
HOUSE BILL 2711

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By Representatives Radcliff, Ballasiotes, Sheahan, Robertson, L. Thomas, Hickel, McMahan, Sherstad, Goldsmith, Schoesler, Hankins, D. Sommers, Campbell, Silver, Cooke, Mulliken, Blanton, McMorris and Elliot

Read first time 01/17/96. Referred to Committee on Corrections.

1 AN ACT Relating to the illegal alien offender program; amending RCW
2 9.94A.120 and 9.94A.137; adding a new section to chapter 72.09 RCW; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to meet the
6 following goals by establishing an illegal alien offender program: (1)
7 Expediting deportation of illegal alien offenders; (2) reducing daily
8 costs of incarceration; (3) centralizing the confinement of deportable
9 illegal aliens in order to better address the needs and issues
10 regarding deportation issues; (4) making available work programs for
11 illegal alien offenders but only limited education programs, inasmuch
12 as the offenders will be deported upon completion of the program
13 instead of being assimilated back into United States society; (5)
14 restricting illegal alien offenders' access to privileges; and (6)
15 maximizing use of nonstate resources for the costs of incarceration.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW
17 to read as follows:

1 (1) The department shall establish a program for illegal alien
2 offenders and shall be ready to place offenders in the program not
3 later than January 1, 1997. For purposes of this section, "illegal
4 alien offender" means "undocumented criminal alien" as defined in 8
5 U.S.C. 1252(j)(3).

6 (2) An offender is eligible to be placed in the illegal alien
7 offender program if the offender:

8 (a) Is the subject of a detainer issued by the United States
9 immigration and naturalization service;

10 (b) Is not a lawful permanent resident of the United States of
11 America;

12 (c) Is sentenced to a term of total confinement of not more than
13 thirty-six months;

14 (d) Has no current or prior convictions for any sex offenses or for
15 violent offenses other than drug offenses for manufacturing,
16 possession, delivery, or intent to deliver a controlled substance;

17 (e) Has not previously been placed in the illegal alien offender
18 program; and

19 (f) Is eighteen years of age or older.

20 (3) The department shall place an eligible offender in the illegal
21 alien offender program, subject to capacity, unless:

22 (a) The department determines that the offender has physical or
23 mental impairments that would prevent participation and completion of
24 the program;

25 (b) The department determines that the offender's custody level
26 prevents placement in the program;

27 (c) The offender refuses to agree in writing to the terms and
28 conditions of the program; or

29 (d) At the time when the detainer has been issued and the
30 department has determined that the eligibility criteria of subsection
31 (2) of this section and the placement criteria of this subsection have
32 been met, the offender has less than one hundred twenty days remaining
33 before the offender's expected release date.

34 An offender who is placed in the illegal alien offender program
35 under this subsection is no longer eligible for placement or
36 participation in any special sentencing alternative imposed or
37 recommended by the sentencing court, including the work ethic camp
38 under RCW 9.94A.137 and the drug offender sentencing alternative under
39 RCW 9.94A.120(6).

1 (4) An offender who is eligible under subsection (2) of this
2 section but who fails to meet the placement criteria under subsection
3 (3) of this section or is administratively terminated from the program
4 under subsection (7) of this section, shall be reclassified to serve
5 the remaining term of his or her sentence and shall comply with all
6 other terms and conditions of the sentence, except that an offender
7 shall not be eligible to re-enter any special sentencing alternative
8 such as the work ethic camp under RCW 9.94A.137 or the drug offender
9 sentencing alternative under RCW 9.94A.120(6).

10 An offender eligible under subsection (2) of this section who was
11 initially recommended for the work ethic camp and later fails to meet
12 the placement criteria under subsection (3) of this section or is
13 administratively terminated from the program under subsection (7) of
14 this section shall serve the remaining term of his or her standard
15 range sentence imposed by the court under RCW 9.94A.137(2).

16 An offender eligible under subsection (2) of this section who was
17 initially sentenced to the drug offender sentencing alternative and
18 later fails to meet the placement criteria under subsection (3) of this
19 section or is administratively terminated from the program under
20 subsection (7) of this section shall serve the remaining time under a
21 term of confinement equal to the midpoint of the offender's standard
22 range sentence as determined under RCW 9.94A.120(6).

23 Eligible offenders who are not placed in the illegal alien offender
24 program or who are terminated from the program shall be subject to all
25 rules relating to earned early release time.

26 (5)(a) The length of the illegal alien offender program shall be at
27 least one hundred twenty days and not more than one hundred eighty
28 days. Earned early release time shall not accrue to offenders who
29 successfully complete the program.

30 (b) The program must emphasize inmate work, including such general
31 labor tasks as grounds clean-up and facility maintenance. The work
32 shall not be paid and shall not be governed by the provisions of RCW
33 72.09.100.

34 (c) The program shall not include education or treatment components
35 other than those necessary for offenders to understand and follow the
36 directions and standards of the department.

37 (d) Offenders in the program shall be given only minimal access to
38 privileges, as defined in this chapter.

1 (6) The program shall be located within an existing department
2 facility or facilities. The program may be located elsewhere if the
3 department contracts with a private vendor or with another governmental
4 entity for the operation of the program, subject to applicable laws and
5 contract provisions addressing contracting out of the department's
6 operations.

7 (7) The department may administratively terminate from the illegal
8 alien offender program any offender who violates the terms or
9 conditions of the program or who is later found to be ineligible under
10 the eligibility criteria listed in subsection (2) of this section or
11 the placement criteria listed in subsection (3) of this section.

12 (8)(a) Upon completion of the illegal alien offender program, an
13 offender shall be placed on conditional release status and released to
14 the immigration and naturalization service for deportation.
15 Conditional release shall continue until the expiration of the
16 statutory maximum sentence provided by law for the crime or crimes for
17 which the offender was convicted. If the offender has multiple current
18 convictions, the statutory maximum allowed by law for each crime shall
19 run concurrently.

20 (b) Upon the conditional release of an offender to the immigration
21 and naturalization service for deportation, the unserved portion of the
22 offender's term of confinement shall be tolled. Conditional release
23 shall not toll an offender's obligations to pay restitution or other
24 legal financial obligations ordered by the sentencing court.

25 (c) At the time an offender is conditionally released under this
26 section, the department shall issue a warrant for the offender's arrest
27 within the state of Washington. The warrant shall remain in effect
28 until the expiration of the offender's conditional release. An
29 offender who is apprehended pursuant to a warrant issued under this
30 section shall be returned to the department. When an offender is
31 returned to the department under this subsection, the offender shall
32 serve the tolled portion of his or her term of confinement as if the
33 offender had been terminated from the illegal alien offender program
34 under subsection (4) of this section.

35 (9) The department is authorized to take all reasonable actions to
36 implement this section and shall assist the federal authorities in
37 prosecuting offenders who illegally re-enter the United States and
38 enter the state of Washington.

1 (10) If the United States attorney general takes into federal
2 government custody those illegal alien offenders incarcerated in
3 Washington state and incarcerates them pursuant to 8 U.S.C.
4 1252(j)(1)(B), or similar authority, then the department is authorized
5 to release the offenders to the custody of the federal government and
6 to cease operation of the illegal alien offender program.

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

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

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

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

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

22 (4) A persistent offender shall be sentenced to a term of total
23 confinement for life without the possibility of parole or, when
24 authorized by RCW 10.95.030 for the crime of aggravated murder in the
25 first degree, sentenced to death, notwithstanding the maximum sentence
26 under any other law. An offender convicted of the crime of murder in
27 the first degree shall be sentenced to a term of total confinement not
28 less than twenty years. An offender convicted of the crime of assault
29 in the first degree or assault of a child in the first degree where the
30 offender used force or means likely to result in death or intended to
31 kill the victim shall be sentenced to a term of total confinement not
32 less than five years. An offender convicted of the crime of rape in
33 the first degree shall be sentenced to a term of total confinement not
34 less than five years. The foregoing minimum terms of total confinement
35 are mandatory and shall not be varied or modified as provided in
36 subsection (2) of this section. In addition, all offenders subject to
37 the provisions of this subsection shall not be eligible for community
38 custody, earned early release time, furlough, home detention, partial

1 confinement, work crew, work release, or any other form of early
2 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
3 or any other form of authorized leave of absence from the correctional
4 facility while not in the direct custody of a corrections officer or
5 officers during such minimum terms of total confinement except in the
6 case of an offender in need of emergency medical treatment or for the
7 purpose of commitment to an inpatient treatment facility in the case of
8 an offender convicted of the crime of rape in the first degree.

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

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

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

22 (c) Pursue a prescribed, secular course of study or vocational
23 training;

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

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

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

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

33 (i) The offender is convicted of the manufacture, delivery, or
34 possession with intent to manufacture or deliver a controlled substance
35 classified in Schedule I or II that is a narcotic drug or a felony that
36 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
37 criminal solicitation, or criminal conspiracy to commit such crimes,
38 and the violation does not involve a sentence enhancement under RCW
39 9.94A.310 (3) or (4);

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

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

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

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

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

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

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

1 (v) Perform community service work;

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

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

17 (d) 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 (e) An offender who is sentenced under this drug offender
24 sentencing alternative, and who subsequently is determined to meet the
25 eligibility criteria for the illegal alien offender program under
26 section 2(2) of this act, shall not serve the sentence imposed under
27 the drug offender sentencing alternative but shall instead be
28 classified as an illegal alien offender under the terms of section 2 of
29 this act.

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

38 (8)(a)(i) When an offender is convicted of a sex offense other than
39 a violation of RCW 9A.44.050 or a sex offense that is also a serious

1 violent offense and has no prior convictions for a sex offense or any
2 other felony sex offenses in this or any other state, the sentencing
3 court, on its own motion or the motion of the state or the defendant,
4 may order an examination to determine whether the defendant is amenable
5 to treatment.

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

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

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

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

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

22 (D) Anticipated length of treatment; and

23 (E) Recommended crime-related prohibitions.

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

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

1 (A) The court shall place the defendant on community supervision
2 for the length of the suspended sentence or three years, whichever is
3 greater; and

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

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

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

23 (III) Report as directed to the court and a community corrections
24 officer;

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

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

30 (iii) The sex offender therapist shall submit quarterly reports on
31 the defendant's progress in treatment to the court and the parties.
32 The report shall reference the treatment plan and include at a minimum
33 the following: Dates of attendance, defendant's compliance with
34 requirements, treatment activities, the defendant's relative progress
35 in treatment, and any other material as specified by the court at
36 sentencing.

37 (iv) At the time of sentencing, the court shall set a treatment
38 termination hearing for three months prior to the anticipated date for
39 completion of treatment. Prior to the treatment termination hearing,

1 the treatment professional and community corrections officer shall
2 submit written reports to the court and parties regarding the
3 defendant's compliance with treatment and monitoring requirements, and
4 recommendations regarding termination from treatment, including
5 proposed community supervision conditions. Either party may request
6 and the court may order another evaluation regarding the advisability
7 of termination from treatment. The defendant shall pay the cost of any
8 additional evaluation ordered unless the court finds the defendant to
9 be indigent in which case the state shall pay the cost. At the
10 treatment termination hearing the court may: (A) Modify conditions of
11 community supervision, and either (B) terminate treatment, or (C)
12 extend treatment for up to the remaining period of community
13 supervision.

14 (v) The court may revoke the suspended sentence at any time during
15 the period of community supervision and order execution of the sentence
16 if: (A) The defendant violates the conditions of the suspended
17 sentence, or (B) the court finds that the defendant is failing to make
18 satisfactory progress in treatment. All confinement time served during
19 the period of community supervision shall be credited to the offender
20 if the suspended sentence is revoked.

21 (vi) Except as provided in (a)(vii) of this subsection, after July
22 1, 1991, examinations and treatment ordered pursuant to this subsection
23 shall only be conducted by sex offender treatment providers certified
24 by the department of health pursuant to chapter 18.155 RCW.

25 (vii) A sex offender therapist who examines or treats a sex
26 offender pursuant to this subsection (8) does not have to be certified
27 by the department of health pursuant to chapter 18.155 RCW if the court
28 finds that: (A) The offender has already moved to another state or
29 plans to move to another state for reasons other than circumventing the
30 certification requirements; (B) no certified providers are available
31 for treatment within a reasonable geographical distance of the
32 offender's home; and (C) the evaluation and treatment plan comply with
33 this subsection (8) and the rules adopted by the department of health.

34 For purposes of this subsection, "victim" means any person who has
35 sustained emotional, psychological, physical, or financial injury to
36 person or property as a result of the crime charged. "Victim" also
37 means a parent or guardian of a victim who is a minor child unless the
38 parent or guardian is the perpetrator of the offense.

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

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

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

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

19 (iii) Report as directed to the court and a community corrections
20 officer;

21 (iv) Undergo available outpatient treatment.

22 If the offender violates any of the terms of his or her community
23 supervision, the court may order the offender to serve out the balance
24 of his or her community supervision term in confinement in the custody
25 of the department of corrections.

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

30 (c) Offenders convicted and sentenced for a sex offense committed
31 prior to July 1, 1987, may, subject to available funds, request an
32 evaluation by the department of corrections to determine whether they
33 are amenable to treatment. If the offender is determined to be
34 amenable to treatment, the offender may request placement in a
35 treatment program within a correctional facility operated by the
36 department. Placement in such treatment program is subject to
37 available funds.

38 (9)(a) When a court sentences a person to a term of total
39 confinement to the custody of the department of corrections for an

1 offense categorized as a sex offense or a serious violent offense
2 committed after July 1, 1988, but before July 1, 1990, assault in the
3 second degree, assault of a child in the second degree, any crime
4 against a person where it is determined in accordance with RCW
5 9.94A.125 that the defendant or an accomplice was armed with a deadly
6 weapon at the time of commission, or any felony offense under chapter
7 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
8 committed on or after July 1, 1988, the court shall in addition to the
9 other terms of the sentence, sentence the offender to a one-year term
10 of community placement beginning either upon completion of the term of
11 confinement or at such time as the offender is transferred to community
12 custody in lieu of earned early release in accordance with RCW
13 9.94A.150 (1) and (2). When the court sentences an offender under this
14 subsection to the statutory maximum period of confinement then the
15 community placement portion of the sentence shall consist entirely of
16 such community custody to which the offender may become eligible, in
17 accordance with RCW 9.94A.150 (1) and (2). Any period of community
18 custody actually served shall be credited against the community
19 placement portion of the sentence.

20 (b) When a court sentences a person to a term of total confinement
21 to the custody of the department of corrections for an offense
22 categorized as a sex offense or serious violent offense committed on or
23 after July 1, 1990, the court shall in addition to other terms of the
24 sentence, sentence the offender to community placement for two years or
25 up to the period of earned early release awarded pursuant to RCW
26 9.94A.150 (1) and (2), whichever is longer. The community placement
27 shall begin either upon completion of the term of confinement or at
28 such time as the offender is transferred to community custody in lieu
29 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
30 When the court sentences an offender under this subsection to the
31 statutory maximum period of confinement then the community placement
32 portion of the sentence shall consist entirely of the community custody
33 to which the offender may become eligible, in accordance with RCW
34 9.94A.150 (1) and (2). Any period of community custody actually served
35 shall be credited against the community placement portion of the
36 sentence. Unless a condition is waived by the court, the terms of
37 community placement for offenders sentenced pursuant to this section
38 shall include the following conditions:

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

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

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

7 (iv) An offender in community custody shall not unlawfully possess
8 controlled substances;

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

11 (vi) The residence location and living arrangements are subject to
12 the prior approval of the department of corrections during the period
13 of community placement.

14 (c) The court may also order any of the following special
15 conditions:

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

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

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

22 (iv) The offender shall not consume alcohol; or

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

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

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

34 (11) If a sentence imposed includes payment of a legal financial
35 obligation, the sentence shall specify the total amount of the legal
36 financial obligation owed, and shall require the offender to pay a
37 specified monthly sum toward that legal financial obligation.
38 Restitution to victims shall be paid prior to any other payments of
39 monetary obligations. Any legal financial obligation that is imposed

1 by the court may be collected by the department, which shall deliver
2 the amount paid to the county clerk for credit. The offender's
3 compliance with payment of legal financial obligations shall be
4 supervised by the department. All monetary payments ordered shall be
5 paid no later than ten years after the last date of release from
6 confinement pursuant to a felony conviction or the date the sentence
7 was entered. Independent of the department, the party or entity to
8 whom the legal financial obligation is owed shall have the authority to
9 utilize any other remedies available to the party or entity to collect
10 the legal financial obligation. Nothing in this section makes the
11 department, the state, or any of its employees, agents, or other
12 persons acting on their behalf liable under any circumstances for the
13 payment of these legal financial obligations. If an order includes
14 restitution as one of the monetary assessments, the county clerk shall
15 make disbursements to victims named in the order.

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

20 (13) All offenders sentenced to terms involving community
21 supervision, community service, community placement, or legal financial
22 obligation shall be under the supervision of the secretary of the
23 department of corrections or such person as the secretary may designate
24 and shall follow explicitly the instructions of the secretary including
25 reporting as directed to a community corrections officer, remaining
26 within prescribed geographical boundaries, notifying the community
27 corrections officer of any change in the offender's address or
28 employment, and paying the supervision fee assessment. The department
29 may require offenders to pay for special services rendered on or after
30 July 25, 1993, including electronic monitoring, day reporting, and
31 telephone reporting, dependent upon the offender's ability to pay. The
32 department may pay for these services for offenders who are not able to
33 pay.

34 (14) All offenders sentenced to terms involving community
35 supervision, community service, or community placement under the
36 supervision of the department of corrections shall not own, use, or
37 possess firearms or ammunition. Offenders who own, use, or are found
38 to be in actual or constructive possession of firearms or ammunition
39 shall be subject to the appropriate violation process and sanctions.

1 "Constructive possession" as used in this subsection means the power
2 and intent to control the firearm or ammunition. "Firearm" as used in
3 this subsection means a weapon or device from which a projectile may be
4 fired by an explosive such as gunpowder.

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

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

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

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

28 (19) In any sentence of partial confinement, the court may require
29 the defendant to serve the partial confinement in work release, in a
30 program of home detention, on work crew, or in a combined program of
31 work crew and home detention.

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

36 **Sec. 4.** RCW 9.94A.137 and 1995 1st sp.s. c 19 s 20 are each
37 amended to read as follows:

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

3 (i) Is sentenced to a term of total confinement of not less than
4 sixteen months or more than thirty-six months; and

5 (ii) Has no current or prior convictions for any sex offenses or
6 for violent offenses other than drug offenses for manufacturing,
7 possession, delivery, or intent to deliver a controlled substance.

8 (b) The length of the work ethic camp shall be at least one hundred
9 twenty days and not more than one hundred eighty days. Because of the
10 conversion ratio, earned early release time shall not accrue to
11 offenders who successfully complete the program.

12 (2) If the sentencing judge determines that the offender is
13 eligible for the work ethic camp and is likely to qualify under
14 subsection (3) of this section, the judge shall impose a sentence
15 within the standard range and may recommend that the offender serve the
16 sentence at a work ethic camp. The sentence shall provide that if the
17 offender successfully completes the program, the department shall
18 convert the period of work ethic camp confinement at the rate of one
19 day of work ethic camp confinement to three days of total standard
20 confinement. In sentencing an offender to the work ethic camp, the
21 court shall specify: (a) That upon completion of the work ethic camp
22 the offender shall be released on community custody for any remaining
23 time of total confinement; (b) the applicable conditions of supervision
24 on community custody status as required by RCW 9.94A.120(~~(+9)~~) (10)
25 (b) and authorized by RCW 9.94A.120(~~(+9)~~) (10) (c); and (c) that
26 violation of the conditions may result in a return to total confinement
27 for the balance of the offender's remaining time of confinement.

28 (3) The department shall place the offender in the work ethic camp
29 program, subject to capacity, unless: (a) The department determines
30 that the offender has physical or mental impairments that would prevent
31 participation and completion of the program; (b) the department
32 determines that the offender's custody level prevents placement in the
33 program; (~~(e)~~) (c) the offender refuses to agree to the terms and
34 conditions of the program; or (d) the offender meets the eligibility
35 requirements for the illegal alien offender program under section 2(2)
36 of this act, in which case the offender shall be governed by section 2
37 of this act.

38 (4) An offender who fails to complete the work ethic camp program,
39 who is administratively terminated from the program, or who otherwise

1 violates any conditions of supervision, as defined by the department,
2 shall be reclassified to serve the unexpired term of his or her
3 sentence as ordered by the sentencing judge and shall be subject to all
4 rules relating to earned early release time.

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

8 NEW SECTION. **Sec. 5.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

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