
SUBSTITUTE HOUSE BILL 2015

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representative Appelwick).

Read first time March 5, 1991.

1 AN ACT Relating to refinements of the community protection act of
2 1990; amending RCW 9.94A.151, 9.94A.155, 13.40.030, 13.40.215,
3 71.09.030, 71.09.050, and 9.94A.120; reenacting RCW 43.43.830; adding
4 a new section to chapter 9.95 RCW; creating new sections; prescribing
5 penalties; and declaring an emergency.

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

7 **Sec. 1.** RCW 9.94A.151 and 1990 c 3 s 122 are each amended to read
8 as follows:

9 (1) Three months before the anticipated release from total
10 confinement of a person convicted of a sex offense as defined in RCW
11 9.94A.030 ((that was committed between June 30, 1984, and July 1, 1988,
12 the department)), any agency that has jurisdiction over the sex
13 offender for a sex offense shall notify in writing the prosecuting
14 attorney of the county where the person was convicted if the agency
15 recommends that a civil commitment petition be filed pursuant to RCW

1 71.09.030. The (~~department~~) agency shall inform the prosecutor of
2 the following:

3 (~~(1)~~) (a) The person's name, identifying factors, anticipated
4 future residence, and offense history; and

5 (~~(2)~~) (b) A brief narrative describing the person's conduct
6 during confinement and any treatment received(~~(and~~

7 ~~(3) Whether the department recommends that a civil commitment~~
8 ~~petition be filed under RCW 71.09.030)).~~

9 (2) As used in this section, the term "agency" means the department
10 of corrections, the department of social and health services, and the
11 indeterminate sentence review board, as appropriate.

12 (3) The department(~~(its)~~) of corrections, the indeterminate
13 sentence review board, and the department of social and health
14 services, and those agencies' employees(~~(and)~~) and officials, shall be
15 immune from liability for any good-faith conduct under this section.

16 **Sec. 2.** RCW 9.94A.155 and 1990 c 3 s 121 are each amended to read
17 as follows:

18 (1) At the earliest possible date, and in no event later than ten
19 days before release except in the event of escape or emergency
20 furloughs as defined in RCW 72.66.010, the department of corrections
21 shall send written notice of parole, release, community placement, work
22 release placement, furlough, or escape about a specific inmate
23 convicted of a violent offense or a sex offense as defined by RCW
24 9.94A.030, to (~~all of~~) the following:

25 (a) The chief of police of the city, if any, in which the inmate
26 will reside or in which placement will be made in a work release
27 program; and

28 (b) The sheriff of the county in which the inmate will reside or in
29 which placement will be made in a work release program.

1 (c) If the department does not know where the offender will reside,
2 the department shall send the written notice to the sheriff of the
3 county and the chief of police of the city where the offender was
4 convicted. The department shall notify the state patrol of the release
5 of all sex offenders, which information shall be placed in the
6 Washington crime information center for dissemination to all law
7 enforcement.

8 (2) The same notice as required by subsection (1) of this section
9 shall be sent to the following if such notice has been requested in
10 writing about a specific inmate convicted of a violent offense or a sex
11 offense as defined by RCW 9.94A.030:

12 (a) The victim of the crime for which the inmate was convicted or
13 the victim's next of kin if the crime was a homicide;

14 (b) Any witnesses who testified against the inmate in any court
15 proceedings involving the violent offense; and

16 (c) Any person specified in writing by the prosecuting attorney.
17 Information regarding victims, next of kin, or witnesses requesting the
18 notice, information regarding any other person specified in writing by
19 the prosecuting attorney to receive the notice, and the notice are
20 confidential and shall not be available to the inmate.

21 (3) If an inmate convicted of a violent offense or a sex offense as
22 defined by RCW 9.94A.030 escapes from a correctional facility, the
23 department of corrections shall immediately notify, by the most
24 reasonable and expedient means available, the chief of police of the
25 city and the sheriff of the county in which the inmate resided
26 immediately before the inmate's arrest and conviction. If previously
27 requested, the department shall also notify the witnesses and the
28 victim of the crime for which the inmate was convicted or the victim's
29 next of kin if the crime was a homicide. If the inmate is recaptured,
30 the department shall send notice to the persons designated in this

1 subsection as soon as possible but in no event later than two working
2 days after the department learns of such recapture.

3 (4) If the victim, the victim's next of kin, or any witness is
4 under the age of sixteen, the notice required by this section shall be
5 sent to the parents or legal guardian of the child.

6 (5) The department of corrections shall send the notices required
7 by this chapter to the last address provided to the department by the
8 requesting party. The requesting party shall furnish the department
9 with a current address.

10 (6) For purposes of this section the following terms have the
11 following meanings:

12 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

13 (b) "Next of kin" means a person's spouse, parents, siblings and
14 children.

15 (7) Nothing in this section shall impose any liability upon a chief
16 of police of a city or sheriff of a county for failing to request in
17 writing a notice as provided in subsection (1) of this section.

18 **Sec. 3.** RCW 13.40.030 and 1989 c 407 s 3 are each amended to read
19 as follows:

20 (1)(a) The juvenile disposition standards commission shall
21 recommend to the legislature no later than November 1st of each year
22 disposition standards for all offenses. The standards shall establish,
23 in accordance with the purposes of this chapter, ranges which may
24 include terms of confinement and/or community supervision established
25 on the basis of a youth's age, the instant offense, and the history and
26 seriousness of previous offenses, but in no case may the period of
27 confinement and supervision exceed that to which an adult may be
28 subjected for the same offense(s). Standards recommended for offenders
29 listed in RCW 13.40.020(1) shall include a range of confinement which

1 may not be less than thirty days. No standard range may include a
2 period of confinement which includes both more than thirty, and thirty
3 or less, days. Disposition standards recommended by the commission
4 shall provide that in all cases where a youth is sentenced to a term of
5 confinement in excess of thirty days the department may impose an
6 additional period of parole not to exceed eighteen months, except that
7 in the case of a juvenile sentenced for rape in the first or second
8 degree, rape of a child in the first or second degree, child
9 molestation in the first degree, or indecent liberties with forcible
10 compulsion, the parole period shall be twenty-four months. Standards
11 of confinement which may be proposed may relate only to the length of
12 the proposed terms and not to the nature of the security to be imposed.
13 In developing recommended disposition standards, the commission shall
14 consider the capacity of the state juvenile facilities and the
15 projected impact of the proposed standards on that capacity.

16 (b) The secretary shall submit guidelines pertaining to the nature
17 of the security to be imposed on youth placed in his or her custody
18 based on the age, offense(s), and criminal history of the juvenile
19 offender. Such guidelines shall be submitted to the legislature for
20 its review no later than November 1st of each year. At the same time
21 the secretary shall submit a report on security at juvenile facilities
22 during the preceding year. The report shall include the number of
23 escapes from each juvenile facility, the most serious offense for which
24 each escapee had been confined, the number and nature of offenses found
25 to have been committed by juveniles while on escape status, the number
26 of authorized leaves granted, the number of failures to comply with
27 leave requirements, the number and nature of offenses committed while
28 on leave, and the number and nature of offenses committed by juveniles
29 while in the community on minimum security status; to the extent this
30 information is available to the secretary. The department shall

1 include security status definitions in the security guidelines it
2 submits to the legislature pursuant to this section.

3 (2) In developing recommendations for the permissible ranges of
4 confinement under this section the commission shall be subject to the
5 following limitations:

6 (a) Where the maximum term in the range is ninety days or less, the
7 minimum term in the range may be no less than fifty percent of the
8 maximum term in the range;

9 (b) Where the maximum term in the range is greater than ninety days
10 but not greater than one year, the minimum term in the range may be no
11 less than seventy-five percent of the maximum term in the range; and

12 (c) Where the maximum term in the range is more than one year, the
13 minimum term in the range may be no less than eighty percent of the
14 maximum term in the range.

15 **Sec. 4.** RCW 13.40.215 and 1990 c 3 s 101 are each amended to read
16 as follows:

17 (1)(a) Except as provided in subsection (2) of this section, at the
18 earliest possible date, and in no event later than ten days before
19 discharge, parole, or any other authorized leave or release, or no
20 later than three days before transfer to a community residential
21 facility, the secretary shall send written notice of the discharge,
22 parole, authorized leave or release, or transfer of a juvenile found to
23 have committed a violent offense or a sex offense, to the following:

24 (i) The chief of police of the city, if any, in which the juvenile
25 will reside; and

26 (ii) The sheriff of the county in which the juvenile will reside.

27 (b) The same notice as required by (a) of this subsection shall be
28 sent to the following, if such notice has been requested in writing
29 about a specific juvenile:

1 (i) The victim of the offense for which the juvenile was found to
2 have committed or the victim's next of kin if the crime was a homicide;

3 (ii) Any witnesses who testified against the juvenile in any court
4 proceedings involving the offense; and

5 (iii) Any person specified in writing by the prosecuting attorney.
6 Information regarding victims, next of kin, or witnesses requesting the
7 notice, information regarding any other person specified in writing by
8 the prosecuting attorney to receive the notice, and the notice are
9 confidential and shall not be available to the juvenile. The notice to
10 the chief of police or the sheriff shall include the identity of the
11 juvenile, the residence where the juvenile will reside, the identity of
12 the person, if any, responsible for supervising the juvenile, and the
13 time period of any authorized leave.

14 (2)(a) If a juvenile found to have committed a violent offense or
15 a sex offense escapes from a facility of the department, the secretary
16 shall immediately notify, by the most reasonable and expedient means
17 available, the chief of police of the city and the sheriff of the
18 county in which the juvenile resided immediately before the juvenile's
19 arrest. If previously requested, the secretary shall also notify the
20 witnesses and the victim of the offense which the juvenile was found to
21 have committed or the victim's next of kin if the crime was a homicide.
22 If the juvenile is recaptured, the secretary shall send notice to the
23 persons designated in this subsection as soon as possible but in no
24 event later than two working days after the department learns of such
25 recapture.

26 (b) The secretary may authorize a leave, for a juvenile found to
27 have committed a violent or sex offense, which shall not exceed forty-
28 eight hours plus travel time, to meet an emergency situation such as a
29 death or critical illness of a member of the juvenile's family. The
30 secretary may authorize a leave, which shall not exceed the time

1 medically necessary, to obtain medical care not available in a juvenile
2 facility maintained by the department. Prior to the commencement of an
3 emergency or medical leave, the secretary shall give notice of the
4 leave to the appropriate law enforcement agency in the jurisdiction in
5 which the juvenile will be during the leave period. The notice shall
6 include the identity of the juvenile, the time period of the leave, the
7 residence of the juvenile during the leave, and the identity of the
8 person responsible for supervising the juvenile during the leave. If
9 previously requested, the department shall also notify the witnesses
10 and victim of the offense which the juvenile was found to have
11 committed or the victim's next of kin if the offense was a homicide.

12 In case of an emergency or medical leave the secretary may waive
13 all or any portion of the requirements for leaves pursuant to RCW
14 13.40.205 (2)(a), (3), (4), and (5).

15 (3) If the victim, the victim's next of kin, or any witness is
16 under the age of sixteen, the notice required by this section shall be
17 sent to the parents or legal guardian of the child.

18 (4) The secretary shall send the notices required by this chapter
19 to the last address provided to the department by the requesting party.
20 The requesting party shall furnish the department with a current
21 address.

22 (5) For purposes of this section the following terms have the
23 following meanings:

24 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

25 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

26 (c) "Next of kin" means a person's spouse, parents, siblings, and
27 children.

28 **Sec. 5.** RCW 43.43.830 and 1990 c 146 s 8 and 1990 c 3 s 1101 are
29 each reenacted to read as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout RCW 43.43.830 through 43.43.840.

3 (1) "Applicant" means:

4 (a) Any prospective employee who will or may have unsupervised
5 access to children under sixteen years of age or developmentally
6 disabled persons or vulnerable adults during the course of his or her
7 employment or involvement with the business or organization;

8 (b) Any prospective volunteer who will have regularly scheduled
9 unsupervised access to children under sixteen years of age,
10 developmentally disabled persons, or vulnerable adults during the
11 course of his or her employment or involvement with the business or
12 organization under circumstances where such access will or may involve
13 groups of (i) five or fewer children under twelve years of age, (ii)
14 three or fewer children between twelve and sixteen years of age, (iii)
15 developmentally disabled persons, or (iv) vulnerable adults; or

16 (c) Any prospective adoptive parent, as defined in RCW 26.33.020.

17 (2) "Business or organization" means a business or organization
18 licensed in this state, any agency of the state, or other governmental
19 entity, that educates, trains, treats, supervises, or provides
20 recreation to developmentally disabled persons, vulnerable adults, or
21 children under sixteen years of age, including school districts and
22 educational service districts.

23 (3) "Civil adjudication" means a specific court finding of sexual
24 abuse or exploitation or physical abuse in a dependency action under
25 RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In
26 the case of vulnerable adults, civil adjudication means a specific
27 court finding of abuse or financial exploitation in a protection
28 proceeding under chapter 74.34 RCW. It does not include administrative
29 proceedings. The term "civil adjudication" is further limited to court
30 findings that identify as the perpetrator of the abuse a named

1 individual, over the age of eighteen years, who was a party to the
2 dependency or dissolution proceeding or was a respondent in a
3 protection proceeding in which the finding was made and who contested
4 the allegation of abuse or exploitation.

5 (4) "Conviction record" means "conviction record" information as
6 defined in RCW 10.97.030(3) relating to a crime against children or
7 other persons committed by either an adult or a juvenile. It does not
8 include a conviction for an offense that has been the subject of an
9 expungement, pardon, annulment, certificate of rehabilitation, or other
10 equivalent procedure based on a finding of the rehabilitation of the
11 person convicted, or a conviction that has been the subject of a
12 pardon, annulment, or other equivalent procedure based on a finding of
13 innocence. It does include convictions for offenses for which the
14 defendant received a deferred or suspended sentence, unless the record
15 has been expunged according to law.

16 (5) "Crime against children or other persons" means a conviction of
17 any of the following offenses: Aggravated murder; first or second
18 degree murder; first or second degree kidnaping; first, second, or
19 third degree assault; first, second, or third degree rape; first,
20 second, or third degree rape of a child; first or second degree
21 robbery; first degree arson; first degree burglary; first or second
22 degree manslaughter; first or second degree extortion; indecent
23 liberties; incest; vehicular homicide; first degree promoting
24 prostitution; communication with a minor; unlawful imprisonment; simple
25 assault; sexual exploitation of minors; first or second degree criminal
26 mistreatment; child abuse or neglect as defined in RCW 26.44.020; first
27 or second degree custodial interference; malicious harassment; first,
28 second, or third degree child molestation; first or second degree
29 sexual misconduct with a minor; first or second degree rape of a child;
30 patronizing a juvenile prostitute; child abandonment; promoting

1 pornography; selling or distributing erotic material to a minor;
2 custodial assault; violation of child abuse restraining order; child
3 buying or selling; prostitution; felony indecent exposure; or any of
4 these crimes as they may be renamed in the future.

5 (6) "Crimes relating to financial exploitation" means a conviction
6 for first, second, or third degree extortion; first, second, or third
7 degree theft; first or second degree robbery; forgery; or any of these
8 crimes as they may be renamed in the future.

9 (7) "Disciplinary board final decision" means any final decision
10 issued by the disciplinary board or the director of the department of
11 licensing for the following businesses or professions:

12 (a) Chiropractic;

13 (b) Dentistry;

14 (c) Dental hygiene;

15 (d) Massage;

16 (e) Midwifery;

17 (f) Naturopathy;

18 (g) Osteopathy;

19 (h) Physical therapy;

20 (i) Physicians;

21 (j) Practical nursing;

22 (k) Registered nursing;

23 (l) Psychology; and

24 (m) Real estate brokers and salesmen.

25 (8) "Unsupervised" means not in the presence of:

26 (a) Another employee or volunteer from the same business or
27 organization as the applicant; or

28 (b) Any relative or guardian of any of the children or
29 developmentally disabled persons to which the applicant has access

1 during the course of his or her employment or involvement with the
2 business or organization.

3 (9) "Vulnerable adult" means a person sixty years of age or older
4 who has the functional, mental, or physical inability to care for
5 himself or herself or a patient in a state hospital as defined in
6 chapter 72.23 RCW.

7 (10) "Financial exploitation" means the illegal or improper use of
8 a vulnerable adult or that adult's resources for another person's
9 profit or advantage.

10 (11) "Agency" means any person, firm, partnership, association,
11 corporation, or facility which receives, provides services to, houses
12 or otherwise cares for vulnerable adults.

13 **Sec. 6.** RCW 71.09.030 and 1990 1st ex.s. c 12 s 3 are each amended
14 to read as follows:

15 When it appears that: (1) The (~~sentence~~) term of confinement of
16 a person who has been convicted of a sexually violent offense is about
17 to expire, or has expired on, before, or after July 1, 1990; (2) the
18 term of confinement of a person found to have committed a sexually
19 violent offense as a juvenile is about to expire, or has expired on,
20 before, or after July 1, 1990; (3) a person who has been charged with
21 a sexually violent offense and who has been determined to be
22 incompetent to stand trial is about to be released, or has been
23 released on, before, or after July 1, 1990, pursuant to RCW
24 10.77.090(3); or (4) a person who has been found not guilty by reason
25 of insanity of a sexually violent offense is about to be released, or
26 has been released on, before, or after July 1, 1990, pursuant to RCW
27 10.77.020(3); and it appears that the person may be a sexually violent
28 predator, the prosecuting attorney of the county where the person was
29 convicted or charged or the attorney general if requested by the

1 prosecuting attorney may file a petition alleging that the person is a
2 "sexually violent predator" and stating sufficient facts to support
3 such allegation.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 9.95 RCW
5 to read as follows:

6 If a sexually violent predator who is civilly committed under
7 chapter 71.09 RCW is under the jurisdiction of the indeterminate
8 sentence review board when civilly committed, the sexually violent
9 predator's parole period shall not be tolled during the civil
10 commitment period but shall run concurrently with any period of civil
11 commitment.

12 **Sec. 8.** RCW 71.09.050 and 1990 c 3 s 1005 are each amended to read
13 as follows:

14 Within forty-five days after (~~the filing of a petition~~) being
15 taken into custody pursuant to RCW (~~71.09.030~~) 71.09.040, the court
16 shall conduct a trial to determine whether the person is a sexually
17 violent predator. At all stages of the proceedings under this chapter,
18 any person subject to this chapter shall be entitled to the assistance
19 of counsel, and if the person is indigent, the court shall appoint
20 counsel to assist him or her. Whenever any person is subjected to an
21 examination under this chapter, he or she may retain experts or
22 professional persons to perform an examination on their behalf. When
23 the person wishes to be examined by a qualified expert or professional
24 person of his or her own choice, such examiner shall be permitted to
25 have reasonable access to the person for the purpose of such
26 examination, as well as to all relevant medical and psychological
27 records and reports. In the case of a person who is indigent, the
28 court shall, upon the person's request, assist the person in obtaining

1 an expert or professional person to perform an examination or
2 participate in the trial on the person's behalf. The person, the
3 prosecuting attorney or attorney general, or the judge shall have the
4 right to demand that the trial be before a jury. If no demand is made,
5 the trial shall be before the court.

6 NEW SECTION. **Sec. 9.** The 1990 community protection act,
7 chapter 3, Laws of 1990, created express statutory requirements for sex
8 offender therapists' initial examinations of sex offenders and second
9 examinations under RCW 9.94A.120(7)(a)(i); sex offender therapists'
10 quarterly progress reports under RCW 9.94A.120(7)(a)(iii); restrictions
11 on sex offenders that prohibit changes in therapists or treatment
12 conditions without notice to the prosecutor, the community corrections
13 officer, and the court, and in some cases court approval; and the
14 court's consideration of the victim's opinion before sentencing
15 offenders under RCW 9.94A.120(7). Those provisions were to be applied
16 to offenses committed on or after July 1, 1990. The legislature finds
17 that those provisions assist the court in determining whether the court
18 should sentence an offender under RCW 9.94A.120(7) and protect the
19 community from offenders who are sentenced under RCW 9.94A.120(7).
20 Therefore, the legislature intends by enacting the 1991 amendments to
21 RCW 9.94A.120 contained in section 10, chapter ..., Laws of 1991
22 (section 10 of this act), that those provisions shall apply to sex
23 offenders who committed sex offenses on, before, or after July 1, 1990,
24 effective on the effective date of this act.

25 **Sec. 10.** RCW 9.94A.120 and 1990 c 3 s 705 are each amended to read
26 as follows:

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

1 (1) Except as authorized in subsections (2), (5), and (7) of this
2 section, the court shall impose a sentence within the sentence range
3 for the offense.

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

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

12 (4) An offender convicted of the crime of murder in the first
13 degree shall be sentenced to a term of total confinement not less than
14 twenty years. An offender convicted of the crime of assault in the
15 first degree where the offender used force or means likely to result in
16 death or intended to kill the victim shall be sentenced to a term of
17 total confinement not less than five years. An offender convicted of
18 the crime of rape in the first degree shall be sentenced to a term of
19 total confinement not less than five years, and shall not be eligible
20 for furlough, work release or other authorized leave of absence from
21 the correctional facility during such minimum five-year term except for
22 the purpose of commitment to an inpatient treatment facility. The
23 foregoing minimum terms of total confinement are mandatory and shall
24 not be varied or modified as provided in subsection (2) of this
25 section.

26 (5) In sentencing a first-time offender the court may waive the
27 imposition of a sentence within the sentence range and impose a
28 sentence which may include up to ninety days of confinement in a
29 facility operated or utilized under contract by the county and a
30 requirement that the offender refrain from committing new offenses.

1 The sentence may also include up to two years of community supervision,
2 which, in addition to crime-related prohibitions, may include
3 requirements that the offender perform any one or more of the
4 following:

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

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

9 (c) Pursue a prescribed, secular course of study or vocational
10 training;

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

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

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

18 (6) If a sentence range has not been established for the
19 defendant's crime, the court shall impose a determinate sentence which
20 may include not more than one year of confinement, community service
21 work, a term of community supervision not to exceed one year, and/or
22 other legal financial obligations. The court may impose a sentence
23 which provides more than one year of confinement if the court finds,
24 considering the purpose of this chapter, that there are substantial and
25 compelling reasons justifying an exceptional sentence.

26 (7)(a)(i) When an offender is convicted of a sex offense other than
27 a violation of RCW 9A.44.050 or a sex offense that is also a serious
28 violent offense and has no prior convictions for a sex offense or any
29 other felony sex offenses in this or any other state, the sentencing
30 court, on its own motion or the motion of the state or the defendant,

1 may order an examination to determine whether the defendant is amenable
2 to treatment.

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

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

- 13 (A) Frequency and type of contact between offender and therapist;
- 14 (B) Specific issues to be addressed in the treatment and
15 description of planned treatment modalities;
- 16 (C) Monitoring plans, including any requirements regarding living
17 conditions, lifestyle requirements, and monitoring by family members
18 and others;
- 19 (D) Anticipated length of treatment; and
- 20 (E) Recommended crime-related prohibitions.

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

27 The reporting requirements and the authority of the court to order
28 a second examination shall apply to all motions made under this
29 subsection (7) whether the offender committed the sex offense on,
30 before, or after July 1, 1990.

1 (ii) After receipt of the reports, the court shall consider whether
2 the offender and the community will benefit from use of this special
3 sexual offender sentencing alternative and consider the victim's
4 opinion whether the offender should receive a treatment disposition
5 under this subsection. The court shall consider the victim's opinion
6 when considering this sentencing alternative for all sex offenders
7 moving for sentencing under this subsection (7) whether the act was
8 committed on, before, or after July 1, 1990. If the court determines
9 that this special sex offender sentencing alternative is appropriate,
10 the court shall then impose a sentence within the sentence range. If
11 this sentence is less than eight years of confinement, the court may
12 suspend the execution of the sentence and impose the following
13 conditions of suspension:

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

17 (B) The court shall order treatment for any period up to three
18 years in duration. The court in its discretion shall order outpatient
19 sex offender treatment or inpatient sex offender treatment, if
20 available. A community mental health center may not be used for such
21 treatment unless it has an appropriate program designed for sex
22 offender treatment. The offender shall not change sex offender
23 treatment providers or treatment conditions without first notifying the
24 prosecutor, the community corrections officer, and the court, and shall
25 not change providers without court approval after a hearing if the
26 prosecutor or community corrections officer object to the change. In
27 addition, as conditions of the suspended sentence, the court may impose
28 other sentence conditions including up to six months of confinement,
29 not to exceed the sentence range of confinement for that offense,

1 crime-related prohibitions, and requirements that the offender perform
2 any one or more of the following:

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

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

7 (III) Report as directed to the court and a community corrections
8 officer;

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

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

14 The restrictions preventing an offender from changing sex offender
15 treatment providers or conditions without providing notice as required
16 under this subsection (7) shall apply to all sex offenders sentenced
17 under this subsection (7) on or after the effective date of this act
18 whether the act was committed on, before, or after July 1, 1990.

19 (iii) The sex offender therapist shall submit quarterly reports on
20 the defendant's progress in treatment to the court and the parties.
21 The report shall reference the treatment plan and include at a minimum
22 the following: Dates of attendance, defendant's compliance with
23 requirements, treatment activities, the defendant's relative progress
24 in treatment, and any other material as specified by the court at
25 sentencing. The requirements under this subsection (7)(a)(iii) shall
26 apply to all sex offender therapists treating offenders sentenced under
27 this subsection (7) whether the offender committed the offense and was
28 sentenced under this subsection (7) on, before, or after July 1, 1990.

29 (iv) At the time of sentencing, the court shall set a treatment
30 termination hearing for three months prior to the anticipated date for

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

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

22 (vi) After July 1, 1991, examinations and treatment ordered
23 pursuant to this subsection shall only be conducted by sex offender
24 treatment providers certified by the department of health pursuant to
25 chapter 18.155 RCW.

26 For purposes of this subsection, "victim" means any person who has
27 sustained emotional, psychological, physical, or financial injury to
28 person or property as a result of the crime charged. "Victim" also
29 means a parent or guardian of a victim who is a minor child unless the
30 parent or guardian is the perpetrator of the offense.

1 (b) When an offender is convicted of any felony sex offense
2 committed before July 1, 1987, and is sentenced to a term of
3 confinement of more than one year but less than six years, the
4 sentencing court may, on its own motion or on the motion of the
5 offender or the state, order the offender committed for up to thirty
6 days to the custody of the secretary of social and health services for
7 evaluation and report to the court on the offender's amenability to
8 treatment at these facilities. If the secretary of social and health
9 services cannot begin the evaluation within thirty days of the court's
10 order of commitment, the offender shall be transferred to the state for
11 confinement pending an opportunity to be evaluated at the appropriate
12 facility. The court shall review the reports and may order that the
13 term of confinement imposed be served in the sexual offender treatment
14 program at the location determined by the secretary of social and
15 health services or the secretary's designee, only if the report
16 indicates that the offender is amenable to the treatment program
17 provided at these facilities. The offender shall be transferred to the
18 state pending placement in the treatment program. Any offender who has
19 escaped from the treatment program shall be referred back to the
20 sentencing court.

21 If the offender does not comply with the conditions of the
22 treatment program, the secretary of social and health services may
23 refer the matter to the sentencing court. The sentencing court shall
24 commit the offender to the department of corrections to serve the
25 balance of the term of confinement.

26 If the offender successfully completes the treatment program before
27 the expiration of the term of confinement, the court may convert the
28 balance of confinement to community supervision and may place
29 conditions on the offender including crime-related prohibitions and

1 requirements that the offender perform any one or more of the
2 following:

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

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

7 (iii) Report as directed to the court and a community corrections
8 officer;

9 (iv) Undergo available outpatient treatment.

10 If the offender violates any of the terms of community supervision,
11 the court may order the offender to serve out the balance of the
12 community supervision term in confinement in the custody of the
13 department of corrections.

14 After June 30, 1993, this subsection (b) shall cease to have
15 effect.

16 (c) When an offender commits any felony sex offense on or after
17 July 1, 1987, and is sentenced to a term of confinement of more than
18 one year but less than six years, the sentencing court may, on its own
19 motion or on the motion of the offender or the state, request the
20 department of corrections to evaluate whether the offender is amenable
21 to treatment and the department may place the offender in a treatment
22 program within a correctional facility operated by the department.

23 Except for an offender who has been convicted of a violation of RCW
24 9A.44.040 or 9A.44.050, if the offender completes the treatment program
25 before the expiration of his term of confinement, the department of
26 corrections may request the court to convert the balance of confinement
27 to community supervision and to place conditions on the offender
28 including crime-related prohibitions and requirements that the offender
29 perform any one or more of the following:

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

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

4 (iii) Report as directed to the court and a community corrections
5 officer;

6 (iv) Undergo available outpatient treatment.

7 If the offender violates any of the terms of his community
8 supervision, the court may order the offender to serve out the balance
9 of his community supervision term in confinement in the custody of the
10 department of corrections.

11 Nothing in (c) of this subsection shall confer eligibility for such
12 programs for offenders convicted and sentenced for a sex offense
13 committed prior to July 1, 1987. This subsection (c) does not apply to
14 any crime committed after July 1, 1990.

15 (d) Offenders convicted and sentenced for a sex offense committed
16 prior to July 1, 1987, may, subject to available funds, request an
17 evaluation by the department of corrections to determine whether they
18 are amenable to treatment. If the offender is determined to be
19 amenable to treatment, the offender may request placement in a
20 treatment program within a correctional facility operated by the
21 department. Placement in such treatment program is subject to
22 available funds.

23 (8)(a) When a court sentences a person to a term of total
24 confinement to the custody of the department of corrections for an
25 offense categorized as a sex offense or a serious violent offense
26 committed after July 1, 1988, but before July 1, 1990, assault in the
27 second degree, any crime against a person where it is determined in
28 accordance with RCW 9.94A.125 that the defendant or an accomplice was
29 armed with a deadly weapon at the time of commission, or any felony
30 offense under chapter 69.50 or 69.52 RCW, committed on or after July 1,

1 1988, the court shall in addition to the other terms of the sentence,
2 sentence the offender to a one-year term of community placement
3 beginning either upon completion of the term of confinement or at such
4 time as the offender is transferred to community custody in lieu of
5 earned early release in accordance with RCW 9.94A.150 (1) and (2).
6 When the court sentences an offender under this subsection to the
7 statutory maximum period of confinement then the community placement
8 portion of the sentence shall consist entirely of such community
9 custody to which the offender may become eligible, in accordance with
10 RCW 9.94A.150 (1) and (2). Any period of community custody actually
11 served shall be credited against the community placement portion of the
12 sentence.

13 (b) When a court sentences a person to a term of total confinement
14 to the custody of the department of corrections for an offense
15 categorized as a sex offense or serious violent offense committed on or
16 after July 1, 1990, the court shall in addition to other terms of the
17 sentence, sentence the offender to community placement for two years or
18 up to the period of earned early release awarded pursuant to RCW
19 9.94A.150 (1) and (2), whichever is longer. The community placement
20 shall begin either upon completion of the term of confinement or at
21 such time as the offender is transferred to community custody in lieu
22 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
23 When the court sentences an offender under this subsection to the
24 statutory maximum period of confinement then the community placement
25 portion of the sentence shall consist entirely of the community custody
26 to which the offender may become eligible, in accordance with RCW
27 9.94A.150 (1) and (2). Any period of community custody actually served
28 shall be credited against the community placement portion of the
29 sentence. Unless a condition is waived by the court, the terms of

1 community placement for offenders sentenced pursuant to this section
2 shall include the following conditions:

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

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

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

9 (iv) An offender in community custody shall not unlawfully possess
10 controlled substances; and

11 (v) The offender shall pay supervision fees as determined by the
12 department of corrections.

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

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

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

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

21 (iv) The offender shall not consume alcohol;

22 (v) The residence location and living arrangements of a sex
23 offender shall be subject to the prior approval of the department of
24 corrections; or

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

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

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

7 (10) If a sentence imposed includes payment of a legal financial
8 obligation, the sentence shall specify the total amount of the legal
9 financial obligation owed, and shall require the offender to pay a
10 specified monthly sum toward that legal financial obligation.
11 Restitution to victims shall be paid prior to any other payments of
12 monetary obligations. Any legal financial obligation that is imposed
13 by the court may be collected by the department, which shall deliver
14 the amount paid to the county clerk for credit. The offender's
15 compliance with payment of legal financial obligations shall be
16 supervised by the department. All monetary payments ordered shall be
17 paid no later than ten years after the last date of release from
18 confinement pursuant to a felony conviction or the date the sentence
19 was entered. Independent of the department, the party or entity to
20 whom the legal financial obligation is owed shall have the authority to
21 utilize any other remedies available to the party or entity to collect
22 the legal financial obligation. Nothing in this section makes the
23 department, the state, or any of its employees, agents, or other
24 persons acting on their behalf liable under any circumstances for the
25 payment of these legal financial obligations. If an order includes
26 restitution as one of the monetary assessments, the county clerk shall
27 make disbursements to victims named in the order.

28 (11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
29 court may not impose a sentence providing for a term of confinement or

1 community supervision or community placement which exceeds the
2 statutory maximum for the crime as provided in chapter 9A.20 RCW.

3 (12) All offenders sentenced to terms involving community
4 supervision, community service, community placement, or legal financial
5 obligation shall be under the supervision of the secretary of the
6 department of corrections or such person as the secretary may designate
7 and shall follow explicitly the instructions of the secretary including
8 reporting as directed to a community corrections officer, remaining
9 within prescribed geographical boundaries, and notifying the community
10 corrections officer of any change in the offender's address or
11 employment.

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

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

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

28 (16) As a part of any sentence, the court may impose and enforce an
29 order that relates directly to the circumstances of the crime for which
30 the offender has been convicted, prohibiting the offender from having

1 any contact with other specified individuals or a specific class of
2 individuals for a period not to exceed the maximum allowable sentence
3 for the crime, regardless of the expiration of the offender's term of
4 community supervision or community placement.

5 (17) In any sentence of partial confinement, the court may require
6 the defendant to serve the partial confinement in work release or in a
7 program of home detention.

8 (18) All court-ordered legal financial obligations collected by the
9 department and remitted to the county clerk shall be credited and paid
10 where restitution is ordered. Restitution shall be paid prior to any
11 other payments of monetary obligations.

12 NEW SECTION. **Sec. 11.** This act shall apply to sex offenses
13 committed on, before, or after the effective date of this act.

14 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of the
16 state government and its existing public institutions, and shall take
17 effect immediately.