

---

HOUSE BILL 2712

---

State of Washington

57th Legislature

2002 Regular Session

By Representative Sommers; by request of Department of Corrections

Read first time 01/24/2002. Referred to Committee on Judiciary.

1 AN ACT Relating to supervision of offenders; amending RCW  
2 9.94A.545, 9.94A.631, 9.94A.637, 9.94A.650, 9.94A.690, 9.94A.700,  
3 9.94A.705, 9.94A.715, 9.94A.720, 9.94A.740, 9.94A.750, 9.94A.760,  
4 9.92.060, 9.95.204, 9.95.210, 72.04A.090, 4.56.100, 72.65.080, and  
5 41.06.380; reenacting and amending RCW 9.94A.753; and providing an  
6 effective date.

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

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

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

17 (2) The department may eliminate or terminate any term of community  
18 custody imposed by the court under this section, or any term of  
19 community supervision imposed by the court under prior law, for an

1 offender who is classified at the lowest risk level pursuant to a risk  
2 assessment by the department. No liability may attach to the state,  
3 the department, or any department employee based on the determination  
4 to classify an offender at the lowest risk level, or to eliminate or  
5 terminate a term of community custody or community supervision, in the  
6 absence of intentional misconduct. The decision to eliminate or  
7 terminate community custody or community supervision shall not affect  
8 the superior court's jurisdiction over the offender.

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

11       If an offender violates any condition or requirement of a sentence,  
12 a community corrections officer may arrest or cause the arrest of the  
13 offender without a warrant, pending a determination by the court. If  
14 there is reasonable cause to believe that an offender has violated a  
15 condition or requirement of the sentence, an offender may be required  
16 to submit to a search and seizure of the offender's person, residence,  
17 automobile, or other personal property. A community corrections  
18 officer may also arrest an offender for any crime committed in his or  
19 her presence. The facts and circumstances of the conduct of the  
20 offender shall be reported by the community corrections officer, with  
21 recommendations, to the court.

22       If a community corrections officer arrests or causes the arrest of  
23 an offender under this section, the offender shall be confined and  
24 detained in the county jail of the county in which the offender was  
25 taken into custody, and the sheriff of that county shall receive and  
26 keep in the county jail, where room is available, all prisoners  
27 delivered to the jail by the community corrections officer, and such  
28 offenders shall not be released from custody on bail or personal  
29 recognizance, except upon approval of the court, pursuant to a written  
30 order.

31       Community corrections officers have no obligation to arrest and  
32 detain an offender, or to report a violation to the superior court,  
33 where the department has eliminated or terminated supervision pursuant  
34 to RCW 9.94A.545, 9.94A.650, 9.94A.690, 9.94A.700, 9.94A.705, and  
35 9.94A.715.

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

1 (1) When an offender has completed the requirements of the sentence  
2 while under the custody or supervision of the department, the secretary  
3 of the department or the secretary's designee shall notify the  
4 sentencing court, which shall discharge the offender and provide the  
5 offender with a certificate of discharge. The department has no  
6 obligation to provide notice under this section if the offender is no  
7 longer under the custody or supervision of the department at the time  
8 the offender completes the requirements of the sentence.

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

15 (3) Except as provided in subsection (4) of this section, the  
16 discharge shall have the effect of restoring all civil rights lost by  
17 operation of law upon conviction, and the certificate of discharge  
18 shall so state. Nothing in this section prohibits the use of an  
19 offender's prior record for purposes of determining sentences for later  
20 offenses as provided in this chapter. Nothing in this section affects  
21 or prevents use of the offender's prior conviction in a later criminal  
22 prosecution either as an element of an offense or for impeachment  
23 purposes. A certificate of discharge is not based on a finding of  
24 rehabilitation.

25 (4) Unless otherwise ordered by the sentencing court, a certificate  
26 of discharge shall not terminate the offender's obligation to comply  
27 with an order issued under chapter 10.99 RCW that excludes or prohibits  
28 the offender from having contact with a specified person or coming  
29 within a set distance of any specified location that was contained in  
30 the judgment and sentence. An offender who violates such an order  
31 after a certificate of discharge has been issued shall be subject to  
32 prosecution according to the chapter under which the order was  
33 originally issued.

34 (5) Upon release from custody, the offender may apply to the  
35 department for counseling and help in adjusting to the community. This  
36 voluntary help may be provided for up to one year following the release  
37 from custody.

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

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

8       (a) Classified as a violent offense or a sex offense under this  
9 chapter;

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

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

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

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

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

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

33       (c) Pursue a prescribed, secular course of study or vocational  
34 training;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (2) If the sentencing court determines that the offender is  
8 eligible for the work ethic camp and is likely to qualify under  
9 subsection (3) of this section, the judge shall impose a sentence  
10 within the standard sentence range and may recommend that the offender  
11 serve the sentence at a work ethic camp. In sentencing an offender to  
12 the work ethic camp, the court shall specify: (a) That upon completion  
13 of the work ethic camp the offender shall be released on community  
14 custody for any remaining time of total confinement; (b) the applicable  
15 conditions of supervision on community custody status as required by  
16 RCW 9.94A.700(4) and authorized by RCW 9.94A.700(5); and (c) that  
17 violation of the conditions may result in a return to total confinement  
18 for the balance of the offender's remaining time of confinement.

19 (3) The department shall place the offender in the work ethic camp  
20 program, subject to capacity, unless: (a) The department determines  
21 that the offender has physical or mental impairments that would prevent  
22 participation and completion of the program; (b) the department  
23 determines that the offender's custody level prevents placement in the  
24 program; (c) the offender refuses to agree to the terms and conditions  
25 of the program; (d) the offender has been found by the United States  
26 attorney general to be subject to a deportation detainer or order; or  
27 (e) the offender has participated in the work ethic camp program in the  
28 past.

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

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

38 (6) The department may eliminate or terminate any term of community  
39 custody imposed by the court under this section for an offender who is

1 classified at the lowest risk level pursuant to a risk assessment by  
2 the department. No liability may attach to the state, the department,  
3 or any department employee based on the determination to classify an  
4 offender at the lowest risk level, or to eliminate or terminate a term  
5 of community custody, in the absence of intentional misconduct. The  
6 decision to eliminate or terminate community custody shall not affect  
7 the superior court's jurisdiction over the offender.

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

10       When a court sentences an offender to a term of total confinement  
11 in the custody of the department for any of the offenses specified in  
12 this section, the court shall also sentence the offender to a term of  
13 community placement as provided in this section.

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

16       (a) A sex offense or a serious violent offense committed after July  
17 1, 1988, but before July 1, 1990; or

18       (b) An offense committed on or after July 1, 1988, but before July  
19 25, 1999, that is:

20       (i) Assault in the second degree;

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

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

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

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

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

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

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

37       (3) The community placement ordered under this section shall begin  
38 either upon completion of the term of confinement or at such time as

1 the offender is transferred to community custody in lieu of earned  
2 release. When the court sentences an offender to the statutory maximum  
3 sentence then the community placement portion of the sentence shall  
4 consist entirely of the community custody to which the offender may  
5 become eligible. Any period of community custody actually served shall  
6 be credited against the community placement portion of the sentence.

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

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

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

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

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

18 (e) The residence location and living arrangements shall be subject  
19 to the prior approval of the department during the period of community  
20 placement.

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

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

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

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

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

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

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

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

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

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

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

30       (2) The department may eliminate or terminate any term of community  
31 placement or community custody imposed by the court under this section  
32 for an offender who is classified at the lowest risk level pursuant to  
33 a risk assessment by the department. No liability may attach to the  
34 state, the department, or any department employee based on the  
35 determination to classify an offender at the lowest risk level, or to  
36 eliminate or terminate a term of community placement or community  
37 custody, in the absence of intentional misconduct. The decision to

1 eliminate or terminate community placement or community custody shall  
2 not affect the superior court's jurisdiction over the offender.

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

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

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

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

37 (c) The department may not impose conditions that are contrary to  
38 those ordered by the court and may not contravene or decrease court

1 imposed conditions except as authorized under subsection (8) of this  
2 section. The department shall notify the offender in writing of any  
3 such conditions or modifications. In setting, modifying, and enforcing  
4 conditions of community custody, the department shall be deemed to be  
5 performing a quasi-judicial function.

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

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

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

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

36 (7) By the close of the next business day after receiving notice of  
37 a condition imposed or modified by the department, an offender may  
38 request an administrative review under rules adopted by the department.  
39 The condition shall remain in effect unless the reviewing officer finds

1 that it is not reasonably related to any of the following: (a) The  
2 crime of conviction; (b) the offender's risk of reoffending; or (c) the  
3 safety of the community.

4 (8) Except for terms of community custody imposed under RCW  
5 9.94A.660 and 9.94A.670 or imposed upon a person convicted of a sex  
6 offense, the department may eliminate or terminate any term of  
7 community custody imposed by the court under this section for an  
8 offender who is classified at the lowest risk level pursuant to a risk  
9 assessment by the department. No liability may attach to the state,  
10 the department, or any department employee based on the determination  
11 to classify an offender at the lowest risk level, or to eliminate or  
12 terminate a term of community custody, in the absence of intentional  
13 misconduct. The decision to eliminate or terminate community custody  
14 shall not affect the superior court's jurisdiction over the offender.

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

17 (1)(a) Except as provided in RCW 9.94A.545(2), 9.94A.650(5),  
18 9.94A.690(6), 9.94A.700(8), 9.94A.705(2), and 9.94A.715(8), all  
19 offenders sentenced to terms involving community supervision,  
20 ((community service,)) community placement, or community custody((, or  
21 legal financial obligation)) shall be under the supervision of the  
22 department and shall follow explicitly the instructions and conditions  
23 of the department. The department may require an offender to perform  
24 affirmative acts it deems appropriate to monitor compliance with the  
25 conditions of the sentence imposed.

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

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

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

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

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

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

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

33 (1) The secretary may issue warrants for the arrest of any offender  
34 who violates a condition of community placement or community custody.  
35 The arrest warrants shall authorize any law enforcement or peace  
36 officer or community corrections officer of this state or any other  
37 state where such offender may be located, to arrest the offender and  
38 place him or her in total confinement pending disposition of the

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

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

31 (3) The department may negotiate with local correctional  
32 authorities for an additional period of detention; however, sex  
33 offenders sanctioned for community custody violations under RCW  
34 9.94A.737(2) to a term of confinement shall remain in the local  
35 correctional facility for the complete term of the sanction. For  
36 confinement sanctions imposed under RCW 9.94A.737(2)(a), the local  
37 correctional facility shall be financially responsible. For  
38 confinement sanctions imposed under RCW 9.94A.737(2)(b), the department  
39 of corrections shall be financially responsible for that portion of the

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

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

25 This section applies to offenses committed on or before July 1,  
26 1985.

27 (1) If restitution is ordered, the court shall determine the amount  
28 of restitution due at the sentencing hearing or within one hundred  
29 eighty days. The court may continue the hearing beyond the one hundred  
30 eighty days for good cause. The court shall then set a minimum monthly  
31 payment that the offender is required to make towards the restitution  
32 that is ordered. The court should take into consideration the total  
33 amount of the restitution owed, the offender's present, past, and  
34 future ability to pay, as well as any assets that the offender may  
35 have.

36 (2) During the period of supervision, the community corrections  
37 officer may examine the offender to determine if there has been a  
38 change in circumstances that warrants an amendment of the monthly

1 payment schedule. The community corrections officer may recommend a  
2 change to the schedule of payment and shall inform the court of the  
3 recommended change and the reasons for the change. The sentencing  
4 court may then reset the monthly minimum payments based on the report  
5 from the community corrections officer of the change in circumstances.

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

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

37 (5) Restitution may be ordered whenever the offender is convicted  
38 of an offense which results in injury to any person or damage to or  
39 loss of property or as provided in subsection (6) of this section. In

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

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

32 (7) In addition to any sentence that may be imposed, an offender  
33 who has been found guilty of an offense involving fraud or other  
34 deceptive practice or an organization which has been found guilty of  
35 any such offense may be ordered by the sentencing court to give notice  
36 of the conviction to the class of persons or to the sector of the  
37 public affected by the conviction or financially interested in the  
38 subject matter of the offense by mail, by advertising in designated  
39 areas or through designated media, or by other appropriate means.

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

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

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

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

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

33 (3) Except as provided in subsection (6) of this section,  
34 restitution ordered by a court pursuant to a criminal conviction shall  
35 be based on easily ascertainable damages for injury to or loss of  
36 property, actual expenses incurred for treatment for injury to persons,  
37 and lost wages resulting from injury. Restitution shall not include  
38 reimbursement for damages for mental anguish, pain and suffering, or

1 other intangible losses, but may include the costs of counseling  
2 reasonably related to the offense. The amount of restitution shall not  
3 exceed double the amount of the offender's gain or the victim's loss  
4 from the commission of the crime.

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

29 (5) Restitution shall be ordered whenever the offender is convicted  
30 of an offense which results in injury to any person or damage to or  
31 loss of property or as provided in subsection (6) of this section  
32 unless extraordinary circumstances exist which make restitution  
33 inappropriate in the court's judgment and the court sets forth such  
34 circumstances in the record. In addition, restitution shall be ordered  
35 to pay for an injury, loss, or damage if the offender pleads guilty to  
36 a lesser offense or fewer offenses and agrees with the prosecutor's  
37 recommendation that the offender be required to pay restitution to a  
38 victim of an offense or offenses which are not prosecuted pursuant to  
39 a plea agreement.

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

27 (7) Regardless of the provisions of subsections (1) through (6) of  
28 this section, the court shall order restitution in all cases where the  
29 victim is entitled to benefits under the crime victims' compensation  
30 act, chapter 7.68 RCW. If the court does not order restitution and the  
31 victim of the crime has been determined to be entitled to benefits  
32 under the crime victims' compensation act, the department of labor and  
33 industries, as administrator of the crime victims' compensation  
34 program, may petition the court within one year of entry of the  
35 judgment and sentence for entry of a restitution order. Upon receipt  
36 of a petition from the department of labor and industries, the court  
37 shall hold a restitution hearing and shall enter a restitution order.

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

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

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

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

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

35 (2) If the court determines that the offender, at the time of  
36 sentencing, has the means to pay for the cost of incarceration, the  
37 court may require the offender to pay for the cost of incarceration at  
38 a rate of fifty dollars per day of incarceration. Payment of other

1 court-ordered financial obligations, including all legal financial  
2 obligations and costs of supervision shall take precedence over the  
3 payment of the cost of incarceration ordered by the court. All funds  
4 recovered from offenders for the cost of incarceration in the county  
5 jail shall be remitted to the county and the costs of incarceration in  
6 a prison shall be remitted to the department.

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

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

24 (4) Independent of the department, the party or entity to whom the  
25 legal financial obligation is owed shall have the authority to use any  
26 other remedies available to the party or entity to collect the legal  
27 financial obligation. These remedies include enforcement in the same  
28 manner as a judgment in a civil action by the party or entity to whom  
29 the legal financial obligation is owed. Restitution collected through  
30 civil enforcement must be paid through the registry of the court and  
31 must be distributed proportionately according to each victim's loss  
32 when there is more than one victim. The judgment and sentence shall  
33 identify the party or entity to whom restitution is owed so that the  
34 state, party, or entity may enforce the judgment. If restitution is  
35 ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of  
36 rape of a child or a victim's child born from the rape, the Washington  
37 state child support registry shall be identified as the party to whom  
38 payments must be made. Restitution obligations arising from the rape  
39 of a child in the first, second, or third degree that result in the

1 pregnancy of the victim may be enforced for the time periods provided  
2 under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial  
3 obligations for an offense committed prior to July 1, 2000, may be  
4 enforced at any time during the ten-year period following the  
5 offender's release from total confinement or within ten years of entry  
6 of the judgment and sentence, whichever period ends later. Prior to  
7 the expiration of the initial ten-year period, the superior court may  
8 extend the criminal judgment an additional ten years for payment of  
9 legal financial obligations including crime victims' assessments. All  
10 other legal financial obligations for an offense committed on or after  
11 July 1, 2000, may be enforced at any time the offender remains under  
12 the court's jurisdiction. For an offense committed on or after July 1,  
13 2000, the court shall retain jurisdiction over the offender, for  
14 purposes of the offender's compliance with payment of the legal  
15 financial obligations, until the obligation is completely satisfied,  
16 regardless of the statutory maximum for the crime. The department of  
17 corrections (~~shall~~) may supervise the offender's compliance with  
18 payment of the legal financial obligations (~~for ten years following~~  
19 ~~the entry of the judgment and sentence, or ten years following the~~  
20 ~~offender's release from total confinement, whichever period ends~~  
21 ~~later~~) during any term of community placement, community custody, or  
22 community supervision. The department is not responsible for  
23 supervision of the offender during any subsequent period of time the  
24 offender remains under the court's jurisdiction.

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

33 (6) After completing the investigation, the department shall make  
34 a report to the court on the amount of the monthly payment that the  
35 offender should be required to make towards a satisfied legal financial  
36 obligation.

37 (7) During the period of supervision, the department may make a  
38 recommendation to the court that the offender's monthly payment  
39 schedule be modified so as to reflect a change in financial

1 circumstances. If the department sets the monthly payment amount, the  
2 department may modify the monthly payment amount without the matter  
3 being returned to the court. During the period of supervision, the  
4 department may require the offender to report to the department for the  
5 purposes of reviewing the appropriateness of the collection schedule  
6 for the legal financial obligation. During this reporting, the  
7 offender is required under oath to respond truthfully and honestly to  
8 all questions concerning earning capabilities and the location and  
9 nature of all property or financial assets. The offender shall bring  
10 all documents requested by the department in order to prepare the  
11 collection schedule.

12 (8) After the judgment and sentence or payment order is entered,  
13 the department is authorized, for any period of supervision, to collect  
14 the legal financial obligation from the offender. Any amount collected  
15 by the department shall be remitted daily to the county clerk for the  
16 purpose of disbursements. The department is authorized to accept  
17 credit cards as payment for a legal financial obligation, and any costs  
18 incurred related to accepting credit card payments shall be the  
19 responsibility of the offender.

20 (9) The department or any obligee of the legal financial obligation  
21 may seek a mandatory wage assignment for the purposes of obtaining  
22 satisfaction for the legal financial obligation pursuant to RCW  
23 9.94A.7701.

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

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

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

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

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

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

14       (2) As a condition to suspension of sentence, the superior court  
15 shall require the payment of the penalty assessment required by RCW  
16 7.68.035. In addition, the superior court may require the convicted  
17 person to make such monetary payments, on such terms as the superior  
18 court deems appropriate under the circumstances, as are necessary: (a)  
19 To comply with any order of the court for the payment of family  
20 support; (b) to make restitution to any person or persons who may have  
21 suffered loss or damage by reason of the commission of the crime in  
22 question or when the offender pleads guilty to a lesser offense or  
23 fewer offenses and agrees with the prosecutor's recommendation that the  
24 offender be required to pay restitution to a victim of an offense or  
25 offenses which are not prosecuted pursuant to a plea agreement; (c) to  
26 pay any fine imposed and not suspended and the court or other costs  
27 incurred in the prosecution of the case, including reimbursement of the  
28 state for costs of extradition if return to this state by extradition  
29 was required; and (d) to contribute to a county or interlocal drug  
30 fund.

31       (3) As a condition of the suspended sentence, the superior court  
32 may order the probationer to report to the secretary of corrections or  
33 such officer as the secretary may designate and as a condition of the  
34 probation to follow the instructions of the secretary. If the county  
35 legislative authority has elected to assume responsibility for the  
36 supervision of superior court misdemeanor probationers within its  
37 jurisdiction, the superior court misdemeanor probationer shall report  
38 to a probation officer employed or contracted for by the county. In  
39 cases where a superior court misdemeanor probationer is sentenced in

1 one county, but resides within another county, there must be provisions  
2 for the probationer to report to the agency having supervision  
3 responsibility for the probationer's county of residence.

4 (4) If restitution to the victim has been ordered under subsection  
5 (2)(b) of this section and the superior court has ordered supervision,  
6 the officer supervising the probationer shall make a reasonable effort  
7 to ascertain whether restitution has been made as ordered. If the  
8 superior court has ordered supervision and restitution has not been  
9 made, the officer shall inform the prosecutor of that violation of the  
10 terms of the suspended sentence not less than three months prior to the  
11 termination of the suspended sentence.

12 (5) In cases where the court has ordered supervision as a condition  
13 of probation, the department of corrections may eliminate or terminate  
14 the supervision, including supervision for payment of restitution or  
15 legal financial obligations, if the department has classified the  
16 offender at the lowest risk level pursuant to a risk assessment. No  
17 liability shall attach to the state, the department, or any department  
18 employee based on the determination to classify an offender at the  
19 lowest risk level, or to eliminate or terminate supervision, in the  
20 absence of intentional misconduct. The decision to eliminate or  
21 terminate supervision shall not affect the superior court's  
22 jurisdiction over the offender.

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

25 (1) When a superior court places a defendant convicted of a  
26 misdemeanor or gross misdemeanor on probation and orders supervision  
27 under RCW 9.92.060 or 9.95.210, the department of corrections has  
28 initial responsibility for supervision of that defendant. The  
29 department may eliminate or terminate supervision, including  
30 supervision for payment of restitution or legal financial obligations,  
31 if the department has classified the offender at the lowest risk level  
32 pursuant to a risk assessment. No liability shall attach to the state,  
33 the department, or any department employee based on the determination  
34 to classify an offender at the lowest risk level, or to eliminate or  
35 terminate supervision, in the absence of intentional misconduct. The  
36 decision to eliminate or terminate supervision shall not affect the  
37 superior court's jurisdiction over the offender.

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

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

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

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

17 (b) A reciprocal agreement regarding the supervision of superior  
18 court misdemeanant probationers sentenced in one county but who reside  
19 in another county;

20 (c) The county's agreement to comply with the minimum standards for  
21 classification and supervision of offenders as required under RCW  
22 9.95.206;

23 (d) The amount of funds available from the department of  
24 corrections to the county for supervision of superior court  
25 misdemeanant probationers, calculated according to a formula  
26 established by the department of corrections;

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

29 (f) The county's agreement that any funds received by the county  
30 under the contract will be expended only to cover costs of supervision  
31 of superior court misdemeanant probationers;

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

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

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

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

8 (6) The state of Washington, the department of corrections and its  
9 employees, community corrections officers, and volunteers who assist  
10 community corrections officers are not liable for any harm caused by  
11 the actions of a superior court misdemeanor probationer who is under  
12 the supervision of a county. A county, its probation department and  
13 employees, probation officers, and volunteers who assist probation  
14 officers are not liable for any harm caused by the actions of a  
15 superior court misdemeanor probationer who is under the supervision of  
16 the department of corrections. This subsection applies regardless of  
17 whether the supervising entity is in compliance with the standards of  
18 supervision at the time of the misdemeanor probationer's actions.

19 (7) The state of Washington, the department of corrections and its  
20 employees, community corrections officers, any county under contract  
21 with the department of corrections pursuant to this section and its  
22 employees, probation officers, and volunteers who assist community  
23 corrections officers and probation officers in the superior court  
24 misdemeanor probation program are not liable for civil damages  
25 resulting from any act or omission in the rendering of superior court  
26 misdemeanor probation activities unless the act or omission  
27 constitutes gross negligence. For purposes of this section,  
28 "volunteers" is defined according to RCW 51.12.035.

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

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

36 (2) In the order granting probation and as a condition thereof, the  
37 superior court may in its discretion imprison the defendant in the  
38 county jail for a period not exceeding one year and may fine the

1 defendant any sum not exceeding the statutory limit for the offense  
2 committed, and court costs. As a condition of probation, the superior  
3 court shall require the payment of the penalty assessment required by  
4 RCW 7.68.035. The superior court may also require the defendant to  
5 make such monetary payments, on such terms as it deems appropriate  
6 under the circumstances, as are necessary: (a) To comply with any  
7 order of the court for the payment of family support; (b) to make  
8 restitution to any person or persons who may have suffered loss or  
9 damage by reason of the commission of the crime in question or when the  
10 offender pleads guilty to a lesser offense or fewer offenses and agrees  
11 with the prosecutor's recommendation that the offender be required to  
12 pay restitution to a victim of an offense or offenses which are not  
13 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be  
14 imposed and court costs, including reimbursement of the state for costs  
15 of extradition if return to this state by extradition was required; (d)  
16 following consideration of the financial condition of the person  
17 subject to possible electronic monitoring, to pay for the costs of  
18 electronic monitoring if that monitoring was required by the court as  
19 a condition of release from custody or as a condition of probation; (e)  
20 to contribute to a county or interlocal drug fund; and (f) to make  
21 restitution to a public agency for the costs of an emergency response  
22 under RCW 38.52.430, and may require bonds for the faithful observance  
23 of any and all conditions imposed in the probation.

24 (3) The superior court shall order restitution in all cases where  
25 the victim is entitled to benefits under the crime victims'  
26 compensation act, chapter 7.68 RCW. If the superior court does not  
27 order restitution and the victim of the crime has been determined to be  
28 entitled to benefits under the crime victims' compensation act, the  
29 department of labor and industries, as administrator of the crime  
30 victims' compensation program, may petition the superior court within  
31 one year of imposition of the sentence for entry of a restitution  
32 order. Upon receipt of a petition from the department of labor and  
33 industries, the superior court shall hold a restitution hearing and  
34 shall enter a restitution order.

35 (4) In granting probation, the superior court may order the  
36 probationer to report to the secretary of corrections or such officer  
37 as the secretary may designate and as a condition of the probation to  
38 follow the instructions of the secretary. If the county legislative  
39 authority has elected to assume responsibility for the supervision of

1 superior court misdemeanor probationers within its jurisdiction, the  
2 superior court misdemeanor probationer shall report to a probation  
3 officer employed or contracted for by the county. In cases where a  
4 superior court misdemeanor probationer is sentenced in one county, but  
5 resides within another county, there must be provisions for the  
6 probationer to report to the agency having supervision responsibility  
7 for the probationer's county of residence.

8 (5) If the probationer has been ordered to make restitution and the  
9 superior court has ordered supervision, the officer supervising the  
10 probationer shall make a reasonable effort to ascertain whether  
11 restitution has been made. If the superior court has ordered  
12 supervision and restitution has not been made as ordered, the officer  
13 shall inform the prosecutor of that violation of the terms of probation  
14 not less than three months prior to the termination of the probation  
15 period. The secretary of corrections will promulgate rules and  
16 regulations for the conduct of the person during the term of probation.  
17 For defendants found guilty in district court, like functions as the  
18 secretary performs in regard to probation may be performed by probation  
19 officers employed for that purpose by the county legislative authority  
20 of the county wherein the court is located.

21 (6) The department may eliminate or terminate supervision,  
22 including supervision for payment of restitution or legal financial  
23 obligations, if the department has classified the probationer at the  
24 lowest risk level pursuant to a risk assessment. No liability shall  
25 attach to the state, the department, or any department employee based  
26 on the determination to classify a probationer at the lowest risk  
27 level, or to eliminate or terminate supervision, in the absence of  
28 intentional misconduct. The decision to eliminate or terminate  
29 supervision shall not affect the superior court's jurisdiction over the  
30 probationer.

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

33 Whenever a parolee breaches a condition or conditions under which  
34 he or she was granted parole, or violates any law of the state or rules  
35 and regulations of the indeterminate sentence review board (~~(of prison~~  
36 ~~terms and paroles)~~), any (~~(probation and parole)~~) community corrections  
37 officer may arrest, or cause the arrest and suspension of parole of,  
38 such parolee without a warrant, pending a determination by the board.

1 The facts and circumstances of such conduct of the parolee shall be  
2 reported by the (~~probation and parole~~) community corrections officer,  
3 with recommendations, to the indeterminate sentence review board (~~of~~  
4 ~~prison terms and paroles~~), who may order the revocation or suspension  
5 of parole, revise or modify the conditions of parole or take such other  
6 action as may be deemed appropriate in accordance with RCW 9.95.120.  
7 The indeterminate sentence review board (~~of prison terms and~~  
8 ~~paroles~~), after consultation with the secretary of corrections, shall  
9 make all rules and regulations concerning procedural matters, which  
10 shall include the time when state (~~probation and parole~~) community  
11 corrections officers shall file with the board reports required by this  
12 section, procedures pertaining thereto and the filing of such  
13 information as may be necessary to enable the indeterminate sentence  
14 review board (~~of prison terms and paroles~~) to perform its functions  
15 under this section.

16 The (~~probation and parole~~) community corrections officers shall  
17 have like authority and power regarding the arrest and detention of a  
18 probationer who has breached a condition or conditions under which he  
19 or she was granted probation by the superior court, or violates any law  
20 of the state, pending a determination by the superior court. Community  
21 corrections officers have no obligation to arrest and detain a  
22 probationer, or to report a violation to the superior court, where the  
23 department has eliminated or terminated supervision pursuant to RCW  
24 9.92.060, 9.95.204, or 9.95.210.

25 In the event a (~~probation and parole~~) community corrections  
26 officer shall arrest or cause the arrest and suspension of parole of a  
27 parolee or probationer in accordance with the provisions of this  
28 section, such parolee or probationer shall be confined and detained in  
29 the county jail of the county in which the parolee or probationer was  
30 taken into custody, and the sheriff of such county shall receive and  
31 keep in the county jail, where room is available, all prisoners  
32 delivered thereto by the (~~probation and parole~~) community corrections  
33 officer, and such parolees shall not be released from custody on bail  
34 or personal recognizance, except upon approval of the indeterminate  
35 sentence review board (~~of prison terms and paroles~~) and the issuance  
36 by the board of an order of reinstatement on parole on the same or  
37 modified conditions of parole.

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

3       (1) When any judgment for the payment of money only shall have been  
4 paid or satisfied, the clerk of the court in which such judgment was  
5 rendered shall note upon the record in the execution docket  
6 satisfaction thereof giving the date of such satisfaction upon either  
7 the payment to such clerk of the amount of such judgment, costs and  
8 interest and any accrued costs by reason of the issuance of any  
9 execution, or the filing with such clerk of a satisfaction entitled in  
10 such action and identifying the same executed by the judgment creditor  
11 or his or her attorney of record in such action or his or her assignee  
12 acknowledged as deeds are acknowledged. The clerk has the authority to  
13 note the satisfaction of judgments for criminal and juvenile legal  
14 financial obligations when the clerk's record indicates payment in full  
15 or as directed by the court. Every satisfaction of judgment and every  
16 partial satisfaction of judgment which provides for the payment of  
17 money shall clearly designate the judgment creditor and his or her  
18 attorney if any, the judgment debtor, the amount or type of  
19 satisfaction, whether the satisfaction is full or partial, the cause  
20 number, and the date of entry of the judgment. A certificate by such  
21 clerk of the entry of such satisfaction by him or her may be filed in  
22 the office of the clerk of any county in which an abstract of such  
23 judgment has been filed. When so satisfied by the clerk or the filing  
24 of such certificate the lien of such judgment shall be discharged.

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

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

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

34       The secretary may enter into contracts with ~~((the appropriate~~  
35 ~~authorities)) other governmental agencies or private organizations for  
36 the ~~((payment of the cost of feeding and lodging and other expenses of~~  
37 ~~housing)) management and operation of work release ~~((participants))~~  
38 programs. Such contracts may include any other terms and conditions as~~~~

1 may be appropriate for the implementation of the work release program.  
2 In addition the secretary is authorized to acquire, by lease or  
3 contract, appropriate facilities for the housing of work release  
4 participants and providing for their subsistence and supervision. Such  
5 work release participants placed in leased or contracted facilities  
6 shall be required to reimburse the department the per capita cost of  
7 subsistence and lodging in accordance with the provisions and in the  
8 priority established by RCW 72.65.050(2). The location of such  
9 facilities shall be subject to the zoning laws of the city or county in  
10 which they may be situated.

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

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

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

24 NEW SECTION. **Sec. 21.** This act takes effect July 1, 2002. The  
25 legislature intends that sections 1 through 18 of this act apply  
26 retroactively to sentences imposed and offenders on community custody,  
27 community placement, community supervision, or probation before, on, or  
28 after July 1, 2002.

--- END ---