
HOUSE BILL 1738

State of Washington

57th Legislature

2001 Regular Session

By Representatives O'Brien, Ballasiotes, Lovick and Cairnes

Read first time 02/02/2001. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to supervision of offenders; amending RCW
2 9.94A.030, 9.94A.720, and 9.94A.129; reenacting and amending RCW
3 9.94A.120; prescribing penalties; providing an effective date; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.030 and 2000 c 28 s 2 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "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.145, 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 (2) "Commission" means the sentencing guidelines commission.

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

5 (4) "Community custody" means that portion of an offender's
6 sentence of confinement in lieu of earned release time or imposed
7 pursuant to RCW 9.94A.120(2)(b), 9.94A.650 through 9.94A.670,
8 9.94A.137, 9.94A.700 through 9.94A.715, or 9.94A.383, served in the
9 community subject to controls placed on the offender's movement and
10 activities by the department. For offenders placed on community
11 custody for crimes committed on or after July 1, 2000, the department
12 shall assess the offender's risk of reoffense and may establish and
13 modify conditions of community custody, in addition to those imposed by
14 the court, based upon the risk to community safety. For offenders
15 whose crimes are committed on or after July 1, 2001, and are ordered to
16 serve a period of confinement of one year or less, "community custody"
17 includes community supervision.

18 (5) "Community custody range" means the minimum and maximum period
19 of community custody included as part of a sentence under RCW
20 9.94A.715, as established by the commission or the legislature under
21 RCW 9.94A.040, for crimes committed on or after July 1, 2000.

22 (6) "Community placement" means that period during which the
23 offender is subject to the conditions of community custody and/or
24 postrelease supervision, which begins either upon completion of the
25 term of confinement (postrelease supervision) or at such time as the
26 offender is transferred to community custody in lieu of earned release.
27 Community placement may consist of entirely community custody, entirely
28 postrelease supervision, or a combination of the two.

29 (7) "Community service" means compulsory service, without
30 compensation, performed for the benefit of the community by the
31 offender.

32 (8) "Community supervision" means a period of time during which a
33 convicted offender is subject to crime-related prohibitions and other
34 sentence conditions imposed by a court pursuant to this chapter or RCW
35 16.52.200(6) or 46.61.524. Where the court finds that any offender has
36 a chemical dependency that has contributed to his or her offense, the
37 conditions of supervision may(~~(, subject to available resources,)~~)
38 include treatment. For purposes of the interstate compact for out-of-
39 state supervision of parolees and probationers, RCW 9.95.270, community

1 supervision is the functional equivalent of probation and should be
2 considered the same as probation by other states.

3 (9) "Confinement" means total or partial confinement.

4 (10) "Conviction" means an adjudication of guilt pursuant to Titles
5 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
6 acceptance of a plea of guilty.

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

14 (12) "Criminal history" means the list of a defendant's prior
15 convictions and juvenile adjudications, whether in this state, in
16 federal court, or elsewhere. The history shall include, where known,
17 for each conviction (a) whether the defendant has been placed on
18 probation and the length and terms thereof; and (b) whether the
19 defendant has been incarcerated and the length of incarceration.

20 (13) "Day fine" means a fine imposed by the sentencing court that
21 equals the difference between the offender's net daily income and the
22 reasonable obligations that the offender has for the support of the
23 offender and any dependents.

24 (14) "Day reporting" means a program of enhanced supervision
25 designed to monitor the offender's daily activities and compliance with
26 sentence conditions, and in which the offender is required to report
27 daily to a specific location designated by the department or the
28 sentencing court.

29 (15) "Department" means the department of corrections.

30 (16) "Determinate sentence" means a sentence that states with
31 exactitude the number of actual years, months, or days of total
32 confinement, of partial confinement, of community supervision, the
33 number of actual hours or days of community service work, or dollars or
34 terms of a legal financial obligation. The fact that an offender
35 through earned release can reduce the actual period of confinement
36 shall not affect the classification of the sentence as a determinate
37 sentence.

38 (17) "Disposable earnings" means that part of the earnings of an
39 offender remaining after the deduction from those earnings of any

1 amount required by law to be withheld. For the purposes of this
2 definition, "earnings" means compensation paid or payable for personal
3 services, whether denominated as wages, salary, commission, bonuses, or
4 otherwise, and, notwithstanding any other provision of law making the
5 payments exempt from garnishment, attachment, or other process to
6 satisfy a court-ordered legal financial obligation, specifically
7 includes periodic payments pursuant to pension or retirement programs,
8 or insurance policies of any type, but does not include payments made
9 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
10 or Title 74 RCW.

11 (18) "Drug offender sentencing alternative" is a sentencing option
12 available to persons convicted of a felony offense other than a violent
13 offense or a sex offense and who are eligible for the option under RCW
14 9.94A.660.

15 (19) "Drug offense" means:

16 (a) Any felony violation of chapter 69.50 RCW except possession of
17 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
18 controlled substance (RCW 69.50.403);

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

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

25 (20) "Earned release" means earned release from confinement as
26 provided in RCW 9.94A.150.

27 (21) "Escape" means:

28 (a) Escape in the first degree (RCW 9A.76.110), escape in the
29 second degree (RCW 9A.76.120), willful failure to return from furlough
30 (RCW 72.66.060), willful failure to return from work release (RCW
31 72.65.070), or willful failure to be available for supervision by the
32 department while in community custody (RCW 72.09.310); or

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

36 (22) "Felony traffic offense" means:

37 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
38 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
39 and-run injury-accident (RCW 46.52.020(4)); or

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

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

7 (24) "First-time offender" means any person who has no prior
8 convictions for a felony and is eligible for the first-time offender
9 waiver under RCW 9.94A.650.

10 (25) "Home detention" means a program of partial confinement
11 available to offenders wherein the offender is confined in a private
12 residence subject to electronic surveillance.

13 (26) "Legal financial obligation" means a sum of money that is
14 ordered by a superior court of the state of Washington for legal
15 financial obligations which may include restitution to the victim,
16 statutorily imposed crime victims' compensation fees as assessed
17 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
18 court-appointed attorneys' fees, and costs of defense, fines, and any
19 other financial obligation that is assessed to the offender as a result
20 of a felony conviction. Upon conviction for vehicular assault while
21 under the influence of intoxicating liquor or any drug, RCW
22 46.61.522(1)(b), or vehicular homicide while under the influence of
23 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
24 obligations may also include payment to a public agency of the expense
25 of an emergency response to the incident resulting in the conviction,
26 subject to RCW 38.52.430.

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

29 (a) Any felony defined under any law as a class A felony or
30 criminal solicitation of or criminal conspiracy to commit a class A
31 felony;

32 (b) Assault in the second degree;

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

34 (d) Child molestation in the second degree;

35 (e) Controlled substance homicide;

36 (f) Extortion in the first degree;

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

38 (h) Indecent liberties;

39 (i) Kidnapping in the second degree;

1 (j) Leading organized crime;
2 (k) Manslaughter in the first degree;
3 (l) Manslaughter in the second degree;
4 (m) Promoting prostitution in the first degree;
5 (n) Rape in the third degree;
6 (o) Robbery in the second degree;
7 (p) Sexual exploitation;
8 (q) Vehicular assault;
9 (r) Vehicular homicide, when proximately caused by the driving of
10 any vehicle by any person while under the influence of intoxicating
11 liquor or any drug as defined by RCW 46.61.502, or by the operation of
12 any vehicle in a reckless manner;
13 (s) Any other class B felony offense with a finding of sexual
14 motivation;
15 (t) Any other felony with a deadly weapon verdict under RCW
16 9.94A.125;
17 (u) Any felony offense in effect at any time prior to December 2,
18 1993, that is comparable to a most serious offense under this
19 subsection, or any federal or out-of-state conviction for an offense
20 that under the laws of this state would be a felony classified as a
21 most serious offense under this subsection;
22 (v)(i) A prior conviction for indecent liberties under RCW
23 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
24 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
25 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
26 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
27 (ii) A prior conviction for indecent liberties under RCW
28 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
29 if: (A) The crime was committed against a child under the age of
30 fourteen; or (B) the relationship between the victim and perpetrator is
31 included in the definition of indecent liberties under RCW
32 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
33 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
34 through July 27, 1997.
35 (28) "Nonviolent offense" means an offense which is not a violent
36 offense.
37 (29) "Offender" means a person who has committed a felony
38 established by state law and is eighteen years of age or older or is
39 less than eighteen years of age but whose case is under superior court

1 jurisdiction under RCW 13.04.030 or has been transferred by the
2 appropriate juvenile court to a criminal court pursuant to RCW
3 13.40.110. Throughout this chapter, the terms "offender" and
4 "defendant" are used interchangeably.

5 (30) "Partial confinement" means confinement for no more than one
6 year in a facility or institution operated or utilized under contract
7 by the state or any other unit of government, or, if home detention or
8 work crew has been ordered by the court, in an approved residence, for
9 a substantial portion of each day with the balance of the day spent in
10 the community. Partial confinement includes work release, home
11 detention, work crew, and a combination of work crew and home
12 detention.

13 (31) "Persistent offender" is an offender who:

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

16 (ii) Has, before the commission of the offense under (a) of this
17 subsection, been convicted as an offender on at least two separate
18 occasions, whether in this state or elsewhere, of felonies that under
19 the laws of this state would be considered most serious offenses and
20 would be included in the offender score under RCW 9.94A.360; provided
21 that of the two or more previous convictions, at least one conviction
22 must have occurred before the commission of any of the other most
23 serious offenses for which the offender was previously convicted; or

24 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
25 of a child in the first degree, child molestation in the first degree,
26 rape in the second degree, rape of a child in the second degree, or
27 indecent liberties by forcible compulsion; (B) murder in the first
28 degree, murder in the second degree, homicide by abuse, kidnapping in
29 the first degree, kidnapping in the second degree, assault in the first
30 degree, assault in the second degree, assault of a child in the first
31 degree, or burglary in the first degree, with a finding of sexual
32 motivation; or (C) an attempt to commit any crime listed in this
33 subsection (31)(b)(i); and

34 (ii) Has, before the commission of the offense under (b)(i) of this
35 subsection, been convicted as an offender on at least one occasion,
36 whether in this state or elsewhere, of an offense listed in (b)(i) of
37 this subsection. A conviction for rape of a child in the first degree
38 constitutes a conviction under (b)(i) of this subsection only when the
39 offender was sixteen years of age or older when the offender committed

1 the offense. A conviction for rape of a child in the second degree
2 constitutes a conviction under (b)(i) of this subsection only when the
3 offender was eighteen years of age or older when the offender committed
4 the offense.

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

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

11 (34) "Risk assessment" means the application of an objective
12 instrument supported by research and adopted by the department for the
13 purpose of assessing an offender's risk of reoffense, taking into
14 consideration the nature of the harm done by the offender, place and
15 circumstances of the offender related to risk, the offender's
16 relationship to any victim, and any information provided to the
17 department by victims. The results of a risk assessment shall not be
18 based on unconfirmed or unconfirmable allegations.

19 (35) "Serious traffic offense" means:

20 (a) Driving while under the influence of intoxicating liquor or any
21 drug (RCW 46.61.502), actual physical control while under the influence
22 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
23 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
24 or

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

28 (36) "Serious violent offense" is a subcategory of violent offense
29 and means:

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

31 (ii) Homicide by abuse;

32 (iii) Murder in the second degree;

33 (iv) Manslaughter in the first degree;

34 (v) Assault in the first degree;

35 (vi) Kidnapping in the first degree;

36 (vii) Rape in the first degree;

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

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

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

4 (37) "Sex offense" means:

5 (a) A felony that is a violation of:

6 (i) Chapter 9A.44 RCW other than RCW 9A.44.130(11);

7 (ii) RCW 9A.64.020;

8 (iii) RCW 9.68A.090; or

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

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

14 (c) A felony with a finding of sexual motivation under RCW
15 9.94A.127 or 13.40.135; or

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

19 (38) "Sexual motivation" means that one of the purposes for which
20 the defendant committed the crime was for the purpose of his or her
21 sexual gratification.

22 (39) "Standard sentence range" means the sentencing court's
23 discretionary range in imposing a nonappealable sentence.

24 (40) "Statutory maximum sentence" means the maximum length of time
25 for which an offender may be confined as punishment for a crime as
26 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
27 crime, or other statute defining the maximum penalty for a crime.

28 (41) "Total confinement" means confinement inside the physical
29 boundaries of a facility or institution operated or utilized under
30 contract by the state or any other unit of government for twenty-four
31 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

32 (42) "Transition training" means written and verbal instructions
33 and assistance provided by the department to the offender during the
34 two weeks prior to the offender's successful completion of the work
35 ethic camp program. The transition training shall include instructions
36 in the offender's requirements and obligations during the offender's
37 period of community custody.

1 (43) "Victim" means any person who has sustained emotional,
2 psychological, physical, or financial injury to person or property as
3 a direct result of the crime charged.

4 (44) "Violent offense" means:

5 (a) Any of the following felonies:

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

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

10 (iii) Manslaughter in the first degree;

11 (iv) Manslaughter in the second degree;

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

13 (vi) Kidnapping in the second degree;

14 (vii) Arson in the second degree;

15 (viii) Assault in the second degree;

16 (ix) Assault of a child in the second degree;

17 (x) Extortion in the first degree;

18 (xi) Robbery in the second degree;

19 (xii) Drive-by shooting;

20 (xiii) Vehicular assault; and

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

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

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

31 (45) "Work crew" means a program of partial confinement consisting
32 of civic improvement tasks for the benefit of the community that
33 complies with RCW 9.94A.135.

34 (46) "Work ethic camp" means an alternative incarceration program
35 as provided in RCW 9.94A.137 designed to reduce recidivism and lower
36 the cost of corrections by requiring offenders to complete a
37 comprehensive array of real-world job and vocational experiences,
38 character-building work ethics training, life management skills

1 development, substance abuse rehabilitation, counseling, literacy
2 training, and basic adult education.

3 (47) "Work release" means a program of partial confinement
4 available to offenders who are employed or engaged as a student in a
5 regular course of study at school.

6 **Sec. 2.** RCW 9.94A.120 and 2000 c 226 s 2, 2000 c 43 s 1, and 2000
7 c 28 s 5 are each reenacted and amended to read as follows:

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

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

12 (i) Unless another term of confinement applies, the court shall
13 impose a sentence within the standard sentence range established in RCW
14 9.94A.310;

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

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

17 (iv) RCW 9.94A.383, relating to community custody for offenders
18 whose term of confinement is one year or less;

19 (v) RCW 9.94A.560, relating to persistent offenders;

20 (vi) RCW 9.94A.590, relating to mandatory minimum terms;

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

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

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

26 (x) RCW 9.94A.390, relating to exceptional sentences;

27 (xi) RCW 9.94A.400, relating to consecutive and concurrent
28 sentences.

29 (b) In the case of a defendant who is convicted of an offense which
30 calls for a standard range sentence that includes confinement of one
31 year or less, or if a standard sentence range has not been established
32 for the offender's crime, the court shall impose a determinate sentence
33 which may include not more than one year of confinement; community
34 service work; until July 1, 2000, a term of community supervision not
35 to exceed one year and on and after July 1, 2000, a term of community
36 custody not to exceed one year, subject to conditions and sanctions as
37 authorized in RCW 9.94A.710 (2) and (3); and/or other legal financial
38 obligations. The court may impose a sentence which provides more than

1 one year of confinement if the court finds reasons justifying an
2 exceptional sentence as provided in RCW 9.94A.390.

3 (3) If the court imposes a sentence requiring confinement of thirty
4 days or less, the court may, in its discretion, specify that the
5 sentence be served on consecutive or intermittent days. A sentence
6 requiring more than thirty days of confinement shall be served on
7 consecutive days. Local jail administrators may schedule court-ordered
8 intermittent sentences as space permits.

9 (4) If a sentence imposed includes payment of a legal financial
10 obligation, it shall be imposed as provided in RCW 9.94A.140,
11 9.94A.142, and 9.94A.145.

12 (5) Except as provided under RCW 9.94A.140(4) and 9.94A.142(4), a
13 court may not impose a sentence providing for a term of confinement or
14 community supervision, community placement, or community custody which
15 exceeds the statutory maximum for the crime as provided in chapter
16 9A.20 RCW.

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

21 (7) The court shall order restitution as provided in RCW 9.94A.140
22 and 9.94A.142.

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

26 (9) The court may order an offender whose sentence includes
27 community placement or community supervision to undergo a mental status
28 evaluation and to participate in available outpatient mental health
29 treatment, if the court finds that reasonable grounds exist to believe
30 that the offender is a mentally ill person as defined in RCW 71.24.025,
31 and that this condition is likely to have influenced the offense. An
32 order requiring mental status evaluation or treatment must be based on
33 a presentence report and, if applicable, mental status evaluations that
34 have been filed with the court to determine the offender's competency
35 or eligibility for a defense of insanity. The court may order
36 additional evaluations at a later date if deemed appropriate.

37 (10) In any sentence of partial confinement, the court may require
38 the offender to serve the partial confinement in work release, in a

1 program of home detention, on work crew, or in a combined program of
2 work crew and home detention.

3 (11) In sentencing an offender convicted of a crime of domestic
4 violence, as defined in RCW 10.99.020, if the offender has a minor
5 child, or if the victim of the offense for which the offender was
6 convicted has a minor child, the court may, as part of any term of
7 community supervision, community placement, or community custody, order
8 the offender to participate in a domestic violence perpetrator program
9 approved under RCW 26.50.150.

10 **Sec. 3.** RCW 9.94A.720 and 2000 c 28 s 26 are each amended to read
11 as follows:

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

19 The department shall actively supervise, monitor, and enforce all
20 conditions of community custody, supervision, or placement imposed by
21 the sentencing court unless modified by the court. The department
22 shall give status reports on the offender's compliance with such
23 conditions as directed by the court.

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

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

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

1 The conditions authorized under (c) of this subsection may be
2 imposed by the department prior to or during an offender's community
3 custody term. If a violation of conditions imposed by the court or the
4 department pursuant to RCW 9.94A.710 occurs during community custody,
5 it shall be deemed a violation of community placement for the purposes
6 of RCW 9.94A.207 and shall authorize the department to transfer an
7 offender to a more restrictive confinement status as provided in RCW
8 9.94A.205. At any time prior to the completion of an offender's term
9 of community custody, the department may recommend to the court that
10 any or all of the conditions imposed by the court or the department
11 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
12 expiration of the offender's term of community custody as authorized in
13 RCW 9.94A.715 (3) or (5).

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

19 (2) No offender sentenced to terms involving community supervision,
20 community service, community custody, or community placement under the
21 supervision of the department may own, use, or possess firearms or
22 ammunition. Offenders who own, use, or are found to be in actual or
23 constructive possession of firearms or ammunition shall be subject to
24 the violation process and sanctions under RCW 9.94A.200, 9.94A.205, and
25 9.94A.207. "Constructive possession" as used in this subsection means
26 the power and intent to control the firearm or ammunition. "Firearm"
27 as used in this subsection has the same definition as in RCW 9.41.010.

28 **Sec. 4.** RCW 9.94A.129 and 1999 c 197 s 2 are each amended to read
29 as follows:

30 (1) Where the court finds that the offender has a chemical
31 dependency that has contributed to his or her offense, the court may,
32 as a condition of the sentence (~~(and subject to available resources)~~),
33 order the offender to participate in rehabilitative programs or
34 otherwise to perform affirmative conduct reasonably related to the
35 circumstances of the crime for which the offender has been convicted
36 and reasonably necessary or beneficial to the offender and the
37 community in rehabilitating the offender.

1 (2) This section applies to sentences which include any term other
2 than, or in addition to, a term of total confinement, including
3 suspended sentences. This section also applies to any sentence in
4 which a term of confinement of less than one year is imposed, and
5 community supervision or community custody is imposed. The department
6 shall supervise, monitor, and enforce any condition imposed under this
7 section.

8 NEW SECTION. Sec. 5. This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 July 1, 2001.

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