

2 **E2SSB 5451 - H AMD ADOPTED AS AMENDED 4-23-93**

3 By Representatives Morris and others

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5 On page 2, after line 27, strike the remainder of the bill and  
6 insert the following:

7 "Sec. 2. RCW 9.94A.030 and 1992 c 145 s 6 and 1992 c 75 s 1 are  
8 each reenacted and amended to read as follows:

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

11 (1) "Collect," or any derivative thereof, "collect and remit," or  
12 "collect and deliver," when used with reference to the department of  
13 corrections, means that the department is responsible for monitoring  
14 and enforcing the offender's sentence with regard to the legal  
15 financial obligation, receiving payment thereof from the offender, and,  
16 consistent with current law, delivering daily the entire payment to the  
17 superior court clerk without depositing it in a departmental account.

18 (2) "Commission" means the sentencing guidelines commission.

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

23 (4) "Community custody" means that portion of an inmate's sentence  
24 of confinement in lieu of earned early release time or imposed pursuant  
25 to RCW 9.94A.120(7) served in the community subject to controls placed  
26 on the inmate's movement and activities by the department of  
27 corrections.

28 (5) "Community placement" means that period during which the  
29 offender is subject to the conditions of community custody and/or  
30 postrelease supervision, which begins either upon completion of the  
31 term of confinement (postrelease supervision) or at such time as the  
32 offender is transferred to community custody in lieu of earned early  
33 release. Community placement may consist of entirely community  
34 custody, entirely postrelease supervision, or a combination of the two.

35 (6) "Community service" means compulsory service, without compensa-  
36 tion, performed for the benefit of the community by the offender.

1 (7) "Community supervision" means a period of time during which a  
2 convicted offender is subject to crime-related prohibitions and other  
3 sentence conditions imposed by a court pursuant to this chapter or RCW  
4 46.61.524. For first-time offenders, the supervision may include  
5 crime-related prohibitions and other conditions imposed pursuant to RCW  
6 9.94A.120(5). For purposes of the interstate compact for out-of-state  
7 supervision of parolees and probationers, RCW 9.95.270, community  
8 supervision is the functional equivalent of probation and should be  
9 considered the same as probation by other states.

10 (8) "Confinement" means total or partial confinement as defined in  
11 this section.

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

15 (10) "Court-ordered legal financial obligation" means a sum of  
16 money that is ordered by a superior court of the state of Washington  
17 for legal financial obligations which may include restitution to the  
18 victim, statutorily imposed crime victims' compensation fees as  
19 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
20 drug funds, court-appointed attorneys' fees, and costs of defense,  
21 fines, and any other financial obligation that is assessed to the  
22 offender as a result of a felony conviction.

23 (11) "Crime-related prohibition" means an order of a court  
24 prohibiting conduct that directly relates to the circumstances of the  
25 crime for which the offender has been convicted, and shall not be  
26 construed to mean orders directing an offender affirmatively to  
27 participate in rehabilitative programs or to otherwise perform  
28 affirmative conduct.

29 (12)(a) "Criminal history" means the list of a defendant's prior  
30 convictions, whether in this state, in federal court, or elsewhere.  
31 The history shall include, where known, for each conviction (i) whether  
32 the defendant has been placed on probation and the length and terms  
33 thereof; and (ii) whether the defendant has been incarcerated and the  
34 length of incarceration.

35 (b) "Criminal history" shall always include juvenile convictions  
36 for sex offenses and shall also include a defendant's other prior  
37 convictions in juvenile court if: (i) The conviction was for an  
38 offense which is a felony or a serious traffic offense and is criminal  
39 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was

1 fifteen years of age or older at the time the offense was committed;  
2 and (iii) with respect to prior juvenile class B and C felonies or  
3 serious traffic offenses, the defendant was less than twenty-three  
4 years of age at the time the offense for which he or she is being  
5 sentenced was committed.

6 (13) "Day fine" means a fine imposed by the sentencing judge which  
7 equals the difference between the offender's net daily income and the  
8 reasonable obligations which the offender has for the support of the  
9 offender and any dependents.

10 (14) "Day reporting" means reporting at least once per day to a  
11 specific location designated by the department of corrections or the  
12 sentencing judge together with the requirement that the offender's  
13 location throughout each day be reported to the department of  
14 corrections.

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

16 (~~(14)~~) (16) "Determinate sentence" means a sentence that states  
17 with exactitude the number of actual years, months, or days of total  
18 confinement, of partial confinement, of community supervision, the  
19 number of actual hours or days of community service work, or dollars or  
20 terms of a legal financial obligation. The fact that an offender  
21 through "earned early release" can reduce the actual period of  
22 confinement shall not affect the classification of the sentence as a  
23 determinate sentence.

24 (~~(15)~~) (17) "Disposable earnings" means that part of the earnings  
25 of an individual remaining after the deduction from those earnings of  
26 any amount required by law to be withheld. For the purposes of this  
27 definition, "earnings" means compensation paid or payable for personal  
28 services, whether denominated as wages, salary, commission, bonuses, or  
29 otherwise, and, notwithstanding any other provision of law making the  
30 payments exempt from garnishment, attachment, or other process to  
31 satisfy a court-ordered legal financial obligation, specifically  
32 includes periodic payments pursuant to pension or retirement programs,  
33 or insurance policies of any type, but does not include payments made  
34 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
35 or Title 74 RCW.

36 (~~(16)~~) (18) "Drug offense" means:

37 (a) Any felony violation of chapter 69.50 RCW except possession of  
38 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
39 controlled substance (RCW 69.50.403);

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

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

7 ~~((17))~~ (19) "Drug or alcohol monitoring" means the obligation to  
8 remain free of any nonprescribed controlled substance or of any  
9 alcoholic beverage and to submit to periodic testing in a program to  
10 monitor that status as directed by the department of corrections, such  
11 as drug monitoring under a treatment alternatives to street crime  
12 (TASC) or comparable program.

13 (20) "Education or training" means participation in a formal  
14 program of education or training which has state certification.

15 (21) "Escape" means:

16 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
17 second degree (RCW 9A.76.120), willful failure to return from furlough  
18 (RCW 72.66.060), willful failure to return from work release (RCW  
19 72.65.070), or willful failure to be available for supervision by the  
20 department while in community custody (RCW 72.09.310); or

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

24 ~~((18))~~ (22) "Felony traffic offense" means:

25 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
26 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
27 and-run injury-accident (RCW 46.52.020(4)); or

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

31 ~~((19))~~ (23) "Fines" means the requirement that the offender pay  
32 a specific sum of money over a specific period of time to the court.

33 ~~((20))~~ (24)(a) "First-time offender" means any person who is  
34 convicted of a felony (i) not classified as a violent offense or a sex  
35 offense under this chapter, or (ii) that is not the manufacture,  
36 delivery, or possession with intent to manufacture or deliver a  
37 controlled substance classified in schedule I or II that is a narcotic  
38 drug or the selling for profit ~~(of)~~ of any controlled substance or  
39 counterfeit substance classified in schedule I, RCW 69.50.204, except

1 leaves and flowering tops of marihuana, and except as provided in (b)  
2 of this subsection, who previously has never been convicted of a felony  
3 in this state, federal court, or another state, and who has never  
4 participated in a program of deferred prosecution for a felony offense.

5 (b) For purposes of (a) of this subsection, a juvenile adjudication  
6 for an offense committed before the age of fifteen years is not a  
7 previous felony conviction except for adjudications of sex offenses.

8 ~~((+21+))~~ (25) "Home detention" means a program of partial  
9 confinement available to offenders wherein the offender is confined in  
10 a private residence subject to electronic surveillance or other state  
11 of the art electronic monitoring technology. Home detention may not be  
12 imposed for offenders convicted of a violent offense, any sex offense,  
13 reckless burning in the first or second degree as defined in RCW  
14 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW  
15 9A.36.031, assault of a child in the third degree, unlawful  
16 imprisonment as defined in RCW 9A.40.040, or harassment as defined in  
17 RCW 9A.46.020. Home detention may be imposed for offenders convicted  
18 of a violation of chapter 69.50 or 69.52 RCW, that relates to the  
19 possession, manufacture, or delivery of a controlled substance or  
20 imitation controlled substance, if the offender fulfills the  
21 participation conditions set forth in this subsection and is monitored  
22 for drug use by treatment alternatives to street crime (TASC) or a  
23 comparable court or agency-referred program.

24 (a) Home detention may be imposed for offenders convicted of  
25 burglary in the second degree as defined in RCW 9A.52.030 or  
26 residential burglary conditioned upon the offender: (i) Successfully  
27 completing twenty-one days in a work release program, or having  
28 successfully completed a sentence in a work ethic camp, (ii) having no  
29 convictions for burglary in the second degree or residential burglary  
30 during the preceding two years and not more than two prior convictions  
31 for burglary or residential burglary, (iii) having no convictions for  
32 a violent felony offense during the preceding two years and not more  
33 than two prior convictions for a violent felony offense, (iv) having no  
34 prior charges of escape, and (v) fulfilling the other conditions of the  
35 home detention program.

36 (b) Participation in a home detention program shall be conditioned  
37 upon: (i) The offender obtaining or maintaining current employment or  
38 attending a regular course of school study at regularly defined hours,  
39 or the offender performing parental duties to offspring or minors

1 normally in the custody of the offender, (ii) abiding by the rules of  
2 the home detention program, and (iii) compliance with court-ordered  
3 legal financial obligations. The home detention program may also be  
4 made available to offenders whose charges and convictions do not  
5 otherwise disqualify them if medical or health-related conditions,  
6 concerns or treatment would be better addressed under the home  
7 detention program, or where the health and welfare of the offender,  
8 other inmates, or staff would be jeopardized by the offender's  
9 incarceration. Participation in the home detention program for medical  
10 or health-related reasons is conditioned on the offender abiding by the  
11 rules of the home detention program and complying with court-ordered  
12 restitution.

13 (26) "Inpatient treatment" means participation in a treatment  
14 program certified by the state which requires the offender to be  
15 present at least twelve hours per day.

16 (27) "Nonviolent offense" means an offense which is not a violent  
17 offense.

18 ~~((+22+))~~ (28) "Offender" means a person who has committed a felony  
19 established by state law and is eighteen years of age or older or is  
20 less than eighteen years of age but whose case has been transferred by  
21 the appropriate juvenile court to a criminal court pursuant to RCW  
22 13.40.110. Throughout this chapter, the terms "offender" and  
23 "defendant" are used interchangeably.

24 ~~((+23+))~~ (29) "Outpatient treatment" means participation in a  
25 treatment program certified by the state or recommended by the  
26 department of corrections which does not require the offender to be  
27 present for more than twelve hours per day.

28 (30) "Partial confinement" means confinement for no more than one  
29 year in a facility or institution operated or utilized under contract  
30 by the state or any other unit of government, or, if home detention or  
31 work crew has been ordered by the court, in an approved residence, for  
32 a substantial portion of each day with the balance of the day spent in  
33 the community. Partial confinement includes work release, home  
34 detention, work crew, and a combination of work crew and home detention  
35 as defined in this section.

36 ~~((+24+))~~ (31) "Persistent offender" is any person who:

37 (a) Is convicted in this state of any felony with a seriousness  
38 level of X or above, as provided in RCW 9.94A.320, except for the crime  
39 of aggravated murder in the first degree, or of assault of a child in

1 the second degree, robbery in the first degree, indecent liberties,  
2 sexual exploitation, arson in the first degree, or burglary in the  
3 first degree; and

4 (b) Has, before the commission of the offense under (a) of this  
5 subsection, been convicted as an offender on at least two separate  
6 occasions, whether in this state or elsewhere, of felonies that under  
7 the laws of this state would have a seriousness level of X or above or  
8 would be assault of a child in the second degree, robbery in the first  
9 degree, indecent liberties, sexual exploitation, arson in the first  
10 degree, or burglary in the first degree. Of these two or more previous  
11 convictions, at least one conviction must have occurred before the  
12 commission of any of the other offenses with a seriousness level of X  
13 or above or of assault of a child in the second degree, robbery in the  
14 first degree, indecent liberties, sexual exploitation, arson in the  
15 first degree, or burglary in the first degree, for which the offender  
16 was previously convicted.

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

19 ~~((25))~~ (33) "Restitution" means the requirement that the offender  
20 pay a specific sum of money over a specific period of time to the court  
21 as payment of damages. The sum may include both public and private  
22 costs. The imposition of a restitution order does not preclude civil  
23 redress.

24 ~~((26))~~ (34) "Serious traffic offense" means:

25 (a) Driving while under the influence of intoxicating liquor or any  
26 drug (RCW 46.61.502), actual physical control while under the influence  
27 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
28 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
29 or

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

33 ~~((27))~~ (35) "Serious violent offense" is a subcategory of violent  
34 offense and means:

35 (a) Murder in the first degree, homicide by abuse, murder in the  
36 second degree, assault in the first degree, kidnapping in the first  
37 degree, or rape in the first degree, assault of a child in the first  
38 degree, robbery in the first degree when the personal property taken by

1 the person is a motor vehicle, or an attempt, criminal solicitation, or  
2 criminal conspiracy to commit one of these felonies; or

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

6 (~~(+28+)~~) (36) "Sentence range" means the sentencing court's  
7 discretionary range in imposing a nonappealable sentence.

8 (~~(+29+)~~) (37) "Sex offense" means:

9 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
10 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal  
11 attempt, criminal solicitation, or criminal conspiracy to commit such  
12 crimes;

13 (b) A felony with a finding of sexual motivation under RCW  
14 9.94A.127; or

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

18 (~~(+30+)~~) (38) "Sexual motivation" means that one of the purposes  
19 for which the defendant committed the crime was for the purpose of his  
20 or her sexual gratification.

21 (~~(+31+)~~) (39) "Total confinement" means confinement inside the  
22 physical boundaries of a facility or institution operated or utilized  
23 under contract by the state or any other unit of government for twenty-  
24 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

25 (~~(+32+)~~) (40) "Transition training" means written and verbal  
26 instructions and assistance provided by the department to the offender  
27 during the two weeks prior to the offender's successful completion of  
28 the work ethic camp program. The transition training shall include  
29 instructions in the offender's requirements and obligations during the  
30 offender's period of community custody.

31 (41) "Victim" means any person who has sustained emotional,  
32 psychological, physical, or financial injury to person or property as  
33 a direct result of the crime charged.

34 (~~(+33+)~~) (42) "Violent offense" means:

35 (a) Any of the following felonies, as now existing or hereafter  
36 amended: Any felony defined under any law as a class A felony or an  
37 attempt to commit a class A felony, criminal solicitation of or  
38 criminal conspiracy to commit a class A felony, manslaughter in the  
39 first degree, manslaughter in the second degree, indecent liberties if



1 committed by forcible compulsion, kidnapping in the second degree,  
2 arson in the second degree, assault in the second degree, assault of a  
3 child in the second degree, extortion in the first degree, robbery in  
4 the second degree whether or not the personal property taken by the  
5 person is a motor vehicle, vehicular assault, and vehicular homicide,  
6 when proximately caused by the driving of any vehicle by any person  
7 while under the influence of intoxicating liquor or any drug as defined  
8 by RCW 46.61.502, or by the operation of any vehicle in a reckless  
9 manner;

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

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

16 ~~((+34+))~~ (43) "Work crew" means a program of partial confinement  
17 consisting of civic improvement tasks for the benefit of the community  
18 of not less than thirty-five hours per week that complies with RCW  
19 9.94A.135. ~~((The civic improvement tasks shall be performed on public~~  
20 ~~property or on private property owned or operated by nonprofit~~  
21 ~~entities, except that, for emergency purposes only, work crews may~~  
22 ~~perform snow removal on any private property.))~~ The civic improvement  
23 tasks shall have minimal negative impact on existing private industries  
24 or the labor force in the county where the service or labor is  
25 performed. The civic improvement tasks shall not affect employment  
26 opportunities for people with developmental disabilities contracted  
27 through sheltered workshops as defined in RCW 82.04.385. Only those  
28 offenders sentenced to a facility operated or utilized under contract  
29 by a county or the state are eligible to participate on a work crew.  
30 Offenders sentenced for a sex offense as defined in subsection ~~((+29+))~~  
31 (37) of this section are not eligible for the work crew program.

32 ~~((+35+))~~ (44) "Work ethic camp" means an alternative incarceration  
33 program designed to reduce recidivism and lower the costs of  
34 corrections by requiring offenders to complete a comprehensive array of  
35 job and vocational experiences, character-building work ethics  
36 training, life management skills development, drug rehabilitation,  
37 counseling, literacy training, and basic adult education.

38 (45) "Work release" means a program of partial confinement  
39 available to offenders who are employed or engaged as a student in a

1 regular course of study at school. Participation in work release shall  
2 be conditioned upon the offender attending work or school at regularly  
3 defined hours and abiding by the rules of the work release facility.

4 ~~((36) "Home detention" means a program of partial confinement~~  
5 ~~available to offenders wherein the offender is confined in a private~~  
6 ~~residence subject to electronic surveillance. Home detention may not~~  
7 ~~be imposed for offenders convicted of a violent offense, any sex~~  
8 ~~offense, any drug offense, reckless burning in the first or second~~  
9 ~~degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third~~  
10 ~~degree as defined in RCW 9A.36.031, assault of a child in the third~~  
11 ~~degree, unlawful imprisonment as defined in RCW 9A.40.040, or~~  
12 ~~harassment as defined in RCW 9A.46.020. Home detention may be imposed~~  
13 ~~for offenders convicted of possession of a controlled substance (RCW~~  
14 ~~69.50.401(d)) or forged prescription for a controlled substance (RCW~~  
15 ~~69.50.403) if the offender fulfills the participation conditions set~~  
16 ~~forth in this subsection and is monitored for drug use by treatment~~  
17 ~~alternatives to street crime (TASC) or a comparable court or agency-~~  
18 ~~referred program.~~

19 ~~(a) Home detention may be imposed for offenders convicted of~~  
20 ~~burglary in the second degree as defined in RCW 9A.52.030 or~~  
21 ~~residential burglary conditioned upon the offender: (i) Successfully~~  
22 ~~completing twenty one days in a work release program, (ii) having no~~  
23 ~~convictions for burglary in the second degree or residential burglary~~  
24 ~~during the preceding two years and not more than two prior convictions~~  
25 ~~for burglary or residential burglary, (iii) having no convictions for~~  
26 ~~a violent felony offense during the preceding two years and not more~~  
27 ~~than two prior convictions for a violent felony offense, (iv) having no~~  
28 ~~prior charges of escape, and (v) fulfilling the other conditions of the~~  
29 ~~home detention program.~~

30 ~~(b) Participation in a home detention program shall be conditioned~~  
31 ~~upon: (i) The offender obtaining or maintaining current employment or~~  
32 ~~attending a regular course of school study at regularly defined hours,~~  
33 ~~or the offender performing parental duties to offspring or minors~~  
34 ~~normally in the custody of the offender, (ii) abiding by the rules of~~  
35 ~~the home detention program, and (iii) compliance with court ordered~~  
36 ~~legal financial obligations. The home detention program may also be~~  
37 ~~made available to offenders whose charges and convictions do not~~  
38 ~~otherwise disqualify them if medical or health related conditions,~~  
39 ~~concerns or treatment would be better addressed under the home~~

1 ~~detention program, or where the health and welfare of the offender,~~  
2 ~~other inmates, or staff would be jeopardized by the offender's~~  
3 ~~incarceration. Participation in the home detention program for medical~~  
4 ~~or health-related reasons is conditioned on the offender abiding by the~~  
5 ~~rules of the home detention program and complying with court-ordered~~  
6 ~~restitution.))~~

7 (46) "Criminal street gang" means any ongoing organization,  
8 association, or group of three or more persons, whether formal or  
9 informal, that has as one of its primary activities the commission of  
10 a criminal act or acts.

11 **Sec. 3.** RCW 9.94A.120 and 1992 c 145 s 7, 1992 c 75 s 2, and 1992  
12 c 45 s 5 are each reenacted and amended to read 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), (4), (5), ~~((and))~~ (6),  
16 (7), and (9) of this section and section 19 of this act, the court  
17 shall impose a sentence within the sentence 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) A persistent offender shall be sentenced to a term of total  
27 confinement for the statutory maximum for the offense, but if the  
28 statutory maximum for the offense is life imprisonment, then to a term  
29 of ninety-nine years. An offender convicted of the crime of murder in  
30 the first degree shall be sentenced to a term of total confinement not  
31 less than twenty years. An offender convicted of the crime of assault  
32 in the first degree or assault of a child in the first degree where the  
33 offender used force or means likely to result in death or intended to  
34 kill the victim shall be sentenced to a term of total confinement not  
35 less than five years. An offender convicted of the crime of rape in  
36 the first degree shall be sentenced to a term of total confinement not  
37 less than five years, and shall not be eligible for furlough, work  
38 release or other authorized leave of absence from the correctional

1 facility during such minimum five-year term except for the purpose of  
2 commitment to an inpatient treatment facility. The foregoing minimum  
3 terms of total confinement are mandatory and shall not be varied or  
4 modified as provided in subsection (2) of this section.

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

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

15 (b) Undergo available outpatient treatment for up to ~~((two))~~ one  
16 year~~((s))~~, or inpatient treatment not to exceed the standard range of  
17 confinement for that offense;

18 (c) Pursue a prescribed, secular course of study or vocational  
19 training;

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

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

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

27 (6)(a) When sentencing an offender who is not a violent offender or  
28 a sex offender and whose presumptive sentence is twelve months or less,  
29 the court shall first determine if it is appropriate that such sentence  
30 be served primarily or exclusively under one or more of the sentencing  
31 options set forth in (c) of this subsection. If the court determines  
32 that a period of total confinement is appropriate in order to  
33 adequately punish the offender and to serve the best interest of  
34 society, the court shall order total confinement for the minimum time  
35 necessary to carry out the goals of this chapter.

36 (b) To impose a sentence consisting of sentencing options, the  
37 court shall determine the standard range for the offender and then  
38 convert that amount of total confinement as is necessary into the  
39 sentencing options the court finds appropriate for the offender.

1 Sentencing options that are imposed under this section may be used in  
2 any combination and may also be combined with total confinement.  
3 Conversions of total confinement to sentencing options shall be clearly  
4 indicated on the judgment and sentence.

5 (c) Sentencing options available to a court include:

6 (i) Approved adult education;

7 (ii) Approved vocational-technical training;

8 (iii) Community service;

9 (iv) Day fines;

10 (v) Day reporting;

11 (vi) Drug or alcohol monitoring;

12 (vii) Home detention;

13 (viii) Inpatient treatment;

14 (ix) Outpatient treatment;

15 (x) Partial confinement;

16 (xi) Work crews;

17 (xii) Work release; and

18 (xiii) Any other nonincarcerative option that is consistent with  
19 the purposes of this chapter.

20 (d) An offender may also be placed on a term of community  
21 supervision not to exceed one year. At any time after the successful  
22 completion of sentencing options and other conditions imposed, the  
23 offender or the department may petition the court to terminate  
24 community supervision.

25 (7)(a) An offender is eligible for the special drug offender  
26 sentencing alternative if:

27 (i) The offender is convicted of the manufacture, delivery, or  
28 possession with intent to manufacture or deliver a controlled substance  
29 classified in schedule I or II that is a narcotic drug and the  
30 violation does not involve a sentence enhancement under RCW  
31 9.94A.310(3);

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

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

38 (b) If the sentencing judge determines that the offender is  
39 eligible for this option and that the offender and the community will

1 benefit from the use of the special drug offender sentencing  
2 alternative, the judge may waive imposition of a sentence within the  
3 standard range and impose a sentence that must include a period of  
4 total confinement in a state facility for one-half of the midpoint of  
5 the standard range. During incarceration in the state facility, the  
6 offender must be involved in substance abuse treatment provided by the  
7 department. No more than three months of the sentence may be served in  
8 a work release status. The court shall also impose one year of  
9 community custody that must include crime-related prohibitions, a  
10 condition to not use illegal controlled substances, and to submit to  
11 urinalysis or other testing to monitor that status. The department may  
12 require the offender to pay thirty dollars per month while on community  
13 custody to offset the cost of monitoring. In addition, the court may  
14 impose any of the following conditions:

15 (i) Devote time to a specific employment or training;  
16 (ii) Participate in outpatient substance abuse treatment;  
17 (iii) Remain within prescribed geographical boundaries and notify  
18 the court or the community corrections officer before any change in the  
19 offender's address or employment;

20 (iv) Report as directed to a community corrections officer;

21 (v) Pay all court-ordered legal financial obligations;

22 (vi) Perform community service work;

23 (vii) Pay a day fine;

24 (viii) Stay out of areas designated by the sentencing judge;

25 (ix) Undergo day supervision.

26 (c) If the offender violates any of the sentence conditions in (b)  
27 of this subsection, the department shall impose sanctions  
28 administratively, with notice to the prosecuting attorney and the  
29 sentencing court. Upon motion of the court or the prosecuting  
30 attorney, a violation hearing shall be held by the court. If the court  
31 finds that conditions have been willfully violated, the court may  
32 impose confinement consisting of the remaining one-half of the midpoint  
33 of the standard range. All total confinement served during the period  
34 of community custody shall be credited to the offender, regardless of  
35 whether the total confinement is served as a result of the original  
36 sentence, as a result of a sanction imposed by the department of  
37 corrections, or as a result of a violation found by the court.

38 (d) If a sentencing judge has sentenced an offender pursuant to the  
39 special drug offender sentencing alternative, the offender is not

1 eligible for placement in a work ethic camp as provided in section 28  
2 of this act. The department shall establish one work ethic camp as  
3 provided in section 27 of this act.

4 (8) If a sentence range has not been established for the  
5 defendant's crime, the court shall impose a determinate sentence which  
6 may include not more than one year of confinement, community service  
7 work, a term of community supervision not to exceed one year, and/or  
8 other legal financial obligations. All or any part of the confinement  
9 may be converted to community service, work crew, work release, home  
10 detention, day reporting, day fine, or education or training, at the  
11 rates provided in RCW 9.94A.380. The court may impose a sentence which  
12 provides more than one year of confinement if the court finds,  
13 considering the purpose of this chapter, that there are substantial and  
14 compelling reasons justifying an exceptional sentence.

15 ((+7)) (9)(a)(i) When an offender is convicted of a sex offense  
16 other than a violation of RCW 9A.44.050 or a sex offense that is also  
17 a serious violent offense and has no prior convictions for a sex  
18 offense or any other felony sex offenses in this or any other state,  
19 the sentencing court, on its own motion or the motion of the state or  
20 the defendant, may order an examination to determine whether the  
21 defendant is amenable to treatment.

22 The report of the examination shall include at a minimum the  
23 following: The defendant's version of the facts and the official  
24 version of the facts, the defendant's offense history, an assessment of  
25 problems in addition to alleged deviant behaviors, the offender's  
26 social and employment situation, and other evaluation measures used.  
27 The report shall set forth the sources of the evaluator's information.

28 The examiner shall assess and report regarding the defendant's  
29 amenability to treatment and relative risk to the community. A  
30 proposed treatment plan shall be provided and shall include, at a  
31 minimum:

- 32 (A) Frequency and type of contact between offender and therapist;
- 33 (B) Specific issues to be addressed in the treatment and  
34 description of planned treatment modalities;
- 35 (C) Monitoring plans, including any requirements regarding living  
36 conditions, lifestyle requirements, and monitoring by family members  
37 and others;
- 38 (D) Anticipated length of treatment; and
- 39 (E) Recommended crime-related prohibitions.

1       The court on its own motion may order, or on a motion by the state  
2 shall order, a second examination regarding the offender's amenability  
3 to treatment. The evaluator shall be selected by the party making the  
4 motion. The defendant shall pay the cost of any second examination  
5 ordered unless the court finds the defendant to be indigent in which  
6 case the state shall pay the cost.

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

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

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

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

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

38       (III) Report as directed to the court and a community corrections  
39 officer;



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

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

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

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

29 (v) The court may revoke the suspended sentence at any time during  
30 the period of community supervision and order execution of the sentence  
31 if: (A) The defendant violates the conditions of the suspended  
32 sentence, or (B) the court finds that the defendant is failing to make  
33 satisfactory progress in treatment. All confinement time served during  
34 the period of community supervision shall be credited to the offender  
35 if the suspended sentence is revoked.

36 (vi) Except as provided in (a)(vii) of this subsection, after July  
37 1, 1991, examinations and treatment ordered pursuant to this subsection  
38 shall only be conducted by sex offender treatment providers certified  
39 by the department of health pursuant to chapter 18.155 RCW.

1 (vii) A sex offender therapist who examines or treats a sex  
2 offender pursuant to this subsection (~~((7))~~) (9) does not have to be  
3 certified by the department of health pursuant to chapter 18.155 RCW if  
4 the court finds that: (A) The offender has already moved to another  
5 state or plans to move to another state for reasons other than  
6 circumventing the certification requirements; (B) no certified  
7 providers are available for treatment within a reasonable geographical  
8 distance of the offender's home; and (C) the evaluation and treatment  
9 plan comply with this subsection (~~((7))~~) (9) and the rules adopted by  
10 the department of health.

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

16 (b) When an offender is convicted of any felony sex offense  
17 committed before July 1, 1987, and is sentenced to a term of  
18 confinement of more than one year but less than six years, the  
19 sentencing court may, on its own motion or on the motion of the  
20 offender or the state, order the offender committed for up to thirty  
21 days to the custody of the secretary of social and health services for  
22 evaluation and report to the court on the offender's amenability to  
23 treatment at these facilities. If the secretary of social and health  
24 services cannot begin the evaluation within thirty days of the court's  
25 order of commitment, the offender shall be transferred to the state for  
26 confinement pending an opportunity to be evaluated at the appropriate  
27 facility. The court shall review the reports and may order that the  
28 term of confinement imposed be served in the sexual offender treatment  
29 program at the location determined by the secretary of social and  
30 health services or the secretary's designee, only if the report  
31 indicates that the offender is amenable to the treatment program  
32 provided at these facilities. The offender shall be transferred to the  
33 state pending placement in the treatment program. Any offender who has  
34 escaped from the treatment program shall be referred back to the  
35 sentencing court.

36 If the offender does not comply with the conditions of the  
37 treatment program, the secretary of social and health services may  
38 refer the matter to the sentencing court. The sentencing court shall

1 commit the offender to the department of corrections to serve the  
2 balance of the term of confinement.

3 If the offender successfully completes the treatment program before  
4 the expiration of the term of confinement, the court may convert the  
5 balance of confinement to community supervision and may place  
6 conditions on the offender including crime-related prohibitions and  
7 requirements that the offender perform any one or more of the  
8 following:

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

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

13 (iii) Report as directed to the court and a community corrections  
14 officer;

15 (iv) Undergo available outpatient treatment.

16 If the offender violates any of the terms of community supervision,  
17 the court may order the offender to serve out the balance of the  
18 community supervision term in confinement in the custody of the  
19 department of corrections.

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

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

29 Except for an offender who has been convicted of a violation of RCW  
30 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
31 before the expiration of his or her term of confinement, the department  
32 of corrections may request the court to convert the balance of  
33 confinement to community supervision and to place conditions on the  
34 offender including crime-related prohibitions and requirements that the  
35 offender perform any one or more of the following:

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

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

1 (iii) Report as directed to the court and a community corrections  
2 officer;

3 (iv) Undergo available outpatient treatment.

4 If the offender violates any of the terms of his or her community  
5 supervision, the court may order the offender to serve out the balance  
6 of his or her community supervision term in confinement in the custody  
7 of the department of corrections.

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

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

20 ~~((+8))~~ (10)(a) When a court sentences a person to a term of total  
21 confinement to the custody of the department of corrections for an  
22 offense categorized as a sex offense or a serious violent offense  
23 committed after July 1, 1988, but before July 1, 1990, assault in the  
24 second degree, assault of a child in the second degree, any crime  
25 against a person where it is determined in accordance with RCW  
26 9.94A.125 that the defendant or an accomplice was armed with a deadly  
27 weapon at the time of commission, or any felony offense under chapter  
28 69.50 or 69.52 RCW not sentenced under subsection (6) or (7) of this  
29 section, committed on or after July 1, 1988, the court shall in  
30 addition to the other terms of the sentence, sentence the offender to  
31 a one-year term of community placement ~~((beginning either upon~~  
32 ~~completion of the term of confinement or at such time as the offender~~  
33 ~~is transferred to community custody in lieu of earned early release in~~  
34 ~~accordance with RCW 9.94A.150 (1) and (2)).~~ When the court sentences an  
35 offender under this subsection to the statutory maximum period of  
36 confinement then the community placement portion of the sentence shall  
37 consist entirely of such community custody to which the offender may  
38 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any

1 ~~period of community custody actually served shall be credited against~~  
2 ~~the community placement portion of the 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.

10 (c) When a court sentences a person to a term of total confinement  
11 to the custody of the department of corrections for vehicular homicide  
12 or vehicular assault committed after June 30, 1993, and the person has  
13 been found pursuant to RCW 46.61.524 to have an alcohol or drug  
14 problem, the court shall in addition to other terms of the sentence,  
15 sentence the offender to community placement for one year or up to the  
16 period of earned early release awarded pursuant to RCW 9.94A.150 (1)  
17 and (2), whichever is longer. In ordering community placement under  
18 this subsection (10)(c), the court shall waive all conditions of  
19 community placement except the following:

20 (i) The offender shall abstain from alcohol and nonprescribed  
21 controlled substances;

22 (ii) The offender shall complete any treatment program and comply  
23 with any other requirement under RCW 46.61.524;

24 (iii) The offender shall comply with any legal financial  
25 obligations imposed by the court;

26 (iv) The offender shall pay supervision fees as determined by the  
27 department of corrections; and

28 (v) The offender shall report to and be available for contact with  
29 the assigned community corrections officer as directed.

30 (d) The community placement under this subsection (10) shall begin  
31 either upon completion of the term of confinement or at such time as  
32 the offender is transferred to community custody in lieu of earned  
33 early release in accordance with RCW 9.94A.150 (1) and (2). When the  
34 court sentences an offender under this subsection (10) to the statutory  
35 maximum period of confinement then the community placement portion of  
36 the sentence shall consist entirely of the community custody to which  
37 the offender may become eligible, in accordance with RCW 9.94A.150 (1)  
38 and (2). Any period of community custody actually served shall be  
39 credited against the community placement portion of the sentence.

1 Unless a condition is waived by the court, the terms of community  
2 placement for offenders sentenced pursuant to this section shall  
3 include the following conditions:

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

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

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

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

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

14 (vi) The residence location and living arrangements are subject to  
15 the prior approval of the department of corrections during the period  
16 of community placement.

17 ~~((e))~~ (e) The court may also order any of the following special  
18 conditions:

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

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

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

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

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

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

31 ~~((9))~~ (11) If the court imposes a sentence requiring confinement  
32 of thirty days or less, the court may, in its discretion, specify that  
33 the sentence be served on consecutive or intermittent days. A sentence  
34 requiring more than thirty days of confinement shall be served on  
35 consecutive days. Local jail administrators may schedule court-ordered  
36 intermittent sentences as space permits.

37 ~~((10))~~ (12) If a sentence imposed includes payment of a legal  
38 financial obligation, the sentence shall specify the total amount of  
39 the legal financial obligation owed, and shall require the offender to

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

19 ~~((11))~~ (13) Except as provided under RCW 9.94A.140(1) and  
20 9.94A.142(1), a court may not impose a sentence providing for a term of  
21 confinement or community supervision or community placement which  
22 exceeds the statutory maximum for the crime as provided in chapter  
23 9A.20 RCW.

24 ~~((12))~~ (14) All offenders sentenced to terms involving community  
25 supervision, community service, community placement, or legal financial  
26 obligation shall be under the supervision of the secretary of the  
27 department of corrections or such person as the secretary may designate  
28 and shall follow explicitly the instructions of the secretary including  
29 reporting as directed to a community corrections officer, remaining  
30 within prescribed geographical boundaries, notifying the community  
31 corrections officer of any change in the offender's address or  
32 employment, and paying the supervision fee assessment.

33 ~~((13))~~ (15) All offenders sentenced to terms involving community  
34 supervision, community service, or community placement under the  
35 supervision of the department of corrections shall not own, use, or  
36 possess firearms or ammunition. Offenders who own, use, or are found  
37 to be in actual or constructive possession of firearms or ammunition  
38 shall be subject to the appropriate violation process and sanctions.  
39 "Constructive possession" as used in this subsection means the power

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

4 ~~((14))~~ (16) The sentencing court shall give the offender credit  
5 for all confinement time served before the sentencing if that  
6 confinement was solely in regard to the offense for which the offender  
7 is being sentenced.

8 ~~((15))~~ (17) A departure from the standards in RCW 9.94A.400 (1)  
9 and (2) governing whether sentences are to be served consecutively or  
10 concurrently is an exceptional sentence subject to the limitations in  
11 subsections (2) and (3) of this section, and may be appealed by the  
12 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

13 ~~((16))~~ (18) The court shall order restitution whenever the  
14 offender is convicted of a felony that results in injury to any person  
15 or damage to or loss of property, whether the offender is sentenced to  
16 confinement or placed under community supervision, unless extraordinary  
17 circumstances exist that make restitution inappropriate in the court's  
18 judgment. The court shall set forth the extraordinary circumstances in  
19 the record if it does not order restitution.

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

27 ~~((18))~~ (20) In any sentence of partial confinement, the court may  
28 require the defendant to serve the partial confinement in work release,  
29 in a program of home detention, on work crew, or in a combined program  
30 of work crew and home detention.

31 ~~((19))~~ (21) All court-ordered legal financial obligations  
32 collected by the department and remitted to the county clerk shall be  
33 credited and paid where restitution is ordered. Restitution shall be  
34 paid prior to any other payments of monetary obligations.

35 **Sec. 4.** RCW 9.94A.040 and 1986 c 257 s 18 are each amended to read  
36 as follows:

37 (1) A sentencing guidelines commission is established as an agency  
38 of state government.



1 (2) The commission shall, following a public hearing or hearings:

2 (a) Devise a series of recommended standard sentence ranges for all  
3 felony offenses and a system for determining which range of punishment  
4 applies to each offender based on the extent and nature of the  
5 offender's criminal history, if any;

6 (b) Devise recommended prosecuting standards in respect to charging  
7 of offenses and plea agreements; and

8 (c) Devise recommended standards to govern whether sentences are to  
9 be served consecutively or concurrently.

10 (3) Each of the commission's recommended standard sentence ranges  
11 shall include one or more of the following: Total confinement, partial  
12 confinement, community supervision, community service, and a fine.

13 (4) In devising the standard sentence ranges of total and partial  
14 confinement under this section, the commission is subject to the  
15 following limitations:

16 (a) If the maximum term in the range is one year or less, the  
17 minimum term in the range shall be no less than one-third of the  
18 maximum term in the range, except that if the maximum term in the range  
19 is ninety days or less, the minimum term may be less than one-third of  
20 the maximum;

21 (b) If the maximum term in the range is greater than one year, the  
22 minimum term in the range shall be no less than seventy-five percent of  
23 the maximum term in the range; and

24 (c) The maximum term of confinement in a range may not exceed the  
25 statutory maximum for the crime as provided in RCW 9A.20.020.

26 (5) In carrying out its duties under subsection (2) of this  
27 section, the commission shall give consideration to the existing  
28 guidelines adopted by the association of superior court judges and the  
29 Washington association of prosecuting attorneys and the experience  
30 gained through use of those guidelines. The commission shall emphasize  
31 confinement for the violent offender and alternatives to total  
32 confinement for the nonviolent offender.

33 (6) This commission shall conduct a study to determine the capacity  
34 of correctional facilities and programs which are or will be available.  
35 While the commission need not consider such capacity in arriving at its  
36 recommendations, the commission shall project whether the  
37 implementation of its recommendations would result in exceeding such  
38 capacity. If the commission finds that this result would probably

1 occur, then the commission shall prepare an additional list of standard  
2 sentences which shall be consistent with such capacity.

3 (7) The commission may recommend to the legislature revisions or  
4 modifications to the standard sentence ranges and other standards. If  
5 implementation of the revisions or modifications would result in  
6 exceeding the capacity of correctional facilities, then the commission  
7 shall accompany its recommendation with an additional list of standard  
8 sentence ranges which are consistent with correction capacity.

9 (8) The sentencing reform act has been in effect since July 1,  
10 1984, and several modifications to sentences have occurred. The  
11 sentencing guidelines commission shall reevaluate the proportionality  
12 and fairness of sentences contained in RCW 9.94A.120, as well as  
13 practical workability of sentences and ranges. The commission shall  
14 develop recommendations on alternative punishments to total confinement  
15 for nonviolent offenders. The commission shall evaluate the impact of  
16 revisions to RCW 9.94A.120 (6) and (7). The commission shall submit  
17 preliminary findings to the legislature by December 1, 1994, and shall  
18 submit the final report to the legislature by December 1, 1995. The  
19 report shall describe the changes in sentencing practices related to  
20 the use of alternatives to total confinement for nonviolent offenders  
21 and include the impact of sentencing alternatives on state prisons and  
22 county jail population, the savings in state and local resources, and  
23 the impact on recidivism rates. The commission shall establish a  
24 baseline for evaluating recidivism of all felony offenders whether  
25 under the jurisdiction of the department or counties.

26 (9) The commission shall study the existing criminal code and from  
27 time to time make recommendations to the legislature for modification.

28 ((+9)) (10) The commission shall exercise its duties under this  
29 section in conformity with chapter 34.05 RCW, as now existing or  
30 hereafter amended.

31 **Sec. 5.** RCW 9.94A.190 and 1991 c 181 s 5 are each amended to read  
32 as follows:

33 (1) A sentence that includes a term or terms of confinement  
34 totaling more than one year shall be served in a facility or  
35 institution operated, or utilized under contract, by the state. Except  
36 as provided for in subsection (3) or (4) of this section, a sentence of  
37 not more than one year of confinement shall be served in a facility  
38 operated, licensed, or utilized under contract, by the county, or if

1 home detention or work crew has been ordered by the court, in the  
2 residence of either the defendant or a member of the defendant's  
3 immediate family.

4 (2) If a county uses a state partial confinement facility for the  
5 partial confinement of a person sentenced to confinement for not more  
6 than one year, the county shall reimburse the state for the use of the  
7 facility as provided for in this subsection. The office of financial  
8 management shall set the rate of reimbursement based upon the average  
9 per diem cost per offender in the facility. The office of financial  
10 management shall determine to what extent, if any, reimbursement shall  
11 be reduced or eliminated because of funds provided by the legislature  
12 to the department of corrections for the purpose of covering the cost  
13 of county use of state partial confinement facilities. The office of  
14 financial management shall reestablish reimbursement rates each even-  
15 numbered year.

16 (3) A person who is sentenced for a felony to a term of not more  
17 than one year, and who is committed or returned to incarceration in a  
18 state facility on another felony conviction, either under the  
19 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter  
20 shall serve all terms of confinement, including a sentence of not more  
21 than one year, in a facility or institution operated, or utilized under  
22 contract, by the state, consistent with the provisions of RCW  
23 9.94A.400.

24 (4) For sentences imposed pursuant to RCW 9.94A.120(7) which have  
25 a sentence range of over one year, notwithstanding any other provision  
26 of this section, all such sentences regardless of length shall be  
27 served in a facility or institution operated, or utilized under  
28 contract, by the state.

29 **Sec. 6.** RCW 9.94A.200 and 1989 c 252 s 7 are each amended to read  
30 as follows:

31 (1) If an offender violates any condition or requirement of a  
32 sentence, the court may modify its order of judgment and sentence and  
33 impose further punishment in accordance with this section.

34 (2) If an offender fails to comply with any of the requirements or  
35 conditions of a sentence the following provisions apply:

36 (a) The court, upon the motion of the state, or upon its own  
37 motion, shall require the offender to show cause why the offender

1 should not be punished for the noncompliance. The court may issue a  
2 summons or a warrant of arrest for the offender's appearance;

3 (b) The state has the burden of showing noncompliance by a  
4 preponderance of the evidence. If the court finds that the violation  
5 has occurred, it may order the offender to be confined for a period not  
6 to exceed sixty days for each violation(~~(, and)~~). The court may (i)  
7 convert a term of partial confinement to total confinement, (ii)  
8 convert community service obligation to total or partial confinement,  
9 (~~(or)~~) (iii) convert monetary obligations, except restitution and the  
10 crime victim penalty assessment, to community service hours at the rate  
11 of the state minimum wage as established in RCW 49.46.020 for each hour  
12 of community service, or (iv) convert to other sentencing alternatives  
13 as authorized in RCW 9.94A.380. Any time served in confinement  
14 awaiting a hearing on noncompliance shall be credited against any  
15 confinement order by the court; and

16 (c) If the court finds that the violation was not willful, the  
17 court may modify its previous order regarding payment of legal  
18 financial obligations and regarding community service obligations.

19 (3) Nothing in this section prohibits the filing of escape charges  
20 if appropriate.

21 **Sec. 7.** RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read  
22 as follows:

23 (1) TABLE 1  
24 Sentencing Grid

25 SERIOUSNESS	26 OFFENDER SCORE									
	27 SCORE	0	1	2	3	4	5	6	7	8
29 XV	Life Sentence without Parole/Death Penalty									
30 XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
31	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
32	320	333	347	361	374	388	416	450	493	548

33  
34  
35

1	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
2		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
3		164	178	192	205	219	233	260	288	342	397
4											
5	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
6		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
7		123	136	147	160	171	184	216	236	277	318
8											
9	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
10		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
11		102	114	125	136	147	158	194	211	245	280
12											
13	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
14		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
15		68	75	82	89	96	102	130	144	171	198
16											
17	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
18		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
19		41	48	54	61	68	75	102	116	144	171
20											
21	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
22		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
23		27	34	41	48	54	61	89	102	116	144
24											
25	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
26		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
27		20	27	34	41	48	54	75	89	102	116
28											
29	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
30		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
31		14	20	27	34	41	48	61	75	89	102
32											
33	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
34		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
35		12	14	17	20	29	43	54	68	82	96
36											
37	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
38		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
39		9	12	14	17	20	29	43	57	70	84

1	<hr/>										
2	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
3		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
4		3	8	12	12	16	22	29	43	57	68
5	<hr/>										
6	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
7		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
8		Days	6	9	12	14	18	22	29	43	57
9	<hr/>										
10	I			3m	4m	5m	8m	13m	16m	20m	2y2m
11		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
12		Days	Days	5	6	8	12	14	18	22	29
13	<hr/>										

14 NOTE: Numbers in the first horizontal row of each seriousness category  
15 represent sentencing midpoints in years(y) and months(m). Numbers in  
16 the second and third rows represent presumptive sentencing ranges in  
17 months, or in days if so designated. 12+ equals one year and one day.

18 (2) For persons convicted of the anticipatory offenses of criminal  
19 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
20 presumptive sentence is determined by locating the sentencing grid  
21 sentence range defined by the appropriate offender score and the  
22 seriousness level of the completed crime, and multiplying the range by  
23 75 percent.

24 (3) The following additional times shall be added to the  
25 presumptive sentence if the offender or an accomplice was armed with a  
26 deadly weapon as defined in this chapter and the offender is being  
27 sentenced for one of the crimes listed in this subsection. If the  
28 offender or an accomplice was armed with a deadly weapon and the  
29 offender is being sentenced for an anticipatory offense under chapter  
30 9A.28 RCW to commit one of the crimes listed in this subsection, the  
31 following times shall be added to the presumptive range determined  
32 under subsection (2) of this section:

33 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.-  
34 200), or Kidnapping 1 (RCW 9A.40.020), but if the offense was committed  
35 with a firearm, the 24-month time period may be increased up to 36  
36 months;

1           (b) 18 months for Burglary 1 (RCW 9A.52.020), but if the offense  
2 was committed with a firearm, the 18-month time period may be increased  
3 up to 30 months;

4           (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault  
5 of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110), Kidnapping 2  
6 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW  
7 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug  
8 offense, but if the offense was committed with a firearm, the 12-month  
9 time period may be increased up to 18 months.

10           (4) If the offender committed an offense listed in subsection  
11 (3)(a) through (c) of this section while the offender or an accomplice  
12 was armed with a firearm, and the offender had a prior conviction for  
13 an offense committed with a firearm, then the following times may be  
14 added to the presumptive range determined under subsection (2) of this  
15 section:

16           (a) For a second conviction for an offense committed while armed  
17 with a firearm, up to 60 months;

18           (b) For a third or subsequent conviction for an offense committed  
19 while armed with a firearm, up to 84 months.

20           (5) If an offender or an accomplice was armed with a firearm and  
21 fired upon a law enforcement officer while resisting arrest under RCW  
22 9A.76.040, up to 60 months may be added to the presumptive sentence.

23           (6) The following additional times shall be added to the  
24 presumptive sentence if the offender or an accomplice committed the  
25 offense while in a county jail or state correctional facility as that  
26 term is defined in this chapter and the offender is being sentenced for  
27 one of the crimes listed in this subsection. If the offender or an  
28 accomplice committed one of the crimes listed in this subsection while  
29 in a county jail or state correctional facility as that term is defined  
30 in this chapter, and the offender is being sentenced for an anticipa-  
31 tory offense under chapter 9A.28 RCW to commit one of the crimes listed  
32 in this subsection, the following times shall be added to the  
33 presumptive sentence range determined under subsection (2) of this  
34 section:

35           (a) Eighteen months for offenses committed under RCW 69.50.401(a)-  
36 (1)(i) or 69.50.410;

37           (b) Fifteen months for offenses committed under RCW  
38 69.50.401(a)(1)(ii), (iii), and (iv);

39           (c) Twelve months for offenses committed under RCW 69.50.401(d).

1 For the purposes of this subsection, all of the real property of  
2 a state correctional facility or county jail shall be deemed to be part  
3 of that facility or county jail.

4 ~~((+5))~~ (7) An additional twenty-four months shall be added to the  
5 presumptive sentence for any ranked offense involving a violation of  
6 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

7 **Sec. 8.** RCW 9.94A.370 and 1989 c 124 s 2 are each amended to read  
8 as follows:

9 (1) The intersection of the column defined by the offender score  
10 and the row defined by the offense seriousness score determines the  
11 presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The  
12 additional time for deadly weapon findings or for ~~((those offenses))~~  
13 other circumstances enumerated in RCW 9.94A.310~~((+4) that were~~  
14 ~~committed in a state correctional facility or county jail))~~ (3) through  
15 (7) shall be added to the entire presumptive sentence range. The court  
16 may impose any sentence within the range that it deems appropriate.  
17 All presumptive sentence ranges are expressed in terms of total  
18 confinement.

19 (2) In determining any sentence, the trial court may rely on no  
20 more information than is admitted by the plea agreement, or admitted,  
21 acknowledged, or proved in a trial or at the time of sentencing.  
22 Acknowledgement includes not objecting to information stated in the  
23 presentence reports. Where the defendant disputes material facts, the  
24 court must either not consider the fact or grant an evidentiary hearing  
25 on the point. The facts shall be deemed proved at the hearing by a  
26 preponderance of the evidence. Facts that establish the elements of a  
27 more serious crime or additional crimes may not be used to go outside  
28 the presumptive sentence range except upon stipulation or when  
29 specifically provided for in RCW 9.94A.390(2) (c), (d), and (e).

30 **Sec. 9.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are  
31 each reenacted and amended to read as follows:

32 TABLE 2

33 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

34 XV Aggravated Murder 1 (RCW 10.95.020)



1       XIV       Murder 1 (RCW 9A.32.030)  
2                Homicide by Abuse (RCW 9A.32.055)  
3       XIII       Murder 2 (RCW 9A.32.050)  
4       XII        Assault 1 (RCW 9A.36.011)  
5                Assault of a Child 1 (RCW 9A.36.120)  
6       XI         Rape 1 (RCW 9A.44.040)  
7                Rape of a Child 1 (RCW 9A.44.073)  
8       X          Kidnapping 1 (RCW 9A.40.020)  
9                Rape 2 (RCW 9A.44.050)  
10               Rape of a Child 2 (RCW 9A.44.076)  
11               Child Molestation 1 (RCW 9A.44.083)  
12               Robbery 1 when the personal property taken  
13                by the person is a motor vehicle (RCW  
14                9A.56.200)  
15                Damaging building, etc., by explosion with  
16                threat to human being (RCW  
17                70.74.280(1))  
18                Over 18 and deliver heroin or narcotic from  
19                Schedule I or II to someone under 18  
20                (RCW 69.50.406)  
21                Leading Organized Crime (RCW  
22                9A.82.060(1)(a))  
23       IX         Assault of a Child 2 (RCW 9A.36.130)  
24                Robbery 1 except when the personal property  
25                taken by the person is a motor vehicle  
26                (RCW 9A.56.200)  
27                Manslaughter 1 (RCW 9A.32.060)  
28                Explosive devices prohibited (RCW 70.74.180)  
29                Indecent Liberties (with forcible  
30                compulsion) (RCW 9A.44.100(1)(a))  
31                Endangering life and property by explosives  
32                with threat to human being (RCW  
33                70.74.270)

1 Over 18 and deliver narcotic from Schedule  
2 III, IV, or V or a nonnarcotic from  
3 Schedule I-V to someone under 18 and 3  
4 years junior (RCW 69.50.406)  
5 Controlled Substance Homicide (RCW  
6 69.50.415)  
7 Sexual Exploitation (RCW 9.68A.040)  
8 Inciting Criminal Profiteering (RCW  
9 9A.82.060(1)(b))

10 VIII Arson 1 (RCW 9A.48.020)  
11 Promoting Prostitution 1 (RCW 9A.88.070)  
12 Selling for profit (controlled or  
13 counterfeit) any controlled substance  
14 (RCW 69.50.410)  
15 Manufacture, deliver, or possess with intent  
16 to deliver heroin or cocaine (RCW  
17 69.50.401(a)(1)(i))  
18 Manufacture, deliver, or possess with intent  
19 to deliver methamphetamine (RCW  
20 69.50.401(a)(1)(ii))  
21 Vehicular Homicide, by being under the  
22 influence of intoxicating liquor or any  
23 drug or by the operation of any vehicle  
24 in a reckless manner (RCW 46.61.520)

25 VII Burglary 1 (RCW 9A.52.020)  
26 Vehicular Homicide, by disregard for the  
27 safety of others (RCW 46.61.520)  
28 Introducing Contraband 1 (RCW 9A.76.140)  
29 Indecent Liberties (without forcible  
30 compulsion) (RCW 9A.44.100(1) (b) and  
31 (c))  
32 Child Molestation 2 (RCW 9A.44.086)  
33 Dealing in depictions of minor engaged in  
34 sexually explicit conduct (RCW  
35 9.68A.050)

1 Sending, bringing into state depictions of  
2 minor engaged in sexually explicit  
3 conduct (RCW 9.68A.060)  
4 Involving a minor in drug dealing (RCW  
5 69.50.401(f))

6 VI Bribery (RCW 9A.68.010)  
7 Manslaughter 2 (RCW 9A.32.070)  
8 Rape of a Child 3 (RCW 9A.44.079)  
9 Intimidating a Juror/Witness (RCW 9A.72.110,  
10 9A.72.130)  
11 Damaging building, etc., by explosion with  
12 no threat to human being (RCW  
13 70.74.280(2))  
14 Endangering life and property by explosives  
15 with no threat to human being (RCW  
16 70.74.270)  
17 Incest 1 (RCW 9A.64.020(1))  
18 Manufacture, deliver, or possess with intent  
19 to deliver narcotics from Schedule I or  
20 II (except heroin or cocaine) (RCW  
21 69.50.401(a)(1)(i))  
22 Intimidating a Judge (RCW 9A.72.160)  
23 Bail Jumping with Murder 1 (RCW  
24 9A.76.170(2)(a))  
25 Money Laundering, with attempt to conceal or  
26 avoid reporting (RCW 9A.83.020(1)(b)  
27 and (c))

28 V Criminal Mistreatment 1 (RCW 9A.42.020)  
29 Rape 3 (RCW 9A.44.060)  
30 Sexual Misconduct with a Minor 1 (RCW  
31 9A.44.093)  
32 Child Molestation 3 (RCW 9A.44.089)  
33 Robbery 2 when the personal property taken  
34 by the person is a motor vehicle (RCW  
35 9A.56.210)  
36 Kidnapping 2 (RCW 9A.40.030)  
37 Extortion 1 (RCW 9A.56.120)  
38 Incest 2 (RCW 9A.64.020(2))

1 Perjury 1 (RCW 9A.72.020)  
2 Extortionate Extension of Credit (RCW  
3 9A.82.020)  
4 Advancing money or property for extortionate  
5 extension of credit (RCW 9A.82.030)  
6 Extortionate Means to Collect Extensions of  
7 Credit (RCW 9A.82.040)  
8 Rendering Criminal Assistance 1 (RCW  
9 9A.76.070)  
10 Bail Jumping with class A Felony (RCW  
11 9A.76.170(2)(b))  
12 Delivery of imitation controlled substance  
13 by person eighteen or over to person  
14 under eighteen (RCW 69.52.030(2))

15 IV Residential Burglary (RCW 9A.52.025)  
16 Theft of Livestock 1 (RCW 9A.56.080)  
17 Robbery 2 except when the personal property  
18 taken by the person is a motor vehicle  
19 (RCW 9A.56.210)  
20 Assault 2 (RCW 9A.36.021)  
21 Escape 1 (RCW 9A.76.110)  
22 Arson 2 (RCW 9A.48.030)  
23 Bribing a Witness/Bribe Received by Witness  
24 (RCW 9A.72.090, 9A.72.100)  
25 Malicious Harassment (RCW 9A.36.080)  
26 Threats to Bomb (RCW 9.61.160)  
27 Willful Failure to Return from Furlough (RCW  
28 72.66.060)  
29 Hit and Run « Injury Accident (RCW  
30 46.52.020(4))  
31 Vehicular Assault (RCW 46.61.522)  
32 Manufacture, deliver, or possess with intent  
33 to deliver narcotics from Schedule III,  
34 IV, or V or nonnarcotics from Schedule  
35 I-V (except marijuana or  
36 methamphetamines) (RCW 69.50.401(a)(1)  
37 (ii) through (iv))  
38 Influencing Outcome of Sporting Event (RCW  
39 9A.82.070)

1 Use of Proceeds of Criminal Profiteering  
2 (RCW 9A.82.080 (1) and (2))  
3 Knowingly Trafficking in Stolen Property  
4 (RCW 9A.82.050(2))  
5 Money Laundering, Spending (RCW  
6 9A.83.020(1)(a))

7 III Criminal Mistreatment 2 (RCW 9A.42.030)  
8 Extortion 2 (RCW 9A.56.130)  
9 Unlawful Imprisonment (RCW 9A.40.040)  
10 Assault 3 (RCW 9A.36.031)  
11 Assault of a Child 3 (RCW 9A.36.140)  
12 Custodial Assault (RCW 9A.36.100)  
13 Unlawful possession of firearm or pistol by felon (RCW  
14 9.41.040)  
15 Harassment (RCW 9A.46.020)  
16 Promoting Prostitution 2 (RCW 9A.88.080)  
17 Willful Failure to Return from Work Release  
18 (RCW 72.65.070)  
19 Burglary 2 (RCW 9A.52.030)  
20 Introducing Contraband 2 (RCW 9A.76.150)  
21 Communication with a Minor for Immoral  
22 Purposes (RCW 9.68A.090)  
23 Patronizing a Juvenile Prostitute (RCW  
24 9.68A.100)  
25 Escape 2 (RCW 9A.76.120)  
26 Perjury 2 (RCW 9A.72.030)  
27 Bail Jumping with class B or C Felony (RCW  
28 9A.76.170(2)(c))  
29 Intimidating a Public Servant (RCW  
30 9A.76.180)  
31 Tampering with a Witness (RCW 9A.72.120)  
32 Manufacture, deliver, or possess with intent  
33 to deliver marijuana (RCW  
34 69.50.401(a)(1)(ii))  
35 Delivery of a material in lieu of a  
36 controlled substance (RCW 69.50.401(c))  
37 Manufacture, distribute, or possess with  
38 intent to distribute an imitation  
39 controlled substance (RCW 69.52.030(1))

1 Recklessly Trafficking in Stolen Property  
2 (RCW 9A.82.050(1))  
3 Theft of Livestock 2 (RCW 9A.56.080)  
4 Securities Act violation (RCW 21.20.400)

5 II Malicious Mischief 1 (RCW 9A.48.070)  
6 Possession of Stolen Property 1 (RCW  
7 9A.56.150)  
8 Theft 1 (RCW 9A.56.030)  
9 Motor Vehicle Theft (section 13 of this act)  
10 Possession of controlled substance that is  
11 either heroin or narcotics from  
12 Schedule I or II (RCW 69.50.401(d))  
13 Possession of phencyclidine (PCP) (RCW  
14 69.50.401(d))  
15 Create, deliver, or possess a counterfeit  
16 controlled substance (RCW 69.50.401(b))  
17 Computer Trespass 1 (RCW 9A.52.110)  
18 Reckless Endangerment 1 (RCW 9A.36.045)  
19 Escape from Community Custody (RCW  
20 72.09.310)

21 I Theft 2 (RCW 9A.56.040)  
22 Possession of Stolen Property 2 (RCW  
23 9A.56.160)  
24 Forgery (RCW 9A.60.020)  
25 Taking Motor Vehicle Without Permission (RCW  
26 9A.56.070)  
27 Vehicle Prowl 1 (RCW 9A.52.095)  
28 Attempting to Elude a Pursuing Police  
29 Vehicle (RCW 46.61.024)  
30 Malicious Mischief 2 (RCW 9A.48.080)  
31 Reckless Burning 1 (RCW 9A.48.040)  
32 Unlawful Issuance of Checks or Drafts (RCW  
33 9A.56.060)  
34 Unlawful Use of Food Stamps (RCW 9.91.140  
35 (2) and (3))  
36 False Verification for Welfare (RCW  
37 74.08.055)  
38 Forged Prescription (RCW 69.41.020)

1 Forged Prescription for a Controlled  
2 Substance (RCW 69.50.403)  
3 Possess controlled substance that is a  
4 narcotic from Schedule III, IV, or V or  
5 non-narcotic from Schedule I-V (except  
6 phencyclidine) (RCW 69.50.401(d))

7 **Sec. 10.** RCW 9.94A.360 and 1992 c 145 s 10 and 1992 c 75 s 4 are  
8 each reenacted and amended to read as follows:

9 The offender score is measured on the horizontal axis of the  
10 sentencing grid. The offender score rules are as follows:

11 The offender score is the sum of points accrued under this section  
12 rounded down to the nearest whole number.

13 (1) A prior conviction is a conviction which exists before the  
14 date of sentencing for the offense for which the offender score is  
15 being computed. Convictions entered or sentenced on the same date as  
16 the conviction for which the offender score is being computed shall be  
17 deemed "other current offenses" within the meaning of RCW 9.94A.400.

18 (2) Except as provided in subsection (4) of this section, class A  
19 and sex prior felony convictions shall always be included in the  
20 offender score. Class B prior felony convictions other than sex  
21 offenses shall not be included in the offender score, if since the last  
22 date of release from confinement (including full-time residential  
23 treatment) pursuant to a felony conviction, if any, or entry of  
24 judgment and sentence, the offender had spent ten consecutive years in  
25 the community without being convicted of any felonies. Class C prior  
26 felony convictions other than sex offenses shall not be included in the  
27 offender score if, since the last date of release from confinement  
28 (including full-time residential treatment) pursuant to a felony  
29 conviction, if any, or entry of judgment and sentence, the offender had  
30 spent five consecutive years in the community without being convicted  
31 of any felonies. Serious traffic convictions shall not be included in  
32 the offender score if, since the last date of release from confinement  
33 (including full-time residential treatment) pursuant to a felony  
34 conviction, if any, or entry of judgment and sentence, the offender  
35 spent five years in the community without being convicted of any  
36 serious traffic or felony traffic offenses. This subsection applies to  
37 both adult and juvenile prior convictions.

1 (3) Out-of-state convictions for offenses shall be classified  
2 according to the comparable offense definitions and sentences provided  
3 by Washington law.

4 (4) Always include juvenile convictions for sex offenses. Include  
5 other class A juvenile felonies only if the offender was 15 or older at  
6 the time the juvenile offense was committed. Include other class B and  
7 C juvenile felony convictions only if the offender was 15 or older at  
8 the time the juvenile offense was committed and the offender was less  
9 than 23 at the time the offense for which he or she is being sentenced  
10 was committed.

11 (5) Score prior convictions for felony anticipatory offenses  
12 (attempts, criminal solicitations, and criminal conspiracies) the same  
13 as if they were convictions for completed offenses.

14 (6) In the case of multiple prior convictions, for the purpose of  
15 computing the offender score, count all convictions separately, except:

16 (a) Prior adult offenses which were found, under RCW  
17 9.94A.400(1)(a), to encompass the same criminal conduct, shall be  
18 counted as one offense, the offense that yields the highest offender  
19 score. The current sentencing court shall determine with respect to  
20 other prior adult offenses for which sentences were served concurrently  
21 whether those offenses shall be counted as one offense or as separate  
22 offenses, and if the court finds that they shall be counted as one  
23 offense, then the offense that yields the highest offender score shall  
24 be used;

25 (b) Juvenile prior convictions entered or sentenced on the same  
26 date shall count as one offense, the offense that yields the highest  
27 offender score, except for juvenile prior convictions for violent  
28 offenses with separate victims, which shall count as separate offenses;  
29 and

30 (c) In the case of multiple prior convictions for offenses  
31 committed before July 1, 1986, for the purpose of computing the  
32 offender score, count all adult convictions served concurrently as one  
33 offense, and count all juvenile convictions entered on the same date as  
34 one offense. Use the conviction for the offense that yields the  
35 highest offender score.

36 (7) If the present conviction is one of the anticipatory offenses  
37 of criminal attempt, solicitation, or conspiracy, count each prior  
38 conviction as if the present conviction were for a completed offense.



1 (8) If the present conviction is for a nonviolent offense and not  
2 covered by subsection (12) or (13) of this section, count one point for  
3 each adult prior felony conviction and one point for each juvenile  
4 prior violent felony conviction and 1/2 point for each juvenile prior  
5 nonviolent felony conviction.

6 (9) If the present conviction is for a violent offense and not  
7 covered in subsection (10), (11), (12), or (13) of this section, count  
8 two points for each prior adult and juvenile violent felony conviction,  
9 one point for each prior adult nonviolent felony conviction, and 1/2  
10 point for each prior juvenile nonviolent felony conviction.

11 (10) If the present conviction is for Murder 1 or 2, Assault 1,  
12 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count  
13 three points for prior adult and juvenile convictions for crimes in  
14 these categories, two points for each prior adult and juvenile violent  
15 conviction (not already counted), one point for each prior adult  
16 nonviolent felony conviction, and 1/2 point for each prior juvenile  
17 nonviolent felony conviction.

18 (11) If the present conviction is for Burglary 1, count prior  
19 convictions as in subsection (9) of this section; however count two  
20 points for each prior adult Burglary 2 or residential burglary  
21 conviction, and one point for each prior juvenile Burglary 2 or  
22 residential burglary conviction.

23 (12) If the present conviction is for a felony traffic offense  
24 count two points for each adult or juvenile prior conviction for  
25 Vehicular Homicide or Vehicular Assault; for each felony offense or  
26 serious traffic offense, count one point for each adult and 1/2 point  
27 for each juvenile prior conviction.

28 (13) If the present conviction is for a drug offense count three  
29 points for each adult prior felony drug offense conviction and two  
30 points for each juvenile drug offense. All other adult and juvenile  
31 felonies are scored as in subsection (9) of this section if the current  
32 drug offense is violent, or as in subsection (8) of this section if the  
33 current drug offense is nonviolent.

34 (14) If the present conviction is for Willful Failure to Return  
35 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
36 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
37 72.09.310, count only prior escape convictions in the offender score.  
38 Count adult prior escape convictions as one point and juvenile prior  
39 escape convictions as 1/2 point.

1 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
2 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
3 juvenile prior convictions as 1/2 point.

4 (16) If the present conviction is for Burglary 2 or residential  
5 burglary, count priors as in subsection (8) of this section; however,  
6 count two points for each adult and juvenile prior Burglary 1  
7 conviction, two points for each adult prior Burglary 2 or residential  
8 burglary conviction, and one point for each juvenile prior Burglary 2  
9 or residential burglary conviction.

10 (17) If the present conviction is for a sex offense, count priors  
11 as in subsections (8) through (16) of this section; however count three  
12 points for each adult and juvenile prior sex offense conviction.

13 (18) If the present conviction is for an offense committed while  
14 the offender was under community placement, add one point.

15 (19) If the present conviction is for motor vehicle theft, count  
16 two points for each prior adult conviction for motor vehicle theft, and  
17 one point for each juvenile prior conviction for motor vehicle theft.

18 **Sec. 11.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are  
19 each reenacted and amended to read as follows:

20 (1) Alternatives to total confinement are available for offenders  
21 with sentences of one year or less. Alternatives to total confinement  
22 are also available to offenders with sentences of more than one year  
23 when the alternatives are imposed pursuant to subsection (4) of this  
24 section. These alternatives include the following sentence conditions  
25 that the court may order as substitutes for total confinement: ~~((+1))~~  
26 (a) One day of partial confinement may be substituted for one day of  
27 total confinement; ~~((+2))~~ (b) in addition, for offenders convicted of  
28 nonviolent offenses only, eight hours of community service may be  
29 substituted for one day of total confinement, with a maximum conversion  
30 limit of two hundred forty hours or thirty days. Community service  
31 hours must be completed within the period of community supervision or  
32 a time period specified by the court, which shall not exceed twenty-  
33 four months, pursuant to a schedule determined by the department.

34 For sentences of nonviolent offenders for one year or less, the  
35 court shall consider and give priority to available alternatives to  
36 total confinement and shall state its reasons in writing on the  
37 judgment and sentence form if the alternatives are not used.

1 Offenders sentenced under RCW 9.94A.120(6)(a) to a term of one  
2 year or less may be sentenced to authorized sentencing options as  
3 provided in RCW 9.94A.120(6)(a).

4 (2) "Authorized sentencing options" means:

5 (a) Partial confinement as defined in RCW 9.94A.030 at the rate of  
6 one day of partial confinement for one day of total confinement;

7 (b) Community service as defined in RCW 9.94A.030 at the rate of  
8 eight hours of community service for one day of total confinement;

9 (c) Work crew as defined in RCW 9.94A.030 at the rate of seven  
10 hours of work crew for one day of total confinement;

11 (d) Work release as defined in RCW 9.94A.030 at the rate of one  
12 day of work release for one day of total confinement;

13 (e) Home detention as defined in RCW 9.94A.030 at the rate of one  
14 day of home detention for one day of total confinement;

15 (f) Day reporting as defined in RCW 9.94A.030 at the rate of two  
16 days of day reporting for one day of total confinement;

17 (g) Drug or alcohol monitoring as defined in RCW 9.94A.030 at the  
18 rate of five days of drug or alcohol monitoring for one day of total  
19 confinement;

20 (h) Inpatient treatment as defined in RCW 9.94A.030 at the rate of  
21 one day of inpatient treatment for one day of total confinement;

22 (i) Day fine as defined in RCW 9.94A.030 at the rate of one day of  
23 day fine for one day of total confinement;

24 (j) Education or training as defined in RCW 9.94A.030 at the rate  
25 of five hours of education or training for one day of total  
26 confinement; or

27 (k) Outpatient treatment as defined in RCW 9.94A.030 at the rate  
28 of two days of outpatient treatment for one day of total confinement.

29 (3) Sentencing alternatives must be completed within the time  
30 period specified by the court, pursuant to a schedule determined by the  
31 department.

32 (4) Options under subsection (2) of this section may also be  
33 imposed by the court as sanctions resulting from violations of sentence  
34 requirements.

35 (5) The department shall determine the rules for calculating the  
36 value of a day fine based on the offender's income and reasonable  
37 obligations which the offender has for the support of the offender and  
38 any dependents. These rules shall be developed in consultation with

1 the administrator for the courts, the office of financial management,  
2 and the sentencing guidelines commission.

3 **Sec. 12.** RCW 9.94A.390 and 1990 c 3 s 603 are each amended to  
4 read as follows:

5 If the sentencing court finds that an exceptional sentence outside  
6 the standard range should be imposed in accordance with RCW  
7 9.94A.120(2), the sentence is subject to review only as provided for in  
8 RCW 9.94A.210(4).

9 The following are illustrative factors which the court may  
10 consider in the exercise of its discretion to impose an exceptional  
11 sentence. The following are illustrative only and are not intended to  
12 be exclusive reasons for exceptional sentences.

13 (1) Mitigating Circumstances

14 (a) To a significant degree, the victim was an initiator, willing  
15 participant, aggressor, or provoker of the incident.

16 (b) Before detection, the defendant compensated, or made a good  
17 faith effort to compensate, the victim of the criminal conduct for any  
18 damage or injury sustained.

19 (c) The defendant committed the crime under duress, coercion,  
20 threat, or compulsion insufficient to constitute a complete defense but  
21 which significantly affected his or her conduct.

22 (d) The defendant, with no apparent predisposition to do so, was  
23 induced by others to participate in the crime.

24 (e) The defendant's capacity to appreciate the wrongfulness of his  
25 conduct or to conform his conduct to the requirements of the law, was  
26 significantly impaired (voluntary use of drugs or alcohol is excluded).

27 (f) The offense was principally accomplished by another person and  
28 the defendant manifested extreme caution or sincere concern for the  
29 safety or well-being of the victim.

30 (g) The operation of the multiple offense policy of RCW 9.94A.400  
31 results in a presumptive sentence that is clearly excessive in light of  
32 the purpose of this chapter, as expressed in RCW 9.94A.010.

33 (h) The defendant or the defendant's children suffered a  
34 continuing pattern of physical or sexual abuse by the victim of the  
35 offense and the offense is a response to that abuse.

36 (2) Aggravating Circumstances

37 (a) The defendant's conduct during the commission of the current  
38 offense manifested deliberate cruelty to the victim.

1 (b) The defendant knew or should have known that the victim of the  
2 current offense was particularly vulnerable or incapable of resistance  
3 due to extreme youth, advanced age, disability, or ill health.

4 (c) The current offense was a major economic offense or series of  
5 offenses, so identified by a consideration of any of the following  
6 factors:

7 (i) The current offense involved multiple victims or multiple  
8 incidents per victim;

9 (ii) The current offense involved attempted or actual monetary  
10 loss substantially greater than typical for the offense;

11 (iii) The current offense involved a high degree of sophistication  
12 or planning or occurred over a lengthy period of time;

13 (iv) The defendant used his or her position of trust, confidence,  
14 or fiduciary responsibility to facilitate the commission of the current  
15 offense.

16 (d) The current offense was a major violation of the Uniform  
17 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to  
18 trafficking in controlled substances, which was more onerous than the  
19 typical offense of its statutory definition: The presence of ANY of  
20 the following may identify a current offense as a major VUCSA:

21 (i) The current offense involved at least three separate  
22 transactions in which controlled substances were sold, transferred, or  
23 possessed with intent to do so; or

24 (ii) The current offense involved an attempted or actual sale or  
25 transfer of controlled substances in quantities substantially larger  
26 than for personal use; or

27 (iii) The current offense involved the manufacture of controlled  
28 substances for use by other parties; or

29 (iv) The circumstances of the current offense reveal the offender  
30 to have occupied a high position in the drug distribution hierarchy; or

31 (v) The current offense involved a high degree of sophistication  
32 or planning or occurred over a lengthy period of time or involved a  
33 broad geographic area of disbursement; or

34 (vi) The offender used his or her position or status to facilitate  
35 the commission of the current offense, including positions of trust,  
36 confidence or fiduciary responsibility (e.g., pharmacist, physician, or  
37 other medical professional)((~~+~~)).

38 (e) The current offense included a finding of sexual motivation  
39 pursuant to RCW 9.94A.127((~~+~~)).

1 (f) The offense was part of an ongoing pattern of sexual abuse of  
2 the same victim under the age of eighteen years manifested by multiple  
3 incidents over a prolonged period of time(~~(i-or)~~).

4 (g) The operation of the multiple offense policy of RCW 9.94A.400  
5 results in a presumptive sentence that is clearly too lenient in light  
6 of the purpose of this chapter, as expressed in RCW 9.94A.010.

7 (h) The offense was committed for the benefit of, at the direction  
8 of, or in association with any criminal street gang as defined in RCW  
9 9.94A.030, with the specific intent to promote, further, or assist in  
10 any criminal conduct by gang members.

11 NEW SECTION. Sec. 13. A new section is added to chapter 9A.56  
12 RCW to read as follows:

13 (1) A person is guilty of motor vehicle theft if the person  
14 commits theft of a motor vehicle, regardless of its value.

15 (2) Motor vehicle theft is a class B felony.

16 **Sec. 14.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to  
17 read as follows:

18 (1) A person is guilty of theft in the second degree if he or she  
19 commits theft of:

20 (a) Property or services which exceed(s) two hundred and fifty  
21 dollars in value, but does not exceed one thousand five hundred dollars  
22 in value; or

23 (b) A public record, writing, or instrument kept, filed, or  
24 deposited according to law with or in the keeping of any public office  
25 or public servant; or

26 (c) An access device; or

27 (d) (~~A motor vehicle, of a value less than one thousand five~~  
28 ~~hundred dollars; or~~

29 ~~(e))~~) A firearm, of a value less than one thousand five hundred  
30 dollars.

31 (2) Theft in the second degree is a class C felony.

32 NEW SECTION. Sec. 15. A new section is added to chapter 72.09  
33 RCW to read as follows:

34 (1) The department in conjunction with the office of financial  
35 management shall establish a pool of funding for grants to counties for

1 offender placements in alternative sentences to incarceration as  
2 enumerated in RCW 9.94A.380.

3 (2) The department in conjunction with the office of financial  
4 management shall develop guidelines and criteria for counties to  
5 develop plans for alternative sentence placements. The guidelines and  
6 criteria shall be reviewed by the partnership advisory committee  
7 appointed by the secretary pursuant to RCW 72.09.300(7). Guidelines,  
8 criteria, and rules necessary for counties to follow during the grant  
9 application process shall be in effect by October 1, 1993. Counties  
10 may make application immediately thereafter. The plans shall be: (a)  
11 Reviewed as part of the local criminal justice planning process under  
12 RCW 72.09.300, and (b) approved by the county legislative authority or  
13 county executive, prior to submittal to the office of financial  
14 management. Plans may represent a single county or a combination of  
15 counties. Plans developed by counties shall contain estimates of  
16 funding for planning, implementation, or enhancement of alternative  
17 placements to incarceration. In addition, plans shall include the  
18 target offender population, the strategies to be employed through  
19 sentencing alternatives to reduce jail populations, and procedures to  
20 evaluate the impact of sentencing alternatives on jail populations.  
21 Units of local government may develop and operate sentencing  
22 alternatives, or contract with profit or nonprofit organizations, or  
23 contract with the department to provide sentencing alternatives.

24 (3) Proposed plans for alternative sentences to incarceration  
25 shall be reviewed and approved by the office of financial management in  
26 conjunction with the department. Alternatives provided cooperatively  
27 by multiple jurisdictions shall receive funding priority. State  
28 funding for approved plans shall be provided from funds appropriated to  
29 the department for the purpose of implementing alternative sentences  
30 and shall be expended solely for the support of alternative sentences  
31 to incarceration. State funding provided in section 35, chapter ...,  
32 Laws of 1993 (section 35 of this act), shall not supplant existing  
33 funds currently expended by counties for alternative sentences to  
34 incarceration.

35 (4) The office of financial management and the department after  
36 review and approval of alternative sentencing plans submitted by  
37 counties and no later than October 1, 1994, shall report to the  
38 partnership advisory committee established in RCW 72.09.300(7) on the  
39 quality of the plans, implementation issues, policy issues with state-

1 wide implications, and any other information necessary to strengthen  
2 the alternative sentencing efforts of local governments in the state of  
3 Washington. The office of financial management or the department shall  
4 make available copies of the alternative sentencing plans to the  
5 partnership advisory committee upon request of the committee. The  
6 partnership advisory committee is encouraged to advise the office of  
7 financial management and the department on matters concerning  
8 alternative sentences and other criminal justice issues. The secretary  
9 shall convene the partnership advisory committee as required to provide  
10 reasonable discussion between the state and local governments  
11 concerning the implementation and operations of alternative sentences  
12 at the local level.

13 (5) A single county or combination of counties may elect to have  
14 the department, the Washington association of sheriffs and police  
15 chiefs, or other units of government provide technical assistance to  
16 organize, develop, and/or implement alternative sentencing placements  
17 to incarceration on their behalf. The department shall submit the plan  
18 to the office of financial management for review. Counties with an  
19 unincorporated population over twenty thousand that request technical  
20 assistance from the department shall reimburse the department for costs  
21 incurred in the development of alternative sentencing plans.

22 (6) Counties shall be eligible for grants of up to seventy-five  
23 percent of the costs identified in the approved plan. Counties shall  
24 be responsible for funding twenty-five percent of the costs identified  
25 in the approved plan. Counties are encouraged to pursue fines, fees,  
26 and recoveries from offenders who participate in these sentencing  
27 alternatives as an off-set to their twenty-five percent share.

28 NEW SECTION. **Sec. 16.** (1) The Washington council on justice  
29 policy is hereby established. The council shall consist of twenty-four  
30 members appointed by the governor. Membership shall include:

- 31 (a) One representative of city governments;
- 32 (b) One representative of county governments;
- 33 (c) One representative of sheriffs and police;
- 34 (d) One representative of jail managers;
- 35 (e) One representative of criminal defense attorneys;
- 36 (f) One representative of prosecuting attorneys;
- 37 (g) One representative of the judiciary;
- 38 (h) One representative of juvenile court administrators;



1 (i) One representative of community providers for juvenile  
2 offenders;

3 (j) Two representatives of business;

4 (k) Two representatives of labor;

5 (l) One representative of higher education;

6 (m) One representative of common schools;

7 (n) One representative from crime victims' organizations;

8 (o) Six legislators, two from each of the majority caucuses in the  
9 house of representatives and senate, and one from each of the minority  
10 caucuses in the house of representatives and senate; and

11 (p) Two citizen representatives, one from eastern Washington and  
12 one from western Washington.

13 (2) Nonlegislative members may receive reimbursement for travel  
14 under RCW 43.03.050 and 43.03.060. Legislative members may be  
15 reimbursed under RCW 41.04.300.

16 (3) Administrative and staff support of the council shall be  
17 determined by the office of the governor.

18 (4) The council shall review and evaluate the state's long-range  
19 strategy regarding criminal justice policies. The scope of  
20 deliberations shall include, but not be limited to, crime prevention,  
21 juvenile and adult criminal justice, substance abuse and treatment, and  
22 criminal justice information reporting. The council shall consult with  
23 state and local entities involved in the criminal justice system such  
24 as the sentencing guidelines commission, the juvenile disposition  
25 standards board, the office of financial management, the administrator  
26 for the courts, the Washington state association of counties, the  
27 Washington state association of county officials, the association of  
28 Washington cities, the public defenders association, and the Washington  
29 association of sheriffs and police chiefs, and may consult with other  
30 organizations involved with or that have an interest in criminal  
31 justice programs or services, as required.

32 (5) The council shall report to the governor and the legislature  
33 by January 15, 1995. The council shall expire July 1, 1995.

34 NEW SECTION. **Sec. 17.** A new section is added to chapter 72.02  
35 RCW to read as follows:

36 The secretary shall review the classification structure for  
37 establishing the custody levels of inmates in state correctional  
38 facilities. The review shall take place every three years beginning in

1 1993. As part of the review, the secretary shall seek technical  
2 assistance from the national institute of corrections. The national  
3 institute of corrections is encouraged to evaluate and provide written  
4 comments regarding the classification structure for the appropriate  
5 placement of inmates in state correctional facilities. The secretary  
6 shall report on the inmate classification system to the house of  
7 representatives committee on corrections and the senate committee on  
8 law and justice, every third legislative session beginning with the  
9 1997 legislature.

10 **Sec. 18.** RCW 9.94A.160 and 1984 c 246 s 1 are each amended to  
11 read as follows:

12 If the governor finds that an emergency exists in that the  
13 population of a state residential correctional facility exceeds its  
14 reasonable, maximum capacity, then the governor may ~~((do any one or  
15 more of the following:~~

16 ~~(1))~~ call the sentencing guidelines commission into an emergency  
17 meeting for the purpose of evaluating the standard ranges and other  
18 standards, and adopting sentencing adjustments that will reduce the  
19 inmate population to reasonable maximum capacity. Sentence adjustments  
20 shall be restricted to offenders who are not violent offenders or sex  
21 offenders, shall not exceed four months, and shall be effective at the  
22 end of the term of confinement. The commission may adopt any revision  
23 or amendment to the standard ranges or other standards that it believes  
24 appropriate to deal with the emergency situation. The sentencing  
25 adjustments and any revision or amendment to the standard ranges or  
26 other standards shall be adopted in conformity with chapter 34.05 RCW  
27 and shall take effect on the date prescribed by the commission. The  
28 legislature shall approve or modify the commission's sentencing  
29 adjustments, revision, or amendment at the next legislative session  
30 after the sentencing adjustments, revision, or amendment takes effect.  
31 Failure of the legislature to act shall be deemed as approval of the  
32 sentencing adjustments, revision, or amendment ~~((;~~

33 ~~(2) If the emergency occurs prior to July 1, 1988, call the board~~  
34 ~~of prison terms and paroles into an emergency meeting for the purpose~~  
35 ~~of evaluating its guidelines and procedures for release of prisoners~~  
36 ~~under its jurisdiction. The board shall adopt guidelines for the~~  
37 ~~reduction of inmate population to be used in the event the governor~~  
38 ~~calls the board into an emergency meeting under this section. The~~

1 board shall not, under this subsection, reduce the prison term of an  
2 inmate serving a mandatory minimum term under RCW 9.95.040, an inmate  
3 confined for treason, an inmate confined for any violent offense as  
4 defined by RCW 9.94A.030, or an inmate who has been found to be a  
5 sexual psychopath under chapter 71.06 RCW. In establishing these  
6 guidelines, the board shall give priority to sentence reductions for  
7 inmates confined for nonviolent offenses, inmates who are within six  
8 months of a scheduled parole, and inmates with the best records of  
9 conduct during confinement. The board shall consider the public  
10 safety, the detrimental effect of overcrowding upon inmate  
11 rehabilitation, and the best allocation of limited correctional  
12 facility resources. Guidelines adopted under this subsection shall be  
13 submitted to the senate institutions and house of representatives  
14 social and health services committees for their review. This  
15 subsection does not require the board to reduce inmate population to or  
16 below any certain number. The board may also take any other action  
17 authorized by law to modify the terms of prisoners under its  
18 jurisdiction;

19 (3) Call the clemency and pardons board into an emergency meeting  
20 for the purpose of recommending whether the governor's commutation or  
21 pardon power should be exercised to meet the present emergency)).

22 NEW SECTION. **Sec. 19.** A new section is added to chapter 9.94A  
23 RCW to read as follows:

24 (1) A person convicted of a sexually violent offense shall be  
25 sentenced to a term of total confinement of life imprisonment without  
26 the possibility of release, community custody, or parole if the court  
27 finds beyond a reasonable doubt, at a special sentencing proceeding  
28 following conviction, that the person is a sexually violent predator.  
29 The court shall not impose a sentence less than life imprisonment  
30 without the possibility of release, community custody, or parole unless  
31 the court finds that mitigating circumstances exist which warrant a  
32 lesser sentence pursuant to RCW 9.94A.390, in which case the court  
33 shall impose a determinate sentence which in no case shall be less than  
34 a determinate term within the standard range for the offense.

35 (2) If a person is charged with a sexually violent offense the  
36 prosecutor shall file written notice if the prosecutor intends to ask  
37 the court to find that the defendant is a sexually violent predator and  
38 to sentence the defendant to life imprisonment without the possibility

1 of release, community custody, or parole. The prosecutor shall serve  
2 the defendant and the defendant's attorney with the notice within  
3 thirty days after the defendant's arraignment on the charge. Except  
4 with the consent of the prosecutor, during the period in which the  
5 prosecutor may file the notice of the special sentencing proceeding,  
6 the defendant may not tender a plea of guilty to the sexually violent  
7 offense nor may the court accept a plea of guilty to the charge. If  
8 the notice of the special sentencing proceeding is not filed and served  
9 as provided in this subsection, the prosecutor may not seek and the  
10 court may not make a finding that the defendant is a sexually violent  
11 predator. A defendant who is convicted of a sexually violent offense  
12 but is not found to be a sexually violent predator shall be sentenced  
13 according to the remaining provisions of this chapter.

14 (3) The following definitions apply throughout this section:

15 (a) "Sexually violent predator" means any person who has been  
16 convicted of a crime of sexual violence and who suffers from a mental  
17 abnormality or personality disorder which makes the person likely to  
18 engage in predatory acts of sexual violence.

19 (b) "Mental abnormality" means a congenital or acquired condition  
20 affecting the emotional or volitional capacity which predisposes the  
21 person to the commission of criminal sexual acts in a degree  
22 constituting such person a menace to the health and safety of others.

23 (c) "Predatory" means acts directed towards strangers or  
24 individuals with whom a relationship has been established or promoted  
25 for the primary purpose of victimization.

26 (d) "Sexually violent offense" means an act committed on or after  
27 the effective date of this section, that is: (i) An act defined in  
28 Title 9A RCW as rape in the first degree, rape in the second degree by  
29 forcible compulsion, rape of a child in the first or second degree,  
30 statutory rape in the first or second degree, indecent liberties by  
31 forcible compulsion, indecent liberties against a child under age  
32 fourteen, incest against a child under age fourteen, or child  
33 molestation in the first or second degree; or (ii) an act of murder in  
34 the first or second degree, assault in the first or second degree,  
35 assault of a child in the first or second degree, kidnapping in the  
36 first or second degree, burglary in the first degree, residential  
37 burglary, or unlawful imprisonment, which has been determined beyond a  
38 reasonable doubt to have been sexually motivated, as that term is  
39 defined in RCW 9.94A.030; or (iii) an act as described in chapter 9A.28

1 RCW, that is an attempt, criminal solicitation, or criminal conspiracy  
2 to commit one of the felonies designated in (d) (i) or (ii) of this  
3 subsection.

4 **Sec. 20.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to  
5 read as follows:

6 (1) Felony. No person convicted of a classified felony shall be  
7 punished by confinement or fine exceeding the following:

8 (a) For a class A felony, by confinement in a state correctional  
9 institution for a term of life imprisonment, or by a fine in an amount  
10 fixed by the court of fifty thousand dollars, or by both such  
11 confinement and fine;

12 (b) For a class B felony, by confinement in a state correctional  
13 institution for a term of ten years, or by a fine in an amount fixed by  
14 the court of twenty thousand dollars, or by both such confinement and  
15 fine;

16 (c) For a class C felony, by confinement in a state correctional  
17 institution for five years, or by a fine in an amount fixed by the  
18 court of ten thousand dollars, or by both such confinement and fine;

19 (d) For a class A, B, or C felony that is classified as a sexually  
20 violent offense as defined in section 19 of this act, by confinement in  
21 a state correctional facility for a term of life imprisonment without  
22 release, community custody, or parole. The court may also impose a  
23 fine in an amount fixed by the court of fifty thousand dollars. This  
24 subsection applies only to those sexually violent offenses committed on  
25 or after the effective date of this section.

26 (2) Gross misdemeanor. Every person convicted of a gross  
27 misdemeanor defined in Title 9A RCW shall be punished by imprisonment  
28 in the county jail for a maximum term fixed by the court of not more  
29 than one year, or by a fine in an amount fixed by the court of not more  
30 than five thousand dollars, or by both such imprisonment and fine.

31 (3) Misdemeanor. Every person convicted of a misdemeanor defined  
32 in Title 9A RCW shall be punished by imprisonment in the county jail  
33 for a maximum term fixed by the court of not more than ninety days, or  
34 by a fine in an amount fixed by the court of not more than one thousand  
35 dollars, or by both such imprisonment and fine.

36 (4) This section applies to only those crimes committed on or  
37 after July 1, 1984.

1           **Sec. 21.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to  
2 read as follows:

3           No person serving a sentence imposed pursuant to this chapter and  
4 committed to the custody of the department shall leave the confines of  
5 the correctional facility or be released prior to the expiration of the  
6 sentence except as follows:

7           (1) Except as otherwise provided for in subsection (2) of this  
8 section, the term of the sentence of an offender committed to a  
9 correctional facility operated by the department, may be reduced by  
10 earned early release time in accordance with procedures that shall be  
11 developed and promulgated by the correctional agency having  
12 jurisdiction in which the offender is confined. The earned early  
13 release time shall be for good behavior and good performance, as  
14 determined by the correctional agency having jurisdiction. The  
15 correctional agency shall not credit the offender with earned early  
16 release credits in advance of the offender actually earning the  
17 credits. Any program established pursuant to this section shall allow  
18 an offender to earn early release credits for presentence  
19 incarceration. If an offender is transferred from a county jail to the  
20 department of corrections, the county jail facility shall certify to  
21 the department the amount of time spent in custody at the facility and  
22 the amount of earned early release time. In the case of an offender  
23 convicted of a serious violent offense or a sex offense that is a class  
24 A felony committed on or after July 1, 1990, the aggregate earned early  
25 release time may not exceed fifteen percent of the sentence. In no  
26 other case shall the aggregate earned early release time exceed one-  
27 third of the total sentence;

28           (2) A person convicted of a sex offense or an offense categorized  
29 as a serious violent offense, assault in the second degree, assault of  
30 a child in the second degree, vehicular homicide, vehicular assault,  
31 any crime against a person where it is determined in accordance with  
32 RCW 9.94A.125 that the defendant or an accomplice was armed with a  
33 deadly weapon at the time of commission, or any felony offense under  
34 chapter 69.50 or 69.52 RCW may become eligible, in accordance with a  
35 program developed by the department, for transfer to community custody  
36 status in lieu of earned early release time pursuant to subsection (1)  
37 of this section;

38           (3) An offender may leave a correctional facility pursuant to an  
39 authorized furlough or leave of absence. In addition, offenders may

1 leave a correctional facility when in the custody of a corrections  
2 officer or officers;

3 (4) The governor, upon recommendation from the clemency and  
4 pardons board, may grant an extraordinary release for reasons of  
5 serious health problems, senility, advanced age, extraordinary  
6 meritorious acts, or other extraordinary circumstances;

7 (5) No more than the final six months of the sentence may be  
8 served in partial confinement designed to aid the offender in finding  
9 work and reestablishing him or herself in the community;

10 (6) The governor may pardon any offender;

11 (7) The department of corrections may release an offender from  
12 confinement any time within ten days before a release date calculated  
13 under this section; and

14 (8) An offender may leave a correctional facility prior to  
15 completion of his sentence if the sentence has been reduced as provided  
16 in RCW 9.94A.160.

17 **Sec. 22.** RCW 9.95.070 and 1955 c 133 s 8 are each amended to read  
18 as follows:

19 (1) Except as provided in subsection (2) of this section, every  
20 prisoner who has a favorable record of conduct at the penitentiary or  
21 the reformatory, and who performs in a faithful, diligent, industrious,  
22 orderly and peaceable manner the work, duties, and tasks assigned to  
23 him or her to the satisfaction of the superintendent of the  
24 penitentiary or reformatory, and in whose behalf the superintendent of  
25 the penitentiary or reformatory files a report certifying that his or  
26 her conduct and work have been meritorious and recommending allowance  
27 of time credits to him or her, shall upon, but not until, the adoption  
28 of such recommendation by the indeterminate sentence review board ((of  
29 prison terms and paroles)), be allowed time credit reductions from the  
30 term of imprisonment fixed by the indeterminate sentence review board  
31 ((of prison terms and paroles)).

32 (2)(a) Every person sentenced to a correctional institution under  
33 the jurisdiction of the department of corrections shall be making  
34 satisfactory progress towards completing a high school education,  
35 achieve an equivalent score on the general educational development  
36 test, or be actively enrolled in a similar educational program or adult  
37 basic education program approved by the department of corrections  
38 before any earned time credits may be used to reduce the person's term

1 of total confinement. This applies only if educational programs are  
2 available for inmate enrollment.

3 (b) This subsection does not apply to any person who already has  
4 a high school diploma or achieved an equivalent score on the general  
5 educational development test, is serving life in prison without parole,  
6 or is determined by the director of education programs within the  
7 department of corrections to be incapable of completing the educational  
8 program. A person may be determined to be incapable due to one of the  
9 following reasons only:

10 (i) The person has a chronic mental deficiency;

11 (ii) The person is considered mentally retarded;

12 (iii) A physical or mental disability makes participation in the  
13 educational program impossible.

14 (c) Failure to complete the requirements of this subsection (2)  
15 may not be used as the basis for extending a person's original term of  
16 confinement.

17 (d) This subsection (2) may not be used to control inmate  
18 population levels.

19 **Sec. 23.** RCW 72.09.130 and 1981 c 136 s 17 are each amended to  
20 read as follows:

21 (1) The department shall adopt a system providing incentives for  
22 good conduct and disincentives for poor conduct. The system may  
23 include increases or decreases in the degree of liberty granted the  
24 inmate within the programs operated by the department and recommended  
25 increases or decreases in the number of earned early release days that  
26 an inmate can earn for good conduct and good performance. Earned early  
27 release days shall be recommended by the department as a form of  
28 tangible reward for accomplishment. The system shall be fair,  
29 measurable, and understandable to offenders, staff, and the public. At  
30 least once in each twelve-month period, the department shall inform the  
31 offender in writing as to his or her conduct and performance. This  
32 written evaluation shall include reasons for awarding or not awarding  
33 recommended earned early release days for good conduct and good  
34 performance. The term "good performance" as used in this section means  
35 successfully performing a work, work training, or educational task to  
36 levels of expectation as specified in writing by the department. The  
37 term "good conduct" as used in this section refers to compliance with  
38 department rules.



1           Within one year after July 1, 1981, the department shall adopt,  
2 and provide a written description of, the system. The department shall  
3 provide a copy of this description to each offender in its custody.

4           (2)(a) The system adopted pursuant to this section shall provide  
5 that every person sentenced to a correctional institution under the  
6 jurisdiction of the department of corrections shall be making  
7 satisfactory progress towards completing a high school education,  
8 achieve an equivalent score on the general educational development  
9 test, or be actively enrolled in a similar educational program or adult  
10 basic education program approved by the department of corrections  
11 before any earned early release time may be used to reduce the person's  
12 term of total confinement. This applies only for those inmates who do  
13 not already have a high school diploma or have not achieved an  
14 equivalent score on the general educational development test, and only  
15 if educational programs are available for inmate enrollment.

16           (b) This subsection does not apply to any person serving a life  
17 sentence without parole or who is determined by the director of  
18 education programs within the department of corrections to be incapable  
19 of participating in the educational program. A person may be  
20 determined to be incapable due to one of the following reasons only:

21           (i) The person has a chronic mental deficiency;

22           (ii) The person is considered mentally retarded;

23           (iii) A physical or mental disability makes participation in the  
24 educational program impossible.

25           (c) Failure to complete the requirements of this subsection (2)  
26 may not be used as the basis for extending a person's original term of  
27 confinement.

28           (d) This subsection (2) may not be used to control inmate  
29 population levels.

30           **Sec. 24.** RCW 72.09.100 and 1992 c 123 s 1 are each amended to  
31 read as follows:

32           It is the intent of the legislature to vest in the department the  
33 power to provide for a comprehensive inmate work program and to remove  
34 statutory and other restrictions which have limited work programs in  
35 the past. The department shall not allow inmates to participate in  
36 class I, II, or IV work programs unless they have completed a high  
37 school education, have achieved an equivalent score on the general  
38 educational development test, or are currently enrolled and making

1 satisfactory progress in a similar educational program approved by the  
2 department, and if such educational programs are available. In the  
3 event that an inmate's educational program schedule is in conflict  
4 with the inmate's class I, II, or IV work program schedule, the inmate  
5 may be allowed to continue his or her work program schedule and shall  
6 be responsible for identifying and scheduling another time when the  
7 educational program schedule can be accommodated without being in  
8 conflict with his or her work program schedule. For purposes of  
9 establishing such a comprehensive program, the legislature recommends  
10 that the department consider adopting any or all, or any variation of,  
11 the following classes of work programs:

12 (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
13 industries in this class shall be operated and managed in total or in  
14 part by any profit or nonprofit organization pursuant to an agreement  
15 between the organization and the department. The organization shall  
16 produce goods or services for sale to both the public and private  
17 sector.

18 The customer model industries in this class shall be operated and  
19 managed by the department to provide Washington state manufacturers or  
20 businesses with products or services currently produced or provided by  
21 out-of-state or foreign suppliers. The correctional industries board  
22 of directors shall review these proposed industries before the  
23 department contracts to provide such products or services. The review  
24 shall include an analysis of the potential impact of the proposed  
25 products and services on the Washington state business community and  
26 labor market.

27 The department of corrections shall supply appropriate security  
28 and custody services without charge to the participating firms.

29 Inmates who work in free venture industries shall do so at their  
30 own choice. They shall be paid a wage comparable to the wage paid for  
31 work of a similar nature in the locality in which the industry is  
32 located, as determined by the director of correctional industries. If  
33 the director cannot reasonably determine the comparable wage, then the  
34 pay shall not be less than the federal minimum wage.

35 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
36 shall be state-owned and operated enterprises designed to reduce the  
37 costs for goods and services for tax-supported agencies and for  
38 nonprofit organizations. The industries selected for development  
39 within this class shall, as much as possible, match the available pool

1 of inmate work skills and aptitudes with the work opportunities in the  
2 free community. The industries shall be closely patterned after  
3 private sector industries but with the objective of reducing public  
4 support costs rather than making a profit. The products and services  
5 of this industry, including purchased products and services necessary  
6 for a complete product line, may be sold to public agencies, to  
7 nonprofit organizations, and to private contractors when the goods  
8 purchased will be ultimately used by a public agency or a nonprofit  
9 organization. Clothing manufactured by an industry in this class may  
10 be donated to nonprofit organizations that provide clothing free of  
11 charge to low-income persons. Correctional industries products and  
12 services shall be reviewed by the correctional industries board of  
13 directors before offering such products and services for sale to  
14 private contractors. The board of directors shall conduct a yearly  
15 marketing review of the products and services offered under this  
16 subsection. Such review shall include an analysis of the potential  
17 impact of the proposed products and services on the Washington state  
18 business community. To avoid waste or spoilage and consequent loss to  
19 the state, when there is no public sector market for such goods,  
20 byproducts and surpluses of timber, agricultural, and animal husbandry  
21 enterprises may be sold to private persons, at private sale. Surplus  
22 byproducts and surpluses of timber, agricultural and animal husbandry  
23 enterprises that cannot be sold to public agencies or to private  
24 persons may be donated to nonprofit organizations. All sales of  
25 surplus products shall be carried out in accordance with rules  
26 prescribed by the secretary.

27 Security and custody services shall be provided without charge by  
28 the department of corrections.

29 Inmates working in this class of industries shall do so at their  
30 own choice and shall be paid for their work on a gratuity scale which  
31 shall not exceed the wage paid for work of a similar nature in the  
32 locality in which the industry is located and which is approved by the  
33 director of correctional industries.

34 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in  
35 this class shall be operated by the department of corrections. They  
36 shall be designed and managed to accomplish the following objectives:

37 (a) Whenever possible, to provide basic work training and  
38 experience so that the inmate will be able to qualify for better work  
39 both within correctional industries and the free community. It is not

1 intended that an inmate's work within this class of industries should  
2 be his or her final and total work experience as an inmate.

3 (b) Whenever possible, to provide forty hours of work or work  
4 training per week.

5 (c) Whenever possible, to offset tax and other public support  
6 costs.

7 Supervising, management, and custody staff shall be employees of  
8 the department.

9 All able and eligible inmates who are assigned work and who are  
10 not working in other classes of industries shall work in this class.

11 Except for inmates who work in work training programs, inmates in  
12 this class shall be paid for their work in accordance with an inmate  
13 gratuity scale. The scale shall be adopted by the secretary of  
14 corrections.

15 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this  
16 class shall be operated by the department of corrections. They shall  
17 be designed and managed to provide services in the inmate's resident  
18 community at a reduced cost. The services shall be provided to public  
19 agencies, to persons who are poor or infirm, or to nonprofit  
20 organizations.

21 Inmates in this program shall reside in facilities owned by,  
22 contracted for, or licensed by the department of corrections. A unit  
23 of local government shall provide work supervision services without  
24 charge to the state and shall pay the inmate's wage.

25 The department of corrections shall reimburse participating units  
26 of local government for liability and workers compensation insurance  
27 costs.

28 Inmates who work in this class of industries shall do so at their  
29 own choice and shall receive a gratuity which shall not exceed the wage  
30 paid for work of a similar nature in the locality in which the industry  
31 is located.

32 (5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class  
33 shall be subject to supervision by the department of corrections. The  
34 purpose of this class of industries is to enable an offender, placed on  
35 community supervision, to work off all or part of a community service  
36 order as ordered by the sentencing court.

37 Employment shall be in a community service program operated by the  
38 state, local units of government, or a nonprofit agency.

1 To the extent that funds are specifically made available for such  
2 purposes, the department of corrections shall reimburse nonprofit  
3 agencies for workers compensation insurance costs.

4 NEW SECTION. **Sec. 25.** Sections 22, 23, and 24 of this act apply  
5 prospectively only and shall not affect time credits, early release  
6 time, or other "good time" earned before the effective date of this  
7 act. Sections 22, 23, and 24 of this act shall not apply to offenders  
8 who have already received a high school diploma or achieved an  
9 equivalent score on the general educational development test or  
10 offenders sentenced to life imprisonment without parole.

11 NEW SECTION. **Sec. 26.** The legislature finds that high crime  
12 rates and a heightened sense of vulnerability have led to increased  
13 public pressure on criminal justice officials to increase offender  
14 punishment and remove the most dangerous criminals from the streets.  
15 As a result, there is unprecedented growth in the corrections  
16 populations and overcrowding of prisons and local jails. Skyrocketing  
17 costs and high rates of recidivism have become issues of major public  
18 concern. Attention must be directed towards implementing a long-range  
19 corrections strategy that focuses on inmate responsibility through  
20 intensive work ethic training.

21 The legislature finds that many offenders lack basic life skills  
22 and have been largely unaffected by traditional correctional  
23 philosophies and programs. In addition, many first-time offenders who  
24 enter the prison system learn more about how to be criminals than the  
25 important qualities, values, and skills needed to successfully adapt to  
26 a life without crime.

27 The legislature finds that opportunities for offenders to improve  
28 themselves are extremely limited and there has not been adequate  
29 emphasis on alternatives to total confinement for nonviolent offenders.

30 The legislature finds that the explosion of drug crimes since the  
31 inception of the sentencing reform act and the response of the criminal  
32 justice system have resulted in a much higher proportion of substance  
33 abuse-affected offenders in the state's prisons and jails. The needs  
34 of this population differ from those of other offenders and present a  
35 great challenge to the system. The problems are exacerbated by the  
36 shortage of drug treatment and counseling programs both in and outside  
37 of prisons.

1           The legislature finds that the concept of a work ethic camp that  
2 requires the offender to complete an appropriate and balanced  
3 combination of highly structured and goal-oriented work programs such  
4 as correctional industries based work camps and/or class I and class II  
5 work projects, drug rehabilitation, and intensive life management work  
6 ethic training, can successfully reduce offender recidivism and lower  
7 the overall cost of incarceration.

8           It is the purpose and intent of sections 19 through 23 of this act  
9 to implement a regimented work ethic camp that is designed to directly  
10 address the high rate of recidivism, reduce upwardly spiraling prison  
11 costs, preserve scarce and high cost prison space for the most  
12 dangerous offenders, and provide judges with a tough and sound  
13 alternative to traditional incarceration without compromising public  
14 safety.

15           NEW SECTION.   **Sec. 27.**   The department of corrections shall  
16 establish one work ethic camp. The secretary shall locate the work  
17 ethic camp within an already existing department compound or facility,  
18 or in a facility that is scheduled to come on line within the initial  
19 implementation date outlined in this section. The facility selected  
20 for the camp shall appropriately accommodate the logistical and cost-  
21 effective objectives contained in sections 26 through 30 of this act.  
22 The department shall be ready to assign inmates to the camp one hundred  
23 twenty days after the effective date of this section. The department  
24 shall establish the work ethic camp program cycle to last from one  
25 hundred twenty to one hundred eighty days. The department shall  
26 develop all aspects of the work ethic camp program including, but not  
27 limited to, program standards, conduct standards, educational  
28 components including general education development test achievement,  
29 offender incentives, drug rehabilitation program parameters, individual  
30 and team work goals, techniques for improving the offender's self-  
31 esteem, citizenship skills for successful living in the community,  
32 measures to hold the offender accountable for his or her behavior, and  
33 the successful completion of the work ethic camp program granted to the  
34 offender based on successful attendance, participation, and performance  
35 as defined by the secretary. The work ethic camp shall be designed and  
36 implemented so that offenders are continually engaged in meaningful  
37 activities and unstructured time is kept to a minimum. In addition,

1 the department is encouraged to explore the integration and overlay of  
2 a military style approach to the work ethic camp.

3 NEW SECTION. **Sec. 28.** A new section is added to chapter 9.94A  
4 RCW to read as follows:

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

7 (a) Is sentenced to a term of total confinement of not less than  
8 twenty-two months or more than thirty-six months;

9 (b) Is between the ages of eighteen and twenty-eight years; and

10 (c) Has no current or prior convictions for any sex offenses or  
11 violent offenses.

12 (2) If the sentencing judge determines that the offender is  
13 eligible for the work ethic camp and is likely to qualify under  
14 subsection (3) of this section, the judge shall impose a sentence  
15 within the standard range and may recommend that the offender serve the  
16 sentence at a work ethic camp. The sentence shall provide that if the  
17 offender successfully completes the program, the department shall  
18 convert the period of work ethic camp confinement at the rate of one  
19 day of work ethic camp confinement to three days of total standard  
20 confinement. The court shall also provide that upon completion of the  
21 work ethic camp program, the offender shall be released on community  
22 custody for any remaining time of total confinement.

23 (3) The department shall place the offender in the work ethic camp  
24 program, subject to capacity, unless the department determines that the  
25 offender has physical or mental impairments that would prevent  
26 participation and completion of the program, or the offender refuses to  
27 agree to the terms and conditions of the program.

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

34 (5) The length of the work ethic camp program shall be at least  
35 one hundred twenty days and not more than one hundred eighty days.  
36 Because of the conversion ratio, earned early release time shall not  
37 accrue to offenders who successfully complete the program.

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

4 NEW SECTION. **Sec. 29.** The work ethic camp shall employ one  
5 hundred percent of all inmates. The employment options available for  
6 inmates shall include meaningful work opportunities that provide the  
7 offender with real-world skills that help the offender find employment  
8 when he or she successfully completes the work ethic camp program. The  
9 department shall include in the work ethic camp program, without  
10 limitation, class I, class II, and class IV correctional programs. No  
11 more than thirty-five percent of the total inmate population in the  
12 facility shall be employed in class III correctional industries  
13 programs in the first year and thereafter ten percent less per year  
14 until a maximum of ten percent of the inmates are working in this  
15 employment class. In addition, work options shall also include  
16 department-supervised work crews as defined by the department. These  
17 work crews shall have the ability to work on public roads conducting  
18 litter control, minor emergency repair or other minor tasks that do not  
19 negatively impact employment opportunities for people with  
20 developmental disabilities contracted through the operation of  
21 sheltered workshops as defined in RCW 82.04.385, or have a negative  
22 impact on the local labor market or local business community as  
23 assessed by the department correctional industries advisory board of  
24 directors. The department shall establish, to the extent possible,  
25 programs that will positively impact our natural environment such as,  
26 but not limited to, recycling programs and minor environmental cleanup  
27 programs. If the department is directed by the legislature to increase  
28 the percentage of inmates employed in correctional industries programs,  
29 inmates employed through work ethic camps shall not be counted towards  
30 this total percentage.

31 NEW SECTION. **Sec. 30.** The work ethic camp program established in  
32 sections 26 through 30 of this act shall be considered a pilot  
33 alternative incarceration program and remain in effect until July 1,  
34 1998. The department and the office of financial management shall  
35 monitor and analyze the effectiveness of the incarceration program and  
36 complete a final outcome evaluation study by January 15, 1998. The  
37 study shall include: The recidivism rates of successful program



1 graduates, analysis of the overall program costs, the ability to  
2 maintain public safety, and any other pertinent data established by the  
3 department. The department may encourage interested universities to  
4 participate in studies that will enhance the effectiveness of the  
5 program.

6 The department of corrections shall seek the availability of  
7 federal funds for the planning, implementation, evaluation, and  
8 training of staff for work ethic camp programs, substance abuse  
9 programs, and offender education programs.

10 NEW SECTION. **Sec. 31.** Sections 26 through 30 of this act are  
11 each added to chapter 72.09 RCW.

12 NEW SECTION. **Sec. 32.** If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 33.** Sections 19 and 20 of this act shall not  
17 take effect unless the Washington state supreme court in a final  
18 decision holds that civil commitment of sexually violent predators  
19 under chapter 71.09 RCW is unconstitutional. If the Washington state  
20 supreme court holds in a final decision that civil commitment of  
21 sexually violent predators under chapter 71.09 RCW is unconstitutional,  
22 sections 19 and 20 of this act shall take effect on the date that the  
23 Washington state supreme court issues its final decision. Sections 19  
24 and 20 of this act shall apply to all sexually violent crimes committed  
25 on or after the effective date of sections 19 and 20 of this act.

26 NEW SECTION. **Sec. 34.** This act is necessary for the immediate  
27 preservation of the public peace, health, or safety, or support of the  
28 state government and its existing public institutions, and shall take  
29 effect July 1, 1993, except for sections 19 and 20 of this act, which  
30 shall take effect pursuant to section 33 of this act.

31 NEW SECTION. **Sec. 35.** The sum of two million dollars, or as much  
32 thereof as may be necessary, is appropriated for the biennium ending  
33 July 1, 1995, from the state general fund to the department of  
34 corrections for the purposes of section 15 of this act. Expenditure of

1 each three dollars from this appropriation shall be matched by at least  
2 one dollar from other funding sources available to counties."

--- END ---