the
15 offender from the program and reclassify the offender to serve the
16 remaining balance of the original sentence.

17 (4) The department shall determine the rules for calculating the
18 value of a day fine based on the offender's income and reasonable
19 obligations which the offender has for the support of the offender and
20 any dependents. These rules shall be developed in consultation with
21 the administrator for the courts, the office of financial management,
22 and the commission.

23 (5) An offender who fails to complete the special drug offender
24 sentencing alternative program or who is administratively terminated
25 from the program shall be reclassified to serve the unexpired term of
26 his or her sentence as ordered by the sentencing court and shall be
27 subject to all rules relating to earned release time. An offender who
28 violates any conditions of supervision as defined by the department
29 shall be sanctioned. Sanctions may include, but are not limited to,
30 reclassifying the offender to serve the unexpired term of his or her
31 sentence as ordered by the sentencing court. If an offender is
32 reclassified to serve the unexpired term of his or her sentence, the
33 offender shall be subject to all rules relating to earned release time.

34 **Sec. 11.** RCW 9.94A.670 and 2001 2nd sp.s. c 12 s 316 are each
35 amended to read as follows:

36 (1) Unless the context clearly requires otherwise, the definitions
37 in this subsection apply to this section only.

1 (a) "Sex offender treatment provider" or "treatment provider" means
2 a certified sex offender treatment provider as defined in RCW
3 18.155.020.

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

9 (2) An offender is eligible for the special sex offender sentencing
10 alternative if:

11 (a) The offender has been convicted of a sex offense other than a
12 violation of RCW 9A.44.050 or a sex offense that is also a serious
13 violent offense;

14 (b) The offender has no prior convictions for a sex offense as
15 defined in RCW 9.94A.030 or any other felony sex offenses in this or
16 any other state; and

17 (c) The offender's standard sentence range for the offense includes
18 the possibility of confinement for less than eleven years.

19 (3) If the court finds the offender is eligible for this
20 alternative, the court, on its own motion or the motion of the state or
21 the offender, may order an examination to determine whether the
22 offender is amenable to treatment.

23 (a) The report of the examination shall include at a minimum the
24 following:

25 (i) The offender's version of the facts and the official version of
26 the facts;

27 (ii) The offender's offense history;

28 (iii) An assessment of problems in addition to alleged deviant
29 behaviors;

30 (iv) The offender's social and employment situation; and

31 (v) Other evaluation measures used.

32 The report shall set forth the sources of the examiner's information.

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

37 (i) Frequency and type of contact between offender and therapist;

38 (ii) Specific issues to be addressed in the treatment and
39 description of planned treatment modalities;

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

4 (iv) Anticipated length of treatment; and

5 (v) Recommended crime-related prohibitions.

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

12 (4) After receipt of the reports, the court shall consider whether
13 the offender and the community will benefit from use of this
14 alternative and consider the victim's opinion whether the offender
15 should receive a treatment disposition under this section. If the
16 court determines that this alternative is appropriate, the court shall
17 then impose a sentence or, pursuant to RCW 9.94A.712, a minimum term of
18 sentence, within the standard sentence range. If the sentence imposed
19 is less than eleven years of confinement, the court may suspend the
20 execution of the sentence and impose the following conditions of
21 suspension:

22 (a) The court shall place the offender on community custody for the
23 length of the suspended sentence, the length of the maximum term
24 imposed pursuant to RCW 9.94A.712, or three years, whichever is
25 greater, and require the offender to comply with any conditions imposed
26 by the department under RCW 9.94A.720.

27 (b) The court shall order treatment for any period up to three
28 years in duration. The court, in its discretion, shall order
29 outpatient sex offender treatment or inpatient sex offender treatment,
30 if available. A community mental health center may not be used for
31 such treatment unless it has an appropriate program designed for sex
32 offender treatment. The offender shall not change sex offender
33 treatment providers or treatment conditions without first notifying the
34 prosecutor, the community corrections officer, and the court. If any
35 party or the court objects to a proposed change, the offender shall not
36 change providers or conditions without court approval after a hearing.

37 (5) As conditions of the suspended sentence, the court may impose
38 one or more of the following:

1 (a) Up to six months of confinement, not to exceed the sentence
2 range of confinement for that offense;

3 (b) Crime-related prohibitions;

4 (c) Require the offender to devote time to a specific employment or
5 occupation;

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

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

11 (f) Pay all court-ordered legal financial obligations as provided
12 in RCW 9.94A.030;

13 (g) Perform community ((~~service~~)) restitution work; or

14 (h) Reimburse the victim for the cost of any counseling required as
15 a result of the offender's crime.

16 (6) At the time of sentencing, the court shall set a treatment
17 termination hearing for three months prior to the anticipated date for
18 completion of treatment.

19 (7) The sex offender treatment provider shall submit quarterly
20 reports on the offender's progress in treatment to the court and the
21 parties. The report shall reference the treatment plan and include at
22 a minimum the following: Dates of attendance, offender's compliance
23 with requirements, treatment activities, the offender's relative
24 progress in treatment, and any other material specified by the court at
25 sentencing.

26 (8) Prior to the treatment termination hearing, the treatment
27 provider and community corrections officer shall submit written reports
28 to the court and parties regarding the offender's compliance with
29 treatment and monitoring requirements, and recommendations regarding
30 termination from treatment, including proposed community custody
31 conditions. Either party may request, and the court may order, another
32 evaluation regarding the advisability of termination from treatment.
33 The offender shall pay the cost of any additional evaluation ordered
34 unless the court finds the offender to be indigent in which case the
35 state shall pay the cost. At the treatment termination hearing the
36 court may: (a) Modify conditions of community custody, and either (b)
37 terminate treatment, or (c) extend treatment for up to the remaining
38 period of community custody.

1 (9) If a violation of conditions occurs during community custody,
2 the department shall either impose sanctions as provided for in RCW
3 9.94A.737(2)(a) or refer the violation to the court and recommend
4 revocation of the suspended sentence as provided for in subsections (6)
5 and (8) of this section.

6 (10) The court may revoke the suspended sentence at any time during
7 the period of community custody and order execution of the sentence if:
8 (a) The offender violates the conditions of the suspended sentence, or
9 (b) the court finds that the offender is failing to make satisfactory
10 progress in treatment. All confinement time served during the period
11 of community custody shall be credited to the offender if the suspended
12 sentence is revoked.

13 (11) Examinations and treatment ordered pursuant to this subsection
14 shall only be conducted by sex offender treatment providers certified
15 by the department of health pursuant to chapter 18.155 RCW unless the
16 court finds that:

17 (a) The offender has already moved to another state or plans to
18 move to another state for reasons other than circumventing the
19 certification requirements; or

20 (b)(i) No certified providers are available for treatment within a
21 reasonable geographical distance of the offender's home; and

22 (ii) The evaluation and treatment plan comply with this section and
23 the rules adopted by the department of health.

24 (12) If the offender is less than eighteen years of age when the
25 charge is filed, the state shall pay for the cost of initial evaluation
26 and treatment.

27 **Sec. 12.** RCW 9.94A.680 and 1999 c 197 s 6 are each amended to read
28 as follows:

29 Alternatives to total confinement are available for offenders with
30 sentences of one year or less. These alternatives include the
31 following sentence conditions that the court may order as substitutes
32 for total confinement:

33 (1) One day of partial confinement may be substituted for one day
34 of total confinement;

35 (2) In addition, for offenders convicted of nonviolent offenses
36 only, eight hours of community ((service)) restitution may be
37 substituted for one day of total confinement, with a maximum conversion
38 limit of two hundred forty hours or thirty days. Community ((service))

1 restitution hours must be completed within the period of community
2 supervision or a time period specified by the court, which shall not
3 exceed twenty-four months, pursuant to a schedule determined by the
4 department; and

5 (3) For offenders convicted of nonviolent and nonsex offenses, the
6 court may authorize county jails to convert jail confinement to an
7 available county supervised community option and may require the
8 offender to perform affirmative conduct pursuant to RCW 9.94A.607.

9 For sentences of nonviolent offenders for one year or less, the
10 court shall consider and give priority to available alternatives to
11 total confinement and shall state its reasons in writing on the
12 judgment and sentence form if the alternatives are not used.

13 **Sec. 13.** RCW 9.94A.700 and 2000 c 28 s 22 are each amended to read
14 as follows:

15 When a court sentences an offender to a term of total confinement
16 in the custody of the department for any of the offenses specified in
17 this section, the court shall also sentence the offender to a term of
18 community placement as provided in this section.

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

21 (a) A sex offense or a serious violent offense committed after July
22 1, 1988, but before July 1, 1990; or

23 (b) An offense committed on or after July 1, 1988, but before July
24 25, 1999, that is:

25 (i) Assault in the second degree;

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

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

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

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

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

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

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

5 (3) The community placement ordered under this section shall begin
6 either upon completion of the term of confinement or at such time as
7 the offender is transferred to community custody in lieu of earned
8 release. When the court sentences an offender to the statutory maximum
9 sentence then the community placement portion of the sentence shall
10 consist entirely of the community custody to which the offender may
11 become eligible. Any period of community custody actually served shall
12 be credited against the community placement portion of the sentence.

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

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

18 (b) The offender shall work at department-approved education,
19 employment, or community ((~~service~~)) restitution, or any combination
20 thereof;

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

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

25 (e) The residence location and living arrangements shall be subject
26 to the prior approval of the department during the period of community
27 placement.

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

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

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

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

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

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

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

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

9 **Sec. 14.** RCW 9.94A.720 and 2000 c 28 s 26 are each amended to read
10 as follows:

11 (1)(a) All offenders sentenced to terms involving community
12 supervision, community ((~~service~~)) restitution, community placement,
13 community custody, or legal financial obligation shall be under the
14 supervision of the department and shall follow explicitly the
15 instructions and conditions of the department. The department may
16 require an offender to perform affirmative acts it deems appropriate to
17 monitor compliance with the conditions of the sentence imposed.

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

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

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

32 The conditions authorized under (c) of this subsection may be
33 imposed by the department prior to or during an offender's community
34 custody term. If a violation of conditions imposed by the court or the
35 department pursuant to RCW 9.94A.710 occurs during community custody,
36 it shall be deemed a violation of community placement for the purposes
37 of RCW 9.94A.740 and shall authorize the department to transfer an
38 offender to a more restrictive confinement status as provided in RCW

1 9.94A.737. At any time prior to the completion of an offender's term
2 of community custody, the department may recommend to the court that
3 any or all of the conditions imposed by the court or the department
4 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
5 expiration of the offender's term of community custody as authorized in
6 RCW 9.94A.715 (3) or (5).

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

12 (2) No offender sentenced to terms involving community supervision,
13 community ((~~service~~)) restitution, community custody, or community
14 placement under the supervision of the department may own, use, or
15 possess firearms or ammunition. Offenders who own, use, or are found
16 to be in actual or constructive possession of firearms or ammunition
17 shall be subject to the violation process and sanctions under RCW
18 9.94A.634, 9.94A.737, and 9.94A.740. "Constructive possession" as used
19 in this subsection means the power and intent to control the firearm or
20 ammunition. "Firearm" as used in this subsection has the same
21 definition as in RCW 9.41.010.

22 **Sec. 15.** RCW 9.94A.737 and 1999 c 196 s 8 are each amended to read
23 as follows:

24 (1) If an offender violates any condition or requirement of
25 community custody, the department may transfer the offender to a more
26 restrictive confinement status to serve up to the remaining portion of
27 the sentence, less credit for any period actually spent in community
28 custody or in detention awaiting disposition of an alleged violation
29 and subject to the limitations of subsection (2) of this section.

30 (2)(a) For a sex offender sentenced to a term of community custody
31 under RCW 9.94A.505(8) who violates any condition of community custody,
32 the department may impose a sanction of up to sixty days' confinement
33 in a local correctional facility for each violation. If the department
34 imposes a sanction, the department shall submit within seventy-two
35 hours a report to the court and the prosecuting attorney outlining the
36 violation or violations and the sanctions imposed.

37 (b) For a sex offender sentenced to a term of community custody
38 under RCW 9.94A.505(10) who violates any condition of community custody

1 after having completed his or her maximum term of total confinement,
2 including time served on community custody in lieu of earned release,
3 the department may impose a sanction of up to sixty days in a local
4 correctional facility for each violation.

5 (c) For an offender sentenced to a term of community custody under
6 RCW 9.94A.505 (2)(b), (5), (~~(7)~~) or (11), or under RCW 9.94A.545,
7 for a crime committed on or after July 1, 2000, who violates any
8 condition of community custody after having completed his or her
9 maximum term of total confinement, including time served on community
10 custody in lieu of earned release, the department may impose a sanction
11 of up to sixty days in total confinement for each violation. The
12 department may impose sanctions such as work release, home detention
13 with electronic monitoring, work crew, community (~~service~~)
14 restitution, inpatient treatment, daily reporting, curfew, educational
15 or counseling sessions, supervision enhanced through electronic
16 monitoring, or any other sanctions available in the community.

17 (d) For an offender sentenced to a term of community placement
18 under RCW 9.94A.505(9)(a)(ii) who violates any condition of community
19 placement after having completed his or her maximum term of total
20 confinement, including time served on community custody in lieu of
21 earned release, the department may impose a sanction of up to sixty
22 days in total confinement for each violation. The department may
23 impose sanctions such as work release, home detention with electronic
24 monitoring, work crew, community (~~service~~) restitution, inpatient
25 treatment, daily reporting, curfew, educational or counseling sessions,
26 supervision enhanced through electronic monitoring, or any other
27 sanctions available in the community.

28 (3) If an offender is accused of violating any condition or
29 requirement of community custody, he or she is entitled to a hearing
30 before the department prior to the imposition of sanctions. The
31 hearing shall be considered as offender disciplinary proceedings and
32 shall not be subject to chapter 34.05 RCW. The department shall
33 develop hearing procedures and a structure of graduated sanctions.

34 (4) The hearing procedures required under subsection (3) of this
35 section shall be developed by rule and include the following:

36 (a) Hearing officers shall report through a chain of command
37 separate from that of community corrections officers;

38 (b) The department shall provide the offender with written notice
39 of the violation, the evidence relied upon, and the reasons the

1 particular sanction was imposed. The notice shall include a statement
2 of the rights specified in this subsection, and the offender's right to
3 file a personal restraint petition under court rules after the final
4 decision of the department;

5 (c) The hearing shall be held unless waived by the offender, and
6 shall be electronically recorded. For offenders not in total
7 confinement, the hearing shall be held within fifteen working days, but
8 not less than twenty-four hours, after notice of the violation. For
9 offenders in total confinement, the hearing shall be held within five
10 working days, but not less than twenty-four hours, after notice of the
11 violation;

12 (d) The offender shall have the right to: (i) Be present at the
13 hearing; (ii) have the assistance of a person qualified to assist the
14 offender in the hearing, appointed by the hearing officer if the
15 offender has a language or communications barrier; (iii) testify or
16 remain silent; (iv) call witnesses and present documentary evidence;
17 and (v) question witnesses who appear and testify; and

18 (e) The sanction shall take effect if affirmed by the hearing
19 officer. Within seven days after the hearing officer's decision, the
20 offender may appeal the decision to a panel of three reviewing officers
21 designated by the secretary or by the secretary's designee. The
22 sanction shall be reversed or modified if a majority of the panel finds
23 that the sanction was not reasonably related to any of the following:
24 (i) The crime of conviction; (ii) the violation committed; (iii) the
25 offender's risk of reoffending; or (iv) the safety of the community.

26 (5) For purposes of this section, no finding of a violation of
27 conditions may be based on unconfirmed or unconfirmable allegations.

28 **Sec. 16.** RCW 9.94A.850 and 2000 c 28 s 41 are each amended to read
29 as follows:

30 (1) A sentencing guidelines commission is established as an agency
31 of state government.

32 (2) The legislature finds that the commission, having accomplished
33 its original statutory directive to implement this chapter, and having
34 expertise in sentencing practice and policies, shall:

35 (a) Evaluate state sentencing policy, to include whether the
36 sentencing ranges and standards are consistent with and further:

37 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

1 (ii) The intent of the legislature to emphasize confinement for the
2 violent offender and alternatives to confinement for the nonviolent
3 offender.

4 The commission shall provide the governor and the legislature with
5 its evaluation and recommendations under this subsection not later than
6 December 1, 1996, and every two years thereafter;

7 (b) Recommend to the legislature revisions or modifications to the
8 standard sentence ranges, state sentencing policy, prosecuting
9 standards, and other standards. If implementation of the revisions or
10 modifications would result in exceeding the capacity of correctional
11 facilities, then the commission shall accompany its recommendation with
12 an additional list of standard sentence ranges which are consistent
13 with correction capacity;

14 (c) Study the existing criminal code and from time to time make
15 recommendations to the legislature for modification;

16 (d)(i) Serve as a clearinghouse and information center for the
17 collection, preparation, analysis, and dissemination of information on
18 state and local adult and juvenile sentencing practices; (ii) develop
19 and maintain a computerized adult and juvenile sentencing information
20 system by individual superior court judge consisting of offender,
21 offense, history, and sentence information entered from judgment and
22 sentence forms for all adult felons; and (iii) conduct ongoing research
23 regarding adult and juvenile sentencing guidelines, use of total
24 confinement and alternatives to total confinement, plea bargaining, and
25 other matters relating to the improvement of the adult criminal justice
26 system and the juvenile justice system;

27 (e) Assume the powers and duties of the juvenile disposition
28 standards commission after June 30, 1996;

29 (f) Evaluate the effectiveness of existing disposition standards
30 and related statutes in implementing policies set forth in RCW
31 13.40.010 generally, specifically review the guidelines relating to the
32 confinement of minor and first-time offenders as well as the use of
33 diversion, and review the application of current and proposed juvenile
34 sentencing standards and guidelines for potential adverse impacts on
35 the sentencing outcomes of racial and ethnic minority youth;

36 (g) Solicit the comments and suggestions of the juvenile justice
37 community concerning disposition standards, and make recommendations to
38 the legislature regarding revisions or modifications of the standards.
39 The evaluations shall be submitted to the legislature on December 1 of

1 each odd-numbered year. The department of social and health services
2 shall provide the commission with available data concerning the
3 implementation of the disposition standards and related statutes and
4 their effect on the performance of the department's responsibilities
5 relating to juvenile offenders, and with recommendations for
6 modification of the disposition standards. The office of the
7 administrator for the courts shall provide the commission with
8 available data on diversion and dispositions of juvenile offenders
9 under chapter 13.40 RCW; and

10 (h) Not later than December 1, 1997, and at least every two years
11 thereafter, based on available information, report to the governor and
12 the legislature on:

13 (i) Racial disproportionality in juvenile and adult sentencing;

14 (ii) The capacity of state and local juvenile and adult facilities
15 and resources; and

16 (iii) Recidivism information on adult and juvenile offenders.

17 (3) Each of the commission's recommended standard sentence ranges
18 shall include one or more of the following: Total confinement, partial
19 confinement, community supervision, community ~~((service))~~ restitution,
20 and a fine.

21 (4) The standard sentence ranges of total and partial confinement
22 under this chapter are subject to the following limitations:

23 (a) If the maximum term in the range is one year or less, the
24 minimum term in the range shall be no less than one-third of the
25 maximum term in the range, except that if the maximum term in the range
26 is ninety days or less, the minimum term may be less than one-third of
27 the maximum;

28 (b) If the maximum term in the range is greater than one year, the
29 minimum term in the range shall be no less than seventy-five percent of
30 the maximum term in the range, except that for murder in the second
31 degree in seriousness level XIV under RCW 9.94A.510, the minimum term
32 in the range shall be no less than fifty percent of the maximum term in
33 the range; and

34 (c) The maximum term of confinement in a range may not exceed the
35 statutory maximum for the crime as provided in RCW 9A.20.021.

36 (5)(a) Not later than December 31, 1999, the commission shall
37 propose to the legislature the initial community custody ranges to be
38 included in sentences under RCW 9.94A.715 for crimes committed on or
39 after July 1, 2000. Not later than December 31 of each year, the

1 commission may propose modifications to the ranges. The ranges shall
2 be based on the principles in RCW 9.94A.010, and shall take into
3 account the funds available to the department for community custody.
4 The minimum term in each range shall not be less than one-half of the
5 maximum term.

6 (b) The legislature may, by enactment of a legislative bill, adopt
7 or modify the community custody ranges proposed by the commission. If
8 the legislature fails to adopt or modify the initial ranges in its next
9 regular session after they are proposed, the proposed ranges shall take
10 effect without legislative approval for crimes committed on or after
11 July 1, 2000.

12 (c) When the commission proposes modifications to ranges pursuant
13 to this subsection, the legislature may, by enactment of a bill, adopt
14 or modify the ranges proposed by the commission for crimes committed on
15 or after July 1 of the year after they were proposed. Unless the
16 legislature adopts or modifies the commission's proposal in its next
17 regular session, the proposed ranges shall not take effect.

18 (6) The commission shall exercise its duties under this section in
19 conformity with chapter 34.05 RCW.

20 **Sec. 17.** RCW 9.95.435 and 2001 2nd sp.s. c 12 s 309 are each
21 amended to read as follows:

22 (1) If an offender released by the board under RCW 9.95.420
23 violates any condition or requirement of community custody, the board
24 may transfer the offender to a more restrictive confinement status to
25 serve up to the remaining portion of the sentence, less credit for any
26 period actually spent in community custody or in detention awaiting
27 disposition of an alleged violation and subject to the limitations of
28 subsection (2) of this section.

29 (2) Following the hearing specified in subsection (3) of this
30 section, the board may impose sanctions such as work release, home
31 detention with electronic monitoring, work crew, community (~~service~~)
32 restitution, inpatient treatment, daily reporting, curfew, educational
33 or counseling sessions, supervision enhanced through electronic
34 monitoring, or any other sanctions available in the community, or may
35 suspend or revoke the release to community custody whenever an offender
36 released by the board under RCW 9.95.420 violates any condition or
37 requirement of community custody.

1 (3) If an offender released by the board under RCW 9.95.420 is
2 accused of violating any condition or requirement of community custody,
3 he or she is entitled to a hearing before the board prior to the
4 imposition of sanctions. The hearing shall be considered as offender
5 disciplinary proceedings and shall not be subject to chapter 34.05 RCW.
6 The board shall develop hearing procedures and a structure of graduated
7 sanctions consistent with the hearing procedures and graduated
8 sanctions developed pursuant to RCW 9.94A.737. The board may suspend
9 the offender's release to community custody and confine the offender in
10 a correctional institution owned, operated by, or operated under
11 contract with the state prior to the hearing unless the offender has
12 been arrested and confined for a new criminal offense.

13 (4) The hearing procedures required under subsection (3) of this
14 section shall be developed by rule and include the following:

15 (a) Hearings shall be conducted by members of the board unless the
16 board enters into an agreement with the department to use the hearing
17 officers established under RCW 9.94A.737;

18 (b) The board shall provide the offender with written notice of the
19 violation, the evidence relied upon, and the reasons the particular
20 sanction was imposed. The notice shall include a statement of the
21 rights specified in this subsection, and the offender's right to file
22 a personal restraint petition under court rules after the final
23 decision of the board;

24 (c) The hearing shall be held unless waived by the offender, and
25 shall be electronically recorded. For offenders not in total
26 confinement, the hearing shall be held within fifteen working days, but
27 not less than twenty-four hours after notice of the violation. For
28 offenders in total confinement, the hearing shall be held within five
29 working days, but not less than twenty-four hours after notice of the
30 violation;

31 (d) The offender shall have the right to: (i) Be present at the
32 hearing; (ii) have the assistance of a person qualified to assist the
33 offender in the hearing, appointed by the hearing examiner if the
34 offender has a language or communications barrier; (iii) testify or
35 remain silent; (iv) call witnesses and present documentary evidence;
36 (v) question witnesses who appear and testify; and (vi) be represented
37 by counsel if revocation of the release to community custody is a
38 possible sanction for the violation; and

1 (e) The sanction shall take effect if affirmed by the hearing
2 examiner. Within seven days after the hearing examiner's decision, the
3 offender may appeal the decision to a panel of three reviewing
4 examiners designated by the chair of the board or by the chair's
5 designee. The sanction shall be reversed or modified if a majority of
6 the panel finds that the sanction was not reasonably related to any of
7 the following: (i) The crime of conviction; (ii) the violation
8 committed; (iii) the offender's risk of reoffending; or (iv) the safety
9 of the community.

10 (5) For purposes of this section, no finding of a violation of
11 conditions may be based on unconfirmed or unconfirmable allegations.

12 **Sec. 18.** RCW 10.98.040 and 1999 c 143 s 51 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions in
15 this section apply throughout this chapter.

16 (1) "Arrest and fingerprint form" means the reporting form
17 prescribed by the identification, child abuse, and criminal history
18 section to initiate compiling arrest and identification information.

19 (2) "Chief law enforcement officer" includes the sheriff or
20 director of public safety of a county, the chief of police of a city or
21 town, and chief officers of other law enforcement agencies operating
22 within the state.

23 (3) "Department" means the department of corrections.

24 (4) "Disposition" means the conclusion of a criminal proceeding at
25 any stage it occurs in the criminal justice system. Disposition
26 includes but is not limited to temporary or permanent outcomes such as
27 charges dropped by police, charges not filed by the prosecuting
28 attorney, deferred prosecution, defendant absconded, charges filed by
29 the prosecuting attorney pending court findings such as not guilty,
30 dismissed, guilty, or guilty--case appealed to higher court.

31 (5) "Disposition report" means the reporting form prescribed by the
32 identification, child abuse, and criminal history section to report the
33 legal procedures taken after completing an arrest and fingerprint form.
34 The disposition report shall include but not be limited to the
35 following types of information:

36 (a) The type of disposition;

37 (b) The statutory citation for the arrests;

1 (c) The sentence structure if the defendant was convicted of a
2 felony;

3 (d) The state identification number; and

4 (e) Identification information and other information that is
5 prescribed by the identification, child abuse, and criminal history
6 section.

7 (6) "Fingerprints" means the fingerprints taken from arrested or
8 charged persons under the procedures prescribed by the Washington state
9 patrol identification, child abuse, and criminal history section.

10 (7) "Prosecuting attorney" means the public or private attorney
11 prosecuting a criminal case.

12 (8) "Section" refers to the Washington state patrol section on
13 identification, child abuse, and criminal history.

14 (9) "Sentence structure" means itemizing the components of the
15 felony sentence. The sentence structure shall include but not be
16 limited to the total or partial confinement sentenced, and whether the
17 sentence is prison or jail, community supervision, fines, restitution,
18 or community ((~~service~~)) restitution.

19 **Sec. 19.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to
20 read as follows:

21 For the purposes of this chapter:

22 (1) "Community-based rehabilitation" means one or more of the
23 following: Employment; attendance of information classes; literacy
24 classes; counseling, outpatient substance abuse treatment programs,
25 outpatient mental health programs, anger management classes, education
26 or outpatient treatment programs to prevent animal cruelty, or other
27 services; or attendance at school or other educational programs
28 appropriate for the juvenile as determined by the school district.
29 Placement in community-based rehabilitation programs is subject to
30 available funds;

31 (2) Community-based sanctions may include one or more of the
32 following:

33 (a) A fine, not to exceed five hundred dollars;

34 (b) Community ((~~service~~)) restitution not to exceed one hundred
35 fifty hours of ((~~service~~)) community restitution;

36 (3) "Community ((~~service~~)) restitution" means compulsory service,
37 without compensation, performed for the benefit of the community by the
38 offender as punishment for committing an offense. Community

1 ((service)) restitution may be performed through public or private
2 organizations or through work crews;

3 (4) "Community supervision" means an order of disposition by the
4 court of an adjudicated youth not committed to the department or an
5 order granting a deferred disposition. A community supervision order
6 for a single offense may be for a period of up to two years for a sex
7 offense as defined by RCW 9.94A.030 and up to one year for other
8 offenses. As a mandatory condition of any term of community
9 supervision, the court shall order the juvenile to refrain from
10 committing new offenses. As a mandatory condition of community
11 supervision, the court shall order the juvenile to comply with the
12 mandatory school attendance provisions of chapter 28A.225 RCW and to
13 inform the school of the existence of this requirement. Community
14 supervision is an individualized program comprised of one or more of
15 the following:

- 16 (a) Community-based sanctions;
- 17 (b) Community-based rehabilitation;
- 18 (c) Monitoring and reporting requirements;
- 19 (d) Posting of a probation bond;

20 (5) "Confinement" means physical custody by the department of
21 social and health services in a facility operated by or pursuant to a
22 contract with the state, or physical custody in a detention facility
23 operated by or pursuant to a contract with any county. The county may
24 operate or contract with vendors to operate county detention
25 facilities. The department may operate or contract to operate
26 detention facilities for juveniles committed to the department.
27 Pretrial confinement or confinement of less than thirty-one days
28 imposed as part of a disposition or modification order may be served
29 consecutively or intermittently, in the discretion of the court;

30 (6) "Court," when used without further qualification, means the
31 juvenile court judge(s) or commissioner(s);

32 (7) "Criminal history" includes all criminal complaints against the
33 respondent for which, prior to the commission of a current offense:

34 (a) The allegations were found correct by a court. If a respondent
35 is convicted of two or more charges arising out of the same course of
36 conduct, only the highest charge from among these shall count as an
37 offense for the purposes of this chapter; or

38 (b) The criminal complaint was diverted by a prosecutor pursuant to
39 the provisions of this chapter on agreement of the respondent and after

1 an advisement to the respondent that the criminal complaint would be
2 considered as part of the respondent's criminal history. A
3 successfully completed deferred adjudication that was entered before
4 July 1, 1998, or a deferred disposition shall not be considered part of
5 the respondent's criminal history;

6 (8) "Department" means the department of social and health
7 services;

8 (9) "Detention facility" means a county facility, paid for by the
9 county, for the physical confinement of a juvenile alleged to have
10 committed an offense or an adjudicated offender subject to a
11 disposition or modification order. "Detention facility" includes
12 county group homes, inpatient substance abuse programs, juvenile basic
13 training camps, and electronic monitoring;

14 (10) "Diversion unit" means any probation counselor who enters into
15 a diversion agreement with an alleged youthful offender, or any other
16 person, community accountability board, or other entity except a law
17 enforcement official or entity, with whom the juvenile court
18 administrator has contracted to arrange and supervise such agreements
19 pursuant to RCW 13.40.080, or any person, community accountability
20 board, or other entity specially funded by the legislature to arrange
21 and supervise diversion agreements in accordance with the requirements
22 of this chapter. For purposes of this subsection, "community
23 accountability board" means a board comprised of members of the local
24 community in which the juvenile offender resides. The superior court
25 shall appoint the members. The boards shall consist of at least three
26 and not more than seven members. If possible, the board should include
27 a variety of representatives from the community, such as a law
28 enforcement officer, teacher or school administrator, high school
29 student, parent, and business owner, and should represent the cultural
30 diversity of the local community;

31 (11) "Foster care" means temporary physical care in a foster family
32 home or group care facility as defined in RCW 74.15.020 and licensed by
33 the department, or other legally authorized care;

34 (12) "Institution" means a juvenile facility established pursuant
35 to chapters 72.05 and 72.16 through 72.20 RCW;

36 (13) "Intensive supervision program" means a parole program that
37 requires intensive supervision and monitoring, offers an array of
38 individualized treatment and transitional services, and emphasizes

1 community involvement and support in order to reduce the likelihood a
2 juvenile offender will commit further offenses;

3 (14) "Juvenile," "youth," and "child" mean any individual who is
4 under the chronological age of eighteen years and who has not been
5 previously transferred to adult court pursuant to RCW 13.40.110 or who
6 is otherwise under adult court jurisdiction;

7 (15) "Juvenile offender" means any juvenile who has been found by
8 the juvenile court to have committed an offense, including a person
9 eighteen years of age or older over whom jurisdiction has been extended
10 under RCW 13.40.300;

11 (16) "Local sanctions" means one or more of the following: (a)
12 0-30 days of confinement; (b) 0-12 months of community supervision; (c)
13 0-150 hours of community ((service)) restitution; or (d) \$0-\$500 fine;

14 (17) "Manifest injustice" means a disposition that would either
15 impose an excessive penalty on the juvenile or would impose a serious,
16 and clear danger to society in light of the purposes of this chapter;

17 (18) "Monitoring and reporting requirements" means one or more of
18 the following: Curfews; requirements to remain at home, school, work,
19 or court-ordered treatment programs during specified hours;
20 restrictions from leaving or entering specified geographical areas;
21 requirements to report to the probation officer as directed and to
22 remain under the probation officer's supervision; and other conditions
23 or limitations as the court may require which may not include
24 confinement;

25 (19) "Offense" means an act designated a violation or a crime if
26 committed by an adult under the law of this state, under any ordinance
27 of any city or county of this state, under any federal law, or under
28 the law of another state if the act occurred in that state;

29 (20) "Probation bond" means a bond, posted with sufficient security
30 by a surety justified and approved by the court, to secure the
31 offender's appearance at required court proceedings and compliance with
32 court-ordered community supervision or conditions of release ordered
33 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of
34 cash or posting of other collateral in lieu of a bond if approved by
35 the court;

36 (21) "Respondent" means a juvenile who is alleged or proven to have
37 committed an offense;

38 (22) "Restitution" means financial reimbursement by the offender to
39 the victim, and shall be limited to easily ascertainable damages for

1 injury to or loss of property, actual expenses incurred for medical
2 treatment for physical injury to persons, lost wages resulting from
3 physical injury, and costs of the victim's counseling reasonably
4 related to the offense if the offense is a sex offense. Restitution
5 shall not include reimbursement for damages for mental anguish, pain
6 and suffering, or other intangible losses. Nothing in this chapter
7 shall limit or replace civil remedies or defenses available to the
8 victim or offender;

9 (23) "Secretary" means the secretary of the department of social
10 and health services. "Assistant secretary" means the assistant
11 secretary for juvenile rehabilitation for the department;

12 (24) "Services" means services which provide alternatives to
13 incarceration for those juveniles who have pleaded or been adjudicated
14 guilty of an offense or have signed a diversion agreement pursuant to
15 this chapter;

16 (25) "Sex offense" means an offense defined as a sex offense in RCW
17 9.94A.030;

18 (26) "Sexual motivation" means that one of the purposes for which
19 the respondent committed the offense was for the purpose of his or her
20 sexual gratification;

21 (27) "Surety" means an entity licensed under state insurance laws
22 or by the state department of licensing, to write corporate, property,
23 or probation bonds within the state, and justified and approved by the
24 superior court of the county having jurisdiction of the case;

25 (28) "Violation" means an act or omission, which if committed by an
26 adult, must be proven beyond a reasonable doubt, and is punishable by
27 sanctions which do not include incarceration;

28 (29) "Violent offense" means a violent offense as defined in RCW
29 9.94A.030.

30 **Sec. 20.** RCW 13.40.0357 and 2001 c 217 s 13 are each amended to
31 read as follows:

32 **DESCRIPTION AND OFFENSE CATEGORY**

33	JUVENILE	JUVENILE DISPOSITION
34	DISPOSITION	CATEGORY FOR ATTEMPT,
35	OFFENSE	BAILJUMP, CONSPIRACY,
36	CATEGORY DESCRIPTION (RCW CITATION)	OR SOLICITATION
37

1		Arson and Malicious Mischief	
2	A	Arson 1 (9A.48.020)	B+
3	B	Arson 2 (9A.48.030)	C
4	C	Reckless Burning 1 (9A.48.040)	D
5	D	Reckless Burning 2 (9A.48.050)	E
6	B	Malicious Mischief 1 (9A.48.070)	C
7	C	Malicious Mischief 2 (9A.48.080)	D
8	D	Malicious Mischief 3 (<\$50 is	
9		E class) (9A.48.090)	E
10	E	Tampering with Fire Alarm	
11		Apparatus (9.40.100)	E
12	A	Possession of Incendiary Device	
13		(9.40.120)	B+
14		Assault and Other Crimes	
15		Involving Physical Harm	
16	A	Assault 1 (9A.36.011)	B+
17	B+	Assault 2 (9A.36.021)	C+
18	C+	Assault 3 (9A.36.031)	D+
19	D+	Assault 4 (9A.36.041)	E
20	B+	Drive-By Shooting	
21		(9A.36.045)	C+
22	D+	Reckless Endangerment	
23		(9A.36.050)	E
24	C+	Promoting Suicide Attempt	
25		(9A.36.060)	D+
26	D+	Coercion (9A.36.070)	E
27	C+	Custodial Assault (9A.36.100)	D+
28		Burglary and Trespass	
29	B+	Burglary 1 (9A.52.020)	C+
30	B	Residential Burglary	
31		(9A.52.025)	C
32	B	Burglary 2 (9A.52.030)	C
33	D	Burglary Tools (Possession of)	
34		(9A.52.060)	E
35	D	Criminal Trespass 1 (9A.52.070)	E
36	E	Criminal Trespass 2 (9A.52.080)	E
37	C	Vehicle Prowling 1 (9A.52.095)	D
38	D	Vehicle Prowling 2 (9A.52.100)	E

1		Drugs	
2	E	Possession/Consumption of Alcohol	
3		(66.44.270)	E
4	C	Illegally Obtaining Legend Drug	
5		(69.41.020)	D
6	C+	Sale, Delivery, Possession of Legend	
7		Drug with Intent to Sell	
8		(69.41.030)	D+
9	E	Possession of Legend Drug	
10		(69.41.030)	E
11	B+	Violation of Uniform Controlled	
12		Substances Act - Narcotic,	
13		Methamphetamine, or Flunitrazepam	
14		Sale (69.50.401(a)(1) (i) or (ii))	B+
15	C	Violation of Uniform Controlled	
16		Substances Act - Nonnarcotic Sale	
17		(69.50.401(a)(1)(iii))	C
18	E	Possession of Marihuana <40 grams	
19		(69.50.401(e))	E
20	C	Fraudulently Obtaining Controlled	
21		Substance (69.50.403)	C
22	C+	Sale of Controlled Substance	
23		for Profit (69.50.410)	C+
24	E	Unlawful Inhalation (9.47A.020)	E
25	B	Violation of Uniform Controlled	
26		Substances Act - Narcotic,	
27		Methamphetamine, or Flunitrazepam	
28		Counterfeit Substances	
29		(69.50.401(b)(1) (i) or (ii))	B
30	C	Violation of Uniform Controlled	
31		Substances Act - Nonnarcotic	
32		Counterfeit Substances	
33		(69.50.401(b)(1) (iii), (iv), (v))	C
34	C	Violation of Uniform Controlled	
35		Substances Act - Possession of a	
36		Controlled Substance	
37		(69.50.401(d))	C
38	C	Violation of Uniform Controlled	
39		Substances Act - Possession of a	

1		Controlled Substance	
2		(69.50.401(c))	C
3		Firearms and Weapons	
4	B	Theft of Firearm (9A.56.300)	C
5	B	Possession of Stolen Firearm	
6		(9A.56.310)	C
7	E	Carrying Loaded Pistol Without	
8		Permit (9.41.050)	E
9	C	Possession of Firearms by Minor (<18)	
10		(9.41.040(1)(b)(iii))	C
11	D+	Possession of Dangerous Weapon	
12		(9.41.250)	E
13	D	Intimidating Another Person by use	
14		of Weapon (9.41.270)	E
15		Homicide	
16	A+	Murder 1 (9A.32.030)	A
17	A+	Murder 2 (9A.32.050)	B+
18	B+	Manslaughter 1 (9A.32.060)	C+
19	C+	Manslaughter 2 (9A.32.070)	D+
20	B+	Vehicular Homicide (46.61.520)	C+
21		Kidnapping	
22	A	Kidnap 1 (9A.40.020)	B+
23	B+	Kidnap 2 (9A.40.030)	C+
24	C+	Unlawful Imprisonment	
25		(9A.40.040)	D+
26		Obstructing Governmental Operation	
27	D	Obstructing a Law Enforcement	
28		Officer (9A.76.020)	E
29	E	Resisting Arrest (9A.76.040)	E
30	B	Introducing Contraband 1	
31		(9A.76.140)	C
32	C	Introducing Contraband 2	
33		(9A.76.150)	D
34	E	Introducing Contraband 3	
35		(9A.76.160)	E
36	B+	Intimidating a Public Servant	
37		(9A.76.180)	C+

1	B+	Intimidating a Witness	
2		(9A.72.110)	C+
3		Public Disturbance	
4	C+	Riot with Weapon (9A.84.010)	D+
5	D+	Riot Without Weapon	
6		(9A.84.010)	E
7	E	Failure to Disperse (9A.84.020)	E
8	E	Disorderly Conduct (9A.84.030)	E
9		Sex Crimes	
10	A	Rape 1 (9A.44.040)	B+
11	A-	Rape 2 (9A.44.050)	B+
12	C+	Rape 3 (9A.44.060)	D+
13	A-	Rape of a Child 1 (9A.44.073)	B+
14	B+	Rape of a Child 2 (9A.44.076)	C+
15	B	Incest 1 (9A.64.020(1))	C
16	C	Incest 2 (9A.64.020(2))	D
17	D+	Indecent Exposure	
18		(Victim <14) (9A.88.010)	E
19	E	Indecent Exposure	
20		(Victim 14 or over) (9A.88.010)	E
21	B+	Promoting Prostitution 1	
22		(9A.88.070)	C+
23	C+	Promoting Prostitution 2	
24		(9A.88.080)	D+
25	E	O & A (Prostitution) (9A.88.030)	E
26	B+	Indecent Liberties (9A.44.100)	C+
27	A-	Child Molestation 1 (9A.44.083)	B+
28	B	Child Molestation 2 (9A.44.086)	C+
29		Theft, Robbery, Extortion, and Forgery	
30	B	Theft 1 (9A.56.030)	C
31	C	Theft 2 (9A.56.040)	D
32	D	Theft 3 (9A.56.050)	E
33	B	Theft of Livestock (9A.56.080)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+
37	B+	Extortion 1 (9A.56.120)	C+
38	C+	Extortion 2 (9A.56.130)	D+

1	C	Identity Theft 1 (9.35.020(2)(a))	D
2	D	Identity Theft 2 (9.35.020(2)(b))	E
3	D	Improperly Obtaining Financial	
4		Information (((9.35.010)))	
5		<u>(9.35.010)</u>	E
6	B	Possession of Stolen Property 1	
7		(9A.56.150)	C
8	C	Possession of Stolen Property 2	
9		(9A.56.160)	D
10	D	Possession of Stolen Property 3	
11		(9A.56.170)	E
12	C	Taking Motor Vehicle Without	
13		Owner's Permission (9A.56.070)	D
14		Motor Vehicle Related Crimes	
15	E	Driving Without a License	
16		(46.20.005)	E
17	B+	Hit and Run - Death	
18		(46.52.020(4)(a))	C+
19	C	Hit and Run - Injury	
20		(46.52.020(4)(b))	D
21	D	Hit and Run-Attended	
22		(46.52.020(5))	E
23	E	Hit and Run-Unattended	
24		(46.52.010)	E
25	C	Vehicular Assault (46.61.522)	D
26	C	Attempting to Elude Pursuing	
27		Police Vehicle (46.61.024)	D
28	E	Reckless Driving (46.61.500)	E
29	D	Driving While Under the Influence	
30		(46.61.502 and 46.61.504)	E
31		Other	
32	B	Bomb Threat (9.61.160)	C
33	C	Escape 1 (9A.76.110)	C
34	C	Escape 2 (9A.76.120)	C
35	D	Escape 3 (9A.76.130)	E
36	E	Obscene, Harassing, Etc.,	
37		Phone Calls (9.61.230)	E

1	A	Other Offense Equivalent to an	
2		Adult Class A Felony	B+
3	B	Other Offense Equivalent to an	
4		Adult Class B Felony	C
5	C	Other Offense Equivalent to an	
6		Adult Class C Felony	D
7	D	Other Offense Equivalent to an	
8		Adult Gross Misdemeanor	E
9	E	Other Offense Equivalent to an	
10		Adult Misdemeanor	E
11	V	Violation of Order of Restitution,	
12		Community Supervision, or	
13		Confinement (13.40.200)	V

14 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
15 and the standard range is established as follows:

16 1st escape or attempted escape during 12-month period - 4 weeks
17 confinement

18 2nd escape or attempted escape during 12-month period - 8 weeks
19 confinement

20 3rd and subsequent escape or attempted escape during 12-month
21 period - 12 weeks confinement

22 If the court finds that a respondent has violated terms of an order,
23 it may impose a penalty of up to 30 days of confinement.

24 **JUVENILE SENTENCING STANDARDS**

25 This schedule must be used for juvenile offenders. The court may
26 select sentencing option A, B, or C.

OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE

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Current Offense Category	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
A+	180 WEEKS TO AGE 21 YEARS				
A	103 WEEKS TO 129 WEEKS				
A-	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
	EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS				
B+	15-36 WEEKS	52-65 WEEKS	80-100 WEEKS	103-129 WEEKS	
B	LOCAL SANCTIONS (LS)	15-36 WEEKS	52-65 WEEKS		
C+	LS	15-36 WEEKS			
C	LS	15-36 WEEKS			
		Local Sanctions: 0 to 30 Days			
D+	LS	0 to 12 Months Community Supervision 0 to 150 Hours Community ((Service)) <u>Restitution</u>			
D	LS	\$0 to \$500 Fine			
E	LS				
	0	1	2	3	4 or more
	PRIOR ADJUDICATIONS				

36 NOTE: References in the grid to days or weeks mean periods of
37 confinement.

38 (1) The vertical axis of the grid is the current offense category.
39 The current offense category is determined by the offense of
40 adjudication.

41 (2) The horizontal axis of the grid is the number of prior
42 adjudications included in the juvenile's criminal history. Each prior
43 felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
2 point. Fractional points shall be rounded down.

3 (3) The standard range disposition for each offense is determined
4 by the intersection of the column defined by the prior adjudications
5 and the row defined by the current offense category.

6 (4) RCW 13.40.180 applies if the offender is being sentenced for
7 more than one offense.

8 (5) A current offense that is a violation is equivalent to an
9 offense category of E. However, a disposition for a violation shall
10 not include confinement.

11 OR

12 OPTION B

13 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

14 If the juvenile offender is subject to a standard range disposition
15 of local sanctions or 15 to 36 weeks of confinement and has not
16 committed an A- or B+ offense, the court may impose a disposition under
17 RCW 13.40.160(4) and 13.40.165.

18 OR

19 OPTION C

20 MANIFEST INJUSTICE

21 If the court determines that a disposition under option A or B would
22 effectuate a manifest injustice, the court shall impose a disposition
23 outside the standard range under RCW 13.40.160(2).

24 **Sec. 21.** RCW 13.40.080 and 1999 c 91 s 1 are each amended to read
25 as follows:

26 (1) A diversion agreement shall be a contract between a juvenile
27 accused of an offense and a diversionary unit whereby the juvenile
28 agrees to fulfill certain conditions in lieu of prosecution. Such
29 agreements may be entered into only after the prosecutor, or probation
30 counselor pursuant to this chapter, has determined that probable cause
31 exists to believe that a crime has been committed and that the juvenile
32 committed it. Such agreements shall be entered into as expeditiously
33 as possible.

34 (2) A diversion agreement shall be limited to one or more of the
35 following:

1 (a) Community ((~~service~~)) restitution not to exceed one hundred
2 fifty hours, not to be performed during school hours if the juvenile is
3 attending school;

4 (b) Restitution limited to the amount of actual loss incurred by
5 the victim;

6 (c) Attendance at up to ten hours of counseling and/or up to twenty
7 hours of educational or informational sessions at a community agency.
8 The educational or informational sessions may include sessions relating
9 to respect for self, others, and authority; victim awareness;
10 accountability; self-worth; responsibility; work ethics; good
11 citizenship; literacy; and life skills. For purposes of this section,
12 "community agency" may also mean a community-based nonprofit
13 organization, if approved by the diversion unit. The state shall not
14 be liable for costs resulting from the diversionary unit exercising the
15 option to permit diversion agreements to mandate attendance at up to
16 ten hours of counseling and/or up to twenty hours of educational or
17 informational sessions;

18 (d) A fine, not to exceed one hundred dollars. In determining the
19 amount of the fine, the diversion unit shall consider only the
20 juvenile's financial resources and whether the juvenile has the means
21 to pay the fine. The diversion unit shall not consider the financial
22 resources of the juvenile's parents, guardian, or custodian in
23 determining the fine to be imposed;

24 (e) Requirements to remain during specified hours at home, school,
25 or work, and restrictions on leaving or entering specified geographical
26 areas; and

27 (f) Upon request of the victim or witness, requirements to refrain
28 from any contact with victims or witnesses of offenses committed by the
29 juvenile.

30 (3) In assessing periods of community ((~~service~~)) restitution to be
31 performed and restitution to be paid by a juvenile who has entered into
32 a diversion agreement, the court officer to whom this task is assigned
33 shall consult with the juvenile's custodial parent or parents or
34 guardian and victims who have contacted the diversionary unit and, to
35 the extent possible, involve members of the community. Such members of
36 the community shall meet with the juvenile and advise the court officer
37 as to the terms of the diversion agreement and shall supervise the
38 juvenile in carrying out its terms.

1 (4)(a) A diversion agreement may not exceed a period of six months
2 and may include a period extending beyond the eighteenth birthday of
3 the divertee.

4 (b) If additional time is necessary for the juvenile to complete
5 restitution to the victim, the time period limitations of this
6 subsection may be extended by an additional six months.

7 (c) If the juvenile has not paid the full amount of restitution by
8 the end of the additional six-month period, then the juvenile shall be
9 referred to the juvenile court for entry of an order establishing the
10 amount of restitution still owed to the victim. In this order, the
11 court shall also determine the terms and conditions of the restitution,
12 including a payment plan extending up to ten years if the court
13 determines that the juvenile does not have the means to make full
14 restitution over a shorter period. For the purposes of this subsection
15 (4)(c), the juvenile shall remain under the court's jurisdiction for a
16 maximum term of ten years after the juvenile's eighteenth birthday.
17 Prior to the expiration of the initial ten-year period, the juvenile
18 court may extend the judgment for restitution an additional ten years.
19 The court may not require the juvenile to pay full or partial
20 restitution if the juvenile reasonably satisfies the court that he or
21 she does not have the means to make full or partial restitution and
22 could not reasonably acquire the means to pay the restitution over a
23 ten-year period. The county clerk shall make disbursements to victims
24 named in the order. The restitution to victims named in the order
25 shall be paid prior to any payment for other penalties or monetary
26 assessments. A juvenile under obligation to pay restitution may
27 petition the court for modification of the restitution order.

28 (5) The juvenile shall retain the right to be referred to the court
29 at any time prior to the signing of the diversion agreement.

30 (6) Divertees and potential divertees shall be afforded due process
31 in all contacts with a diversionary unit regardless of whether the
32 juveniles are accepted for diversion or whether the diversion program
33 is successfully completed. Such due process shall include, but not be
34 limited to, the following:

35 (a) A written diversion agreement shall be executed stating all
36 conditions in clearly understandable language;

37 (b) Violation of the terms of the agreement shall be the only
38 grounds for termination;

1 (c) No divertee may be terminated from a diversion program without
2 being given a court hearing, which hearing shall be preceded by:

3 (i) Written notice of alleged violations of the conditions of the
4 diversion program; and

5 (ii) Disclosure of all evidence to be offered against the divertee;

6 (d) The hearing shall be conducted by the juvenile court and shall
7 include:

8 (i) Opportunity to be heard in person and to present evidence;

9 (ii) The right to confront and cross-examine all adverse witnesses;

10 (iii) A written statement by the court as to the evidence relied on
11 and the reasons for termination, should that be the decision; and

12 (iv) Demonstration by evidence that the divertee has substantially
13 violated the terms of his or her diversion agreement.

14 (e) The prosecutor may file an information on the offense for which
15 the divertee was diverted:

16 (i) In juvenile court if the divertee is under eighteen years of
17 age; or

18 (ii) In superior court or the appropriate court of limited
19 jurisdiction if the divertee is eighteen years of age or older.

20 (7) The diversion unit shall, subject to available funds, be
21 responsible for providing interpreters when juveniles need interpreters
22 to effectively communicate during diversion unit hearings or
23 negotiations.

24 (8) The diversion unit shall be responsible for advising a divertee
25 of his or her rights as provided in this chapter.

26 (9) The diversion unit may refer a juvenile to community-based
27 counseling or treatment programs.

28 (10) The right to counsel shall inure prior to the initial
29 interview for purposes of advising the juvenile as to whether he or she
30 desires to participate in the diversion process or to appear in the
31 juvenile court. The juvenile may be represented by counsel at any
32 critical stage of the diversion process, including intake interviews
33 and termination hearings. The juvenile shall be fully advised at the
34 intake of his or her right to an attorney and of the relevant services
35 an attorney can provide. For the purpose of this section, intake
36 interviews mean all interviews regarding the diversion agreement
37 process.

38 The juvenile shall be advised that a diversion agreement shall
39 constitute a part of the juvenile's criminal history as defined by RCW

1 13.40.020(7). A signed acknowledgment of such advisement shall be
2 obtained from the juvenile, and the document shall be maintained by the
3 diversionary unit together with the diversion agreement, and a copy of
4 both documents shall be delivered to the prosecutor if requested by the
5 prosecutor. The supreme court shall promulgate rules setting forth the
6 content of such advisement in simple language.

7 (11) When a juvenile enters into a diversion agreement, the
8 juvenile court may receive only the following information for
9 dispositional purposes:

10 (a) The fact that a charge or charges were made;

11 (b) The fact that a diversion agreement was entered into;

12 (c) The juvenile's obligations under such agreement;

13 (d) Whether the alleged offender performed his or her obligations
14 under such agreement; and

15 (e) The facts of the alleged offense.

16 (12) A diversionary unit may refuse to enter into a diversion
17 agreement with a juvenile. When a diversionary unit refuses to enter
18 a diversion agreement with a juvenile, it shall immediately refer such
19 juvenile to the court for action and shall forward to the court the
20 criminal complaint and a detailed statement of its reasons for refusing
21 to enter into a diversion agreement. The diversionary unit shall also
22 immediately refer the case to the prosecuting attorney for action if
23 such juvenile violates the terms of the diversion agreement.

24 (13) A diversionary unit may, in instances where it determines that
25 the act or omission of an act for which a juvenile has been referred to
26 it involved no victim, or where it determines that the juvenile
27 referred to it has no prior criminal history and is alleged to have
28 committed an illegal act involving no threat of or instance of actual
29 physical harm and involving not more than fifty dollars in property
30 loss or damage and that there is no loss outstanding to the person or
31 firm suffering such damage or loss, counsel and release or release such
32 a juvenile without entering into a diversion agreement. A diversion
33 unit's authority to counsel and release a juvenile under this
34 subsection shall include the authority to refer the juvenile to
35 community-based counseling or treatment programs. Any juvenile
36 released under this subsection shall be advised that the act or
37 omission of any act for which he or she had been referred shall
38 constitute a part of the juvenile's criminal history as defined by RCW
39 13.40.020(7). A signed acknowledgment of such advisement shall be

1 obtained from the juvenile, and the document shall be maintained by the
2 unit, and a copy of the document shall be delivered to the prosecutor
3 if requested by the prosecutor. The supreme court shall promulgate
4 rules setting forth the content of such advisement in simple language.
5 A juvenile determined to be eligible by a diversionary unit for release
6 as provided in this subsection shall retain the same right to counsel
7 and right to have his or her case referred to the court for formal
8 action as any other juvenile referred to the unit.

9 (14) A diversion unit may supervise the fulfillment of a diversion
10 agreement entered into before the juvenile's eighteenth birthday and
11 which includes a period extending beyond the diverttee's eighteenth
12 birthday.

13 (15) If a fine required by a diversion agreement cannot reasonably
14 be paid due to a change of circumstance, the diversion agreement may be
15 modified at the request of the diverttee and with the concurrence of the
16 diversion unit to convert an unpaid fine into community ((~~service~~))
17 restitution. The modification of the diversion agreement shall be in
18 writing and signed by the diverttee and the diversion unit. The number
19 of hours of community ((~~service~~)) restitution in lieu of a monetary
20 penalty shall be converted at the rate of the prevailing state minimum
21 wage per hour.

22 (16) Fines imposed under this section shall be collected and paid
23 into the county general fund in accordance with procedures established
24 by the juvenile court administrator under RCW 13.04.040 and may be used
25 only for juvenile services. In the expenditure of funds for juvenile
26 services, there shall be a maintenance of effort whereby counties
27 exhaust existing resources before using amounts collected under this
28 section.

29 **Sec. 22.** RCW 13.40.160 and 1999 c 91 s 2 are each amended to read
30 as follows:

31 (1) The standard range disposition for a juvenile adjudicated of an
32 offense is determined according to RCW 13.40.0357.

33 (a) When the court sentences an offender to a local sanction as
34 provided in RCW 13.40.0357 option A, the court shall impose a
35 determinate disposition within the standard ranges, except as provided
36 in subsections (2), (3), and (4) of this section. The disposition may
37 be comprised of one or more local sanctions.

1 (b) When the court sentences an offender to a standard range as
2 provided in RCW 13.40.0357 option A that includes a term of confinement
3 exceeding thirty days, commitment shall be to the department for the
4 standard range of confinement, except as provided in subsections (2),
5 (3), and (4) of this section.

6 (2) If the court concludes, and enters reasons for its conclusion,
7 that disposition within the standard range would effectuate a manifest
8 injustice the court shall impose a disposition outside the standard
9 range, as indicated in option C of RCW 13.40.0357. The court's finding
10 of manifest injustice shall be supported by clear and convincing
11 evidence.

12 A disposition outside the standard range shall be determinate and
13 shall be comprised of confinement or community supervision, or a
14 combination thereof. When a judge finds a manifest injustice and
15 imposes a sentence of confinement exceeding thirty days, the court
16 shall sentence the juvenile to a maximum term, and the provisions of
17 RCW 13.40.030(2) shall be used to determine the range. A disposition
18 outside the standard range is appealable under RCW 13.40.230 by the
19 state or the respondent. A disposition within the standard range is
20 not appealable under RCW 13.40.230.

21 (3) When a juvenile offender is found to have committed a sex
22 offense, other than a sex offense that is also a serious violent
23 offense as defined by RCW 9.94A.030, and has no history of a prior sex
24 offense, the court, on its own motion or the motion of the state or the
25 respondent, may order an examination to determine whether the
26 respondent is amenable to treatment.

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

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

38 (a)(i) Frequency and type of contact between the offender and
39 therapist;

1 (ii) Specific issues to be addressed in the treatment and
2 description of planned treatment modalities;

3 (iii) Monitoring plans, including any requirements regarding living
4 conditions, lifestyle requirements, and monitoring by family members,
5 legal guardians, or others;

6 (iv) Anticipated length of treatment; and

7 (v) Recommended crime-related prohibitions.

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

14 After receipt of reports of the examination, the court shall then
15 consider whether the offender and the community will benefit from use
16 of this special sex offender disposition alternative and consider the
17 victim's opinion whether the offender should receive a treatment
18 disposition under this section. If the court determines that this
19 special sex offender disposition alternative is appropriate, then the
20 court shall impose a determinate disposition within the standard range
21 for the offense, or if the court concludes, and enters reasons for its
22 conclusions, that such disposition would cause a manifest injustice,
23 the court shall impose a disposition under option C, and the court may
24 suspend the execution of the disposition and place the offender on
25 community supervision for at least two years. As a condition of the
26 suspended disposition, the court may impose the conditions of community
27 supervision and other conditions, including up to thirty days of
28 confinement and requirements that the offender do any one or more of
29 the following:

30 (b)(i) Devote time to a specific education, employment, or
31 occupation;

32 (ii) Undergo available outpatient sex offender treatment for up to
33 two years, or inpatient sex offender treatment not to exceed the
34 standard range of confinement for that offense. A community mental
35 health center may not be used for such treatment unless it has an
36 appropriate program designed for sex offender treatment. The
37 respondent shall not change sex offender treatment providers or
38 treatment conditions without first notifying the prosecutor, the
39 probation counselor, and the court, and shall not change providers

1 without court approval after a hearing if the prosecutor or probation
2 counselor object to the change;

3 (iii) Remain within prescribed geographical boundaries and notify
4 the court or the probation counselor prior to any change in the
5 offender's address, educational program, or employment;

6 (iv) Report to the prosecutor and the probation counselor prior to
7 any change in a sex offender treatment provider. This change shall
8 have prior approval by the court;

9 (v) Report as directed to the court and a probation counselor;

10 (vi) Pay all court-ordered legal financial obligations, perform
11 community ((~~service~~)) restitution, or any combination thereof;

12 (vii) Make restitution to the victim for the cost of any counseling
13 reasonably related to the offense;

14 (viii) Comply with the conditions of any court-ordered probation
15 bond; or

16 (ix) The court shall order that the offender may not attend the
17 public or approved private elementary, middle, or high school attended
18 by the victim or the victim's siblings. The parents or legal guardians
19 of the offender are responsible for transportation or other costs
20 associated with the offender's change of school that would otherwise be
21 paid by the school district. The court shall send notice of the
22 disposition and restriction on attending the same school as the victim
23 or victim's siblings to the public or approved private school the
24 juvenile will attend, if known, or if unknown, to the approved private
25 schools and the public school district board of directors of the
26 district in which the juvenile resides or intends to reside. This
27 notice must be sent at the earliest possible date but not later than
28 ten calendar days after entry of the disposition.

29 The sex offender treatment provider shall submit quarterly reports
30 on the respondent's progress in treatment to the court and the parties.
31 The reports shall reference the treatment plan and include at a minimum
32 the following: Dates of attendance, respondent's compliance with
33 requirements, treatment activities, the respondent's relative progress
34 in treatment, and any other material specified by the court at the time
35 of the disposition.

36 At the time of the disposition, the court may set treatment review
37 hearings as the court considers appropriate.

38 Except as provided in this subsection (3), after July 1, 1991,
39 examinations and treatment ordered pursuant to this subsection shall

1 only be conducted by sex offender treatment providers certified by the
2 department of health pursuant to chapter 18.155 RCW. A sex offender
3 therapist who examines or treats a juvenile sex offender pursuant to
4 this subsection does not have to be certified by the department of
5 health pursuant to chapter 18.155 RCW if the court finds that: (A) The
6 offender has already moved to another state or plans to move to another
7 state for reasons other than circumventing the certification
8 requirements; (B) no certified providers are available for treatment
9 within a reasonable geographical distance of the offender's home; and
10 (C) the evaluation and treatment plan comply with this subsection (~~((4)~~
11 ~~{(3)}~~) (3) and the rules adopted by the department of health.

12 If the offender violates any condition of the disposition or the
13 court finds that the respondent is failing to make satisfactory
14 progress in treatment, the court may revoke the suspension and order
15 execution of the disposition or the court may impose a penalty of up to
16 thirty days' confinement for violating conditions of the disposition.
17 The court may order both execution of the disposition and up to thirty
18 days' confinement for the violation of the conditions of the
19 disposition. The court shall give credit for any confinement time
20 previously served if that confinement was for the offense for which the
21 suspension is being revoked.

22 For purposes of this section, "victim" means any person who has
23 sustained emotional, psychological, physical, or financial injury to
24 person or property as a direct result of the crime charged. "Victim"
25 may also include a known parent or guardian of a victim who is a minor
26 child unless the parent or guardian is the perpetrator of the offense.

27 A disposition entered under this subsection (3) is not appealable
28 under RCW 13.40.230.

29 (4) If the juvenile offender is subject to a standard range
30 disposition of local sanctions or 15 to 36 weeks of confinement and has
31 not committed an A- or B+ offense, the court may impose the disposition
32 alternative under RCW 13.40.165.

33 (5) RCW 13.40.193 shall govern the disposition of any juvenile
34 adjudicated of possessing a firearm in violation of RCW
35 9.41.040(1)(b)(iii) or any crime in which a special finding is entered
36 that the juvenile was armed with a firearm.

37 (6) Whenever a juvenile offender is entitled to credit for time
38 spent in detention prior to a dispositional order, the dispositional

1 order shall specifically state the number of days of credit for time
2 served.

3 (7) Except as provided under subsection (3) or (4) of this section
4 or RCW 13.40.127, the court shall not suspend or defer the imposition
5 or the execution of the disposition.

6 (8) In no case shall the term of confinement imposed by the court
7 at disposition exceed that to which an adult could be subjected for the
8 same offense.

9 **Sec. 23.** RCW 13.40.165 and 2001 c 164 s 1 are each amended to read
10 as follows:

11 (1) The purpose of this disposition alternative is to ensure that
12 successful treatment options to reduce recidivism are available to
13 eligible youth, pursuant to RCW 70.96A.520. The court must consider
14 eligibility for the chemical dependency disposition alternative when a
15 juvenile offender is subject to a standard range disposition of local
16 sanctions or 15 to 36 weeks of confinement and has not committed an A-
17 or B+ offense, other than a first time B+ offense under chapter 69.50
18 RCW. The court, on its own motion or the motion of the state or the
19 respondent if the evidence shows that the offender may be chemically
20 dependent or substance abusing, may order an examination by a chemical
21 dependency counselor from a chemical dependency treatment facility
22 approved under chapter 70.96A RCW to determine if the youth is
23 chemically dependent or substance abusing. The offender shall pay the
24 cost of any examination ordered under this subsection unless the court
25 finds that the offender is indigent and no third party insurance
26 coverage is available, in which case the state shall pay the cost.

27 (2) The report of the examination shall include at a minimum the
28 following: The respondent's version of the facts and the official
29 version of the facts, the respondent's offense history, an assessment
30 of drug-alcohol problems and previous treatment attempts, the
31 respondent's social, educational, and employment situation, and other
32 evaluation measures used. The report shall set forth the sources of
33 the examiner's information.

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

- 37 (a) Whether inpatient and/or outpatient treatment is recommended;
38 (b) Availability of appropriate treatment;

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

4 (d) Anticipated length of treatment; and

5 (e) Recommended crime-related prohibitions.

6 (4) The court on its own motion may order, or on a motion by the
7 state or the respondent shall order, a second examination. The
8 evaluator shall be selected by the party making the motion. The
9 requesting party shall pay the cost of any examination ordered under
10 this subsection unless the requesting party is the offender and the
11 court finds that the offender is indigent and no third party insurance
12 coverage is available, in which case the state shall pay the cost.

13 (5)(a) After receipt of reports of the examination, the court shall
14 then consider whether the offender and the community will benefit from
15 use of this chemical dependency disposition alternative and consider
16 the victim's opinion whether the offender should receive a treatment
17 disposition under this section.

18 (b) If the court determines that this chemical dependency
19 disposition alternative is appropriate, then the court shall impose the
20 standard range for the offense, suspend execution of the disposition,
21 and place the offender on community supervision for up to one year. As
22 a condition of the suspended disposition, the court shall require the
23 offender to undergo available outpatient drug/alcohol treatment and/or
24 inpatient drug/alcohol treatment. For purposes of this section,
25 inpatient treatment may not exceed ninety days. As a condition of the
26 suspended disposition, the court may impose conditions of community
27 supervision and other sanctions, including up to thirty days of
28 confinement, one hundred fifty hours of community ((~~service~~))
29 restitution, and payment of legal financial obligations and
30 restitution.

31 (6) The drug/alcohol treatment provider shall submit monthly
32 reports on the respondent's progress in treatment to the court and the
33 parties. The reports shall reference the treatment plan and include at
34 a minimum the following: Dates of attendance, respondent's compliance
35 with requirements, treatment activities, the respondent's relative
36 progress in treatment, and any other material specified by the court at
37 the time of the disposition.

38 At the time of the disposition, the court may set treatment review
39 hearings as the court considers appropriate.

1 If the offender violates any condition of the disposition or the
2 court finds that the respondent is failing to make satisfactory
3 progress in treatment, the court may impose sanctions pursuant to RCW
4 13.40.200 or revoke the suspension and order execution of the
5 disposition. The court shall give credit for any confinement time
6 previously served if that confinement was for the offense for which the
7 suspension is being revoked.

8 (7) For purposes of this section, "victim" means any person who has
9 sustained emotional, psychological, physical, or financial injury to
10 person or property as a direct result of the offense charged.

11 (8) Whenever a juvenile offender is entitled to credit for time
12 spent in detention prior to a dispositional order, the dispositional
13 order shall specifically state the number of days of credit for time
14 served.

15 (9) In no case shall the term of confinement imposed by the court
16 at disposition exceed that to which an adult could be subjected for the
17 same offense.

18 (10) A disposition under this section is not appealable under RCW
19 13.40.230.

20 **Sec. 24.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to
21 read as follows:

22 Where a disposition is imposed on a youth for two or more offenses,
23 the terms shall run consecutively, subject to the following
24 limitations:

25 (1) Where the offenses were committed through a single act or
26 omission, omission, or through an act or omission which in itself
27 constituted one of the offenses and also was an element of the other,
28 the aggregate of all the terms shall not exceed one hundred fifty
29 percent of the term imposed for the most serious offense;

30 (2) The aggregate of all consecutive terms shall not exceed three
31 hundred percent of the term imposed for the most serious offense; and

32 (3) The aggregate of all consecutive terms of community supervision
33 shall not exceed two years in length, or require payment of more than
34 two hundred dollars in fines or the performance of more than two
35 hundred hours of community ((~~service~~)) restitution.

36 **Sec. 25.** RCW 13.40.200 and 1997 c 338 s 31 are each amended to
37 read as follows:

1 (1) When a respondent fails to comply with an order of restitution,
2 community supervision, penalty assessments, or confinement of less than
3 thirty days, the court upon motion of the prosecutor or its own motion,
4 may modify the order after a hearing on the violation.

5 (2) The hearing shall afford the respondent the same due process of
6 law as would be afforded an adult probationer. The court may issue a
7 summons or a warrant to compel the respondent's appearance. The state
8 shall have the burden of proving by a preponderance of the evidence the
9 fact of the violation. The respondent shall have the burden of showing
10 that the violation was not a willful refusal to comply with the terms
11 of the order. If a respondent has failed to pay a fine, penalty
12 assessments, or restitution or to perform community ((~~service~~))
13 restitution hours, as required by the court, it shall be the
14 respondent's burden to show that he or she did not have the means and
15 could not reasonably have acquired the means to pay the fine, penalty
16 assessments, or restitution or perform community ((~~service~~))
17 restitution.

18 (3) If the court finds that a respondent has willfully violated the
19 terms of an order pursuant to subsections (1) and (2) of this section,
20 it may impose a penalty of up to thirty days' confinement. Penalties
21 for multiple violations occurring prior to the hearing shall not be
22 aggregated to exceed thirty days' confinement. Regardless of the
23 number of times a respondent is brought to court for violations of the
24 terms of a single disposition order, the combined total number of days
25 spent by the respondent in detention shall never exceed the maximum
26 term to which an adult could be sentenced for the underlying offense.

27 (4) If a respondent has been ordered to pay a fine or monetary
28 penalty and due to a change of circumstance cannot reasonably comply
29 with the order, the court, upon motion of the respondent, may order
30 that the unpaid fine or monetary penalty be converted to community
31 ((~~service~~)) restitution. The number of hours of community ((~~service~~))
32 restitution in lieu of a monetary penalty or fine shall be converted at
33 the rate of the prevailing state minimum wage per hour. The monetary
34 penalties or fines collected shall be deposited in the county general
35 fund. A failure to comply with an order under this subsection shall be
36 deemed a failure to comply with an order of community supervision and
37 may be proceeded against as provided in this section.

1 (5) When a respondent has willfully violated the terms of a
2 probation bond, the court may modify, revoke, or retain the probation
3 bond as provided in RCW 13.40.054.

4 **Sec. 26.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to read
5 as follows:

6 (1) A juvenile sentenced to a term of confinement to be served
7 under the supervision of the department shall not be released from the
8 physical custody of the department prior to the release date
9 established under RCW 13.40.210 except as otherwise provided in this
10 section.

11 (2) A juvenile serving a term of confinement under the supervision
12 of the department may be released on authorized leave from the physical
13 custody of the department only if consistent with public safety and if:

14 (a) Sixty percent of the minimum term of confinement has been
15 served; and

16 (b) The purpose of the leave is to enable the juvenile:

17 (i) To visit the juvenile's family for the purpose of strengthening
18 or preserving family relationships;

19 (ii) To make plans for parole or release which require the
20 juvenile's personal appearance in the community and which will
21 facilitate the juvenile's reintegration into the community; or

22 (iii) To make plans for a residential placement out of the
23 juvenile's home which requires the juvenile's personal appearance in
24 the community.

25 (3) No authorized leave may exceed seven consecutive days. The
26 total of all pre-minimum term authorized leaves granted to a juvenile
27 prior to final discharge from confinement shall not exceed thirty days.

28 (4) Prior to authorizing a leave, the secretary shall require a
29 written leave plan, which shall detail the purpose of the leave and how
30 it is to be achieved, the address at which the juvenile shall reside,
31 the identity of the person responsible for supervising the juvenile
32 during the leave, and a statement by such person acknowledging
33 familiarity with the leave plan and agreeing to supervise the juvenile
34 and to notify the secretary immediately if the juvenile violates any
35 terms or conditions of the leave. The leave plan shall include such
36 terms and conditions as the secretary deems appropriate and shall be
37 signed by the juvenile.

1 (5) Upon authorizing a leave, the secretary shall issue to the
2 juvenile an authorized leave order which shall contain the name of the
3 juvenile, the fact that the juvenile is on leave from a designated
4 facility, the time period of the leave, and the identity of an
5 appropriate official of the department to contact when necessary. The
6 authorized leave order shall be carried by the juvenile at all times
7 while on leave.

8 (6) Prior to the commencement of any authorized leave, the
9 secretary shall give notice of the leave to the appropriate law
10 enforcement agency in the jurisdiction in which the juvenile will
11 reside during the leave period. The notice shall include the identity
12 of the juvenile, the time period of the leave, the residence of the
13 juvenile during the leave, and the identity of the person responsible
14 for supervising the juvenile during the leave.

15 (7) The secretary may authorize a leave, which shall not exceed
16 forty-eight hours plus travel time, to meet an emergency situation such
17 as a death or critical illness of a member of the juvenile's family.
18 The secretary may authorize a leave, which shall not exceed the period
19 of time medically necessary, to obtain medical care not available in a
20 juvenile facility maintained by the department. In cases of emergency
21 or medical leave the secretary may waive all or any portions of
22 subsections (2)(a), (3), (4), (5), and (6) of this section.

23 (8) If requested by the juvenile's victim or the victim's immediate
24 family, the secretary shall give notice of any leave to the victim or
25 the victim's immediate family.

26 (9) A juvenile who violates any condition of an authorized leave
27 plan may be taken into custody and returned to the department in the
28 same manner as an adult in identical circumstances.

29 (10) Notwithstanding the provisions of this section, a juvenile
30 placed in minimum security status may participate in work, educational,
31 community ((~~service~~)) restitution, or treatment programs in the
32 community up to twelve hours a day if approved by the secretary. Such
33 a release shall not be deemed a leave of absence.

34 (11) Subsections (6), (7), and (8) of this section do not apply to
35 juveniles covered by RCW 13.40.215.

36 **Sec. 27.** RCW 13.40.210 and 2001 c 137 s 2 and 2001 c 51 s 1 are
37 each reenacted and amended to read as follows:

1 (1) The secretary shall set a release date for each juvenile
2 committed to its custody. The release date shall be within the
3 prescribed range to which a juvenile has been committed under RCW
4 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning
5 offenders the department determines are eligible for the juvenile
6 offender basic training camp program. Such dates shall be determined
7 prior to the expiration of sixty percent of a juvenile's minimum term
8 of confinement included within the prescribed range to which the
9 juvenile has been committed. The secretary shall release any juvenile
10 committed to the custody of the department within four calendar days
11 prior to the juvenile's release date or on the release date set under
12 this chapter. Days spent in the custody of the department shall be
13 tolled by any period of time during which a juvenile has absented
14 himself or herself from the department's supervision without the prior
15 approval of the secretary or the secretary's designee.

16 (2) The secretary shall monitor the average daily population of the
17 state's juvenile residential facilities. When the secretary concludes
18 that in-residence population of residential facilities exceeds one
19 hundred five percent of the rated bed capacity specified in statute, or
20 in absence of such specification, as specified by the department in
21 rule, the secretary may recommend reductions to the governor. On
22 certification by the governor that the recommended reductions are
23 necessary, the secretary has authority to administratively release a
24 sufficient number of offenders to reduce in-residence population to one
25 hundred percent of rated bed capacity. The secretary shall release
26 those offenders who have served the greatest proportion of their
27 sentence. However, the secretary may deny release in a particular case
28 at the request of an offender, or if the secretary finds that there is
29 no responsible custodian, as determined by the department, to whom to
30 release the offender, or if the release of the offender would pose a
31 clear danger to society. The department shall notify the committing
32 court of the release at the time of release if any such early releases
33 have occurred as a result of excessive in-residence population. In no
34 event shall an offender adjudicated of a violent offense be granted
35 release under the provisions of this subsection.

36 (3)(a) Following the release of any juvenile under subsection (1)
37 of this section, the secretary may require the juvenile to comply with
38 a program of parole to be administered by the department in his or her
39 community which shall last no longer than eighteen months, except that

1 in the case of a juvenile sentenced for rape in the first or second
2 degree, rape of a child in the first or second degree, child
3 molestation in the first degree, or indecent liberties with forcible
4 compulsion, the period of parole shall be twenty-four months and, in
5 the discretion of the secretary, may be up to thirty-six months when
6 the secretary finds that an additional period of parole is necessary
7 and appropriate in the interests of public safety or to meet the
8 ongoing needs of the juvenile. A parole program is mandatory for
9 offenders released under subsection (2) of this section. The decision
10 to place an offender on parole shall be based on an assessment by the
11 department of the offender's risk for reoffending upon release. The
12 department shall prioritize available parole resources to provide
13 supervision and services to offenders at moderate to high risk for
14 reoffending.

15 (b) The secretary shall, for the period of parole, facilitate the
16 juvenile's reintegration into his or her community and to further this
17 goal shall require the juvenile to refrain from possessing a firearm or
18 using a deadly weapon and refrain from committing new offenses and may
19 require the juvenile to: (i) Undergo available medical, psychiatric,
20 drug and alcohol, sex offender, mental health, and other offense-
21 related treatment services; (ii) report as directed to a parole officer
22 and/or designee; (iii) pursue a course of study, vocational training,
23 or employment; (iv) notify the parole officer of the current address
24 where he or she resides; (v) be present at a particular address during
25 specified hours; (vi) remain within prescribed geographical boundaries;
26 (vii) submit to electronic monitoring; (viii) refrain from using
27 illegal drugs and alcohol, and submit to random urinalysis when
28 requested by the assigned parole officer; (ix) refrain from contact
29 with specific individuals or a specified class of individuals; (x) meet
30 other conditions determined by the parole officer to further enhance
31 the juvenile's reintegration into the community; (xi) pay any court-
32 ordered fines or restitution; and (xii) perform community ((~~service~~))
33 restitution. Community ((~~service~~)) restitution for the purpose of this
34 section means compulsory service, without compensation, performed for
35 the benefit of the community by the offender. Community ((~~service~~))
36 restitution may be performed through public or private organizations or
37 through work crews.

38 (c) The secretary may further require up to twenty-five percent of
39 the highest risk juvenile offenders who are placed on parole to

1 participate in an intensive supervision program. Offenders
2 participating in an intensive supervision program shall be required to
3 comply with all terms and conditions listed in (b) of this subsection
4 and shall also be required to comply with the following additional
5 terms and conditions: (i) Obey all laws and refrain from any conduct
6 that threatens public safety; (ii) report at least once a week to an
7 assigned community case manager; and (iii) meet all other requirements
8 imposed by the community case manager related to participating in the
9 intensive supervision program. As a part of the intensive supervision
10 program, the secretary may require day reporting.

11 (d) After termination of the parole period, the juvenile shall be
12 discharged from the department's supervision.

13 (4)(a) The department may also modify parole for violation thereof.
14 If, after affording a juvenile all of the due process rights to which
15 he or she would be entitled if the juvenile were an adult, the
16 secretary finds that a juvenile has violated a condition of his or her
17 parole, the secretary shall order one of the following which is
18 reasonably likely to effectuate the purpose of the parole and to
19 protect the public: (i) Continued supervision under the same
20 conditions previously imposed; (ii) intensified supervision with
21 increased reporting requirements; (iii) additional conditions of
22 supervision authorized by this chapter; (iv) except as provided in
23 (a)(v) and (vi) of this subsection, imposition of a period of
24 confinement not to exceed thirty days in a facility operated by or
25 pursuant to a contract with the state of Washington or any city or
26 county for a portion of each day or for a certain number of days each
27 week with the balance of the days or weeks spent under supervision; (v)
28 the secretary may order any of the conditions or may return the
29 offender to confinement for the remainder of the sentence range if the
30 offense for which the offender was sentenced is rape in the first or
31 second degree, rape of a child in the first or second degree, child
32 molestation in the first degree, indecent liberties with forcible
33 compulsion, or a sex offense that is also a serious violent offense as
34 defined by RCW 9.94A.030; and (vi) the secretary may order any of the
35 conditions or may return the offender to confinement for the remainder
36 of the sentence range if the youth has completed the basic training
37 camp program as described in RCW 13.40.320.

38 (b) If the department finds that any juvenile in a program of
39 parole has possessed a firearm or used a deadly weapon during the

1 program of parole, the department shall modify the parole under (a) of
2 this subsection and confine the juvenile for at least thirty days.
3 Confinement shall be in a facility operated by or pursuant to a
4 contract with the state or any county.

5 (5) A parole officer of the department of social and health
6 services shall have the power to arrest a juvenile under his or her
7 supervision on the same grounds as a law enforcement officer would be
8 authorized to arrest the person.

9 (6) If so requested and approved under chapter 13.06 RCW, the
10 secretary shall permit a county or group of counties to perform
11 functions under subsections (3) through (5) of this section.

12 **Sec. 28.** RCW 13.40.250 and 1997 c 338 s 36 are each amended to
13 read as follows:

14 A traffic or civil infraction case involving a juvenile under the
15 age of sixteen may be diverted in accordance with the provisions of
16 this chapter or filed in juvenile court.

17 (1) If a notice of a traffic or civil infraction is filed in
18 juvenile court, the juvenile named in the notice shall be afforded the
19 same due process afforded to adult defendants in traffic infraction
20 cases.

21 (2) A monetary penalty imposed upon a juvenile under the age of
22 sixteen who is found to have committed a traffic or civil infraction
23 may not exceed one hundred dollars. At the juvenile's request, the
24 court may order performance of a number of hours of community
25 (~~service~~) restitution in lieu of a monetary penalty, at the rate of
26 the prevailing state minimum wage per hour.

27 (3) A diversion agreement entered into by a juvenile referred
28 pursuant to this section shall be limited to thirty hours of community
29 (~~service~~) restitution, or educational or informational sessions.

30 (4) If a case involving the commission of a traffic or civil
31 infraction or offense by a juvenile under the age of sixteen has been
32 referred to a diversion unit, an abstract of the action taken by the
33 diversion unit may be forwarded to the department of licensing in the
34 manner provided for in RCW 46.20.270(2).

35 **Sec. 29.** RCW 28A.225.090 and 2000 c 162 s 15 and 2000 c 61 s 1 are
36 each reenacted and amended to read as follows:

1 (1) A court may order a child subject to a petition under RCW
2 28A.225.035 to do one or more of the following:

3 (a) Attend the child's current school, and set forth minimum
4 attendance requirements, including suspensions;

5 (b) If there is space available and the program can provide
6 educational services appropriate for the child, order the child to
7 attend another public school, an alternative education program, center,
8 a skill center, dropout prevention program, or another public
9 educational program;

10 (c) Attend a private nonsectarian school or program including an
11 education center. Before ordering a child to attend an approved or
12 certified private nonsectarian school or program, the court shall: (i)
13 Consider the public and private programs available; (ii) find that
14 placement is in the best interest of the child; and (iii) find that the
15 private school or program is willing to accept the child and will not
16 charge any fees in addition to those established by contract with the
17 student's school district. If the court orders the child to enroll in
18 a private school or program, the child's school district shall contract
19 with the school or program to provide educational services for the
20 child. The school district shall not be required to contract for a
21 weekly rate that exceeds the state general apportionment dollars
22 calculated on a weekly basis generated by the child and received by the
23 district. A school district shall not be required to enter into a
24 contract that is longer than the remainder of the school year. A
25 school district shall not be required to enter into or continue a
26 contract if the child is no longer enrolled in the district;

27 (d) Be referred to a community truancy board, if available; or

28 (e) Submit to testing for the use of controlled substances or
29 alcohol based on a determination that such testing is appropriate to
30 the circumstances and behavior of the child and will facilitate the
31 child's compliance with the mandatory attendance law and, if any test
32 ordered under this subsection indicates the use of controlled
33 substances or alcohol, order the minor to abstain from the unlawful
34 consumption of controlled substances or alcohol and adhere to the
35 recommendations of the drug assessment at no expense to the school.

36 (2) If the child fails to comply with the court order, the court
37 may order the child to be subject to detention, as provided in RCW
38 7.21.030(2)(e), or may impose alternatives to detention such as
39 community ((service)) restitution. Failure by a child to comply with

1 an order issued under this subsection shall not be subject to detention
2 for a period greater than that permitted pursuant to a civil contempt
3 proceeding against a child under chapter 13.32A RCW.

4 (3) Any parent violating any of the provisions of either RCW
5 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than
6 twenty-five dollars for each day of unexcused absence from school. It
7 shall be a defense for a parent charged with violating RCW 28A.225.010
8 to show that he or she exercised reasonable diligence in attempting to
9 cause a child in his or her custody to attend school or that the
10 child's school did not perform its duties as required in RCW
11 28A.225.020. The court may order the parent to provide community
12 ((~~service~~)) restitution instead of imposing a fine. Any fine imposed
13 pursuant to this section may be suspended upon the condition that a
14 parent charged with violating RCW 28A.225.010 shall participate with
15 the school and the child in a supervised plan for the child's
16 attendance at school or upon condition that the parent attend a
17 conference or conferences scheduled by a school for the purpose of
18 analyzing the causes of a child's absence.

19 (4) If a child continues to be truant after entering into a court-
20 approved order with the truancy board under RCW 28A.225.035, the
21 juvenile court shall find the child in contempt, and the court may
22 order the child to be subject to detention, as provided in RCW
23 7.21.030(2)(e), or may impose alternatives to detention such as
24 meaningful community ((~~service~~)) restitution. Failure by a child to
25 comply with an order issued under this subsection may not subject a
26 child to detention for a period greater than that permitted under a
27 civil contempt proceeding against a child under chapter 13.32A RCW.

28 (5) Subsections (1), (2), and (4) of this section shall not apply
29 to a six or seven year-old child required to attend public school under
30 RCW 28A.225.015.

31 **Sec. 30.** RCW 35.21.209 and 1984 c 24 s 1 are each amended to read
32 as follows:

33 The legislative authority of a city or town may purchase liability
34 insurance in an amount it deems reasonable to protect the city or town,
35 its officers, and employees against liability for the wrongful acts of
36 offenders or injury or damage incurred by offenders in the course of
37 court-ordered community ((~~service~~)) restitution, and may elect to treat
38 offenders as employees and/or workers under Title 51 RCW.

1 **Sec. 31.** RCW 35A.21.220 and 1984 c 24 s 2 are each amended to read
2 as follows:

3 The legislative authority of a code city may purchase liability
4 insurance in an amount it deems reasonable to protect the code city,
5 its officers, and employees against liability for the wrongful acts of
6 offenders or injury or damage incurred by offenders in the course of
7 court-ordered community ((~~service~~)) restitution, and may elect to treat
8 offenders as employees and/or workers under Title 51 RCW.

9 **Sec. 32.** RCW 36.16.139 and 1984 c 24 s 3 are each amended to read
10 as follows:

11 The legislative authority of a county may purchase liability
12 insurance in an amount it deems reasonable to protect the county, its
13 officers, and employees against liability for the wrongful acts of
14 offenders or injury or damage incurred by offenders in the course of
15 community ((~~service~~)) restitution imposed by court order or pursuant to
16 RCW 13.40.080. The legislative authority of a county may elect to
17 treat offenders as employees and/or workers under Title 51 RCW.

18 **Sec. 33.** RCW 46.16.381 and 2001 c 67 s 1 are each amended to read
19 as follows:

20 (1) The director shall grant special parking privileges to any
21 person who has a disability that limits or impairs the ability to walk
22 and meets one of the following criteria, as determined by a licensed
23 physician:

24 (a) Cannot walk two hundred feet without stopping to rest;

25 (b) Is severely limited in ability to walk due to arthritic,
26 neurological, or orthopedic condition;

27 (c) Is so severely disabled, that the person cannot walk without
28 the use of or assistance from a brace, cane, another person, prosthetic
29 device, wheelchair, or other assistive device;

30 (d) Uses portable oxygen;

31 (e) Is restricted by lung disease to such an extent that forced
32 expiratory respiratory volume, when measured by spirometry is less than
33 one liter per second or the arterial oxygen tension is less than sixty
34 mm/hg on room air at rest;

35 (f) Impairment by cardiovascular disease or cardiac condition to
36 the extent that the person's functional limitations are classified as

1 class III or IV under standards accepted by the American Heart
2 Association; or

3 (g) Has a disability resulting from an acute sensitivity to
4 automobile emissions which limits or impairs the ability to walk. The
5 personal physician of the applicant shall document that the disability
6 is comparable in severity to the others listed in this subsection.

7 (2) The applications for disabled parking permits and temporary
8 disabled parking permits are official state documents. Knowingly
9 providing false information in conjunction with the application is a
10 gross misdemeanor punishable under chapter 9A.20 RCW. The following
11 statement must appear on each application form immediately below the
12 physician's signature and immediately below the applicant's signature:
13 "A disabled parking permit may be issued only for a medical necessity
14 that severely affects mobility (RCW 46.16.381). Knowingly providing
15 false information on this application is a gross misdemeanor. The
16 penalty is up to one year in jail and a fine of up to \$5,000 or both."

17 (3) Persons who qualify for special parking privileges are entitled
18 to receive from the department of licensing a removable windshield
19 placard bearing the international symbol of access and an individual
20 serial number, along with a special identification card bearing the
21 name and date of birth of the person to whom the placard is issued, and
22 the placard's serial number. The special identification card shall be
23 issued no later than January 1, 2000, to all persons who are issued
24 parking placards, including those issued for temporary disabilities,
25 and special disabled parking license plates. The department shall
26 design the placard to be displayed when the vehicle is parked by
27 suspending it from the rearview mirror, or in the absence of a rearview
28 mirror the card may be displayed on the dashboard of any vehicle used
29 to transport the disabled person. Instead of regular motor vehicle
30 license plates, disabled persons are entitled to receive special
31 license plates bearing the international symbol of access for one
32 vehicle registered in the disabled person's name. Disabled persons who
33 are not issued the special license plates are entitled to receive a
34 second special placard upon submitting a written request to the
35 department. Persons who have been issued the parking privileges and
36 who are using a vehicle or are riding in a vehicle displaying the
37 special license plates or placard may park in places reserved for
38 mobility disabled persons. The director shall adopt rules providing
39 for the issuance of special placards and license plates to public

1 transportation authorities, nursing homes licensed under chapter 18.51
2 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen
3 centers, private nonprofit agencies as defined in chapter 24.03 RCW,
4 and vehicles registered with the department as cabulances that
5 regularly transport disabled persons who have been determined eligible
6 for special parking privileges provided under this section. The
7 director may issue special license plates for a vehicle registered in
8 the name of the public transportation authority, nursing home, boarding
9 homes, senior citizen center, private nonprofit agency, or cabulance
10 service if the vehicle is primarily used to transport persons with
11 disabilities described in this section. Public transportation
12 authorities, nursing homes, boarding homes, senior citizen centers,
13 private nonprofit agencies, and cabulance services are responsible for
14 insuring that the special placards and license plates are not used
15 improperly and are responsible for all fines and penalties for improper
16 use.

17 (4) Whenever the disabled person transfers or assigns his or her
18 interest in the vehicle, the special license plates shall be removed
19 from the motor vehicle. If another vehicle is acquired by the disabled
20 person and the vehicle owner qualifies for a special plate, the plate
21 shall be attached to the vehicle, and the director shall be immediately
22 notified of the transfer of the plate. If another vehicle is not
23 acquired by the disabled person, the removed plate shall be immediately
24 surrendered to the director.

25 (5) The special license plate shall be renewed in the same manner
26 and at the time required for the renewal of regular motor vehicle
27 license plates under this chapter. No special license plate may be
28 issued to a person who is temporarily disabled. A person who has a
29 condition expected to improve within six months may be issued a
30 temporary placard for a period not to exceed six months. If the
31 condition exists after six months a new temporary placard shall be
32 issued upon receipt of a new certification from the disabled person's
33 physician. The permanent parking placard and identification card of a
34 disabled person shall be renewed at least every five years, as required
35 by the director, by satisfactory proof of the right to continued use of
36 the privileges. In the event of the permit holder's death, the parking
37 placard and identification card must be immediately surrendered to the
38 department. The department shall match and purge its disabled permit

1 data base with available death record information at least every twelve
2 months.

3 (6) Each person who has been issued a permanent disabled parking
4 permit on or before July 1, 1998, must renew the permit no later than
5 July 1, 2003, subject to a schedule to be set by the department, or the
6 permit will expire.

7 (7) Additional fees shall not be charged for the issuance of the
8 special placards or the identification cards. No additional fee may be
9 charged for the issuance of the special license plates except the
10 regular motor vehicle registration fee and any other fees and taxes
11 required to be paid upon registration of a motor vehicle.

12 (8) Any unauthorized use of the special placard, special license
13 plate, or identification card is a traffic infraction with a monetary
14 penalty of two hundred fifty dollars.

15 (9) It is a parking infraction, with a monetary penalty of two
16 hundred fifty dollars for a person to make inaccessible the access
17 aisle located next to a space reserved for physically disabled persons.
18 The clerk of the court shall report all violations related to this
19 subsection to the department.

20 (10) It is a parking infraction, with a monetary penalty of two
21 hundred fifty dollars for any person to park a vehicle in a parking
22 place provided on private property without charge or on public property
23 reserved for physically disabled persons without a special license
24 plate or placard. If a person is charged with a violation, the person
25 shall not be determined to have committed an infraction if the person
26 produces in court or before the court appearance the special license
27 plate or placard required under this section. A local jurisdiction
28 providing nonmetered, on-street parking places reserved for physically
29 disabled persons may impose by ordinance time restrictions of no less
30 than four hours on the use of these parking places. A local
31 jurisdiction may impose by ordinance time restrictions of no less than
32 four hours on the use of nonreserved, on-street parking spaces by
33 vehicles displaying the special parking placards. All time
34 restrictions must be clearly posted.

35 (11) The penalties imposed under subsections (9) and (10) of this
36 section shall be used by that local jurisdiction exclusively for law
37 enforcement. The court may also impose an additional penalty
38 sufficient to reimburse the local jurisdiction for any costs it may
39 have incurred in removal and storage of the improperly parked vehicle.

1 (12) Except as provided by subsection (2) of this section, it is a
2 traffic infraction with a monetary penalty of two hundred fifty dollars
3 for any person willfully to obtain a special license plate, placard, or
4 identification card in a manner other than that established under this
5 section.

6 (13)(a) A law enforcement agency authorized to enforce parking laws
7 may appoint volunteers, with a limited commission, to issue notices of
8 infractions for violations of this section or RCW 46.61.581.
9 Volunteers must be at least twenty-one years of age. The law
10 enforcement agency appointing volunteers may establish any other
11 qualifications the agency deems desirable.

12 (b) An agency appointing volunteers under this section must provide
13 training to the volunteers before authorizing them to issue notices of
14 infractions.

15 (c) A notice of infraction issued by a volunteer appointed under
16 this subsection has the same force and effect as a notice of infraction
17 issued by a police officer for the same offense.

18 (d) A police officer or a volunteer may request a person to show
19 the person's identification card or special parking placard when
20 investigating the possibility of a violation of this section. If the
21 request is refused, the person in charge of the vehicle may be issued
22 a notice of infraction for a violation of this section.

23 (14) For second or subsequent violations of this section, in
24 addition to a monetary fine, the violator must complete a minimum of
25 forty hours of:

26 (a) Community ((~~service~~)) restitution for a nonprofit organization
27 that serves the disabled community or persons having disabling
28 diseases; or

29 (b) Any other community ((~~service~~)) restitution that may sensitize
30 the violator to the needs and obstacles faced by persons who have
31 disabilities.

32 (15) The court may not suspend more than one-half of any fine
33 imposed under subsection (8), (9), (10), or (12) of this section.

34 **Sec. 34.** RCW 46.20.031 and 1999 c 6 s 7 are each amended to read
35 as follows:

36 The department shall not issue a driver's license to a person:

37 (1) Who is under the age of sixteen years;

1 (2) Whose driving privilege has been withheld unless and until the
2 department may authorize the driving privilege under RCW 46.20.311;

3 (3) Who has been classified as an alcoholic, drug addict, alcohol
4 abuser, or drug abuser by a program approved by the department of
5 social and health services. The department may, however, issue a
6 license if the person:

7 (a) Has been granted a deferred prosecution under chapter 10.05
8 RCW; or

9 (b) Is satisfactorily participating in or has successfully
10 completed an alcohol or drug abuse treatment program approved by the
11 department of social and health services and has established control of
12 his or her alcohol or drug abuse problem;

13 (4) Who has previously been adjudged to be mentally ill or insane,
14 or to be incompetent due to a mental disability or disease. The
15 department shall, however, issue a license to the person if he or she
16 otherwise qualifies and:

17 (a) Has been restored to competency by the methods provided by law;
18 or

19 (b) The superior court finds the person able to operate a motor
20 vehicle with safety upon the highways during such incompetency;

21 (5) Who has not passed the driver's licensing examination required
22 by RCW 46.20.120 and 46.20.305, if applicable;

23 (6) Who is required under the laws of this state to deposit proof
24 of financial responsibility and who has not deposited such proof;

25 (7) Who is unable to safely operate a motor vehicle upon the
26 highways due to a physical or mental disability. The department's
27 conclusion that a person is barred from licensing under this subsection
28 must be reasonable and be based upon good and substantial evidence.
29 This determination is subject to review by a court of competent
30 jurisdiction;

31 (8) Who has violated his or her written promise to appear, respond,
32 or comply regarding a notice of infraction issued for abandonment of a
33 vehicle in violation of RCW 46.55.105, unless:

34 (a) The court has not notified the department of the violation;

35 (b) The department has received notice from the court showing that
36 the person has been found not to have committed the violation of RCW
37 46.55.105; or

38 (c) The person has paid all monetary penalties owing, including
39 completion of community (~~service~~) restitution, and the court is

1 satisfied that the person has made restitution as provided by RCW
2 46.55.105(2).

3 **Sec. 35.** RCW 46.30.020 and 1991 sp.s. c 25 s 1 are each amended to
4 read as follows:

5 (1)(a) No person may operate a motor vehicle subject to
6 registration under chapter 46.16 RCW in this state unless the person is
7 insured under a motor vehicle liability policy with liability limits of
8 at least the amounts provided in RCW 46.29.090, is self-insured as
9 provided in RCW 46.29.630, is covered by a certificate of deposit in
10 conformance with RCW 46.29.550, or is covered by a liability bond of at
11 least the amounts provided in RCW 46.29.090. Written proof of
12 financial responsibility for motor vehicle operation must be provided
13 on the request of a law enforcement officer in the format specified
14 under RCW 46.30.030.

15 (b) A person who drives a motor vehicle that is required to be
16 registered in another state that requires drivers and owners of
17 vehicles in that state to maintain insurance or financial
18 responsibility shall, when requested by a law enforcement officer,
19 provide evidence of financial responsibility or insurance as is
20 required by the laws of the state in which the vehicle is registered.

21 (c) When asked to do so by a law enforcement officer, failure to
22 display an insurance identification card as specified under RCW
23 46.30.030 creates a presumption that the person does not have motor
24 vehicle insurance.

25 (d) Failure to provide proof of motor vehicle insurance is a
26 traffic infraction and is subject to penalties as set by the supreme
27 court under RCW 46.63.110 or community (~~service~~) restitution.

28 (2) If a person cited for a violation of subsection (1) of this
29 section appears in person before the court and provides written
30 evidence that at the time the person was cited, he or she was in
31 compliance with the financial responsibility requirements of subsection
32 (1) of this section, the citation shall be dismissed. In lieu of
33 personal appearance, a person cited for a violation of subsection (1)
34 of this section may, before the date scheduled for the person's
35 appearance before the court, submit by mail to the court written
36 evidence that at the time the person was cited, he or she was in
37 compliance with the financial responsibility requirements of subsection
38 (1) of this section, in which case the citation shall be dismissed

1 without cost, except that the court may assess court administrative
2 costs of twenty-five dollars at the time of dismissal.

3 (3) The provisions of this chapter shall not govern:

4 (a) The operation of a motor vehicle registered under RCW
5 46.16.305(1), governed by RCW 46.16.020, or registered with the
6 Washington utilities and transportation commission as common or
7 contract carriers; or

8 (b) The operation of a motorcycle as defined in RCW 46.04.330, a
9 motor-driven cycle as defined in RCW 46.04.332, or a moped as defined
10 in RCW 46.04.304.

11 (4) RCW 46.29.490 shall not be deemed to govern all motor vehicle
12 liability policies required by this chapter but only those certified
13 for the purposes stated in chapter 46.29 RCW.

14 **Sec. 36.** RCW 46.63.110 and 2001 c 289 s 2 are each amended to read
15 as follows:

16 (1) A person found to have committed a traffic infraction shall be
17 assessed a monetary penalty. No penalty may exceed two hundred and
18 fifty dollars for each offense unless authorized by this chapter or
19 title.

20 (2) The supreme court shall prescribe by rule a schedule of
21 monetary penalties for designated traffic infractions. This rule shall
22 also specify the conditions under which local courts may exercise
23 discretion in assessing fines and penalties for traffic infractions.
24 The legislature respectfully requests the supreme court to adjust this
25 schedule every two years for inflation.

26 (3) There shall be a penalty of twenty-five dollars for failure to
27 respond to a notice of traffic infraction except where the infraction
28 relates to parking as defined by local law, ordinance, regulation, or
29 resolution or failure to pay a monetary penalty imposed pursuant to
30 this chapter. A local legislative body may set a monetary penalty not
31 to exceed twenty-five dollars for failure to respond to a notice of
32 traffic infraction relating to parking as defined by local law,
33 ordinance, regulation, or resolution. The local court, whether a
34 municipal, police, or district court, shall impose the monetary penalty
35 set by the local legislative body.

36 (4) Monetary penalties provided for in chapter 46.70 RCW which are
37 civil in nature and penalties which may be assessed for violations of
38 chapter 46.44 RCW relating to size, weight, and load of motor vehicles

1 are not subject to the limitation on the amount of monetary penalties
2 which may be imposed pursuant to this chapter.

3 (5) Whenever a monetary penalty is imposed by a court under this
4 chapter it is immediately payable. If the person is unable to pay at
5 that time the court may, in its discretion, grant an extension of the
6 period in which the penalty may be paid. If the penalty is not paid on
7 or before the time established for payment the court shall notify the
8 department of the failure to pay the penalty, and the department shall
9 suspend the person's driver's license or driving privilege until the
10 penalty has been paid and the penalty provided in subsection (3) of
11 this section has been paid.

12 (6) In addition to any other penalties imposed under this section
13 and not subject to the limitation of subsection (1) of this section, a
14 person found to have committed a traffic infraction shall be assessed
15 a fee of five dollars per infraction. Under no circumstances shall
16 this fee be reduced or waived. Revenue from this fee shall be
17 forwarded to the state treasurer for deposit in the emergency medical
18 services and trauma care system trust account under RCW 70.168.040.

19 (7)(a) In addition to any other penalties imposed under this
20 section and not subject to the limitation of subsection (1) of this
21 section, a person found to have committed a traffic infraction other
22 than of RCW 46.61.527 shall be assessed an additional penalty of ten
23 dollars. The court may not reduce, waive, or suspend the additional
24 penalty unless the court finds the offender to be indigent. If a
25 community ((~~service~~)) restitution program for offenders is available in
26 the jurisdiction, the court shall allow offenders to offset all or a
27 part of the penalty due under this subsection (7) by participation in
28 the community ((~~service~~)) restitution program.

29 (b) Revenue from the additional penalty must be remitted under
30 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
31 under this subsection to the state treasurer must be deposited as
32 provided in RCW 43.08.250. The balance of the revenue received by the
33 county or city treasurer under this subsection must be deposited into
34 the county or city current expense fund. Moneys retained by the city
35 or county under this subsection shall constitute reimbursement for any
36 liabilities under RCW 43.135.060.

37 **Sec. 37.** RCW 46.63.120 and 1979 ex.s. c 136 s 14 are each amended
38 to read as follows:

1 (1) An order entered after the receipt of a response which does not
2 contest the determination, or after it has been established at a
3 hearing that the infraction was committed, or after a hearing for the
4 purpose of explaining mitigating circumstances is civil in nature.

5 (2) The court may include in the order the imposition of any
6 penalty authorized by the provisions of this chapter for the commission
7 of an infraction. The court may, in its discretion, waive, reduce, or
8 suspend the monetary penalty prescribed for the infraction. At the
9 person's request the court may order performance of a number of hours
10 of community ((~~service~~)) restitution in lieu of a monetary penalty, at
11 the rate of the then state minimum wage per hour.

12 **Sec. 38.** RCW 46.64.055 and 2001 c 289 s 3 are each amended to read
13 as follows:

14 (1) In addition to any other penalties imposed for conviction of a
15 violation of this title that is a misdemeanor, gross misdemeanor, or
16 felony, the court shall impose an additional penalty of fifty dollars.
17 The court may not reduce, waive, or suspend the additional penalty
18 unless the court finds the offender to be indigent. If a community
19 ((~~service~~)) restitution program for offenders is available in the
20 jurisdiction, the court shall allow offenders to offset all or a part
21 of the penalty due under this section by participation in the community
22 ((~~service~~)) restitution program.

23 (2) Revenue from the additional penalty must be remitted under
24 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
25 under this section to the state treasurer must be deposited as provided
26 in RCW 43.08.250. The balance of the revenue received by the county or
27 city treasurer under this section must be deposited into the county or
28 city current expense fund. Moneys retained by the city or county under
29 this subsection shall constitute reimbursement for any liabilities
30 under RCW 43.135.060.

31 **Sec. 39.** RCW 51.12.035 and 2001 c 138 s 3 are each amended to read
32 as follows:

33 (1) Volunteers shall be deemed employees and/or workers, as the
34 case may be, for all purposes relating to medical aid benefits under
35 chapter 51.36 RCW.

36 A "volunteer" shall mean a person who performs any assigned or
37 authorized duties for the state or any agency thereof, except emergency

1 services workers as described by chapter 38.52 RCW, brought about by
2 one's own free choice, receives no wages, and is registered and
3 accepted as a volunteer by the state or any agency thereof, prior to
4 the occurrence of the injury or the contraction of an occupational
5 disease, for the purpose of engaging in authorized volunteer service:
6 PROVIDED, That such person shall be deemed to be a volunteer although
7 he or she may be granted maintenance and reimbursement for actual
8 expenses necessarily incurred in performing his or her assigned or
9 authorized duties.

10 Any and all premiums or assessments due under this title on account
11 of such volunteer service shall be the obligation of and be paid by the
12 state or any agency thereof which has registered and accepted the
13 services of volunteers.

14 (2) Except as provided in RCW 51.12.050, volunteers may be deemed
15 employees and/or workers, as the case may be, for all purposes relating
16 to medical aid benefits under chapter 51.36 RCW at the option of any
17 city, county, town, special district, municipal corporation, or
18 political subdivision of any type, or any private nonprofit charitable
19 organization, when any such unit of local government or any such
20 nonprofit organization has given notice of covering all of its
21 volunteers to the director prior to the occurrence of the injury or
22 contraction of an occupational disease.

23 A "volunteer" shall mean a person who performs any assigned or
24 authorized duties for any such unit of local government, or any such
25 organization, except emergency services workers as described by chapter
26 38.52 RCW, or fire fighters covered by chapter 41.24 RCW, brought about
27 by one's own free choice, receives no wages, and is registered and
28 accepted as a volunteer by any such unit of local government, or any
29 such organization which has given such notice, for the purpose of
30 engaging in authorized volunteer services: PROVIDED, That such person
31 shall be deemed to be a volunteer although he or she may be granted
32 maintenance and reimbursement for actual expenses necessarily incurred
33 in performing his or her assigned or authorized duties: PROVIDED
34 FURTHER, That juveniles performing community (~~services~~) restitution
35 under chapter 13.40 RCW may not be granted coverage as volunteers under
36 this section.

37 Any and all premiums or assessments due under this title on account
38 of such volunteer service for any such unit of local government, or any
39 such organization shall be the obligation of and be paid by such

1 organization which has registered and accepted the services of
2 volunteers and exercised its option to secure the medical aid benefits
3 under chapter 51.36 RCW for such volunteers.

4 **Sec. 40.** RCW 51.12.045 and 1986 c 193 s 1 are each amended to read
5 as follows:

6 Offenders performing community (~~(services)~~) restitution pursuant to
7 court order or under RCW 13.40.080 may be deemed employees and/or
8 workers under this title at the option of the state, county, city,
9 town, or nonprofit organization under whose authorization the
10 (~~(services are)~~) community restitution is performed. Any premiums or
11 assessments due under this title for community (~~(services)~~) restitution
12 work shall be the obligation of and be paid for by the state agency,
13 county, city, town, or nonprofit organization for which the offender
14 performed the community (~~(services)~~) restitution. Coverage commences
15 when a state agency, county, city, town, or nonprofit organization has
16 given notice to the director that it wishes to cover offenders
17 performing community (~~(services)~~) restitution before the occurrence of
18 an injury or contraction of an occupational disease.

19 **Sec. 41.** RCW 66.20.200 and 1994 c 201 s 1 are each amended to read
20 as follows:

21 It shall be unlawful for the owner of a card of identification to
22 transfer the card to any other person for the purpose of aiding such
23 person to procure alcoholic beverages from any licensee or store
24 employee. Any person who shall permit his or her card of
25 identification to be used by another or transfer such card to another
26 for the purpose of aiding such transferee to obtain alcoholic beverages
27 from a licensee or store employee or gain admission to a premises or
28 portion of a premises classified by the board as off-limits to persons
29 under twenty-one years of age, shall be guilty of a misdemeanor
30 punishable as provided by RCW 9A.20.021, except that a minimum fine of
31 two hundred fifty dollars shall be imposed and any sentence requiring
32 community (~~(service)~~) restitution shall require not fewer than twenty-
33 five hours of (~~(such service)~~) community restitution. Any person not
34 entitled thereto who unlawfully procures or has issued or transferred
35 to him or her a card of identification, and any person who possesses a
36 card of identification not issued to him or her, and any person who
37 makes any false statement on any certification card required by RCW

1 66.20.190, as now or hereafter amended, to be signed by him or her,
2 shall be guilty of a misdemeanor punishable as provided by RCW
3 9A.20.021, except that a minimum fine of two hundred fifty dollars
4 shall be imposed and any sentence requiring community ((~~service~~))
5 restitution shall require not fewer than twenty-five hours of ((~~such~~
6 ~~service~~)) community restitution.

7 **Sec. 42.** RCW 66.44.291 and 1987 c 101 s 1 are each amended to read
8 as follows:

9 Every person between the ages of eighteen and twenty, inclusive,
10 who is convicted of a violation of RCW 66.44.290 is guilty of a
11 misdemeanor punishable as provided by RCW 9A.20.021, except that a
12 minimum fine of two hundred fifty dollars shall be imposed and any
13 sentence requiring community ((~~service~~)) restitution shall require not
14 fewer than twenty-five hours of ((~~such service~~)) community restitution.

15 **Sec. 43.** RCW 66.44.325 and 1987 c 101 s 2 are each amended to read
16 as follows:

17 Any person who transfers in any manner an identification of age to
18 a minor for the purpose of permitting such minor to obtain alcoholic
19 beverages shall be guilty of a misdemeanor punishable as provided by
20 RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars
21 shall be imposed and any sentence requiring community ((~~service~~))
22 restitution shall require not fewer than twenty-five hours of ((~~such~~
23 ~~service~~)) community restitution: PROVIDED, That corroborative
24 testimony of a witness other than the minor shall be a condition
25 precedent to conviction.

26 **Sec. 44.** RCW 69.50.425 and 1989 c 271 s 105 are each amended to
27 read as follows:

28 A person who is convicted of a misdemeanor violation of any
29 provision of this chapter shall be punished by imprisonment for not
30 less than twenty-four consecutive hours, and by a fine of not less than
31 two hundred fifty dollars. On a second or subsequent conviction, the
32 fine shall not be less than five hundred dollars. These fines shall be
33 in addition to any other fine or penalty imposed. Unless the court
34 finds that the imposition of the minimum imprisonment will pose a
35 substantial risk to the defendant's physical or mental well-being or
36 that local jail facilities are in an overcrowded condition, the minimum

1 term of imprisonment shall not be suspended or deferred. If the court
2 finds such risk or overcrowding exists, it shall sentence the defendant
3 to a minimum of forty hours of community ((service)) restitution. If
4 a minimum term of imprisonment is suspended or deferred, the court
5 shall state in writing the reason for granting the suspension or
6 deferral and the facts upon which the suspension or deferral is based.
7 Unless the court finds the person to be indigent, the minimum fine
8 shall not be suspended or deferred.

9 **Sec. 45.** RCW 70.93.060 and 2001 c 139 s 1 are each amended to read
10 as follows:

11 (1) It is a violation of this section to abandon a junk vehicle
12 upon any property. In addition, no person shall throw, drop, deposit,
13 discard, or otherwise dispose of litter upon any public property in the
14 state or upon private property in this state not owned by him or her or
15 in the waters of this state whether from a vehicle or otherwise
16 including but not limited to any public highway, public park, beach,
17 campground, forest land, recreational area, trailer park, highway,
18 road, street, or alley except:

19 (a) When the property is designated by the state or its agencies or
20 political subdivisions for the disposal of garbage and refuse, and the
21 person is authorized to use such property for that purpose;

22 (b) Into a litter receptacle in a manner that will prevent litter
23 from being carried away or deposited by the elements upon any part of
24 the private or public property or waters.

25 (2)(a) Except as provided in subsection (4) of this section, it is
26 a class 3 civil infraction as provided in RCW 7.80.120 for a person to
27 litter in an amount less than or equal to one cubic foot.

28 (b) It is a misdemeanor for a person to litter in an amount greater
29 than one cubic foot but less than one cubic yard. The person shall
30 also pay a litter cleanup restitution payment equal to twice the actual
31 cost of cleanup, or fifty dollars per cubic foot of litter, whichever
32 is greater. The court shall distribute one-half of the restitution
33 payment to the landowner and one-half of the restitution payment to the
34 law enforcement agency investigating the incident. The court may, in
35 addition to or in lieu of part or all of the cleanup restitution
36 payment, order the person to pick up and remove litter from the
37 property, with prior permission of the legal owner or, in the case of
38 public property, of the agency managing the property. The court may

1 suspend or modify the litter cleanup restitution payment for a first-
2 time offender under this section, if the person cleans up and properly
3 disposes of the litter.

4 (c) It is a gross misdemeanor for a person to litter in an amount
5 of one cubic yard or more. The person shall also pay a litter cleanup
6 restitution payment equal to twice the actual cost of cleanup, or one
7 hundred dollars per cubic foot of litter, whichever is greater. The
8 court shall distribute one-half of the restitution payment to the
9 landowner and one-half of the restitution payment to the law
10 enforcement agency investigating the incident. The court may, in
11 addition to or in lieu of part or all of the cleanup restitution
12 payment, order the person to pick up and remove litter from the
13 property, with prior permission of the legal owner or, in the case of
14 public property, of the agency managing the property. The court may
15 suspend or modify the litter cleanup restitution payment for a first-
16 time offender under this section, if the person cleans up and properly
17 disposes of the litter.

18 (d) If a junk vehicle is abandoned in violation of this section,
19 RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and
20 the penalties that may be imposed against the person who abandoned the
21 vehicle.

22 (3) If the violation occurs in a state park, the court shall, in
23 addition to any other penalties assessed, order the person to perform
24 twenty-four hours of community (~~service~~) restitution in the state
25 park where the violation occurred if the state park has stated an
26 intent to participate as provided in RCW 79A.05.050.

27 (4) It is a class 1 civil infraction as provided in RCW 7.80.120
28 for a person to discard, in violation of this section, a cigarette,
29 cigar, or other tobacco product that is capable of starting a fire.

30 **Sec. 46.** RCW 70.93.250 and 1998 c 257 s 10 and 1998 c 245 s 128
31 are each reenacted and amended to read as follows:

32 (1) The department shall provide funding to local units of
33 government to establish, conduct, and evaluate community (~~service~~)
34 restitution and other programs for waste reduction, litter and illegal
35 dump cleanup, and recycling. Programs eligible for funding under this
36 section shall include, but not be limited to, programs established
37 pursuant to RCW 72.09.260.

1 (2) Funds may be offered for costs associated with community waste
2 reduction, litter cleanup and prevention, and recycling activities.
3 The funding program must be flexible, allowing local governments to use
4 funds broadly to meet their needs to reduce waste, control litter and
5 illegal dumping, and promote recycling. Local governments are required
6 to contribute resources or in-kind services. The department shall
7 evaluate funding requests from local government according to the same
8 criteria as those developed in RCW 70.93.220, provide funds according
9 to the effectiveness and efficiency of local government litter control
10 programs, and monitor the results of all local government programs
11 under this section.

12 (3) Local governments shall report information as requested by the
13 department in funding agreements entered into by the department and a
14 local government. The department shall report to the appropriate
15 standing committees of the legislature by December of even-numbered
16 years on the effectiveness of local government waste reduction, litter,
17 and recycling programs funded under this section.

18 **Sec. 47.** RCW 70.155.080 and 1998 c 133 s 2 are each amended to
19 read as follows:

20 (1) A person under the age of eighteen who purchases or attempts to
21 purchase, possesses, or obtains or attempts to obtain cigarettes or
22 tobacco products commits a class 3 civil infraction under chapter 7.80
23 RCW and is subject to a fine as set out in chapter 7.80 RCW or
24 participation in up to four hours of community ((~~service~~)) restitution,
25 or both. The court may also require participation in a smoking
26 cessation program. This provision does not apply if a person under the
27 age of eighteen, with parental authorization, is participating in a
28 controlled purchase as part of a liquor control board, law enforcement,
29 or local health department activity.

30 (2) Municipal and district courts within the state have
31 jurisdiction for enforcement of this section.

32 **Sec. 48.** RCW 72.09.060 and 1989 c 185 s 3 are each amended to read
33 as follows:

34 The department of corrections may be organized into such divisions
35 or offices as the secretary may determine, but shall include divisions
36 for (1) correctional industries, (2) prisons and other custodial
37 institutions and (3) probation, parole, community ((~~service~~))

1 restitution, restitution, and other nonincarcerative sanctions. The
2 secretary shall have at least one person on his or her staff who shall
3 have the responsibility for developing a program which encourages the
4 use of volunteers, for citizen advisory groups, and for similar public
5 involvement programs in the corrections area. Minimum qualification
6 for staff assigned to public involvement responsibilities shall include
7 previous experience in working with volunteers or volunteer agencies.

8 **Sec. 49.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each
9 amended to read as follows:

10 It is the intent of the legislature to vest in the department the
11 power to provide for a comprehensive inmate work program and to remove
12 statutory and other restrictions which have limited work programs in
13 the past. For purposes of establishing such a comprehensive program,
14 the legislature recommends that the department consider adopting any or
15 all, or any variation of, the following classes of work programs:

16 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model
17 industries in this class shall be operated and managed in total or in
18 part by any profit or nonprofit organization pursuant to an agreement
19 between the organization and the department. The organization shall
20 produce goods or services for sale to both the public and private
21 sector.

22 The customer model industries in this class shall be operated and
23 managed by the department to provide Washington state manufacturers or
24 businesses with products or services currently produced or provided by
25 out-of-state or foreign suppliers. The correctional industries board
26 of directors shall review these proposed industries before the
27 department contracts to provide such products or services. The review
28 shall include an analysis of the potential impact of the proposed
29 products and services on the Washington state business community and
30 labor market.

31 The department of corrections shall supply appropriate security and
32 custody services without charge to the participating firms.

33 Inmates who work in free venture industries shall do so at their
34 own choice. They shall be paid a wage comparable to the wage paid for
35 work of a similar nature in the locality in which the industry is
36 located, as determined by the director of correctional industries. If
37 the director cannot reasonably determine the comparable wage, then the
38 pay shall not be less than the federal minimum wage.

1 An inmate who is employed in the class I program of correctional
2 industries shall not be eligible for unemployment compensation benefits
3 pursuant to any of the provisions of Title 50 RCW until released on
4 parole or discharged.

5 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class
6 shall be state-owned and operated enterprises designed to reduce the
7 costs for goods and services for tax-supported agencies and for
8 nonprofit organizations. The industries selected for development
9 within this class shall, as much as possible, match the available pool
10 of inmate work skills and aptitudes with the work opportunities in the
11 free community. The industries shall be closely patterned after
12 private sector industries but with the objective of reducing public
13 support costs rather than making a profit. The products and services
14 of this industry, including purchased products and services necessary
15 for a complete product line, may be sold to public agencies, to
16 nonprofit organizations, and to private contractors when the goods
17 purchased will be ultimately used by a public agency or a nonprofit
18 organization. Clothing manufactured by an industry in this class may
19 be donated to nonprofit organizations that provide clothing free of
20 charge to low-income persons. Correctional industries products and
21 services shall be reviewed by the correctional industries board of
22 directors before offering such products and services for sale to
23 private contractors. The board of directors shall conduct a yearly
24 marketing review of the products and services offered under this
25 subsection. Such review shall include an analysis of the potential
26 impact of the proposed products and services on the Washington state
27 business community. To avoid waste or spoilage and consequent loss to
28 the state, when there is no public sector market for such goods,
29 byproducts and surpluses of timber, agricultural, and animal husbandry
30 enterprises may be sold to private persons, at private sale. Surplus
31 byproducts and surpluses of timber, agricultural and animal husbandry
32 enterprises that cannot be sold to public agencies or to private
33 persons may be donated to nonprofit organizations. All sales of
34 surplus products shall be carried out in accordance with rules
35 prescribed by the secretary.

36 Security and custody services shall be provided without charge by
37 the department of corrections.

38 Inmates working in this class of industries shall do so at their
39 own choice and shall be paid for their work on a gratuity scale which

1 shall not exceed the wage paid for work of a similar nature in the
2 locality in which the industry is located and which is approved by the
3 director of correctional industries.

4 Subject to approval of the correctional industries board,
5 provisions of RCW 41.06.380 prohibiting contracting out work performed
6 by classified employees shall not apply to contracts with Washington
7 state businesses entered into by the department of corrections through
8 class II industries.

9 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in
10 this class shall be operated by the department of corrections. They
11 shall be designed and managed to accomplish the following objectives:

12 (a) Whenever possible, to provide basic work training and
13 experience so that the inmate will be able to qualify for better work
14 both within correctional industries and the free community. It is not
15 intended that an inmate's work within this class of industries should
16 be his or her final and total work experience as an inmate.

17 (b) Whenever possible, to provide forty hours of work or work
18 training per week.

19 (c) Whenever possible, to offset tax and other public support
20 costs.

21 Supervising, management, and custody staff shall be employees of
22 the department.

23 All able and eligible inmates who are assigned work and who are not
24 working in other classes of industries shall work in this class.

25 Except for inmates who work in work training programs, inmates in
26 this class shall be paid for their work in accordance with an inmate
27 gratuity scale. The scale shall be adopted by the secretary of
28 corrections.

29 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class
30 shall be operated by the department of corrections. They shall be
31 designed and managed to provide services in the inmate's resident
32 community at a reduced cost. The services shall be provided to public
33 agencies, to persons who are poor or infirm, or to nonprofit
34 organizations.

35 Inmates in this program shall reside in facilities owned by,
36 contracted for, or licensed by the department of corrections. A unit
37 of local government shall provide work supervision services without
38 charge to the state and shall pay the inmate's wage.

1 The department of corrections shall reimburse participating units
2 of local government for liability and workers compensation insurance
3 costs.

4 Inmates who work in this class of industries shall do so at their
5 own choice and shall receive a gratuity which shall not exceed the wage
6 paid for work of a similar nature in the locality in which the industry
7 is located.

8 (5) CLASS V: COMMUNITY ((SERVICE)) RESTITUTION PROGRAMS. Programs
9 in this class shall be subject to supervision by the department of
10 corrections. The purpose of this class of industries is to enable an
11 inmate, placed on community supervision, to work off all or part of a
12 community ((service)) restitution order as ordered by the sentencing
13 court.

14 Employment shall be in a community ((service)) restitution program
15 operated by the state, local units of government, or a nonprofit
16 agency.

17 To the extent that funds are specifically made available for such
18 purposes, the department of corrections shall reimburse nonprofit
19 agencies for workers compensation insurance costs.

20 **Sec. 50.** RCW 72.09.260 and 1990 c 66 s 2 are each amended to read
21 as follows:

22 (1) The department shall assist local units of government in
23 establishing community ((service)) restitution programs for litter
24 cleanup. Community ((service)) restitution litter cleanup programs
25 must include the following: (a) Procedures for documenting the number
26 of community ((service)) restitution hours worked in litter cleanup by
27 each offender; (b) plans to coordinate litter cleanup activities with
28 local governmental entities responsible for roadside and park
29 maintenance; (c) insurance coverage for offenders during litter cleanup
30 activities pursuant to RCW 51.12.045; (d) provision of adequate safety
31 equipment and, if needed, weather protection gear; and (e) provision
32 for including felons and misdemeanants in the program.

33 (2) Community ((service)) restitution programs established under
34 this section shall involve, but not be limited to, persons convicted of
35 nonviolent, drug-related offenses.

36 (3) Nothing in this section shall diminish the department's
37 authority to place offenders in community ((service)) restitution

1 programs or to determine the suitability of offenders for specific
2 programs.

3 (4) As used in this section, "litter cleanup" includes cleanup and
4 removal of solid waste that is illegally dumped.

5 **Sec. 51.** 1990 c 66 s 1 (uncodified) is amended to read as follows:

6 The legislature finds that the amount of litter along the state's
7 roadways is increasing at an alarming rate and that local governments
8 often lack the human and fiscal resources to remove litter from public
9 roads. The legislature also finds that persons committing nonviolent,
10 drug-related offenses can often be productively engaged through
11 programs to remove litter from county and municipal roads. It is
12 therefore the intent of the legislature to assist local units of
13 government in establishing community ((~~service~~)) restitution programs
14 for litter cleanup and to establish a funding source for such programs.

15 **Sec. 52.** RCW 79A.05.050 and 1996 c 263 s 3 are each amended to
16 read as follows:

17 (1) The commission shall establish a policy and procedures for
18 supervising and evaluating community ((~~service~~)) restitution activities
19 that may be imposed under RCW 70.93.060(3) including a description of
20 what constitutes satisfactory completion of community ((~~service~~))
21 restitution.

22 (2) The commission shall inform each state park of the policy and
23 procedures regarding community ((~~service~~)) restitution activities, and
24 each state park shall then notify the commission as to whether or not
25 the park elects to participate in the community ((~~service~~)) restitution
26 program. The commission shall transmit a list notifying the district
27 courts of each state park that elects to participate.

28 NEW SECTION. **Sec. 53.** This act takes effect July 1, 2002.

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