

SENATE BILL 5286

State of Washington

52nd Legislature

1991 Regular Session

By Senators Madsen, Hansen, Bauer, Rasmussen, Oke, Amondson, Metcalf and A. Smith.

Read first time January 28, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to creating a boot camp program for adult
2 offenders; amending RCW 72.02.200 and 9.94A.120; adding a new section
3 to chapter 9.94A RCW; and making an appropriation.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
6 to read as follows:

7 (1) It is the intent of the legislature that the program
8 established pursuant to this chapter shall benefit: The state by
9 reducing prison crowding; the counties by reducing jail overcrowding;
10 and both the communities and the offenders by promoting the offenders'
11 personal development and self-discipline, thereby making them more
12 effective participants in society.

13 (2) The department of corrections shall establish and operate a
14 boot camp to provide an intensive basic training and rehabilitative
15 program for criminal offenders serving sentences as provided in this

1 chapter. The program shall be designed after the United States marine
2 corps boot camps, but include an education program that requires a
3 participant to work toward obtaining his or her GED if he or she has
4 not yet done so. The department shall adopt rules for the operation and
5 successful completion of the program.

6 (3) The boot camp program shall last ninety days for any offender;
7 however, the secretary may extend the time limit to one hundred twenty
8 days if the offender has not adequately completed the program within
9 ninety days as determined by the secretary according to rules adopted
10 by the department.

11 (4) The sentencing judge may sentence criminal offenders who have
12 not served in a state or federal correctional institution to the boot
13 camp program provided they are at least eighteen years of age, are not
14 sex offenders, and have not been convicted of a criminal offense
15 involving the death of another human being. The judge may also order
16 a term of postrelease supervision to follow the boot camp program.

17 (5) The department shall screen offenders sent to the boot camp
18 program and shall assign offenders the judge has recommended to the
19 boot camp program so long as the offender does not suffer from any
20 mental or physical problem which could endanger his or her health or
21 drastically affect his or her performance in the program and there is
22 room in the program.

23 (6) The department shall provide a post program completion
24 component near the end of the ninety days for monitoring and assisting
25 the release of boot camp participants into the community. They shall
26 also provide for postrelease supervision of offenders for the term
27 ordered by the sentencing court.

28 (7) The department shall keep records and monitor criminal activity
29 and employment placement of boot camp basic training participants after
30 their release from the program. An outcome evaluation study shall be

1 published no later than December 31, 1994, which shall include a
2 comparison of criminal activity and employment placements of offenders
3 completing the boot camp basic training program with the criminal
4 activity and employment records of criminal offenders completing other
5 sentencing programs.

6 (8) If a person in the boot camp basic training program becomes
7 unmanageable or medically ineligible, the department shall remove him
8 or her from the boot camp basic training program. An unmanageable
9 offender shall be defined under department of corrections rules. These
10 offenders may be placed in secure detention until they are transferred
11 to a jail or prison to serve the remainder of their sentences,
12 including the term ordered by the court for postrelease supervision.

13 (9) Criminal offenders may be sentenced to the boot camp program
14 only once.

15 (10) The department may contract with private companies for the
16 operation of the intensive boot camp basic training and rehabilitative
17 program.

18 (11) The department shall either establish criteria for training
19 contract staff or provide a special training program for department
20 staff selected for the intensive boot camp program.

21 (12) This section is not intended to supplant community
22 supervision.

23 **Sec. 2.** RCW 72.02.200 and 1988 c 143 s 7 are each amended to read
24 as follows:

25 There shall be units known as reception and classification centers
26 which, subject to the rules and regulations of the department, shall be
27 charged with the function of receiving and classifying all persons
28 committed or transferred to the institution, taking into consideration
29 age, type of crime for which committed, physical condition, behavior,

1 attitude and prospects for reformation for the purposes of confinement
2 and treatment of offenders convicted of offenses punishable by
3 imprisonment, except offenders convicted of crime and sentenced to
4 death.

5 There shall be established within each reception and classification
6 center a separate program for assessing those offenders who have been
7 recommended by the courts for the boot camp program and who otherwise
8 meet the eligibility requirements under RCW 9.94A.120. The program for
9 assessing these offenders shall be developed by the secretary of the
10 department of corrections in keeping with chapter 72.09 RCW.

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

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

15 (1) Except as authorized in subsections (2), (5), and (~~(7)~~) (8)
16 of this section, the court shall impose a sentence within the sentence
17 range for the offense.

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

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

26 (4) An offender convicted of the crime of murder in the first
27 degree shall be sentenced to a term of total confinement not less than
28 twenty years. An offender convicted of the crime of assault in the
29 first degree where the offender used force or means likely to result in

1 death or intended to kill the victim shall be sentenced to a term of
2 total confinement not less than five years. An offender convicted of
3 the crime of rape in the first degree shall be sentenced to a term of
4 total confinement not less than five years, and shall not be eligible
5 for furlough, work release or other authorized leave of absence from
6 the correctional facility during such minimum five-year term except for
7 the purpose of commitment to an inpatient treatment facility. The
8 foregoing minimum terms of total confinement are mandatory and shall
9 not be varied or modified as provided in subsection (2) of this
10 section.

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

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

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

24 (c) Pursue a prescribed, secular course of study or vocational
25 training;

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

29 (e) Report as directed to the court and a community corrections
30 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 (6)(a) In sentencing an offender meeting the eligibility
4 requirements listed in section 1 of this act, the court may recommend
5 that the offender be assigned to the boot camp program. Acceptance
6 into this program shall be contingent on the secretary of the
7 department of corrections finding that the offender has been
8 recommended by the judge, that he or she does not suffer from any
9 mental or physical problem that could endanger his or her health or
10 drastically affect his or her performance in the program, and that
11 there is room in the program.

12 (b) At the time of sentencing, the court shall provide for an
13 alternative sentence in the event that the secretary determines that
14 the offender is not eligible for the boot camp program. If the
15 offender is not eligible, then he or she shall immediately comply with
16 the alternate sentence.

17 (c) The court may also provide for a term of postrelease
18 supervision to follow the offender's release from the boot camp
19 program. The court may order that this postrelease supervision term be
20 served in jail or prison if the department of corrections declares the
21 offender to be unmanageable.

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

1 (~~(7)~~) (8)(a)(i) When an offender is convicted of a sex offense
2 other than a violation of RCW 9A.44.050 or a sex offense that is also
3 a serious violent offense and has no prior convictions for a sex
4 offense or any other felony sex offenses in this or any other state,
5 the sentencing court, on its own motion or the motion of the state or
6 the defendant, may order an examination to determine whether the
7 defendant is amenable to treatment.

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

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

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

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

1 ordered unless the court finds the defendant to be indigent in which
2 case the state shall pay the cost.

3 (ii) After receipt of the reports, the court shall consider whether
4 the offender and the community will benefit from use of this special
5 sexual offender sentencing alternative and consider the victim's
6 opinion whether the offender should receive a treatment disposition
7 under this subsection. If the court determines that this special sex
8 offender sentencing alternative is appropriate, the court shall then
9 impose a sentence within the sentence range. If this sentence is less
10 than eight years of confinement, the court may suspend the execution of
11 the sentence and impose the following conditions of suspension:

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

15 (B) The court shall order treatment for any period up to three
16 years in duration. The court in its discretion shall order outpatient
17 sex offender treatment or inpatient sex offender treatment, if
18 available. A community mental health center may not be used for such
19 treatment unless it has an appropriate program designed for sex
20 offender treatment. The offender shall not change sex offender
21 treatment providers or treatment conditions without first notifying the
22 prosecutor, the community corrections officer, and the court, and shall
23 not change providers without court approval after a hearing if the
24 prosecutor or community corrections officer object to the change. In
25 addition, as conditions of the suspended sentence, the court may impose
26 other sentence conditions including up to six months of confinement,
27 not to exceed the sentence range of confinement for that offense,
28 crime-related prohibitions, and requirements that the offender perform
29 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) Pay all court-ordered legal financial obligations as provided
7 in RCW 9.94A.030, perform community service work, or any combination
8 thereof; or

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

11 (iii) The sex offender therapist shall submit quarterly reports on
12 the defendant's progress in treatment to the court and the parties.
13 The report shall reference the treatment plan and include at a minimum
14 the following: Dates of attendance, defendant's compliance with
15 requirements, treatment activities, the defendant's relative progress
16 in treatment, and any other material as specified by the court at
17 sentencing.

18 (iv) At the time of sentencing, the court shall set a treatment
19 termination hearing for three months prior to the anticipated date for
20 completion of treatment. Prior to the treatment termination hearing,
21 the treatment professional and community corrections officer shall
22 submit written reports to the court and parties regarding the
23 defendant's compliance with treatment and monitoring requirements, and
24 recommendations regarding termination from treatment, including
25 proposed community supervision conditions. Either party may request
26 and the court may order another evaluation regarding the advisability
27 of termination from treatment. The defendant shall pay the cost of any
28 additional evaluation ordered unless the court finds the defendant to
29 be indigent in which case the state shall pay the cost. At the
30 treatment termination hearing the court may: (A) Modify conditions of

1 community supervision, and either (B) terminate treatment, or (C)
2 extend treatment for up to the remaining period of community
3 supervision.

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

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

15 For purposes of this subsection, "victim" means any person who has
16 sustained emotional, psychological, physical, or financial injury to
17 person or property as a result of the crime charged. "Victim" also
18 means a parent or guardian of a victim who is a minor child unless the
19 parent or guardian is the perpetrator of the offense.

20 (b) When an offender is convicted of any felony sex offense
21 committed before July 1, 1987, and is sentenced to a term of
22 confinement of more than one year but less than six years, the
23 sentencing court may, on its own motion or on the motion of the
24 offender or the state, order the offender committed for up to thirty
25 days to the custody of the secretary of social and health services for
26 evaluation and report to the court on the offender's amenability to
27 treatment at these facilities. If the secretary of social and health
28 services cannot begin the evaluation within thirty days of the court's
29 order of commitment, the offender shall be transferred to the state for
30 confinement pending an opportunity to be evaluated at the appropriate

1 facility. The court shall review the reports and may order that the
2 term of confinement imposed be served in the sexual offender treatment
3 program at the location determined by the secretary of social and
4 health services or the secretary's designee, only if the report
5 indicates that the offender is amenable to the treatment program
6 provided at these facilities. The offender shall be transferred to the
7 state pending placement in the treatment program. Any offender who has
8 escaped from the treatment program shall be referred back to the
9 sentencing court.

10 If the offender does not comply with the conditions of the
11 treatment program, the secretary of social and health services may
12 refer the matter to the sentencing court. The sentencing court shall
13 commit the offender to the department of corrections to serve the
14 balance of the term of confinement.

15 If the offender successfully completes the treatment program before
16 the expiration of the term of confinement, the court may convert the
17 balance of confinement to community supervision and may place
18 conditions on the offender including crime-related prohibitions and
19 requirements that the offender perform any one or more of the
20 following:

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

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

25 (iii) Report as directed to the court and a community corrections
26 officer;

27 (iv) Undergo available outpatient treatment.

28 If the offender violates any of the terms of community supervision,
29 the court may order the offender to serve out the balance of the

1 community supervision term in confinement in the custody of the
2 department of corrections.

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

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

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

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

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

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

25 (iv) Undergo available outpatient treatment.

26 If the offender violates any of the terms of his community
27 supervision, the court may order the offender to serve out the balance
28 of his community supervision term in confinement in the custody of the
29 department of corrections.

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

5 (d) Offenders convicted and sentenced for a sex offense committed
6 prior to July 1, 1987, may, subject to available funds, request an
7 evaluation by the department of corrections to determine whether they
8 are amenable to treatment. If the offender is determined to be
9 amenable to treatment, the offender may request placement in a
10 treatment program within a correctional facility operated by the
11 department. Placement in such treatment program is subject to
12 available funds.

13 (~~(8)~~) (9)(a) When a court sentences a person to a term of total
14 confinement to the custody of the department of corrections for an
15 offense categorized as a sex offense or a serious violent offense
16 committed after July 1, 1988, but before July 1, 1990, assault in the
17 second degree, any crime against a person where it is determined in
18 accordance with RCW 9.94A.125 that the defendant or an accomplice was
19 armed with a deadly weapon at the time of commission, or any felony
20 offense under chapter 69.50 or 69.52 RCW, committed on or after July 1,
21 1988, the court shall in addition to the other terms of the sentence,
22 sentence the offender to a one-year term of community placement
23 beginning either upon completion of the term of confinement or at such
24 time as the offender is transferred to community custody in lieu of
25 earned early release in accordance with RCW 9.94A.150 (1) and (2).
26 When the court sentences an offender under this subsection to the
27 statutory maximum period of confinement then the community placement
28 portion of the sentence shall consist entirely of such community
29 custody to which the offender may become eligible, in accordance with
30 RCW 9.94A.150 (1) and (2). Any period of community custody actually

1 served shall be credited against the community placement portion of the
2 sentence.

3 (b) When a court sentences a person to a term of total confinement
4 to the custody of the department of corrections for an offense
5 categorized as a sex offense or serious violent offense committed on or
6 after July 1, 1990, the court shall in addition to other terms of the
7 sentence, sentence the offender to community placement for two years or
8 up to the period of earned early release awarded pursuant to RCW
9 9.94A.150 (1) and (2), whichever is longer. The community placement
10 shall begin either upon completion of the term of confinement or at
11 such time as the offender is transferred to community custody in lieu
12 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
13 When the court sentences an offender under this subsection to the
14 statutory maximum period of confinement then the community placement
15 portion of the sentence shall consist entirely of the community custody
16 to which the offender may become eligible, in accordance with RCW
17 9.94A.150 (1) and (2). Any period of community custody actually served
18 shall be credited against the community placement portion of the
19 sentence. Unless a condition is waived by the court, the terms of
20 community placement for offenders sentenced pursuant to this section
21 shall include the following conditions:

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

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

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

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

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

3 (c) The court may also order any of the following special
4 conditions:

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

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

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

11 (iv) The offender shall not consume alcohol;

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

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

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

20 ~~((+9))~~ (10) If the court imposes a sentence requiring confinement
21 of thirty days or less, the court may, in its discretion, specify that
22 the sentence be served on consecutive or intermittent days. A sentence
23 requiring more than thirty days of confinement shall be served on
24 consecutive days. Local jail administrators may schedule court-ordered
25 intermittent sentences as space permits.

26 ~~((+10))~~ (11) If a sentence imposed includes payment of a legal
27 financial obligation, the sentence shall specify the total amount of
28 the legal financial obligation owed, and shall require the offender to
29 pay a specified monthly sum toward that legal financial obligation.
30 Restitution to victims shall be paid prior to any other payments of

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

17 ~~((11))~~ (12) Except as provided under RCW 9.94A.140(1) ~~((and))~~,
18 9.94A.142(1), and section 1 of this act, a court may not impose a
19 sentence providing for a term of confinement or community supervision
20 or community placement which exceeds the statutory maximum for the
21 crime as provided in chapter 9A.20 RCW.

22 ~~((12))~~ (13) All offenders sentenced to terms involving community
23 supervision, community service, community placement, or legal financial
24 obligation shall be under the supervision of the secretary of the
25 department of corrections or such person as the secretary may designate
26 and shall follow explicitly the instructions of the secretary including
27 reporting as directed to a community corrections officer, remaining
28 within prescribed geographical boundaries, and notifying the community
29 corrections officer of any change in the offender's address or
30 employment.

1 (~~(13)~~) (14) The sentencing court shall give the offender credit
2 for all confinement time served before the sentencing if that
3 confinement was solely in regard to the offense for which the offender
4 is being sentenced.

5 (~~(14)~~) (15) A departure from the standards in RCW 9.94A.400 (1)
6 and (2) governing whether sentences are to be served consecutively or
7 concurrently is an exceptional sentence subject to the limitations in
8 subsections (2) and (3) of this section, and may be appealed by the
9 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

10 (~~(15)~~) (16) The court shall order restitution whenever the
11 offender is convicted of a felony that results in injury to any person
12 or damage to or loss of property, whether the offender is sentenced to
13 confinement or placed under community supervision, unless extraordinary
14 circumstances exist that make restitution inappropriate in the court's
15 judgment. The court shall set forth the extraordinary circumstances in
16 the record if it does not order restitution.

17 (~~(16)~~) (17) As a part of any sentence, the court may impose and
18 enforce an order that relates directly to the circumstances of the
19 crime for which the offender has been convicted, prohibiting the
20 offender from having any contact with other specified individuals or a
21 specific class of individuals for a period not to exceed the maximum
22 allowable sentence for the crime, regardless of the expiration of the
23 offender's term of community supervision or community placement.

24 (~~(17)~~) (18) In any sentence of partial confinement, the court may
25 require the defendant to serve the partial confinement in work release
26 or in a program of home detention.

27 (~~(18)~~) (19) All court-ordered legal financial obligations
28 collected by the department and remitted to the county clerk shall be
29 credited and paid where restitution is ordered. Restitution shall be
30 paid prior to any other payments of monetary obligations.

1 NEW SECTION. **Sec. 4.** The sum of dollars, or
2 as much thereof as may be necessary, is appropriated from the general
3 fund to the department of corrections for the biennium ending June 30,
4 1993, to carry out the purposes of this act.