

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature recognizes the need to  
8 examine criminal sentencing in a comprehensive manner in order to  
9 manage prison and jail space efficiently, lower the costs of  
10 incarceration, reduce inmate health care costs, provide opportunities  
11 for offenders to improve themselves, and reduce recidivism. The  
12 legislature finds that opportunities exist to implement these  
13 efficiencies in a systematic and cost-effective manner. The intent of  
14 this act is to achieve more efficiency throughout the current criminal  
15 sentencing process, and the implementation of that sentencing, that is  
16 consistent with the protection of public safety and prudent fiscal  
17 management.

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

20 Unless the context clearly requires otherwise, the definitions in  
21 this section apply throughout this chapter.

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

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

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

34 (4) "Community custody" means that portion of an inmate's sentence  
35 of confinement in lieu of earned early release time or imposed pursuant

1 to RCW 9.94A.120(7) served in the community subject to controls placed  
2 on the inmate's movement and activities by the department of  
3 corrections.

4 (5) "Community placement" means that period during which the  
5 offender is subject to the conditions of community custody and/or  
6 postrelease supervision, which begins either upon completion of the  
7 term of confinement (postrelease supervision) or at such time as the  
8 offender is transferred to community custody in lieu of earned early  
9 release. Community placement may consist of entirely community  
10 custody, entirely postrelease supervision, or a combination of the two.

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

13 (7) "Community supervision" means a period of time during which a  
14 convicted offender is subject to crime-related prohibitions and other  
15 sentence conditions imposed by a court pursuant to this chapter or RCW  
16 46.61.524. For first-time offenders, the supervision may include  
17 crime-related prohibitions and other conditions imposed pursuant to RCW  
18 9.94A.120(5). For purposes of the interstate compact for out-of-state  
19 supervision of parolees and probationers, RCW 9.95.270, community  
20 supervision is the functional equivalent of probation and should be  
21 considered the same as probation by other states.

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

24 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
25 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
26 acceptance of a plea of guilty.

27 (10) "Court-ordered legal financial obligation" means a sum of  
28 money that is ordered by a superior court of the state of Washington  
29 for legal financial obligations which may include restitution to the  
30 victim, statutorily imposed crime victims' compensation fees as  
31 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
32 drug funds, court-appointed attorneys' fees, and costs of defense,  
33 fines, and any other financial obligation that is assessed to the  
34 offender as a result of a felony conviction.

35 (11) "Crime-related prohibition" means an order of a court  
36 prohibiting conduct that directly relates to the circumstances of the  
37 crime for which the offender has been convicted, and shall not be  
38 construed to mean orders directing an offender affirmatively to

1 participate in rehabilitative programs or to otherwise perform  
2 affirmative conduct.

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

9 (b) "Criminal history" shall always include juvenile convictions  
10 for sex offenses and shall also include a defendant's other prior  
11 convictions in juvenile court if: (i) The conviction was for an  
12 offense which is a felony or a serious traffic offense and is criminal  
13 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was  
14 fifteen years of age or older at the time the offense was committed;  
15 and (iii) with respect to prior juvenile class B and C felonies or  
16 serious traffic offenses, the defendant was less than twenty-three  
17 years of age at the time the offense for which he or she is being  
18 sentenced was committed.

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

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

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

29 (~~(14)~~) (16) "Determinate sentence" means a sentence that states  
30 with exactitude the number of actual years, months, or days of total  
31 confinement, of partial confinement, of community supervision, the  
32 number of actual hours or days of community service work, or dollars or  
33 terms of a legal financial obligation. The fact that an offender  
34 through "earned early release" can reduce the actual period of  
35 confinement shall not affect the classification of the sentence as a  
36 determinate sentence.

37 (~~(15)~~) (17) "Disposable earnings" means that part of the earnings  
38 of an individual remaining after the deduction from those earnings of  
39 any amount required by law to be withheld. For the purposes of this

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

10 ~~((16))~~ (18) "Drug offense" means:

11 (a) Any felony violation of chapter 69.50 RCW except possession of  
12 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
13 controlled substance (RCW 69.50.403);

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

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

20 ~~((17))~~ (19) "Drug or alcohol monitoring" means the obligation to  
21 remain free of any nonprescribed controlled substance or of any  
22 alcoholic beverage and to submit to periodic testing in a program to  
23 monitor that status as directed by the department of corrections, such  
24 as drug monitoring under a treatment alternatives to street crime  
25 (TASC) or comparable program.

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

28 (21) "Escape" means:

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

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

37 ~~((18))~~ (22) "Felony traffic offense" means:

1 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
2 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
3 and-run injury-accident (RCW 46.52.020(4)); or

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

7 (~~(19)~~) (23) "Fines" means the requirement that the offender pay  
8 a specific sum of money over a specific period of time to the court.

9 (~~(20)~~) (24)(a) "First-time offender" means any person who is  
10 convicted of a felony (i) not classified as a violent offense or a sex  
11 offense under this chapter, or (ii) that is not the manufacture,  
12 delivery, or possession with intent to manufacture or deliver a  
13 controlled substance classified in schedule I or II that is a narcotic  
14 drug or the selling for profit (~~{of}~~) of any controlled substance or  
15 counterfeit substance classified in schedule I, RCW 69.50.204, except  
16 leaves and flowering tops of marijuana, and except as provided in (b)  
17 of this subsection, who previously has never been convicted of a felony  
18 in this state, federal court, or another state, and who has never  
19 participated in a program of deferred prosecution for a felony offense.

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

23 (~~(21)~~) (25) "Home detention" means a program of partial  
24 confinement available to offenders wherein the offender is confined in  
25 a private residence subject to electronic surveillance or other state  
26 of the art electronic monitoring technology. Home detention may not be  
27 imposed for offenders convicted of a violent offense, any sex offense,  
28 reckless burning in the first or second degree as defined in RCW  
29 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW  
30 9A.36.031, assault of a child in the third degree, unlawful  
31 imprisonment as defined in RCW 9A.40.040, or harassment as defined in  
32 RCW 9A.46.020. Home detention may be imposed for offenders convicted  
33 of a violation of chapter 69.50 or 69.52 RCW, that relates to the  
34 possession, manufacture, or delivery of a controlled substance or  
35 imitation controlled substance, if the offender fulfills the  
36 participation conditions set forth in this subsection and is monitored  
37 for drug use by treatment alternatives to street crime (TASC) or a  
38 comparable court or agency-referred program.

1       (a) Home detention may be imposed for offenders convicted of  
2 burglary in the second degree as defined in RCW 9A.52.030 or  
3 residential burglary conditioned upon the offender: (i) Successfully  
4 completing twenty-one days in a work release program, or having  
5 successfully completed a sentence in a work ethic camp, (ii) having no  
6 convictions for burglary in the second degree or residential burglary  
7 during the preceding two years and not more than two prior convictions  
8 for burglary or residential burglary, (iii) having no convictions for  
9 a violent felony offense during the preceding two years and not more  
10 than two prior convictions for a violent felony offense, (iv) having no  
11 prior charges of escape, and (v) fulfilling the other conditions of the  
12 home detention program.

13       (b) Participation in a home detention program shall be conditioned  
14 upon: (i) The offender obtaining or maintaining current employment or  
15 attending a regular course of school study at regularly defined hours,  
16 or the offender performing parental duties to offspring or minors  
17 normally in the custody of the offender, (ii) abiding by the rules of  
18 the home detention program, and (iii) compliance with court-ordered  
19 legal financial obligations. The home detention program may also be  
20 made available to offenders whose charges and convictions do not  
21 otherwise disqualify them if medical or health-related conditions,  
22 concerns or treatment would be better addressed under the home  
23 detention program, or where the health and welfare of the offender,  
24 other inmates, or staff would be jeopardized by the offender's  
25 incarceration. Participation in the home detention program for medical  
26 or health-related reasons is conditioned on the offender abiding by the  
27 rules of the home detention program and complying with court-ordered  
28 restitution.

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

32       (27) "Nonviolent offense" means an offense which is not a violent  
33 offense.

34       ~~((+22+))~~ (28) "Offender" means a person who has committed a felony  
35 established by state law and is eighteen years of age or older or is  
36 less than eighteen years of age but whose case has been transferred by  
37 the appropriate juvenile court to a criminal court pursuant to RCW  
38 13.40.110. Throughout this chapter, the terms "offender" and  
39 "defendant" are used interchangeably.

1       (~~(23)~~) (29) "Outpatient treatment" means participation in a  
2 treatment program certified by the state or recommended by the  
3 department of corrections which does not require the offender to be  
4 present for more than twelve hours per day.

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

13       (~~(24)~~) (31) "Persistent offender" is any person who:

14       (a) Is convicted in this state of any felony with a seriousness  
15 level of X or above, as provided in RCW 9.94A.320, except for the crime  
16 of aggravated murder in the first degree; and

17       (b) Has, before the commission of the offense under (a) of this  
18 subsection, been convicted as an offender on at least two separate  
19 occasions, whether in this state or elsewhere, of felonies that under  
20 the laws of this state would have a seriousness level of X or above. Of  
21 these two or more previous convictions, at least one conviction must  
22 have occurred before the commission of any of the other offenses with  
23 a seriousness level of X or above for which the offender was previously  
24 convicted.

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

27       (~~(25)~~) (33) "Restitution" means the requirement that the offender  
28 pay a specific sum of money over a specific period of time to the court  
29 as payment of damages. The sum may include both public and private  
30 costs. The imposition of a restitution order does not preclude civil  
31 redress.

32       (~~(26)~~) (34) "Serious traffic offense" means:

33       (a) Driving while under the influence of intoxicating liquor or any  
34 drug (RCW 46.61.502), actual physical control while under the influence  
35 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
36 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
37 or

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

4 (~~(27)~~) (35) "Serious violent offense" is a subcategory of violent  
5 offense and means:

6 (a) Murder in the first degree, homicide by abuse, murder in the  
7 second degree, assault in the first degree, kidnapping in the first  
8 degree, or rape in the first degree, assault of a child in the first  
9 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
10 commit one of these felonies; or

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

14 (~~(28)~~) (36) "Sentence range" means the sentencing court's  
15 discretionary range in imposing a nonappealable sentence.

16 (~~(29)~~) (37) "Sex offense" means:

17 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
18 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal  
19 attempt, criminal solicitation, or criminal conspiracy to commit such  
20 crimes;

21 (b) A felony with a finding of sexual motivation under RCW  
22 9.94A.127; or

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

26 (~~(30)~~) (38) "Sexual motivation" means that one of the purposes  
27 for which the defendant committed the crime was for the purpose of his  
28 or her sexual gratification.

29 (~~(31)~~) (39) "Total confinement" means confinement inside the  
30 physical boundaries of a facility or institution operated or utilized  
31 under contract by the state or any other unit of government for twenty-  
32 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

33 (~~(32)~~) (40) "Transition training" means written and verbal  
34 instructions and assistance provided by the department to the offender  
35 during the two weeks prior to the offender's successful completion of  
36 the work ethic camp program. The transition training shall include  
37 instructions in the offender's requirements and obligations during the  
38 offender's period of community custody.



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

4       (~~(33)~~) (42) "Violent offense" means:

5       (a) Any of the following felonies, as now existing or hereafter  
6 amended: Any felony defined under any law as a class A felony or an  
7 attempt to commit a class A felony, criminal solicitation of or  
8 criminal conspiracy to commit a class A felony, manslaughter in the  
9 first degree, manslaughter in the second degree, indecent liberties if  
10 committed by forcible compulsion, kidnapping in the second degree,  
11 arson in the second degree, assault in the second degree, assault of a  
12 child in the second degree, extortion in the first degree, robbery in  
13 the second degree, vehicular assault, and vehicular homicide, when  
14 proximately caused by the driving of any vehicle by any person while  
15 under the influence of intoxicating liquor or any drug as defined by  
16 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

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

1        ~~((35))~~ (44) "Work ethic camp" means an alternative incarceration  
2 program designed to reduce recidivism and lower the costs of  
3 corrections by requiring offenders to complete a comprehensive array of  
4 job and vocational experiences, character-building work ethics  
5 training, life management skills development, drug rehabilitation,  
6 counseling, literacy training, and basic adult education.

7        (45) "Work release" means a program of partial confinement  
8 available to offenders who are employed or engaged as a student in a  
9 regular course of study at school. Participation in work release shall  
10 be conditioned upon the offender attending work or school at regularly  
11 defined hours and abiding by the rules of the work release facility.

12        ~~((36) "Home detention" means a program of partial confinement~~  
13 ~~available to offenders wherein the offender is confined in a private~~  
14 ~~residence subject to electronic surveillance. Home detention may not~~  
15 ~~be imposed for offenders convicted of a violent offense, any sex~~  
16 ~~offense, any drug offense, reckless burning in the first or second~~  
17 ~~degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third~~  
18 ~~degree as defined in RCW 9A.36.031, assault of a child in the third~~  
19 ~~degree, unlawful imprisonment as defined in RCW 9A.40.040, or~~  
20 ~~harassment as defined in RCW 9A.46.020. Home detention may be imposed~~  
21 ~~for offenders convicted of possession of a controlled substance (RCW~~  
22 ~~69.50.401(d)) or forged prescription for a controlled substance (RCW~~  
23 ~~69.50.403) if the offender fulfills the participation conditions set~~  
24 ~~forth in this subsection and is monitored for drug use by treatment~~  
25 ~~alternatives to street crime (TASC) or a comparable court or agency-~~  
26 ~~referred program.~~

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

38        ~~(b) Participation in a home detention program shall be conditioned~~  
39 ~~upon: (i) The offender obtaining or maintaining current employment or~~

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

15 **Sec. 3.** RCW 9.94A.120 and 1992 c 145 s 7, 1992 c 75 s 2, and 1992  
16 c 45 s 5 are each reenacted and amended to read as follows:

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

19 (1) Except as authorized in subsections (2), (4), (5), ~~((and))~~ (6),  
20 (7), and (9) of this section, the court shall impose a sentence within  
21 the sentence range for the offense.

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

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

30 (4) A persistent offender shall be sentenced to a term of total  
31 confinement for the statutory maximum for the offense, but if the  
32 statutory maximum for the offense is life imprisonment, then to a term  
33 of ninety-nine years. An offender convicted of the crime of murder in  
34 the first degree shall be sentenced to a term of total confinement not  
35 less than twenty years. An offender convicted of the crime of assault  
36 in the first degree or assault of a child in the first degree where the  
37 offender used force or means likely to result in death or intended to  
38 kill the victim shall be sentenced to a term of total confinement not

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

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

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

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

22 (c) Pursue a prescribed, secular course of study or vocational  
23 training;

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

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

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

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

1 (b) To impose a sentence consisting of sentencing options, the  
2 court shall determine the standard range for the offender and then  
3 convert that amount of total confinement as is necessary into the  
4 sentencing options the court finds appropriate for the offender.  
5 Sentencing options that are imposed under this section may be used in  
6 any combination and may also be combined with total confinement.  
7 Conversions of total confinement to sentencing options shall be clearly  
8 indicated on the judgment and sentence.

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

10 (i) Approved adult education;

11 (ii) Approved vocational-technical training;

12 (iii) Community service;

13 (iv) Day fines;

14 (v) Day reporting;

15 (vi) Drug or alcohol monitoring;

16 (vii) Home detention;

17 (viii) Inpatient treatment;

18 (ix) Outpatient treatment;

19 (x) Partial confinement;

20 (xi) Work crews;

21 (xii) Work release; and

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

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

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

31 (i) The offender is convicted of the manufacture, delivery, or  
32 possession with intent to manufacture or deliver a controlled substance  
33 classified in schedule I or II that is a narcotic drug and the  
34 violation does not involve a sentence enhancement under RCW  
35 9.94A.310(3);

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

38 (iii) The offense involved only a small quantity of the particular  
39 controlled substance as determined by the judge upon consideration of

1 such factors as the weight, purity, packaging, sale price, and street  
2 value of the controlled substance.

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

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

20 (ii) Participate in outpatient substance abuse treatment;

21 (iii) Remain within prescribed geographical boundaries and notify  
22 the court or the community corrections officer before any change in the  
23 offender's address or employment;

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

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

26 (vi) Perform community service work;

27 (vii) Pay a day fine;

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

29 (ix) Undergo day supervision.

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

1 sentence, as a result of a sanction imposed by the department of  
2 corrections, or as a result of a violation found by the court.

3 (d) The sentencing judge may recommend that an offender serve the  
4 period of total confinement imposed pursuant to the special drug  
5 offender sentencing alternative in a work ethic camp, if the offender  
6 otherwise meets the eligibility provisions for a work ethic camp as  
7 provided in section 21 of this act. The department shall establish one  
8 work ethic camp as provided in section 20 of this act.

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

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

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

33 The examiner shall assess and report regarding the defendant's  
34 amenability to treatment and relative risk to the community. A  
35 proposed treatment plan shall be provided and shall include, at a  
36 minimum:

37 (A) Frequency and type of contact between offender and therapist;

38 (B) Specific issues to be addressed in the treatment and  
39 description of planned treatment modalities;

1 (C) Monitoring plans, including any requirements regarding living  
2 conditions, lifestyle requirements, and monitoring by family members  
3 and others;

4 (D) Anticipated length of treatment; and

5 (E) Recommended crime-related prohibitions.

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

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

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

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

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



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

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

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

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

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

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

34 (v) The court may revoke the suspended sentence at any time during  
35 the period of community supervision and order execution of the sentence  
36 if: (A) The defendant violates the conditions of the suspended  
37 sentence, or (B) the court finds that the defendant is failing to make  
38 satisfactory progress in treatment. All confinement time served during

1 the period of community supervision shall be credited to the offender  
2 if the suspended sentence is revoked.

3 (vi) Except as provided in (a)(vii) of this subsection, after July  
4 1, 1991, examinations and treatment ordered pursuant to this subsection  
5 shall only be conducted by sex offender treatment providers certified  
6 by the department of health pursuant to chapter 18.155 RCW.

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

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

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

1 escaped from the treatment program shall be referred back to the  
2 sentencing court.

3 If the offender does not comply with the conditions of the  
4 treatment program, the secretary of social and health services may  
5 refer the matter to the sentencing court. The sentencing court shall  
6 commit the offender to the department of corrections to serve the  
7 balance of the term of confinement.

8 If the offender successfully completes the treatment program before  
9 the expiration of the term of confinement, the court may convert the  
10 balance of confinement to community supervision and may place  
11 conditions on the offender including crime-related prohibitions and  
12 requirements that the offender perform any one or more of the  
13 following:

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

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

18 (iii) Report as directed to the court and a community corrections  
19 officer;

20 (iv) Undergo available outpatient treatment.

21 If the offender violates any of the terms of community supervision,  
22 the court may order the offender to serve out the balance of the  
23 community supervision term in confinement in the custody of the  
24 department of corrections.

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

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

34 Except for an offender who has been convicted of a violation of RCW  
35 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
36 before the expiration of his or her term of confinement, the department  
37 of corrections may request the court to convert the balance of  
38 confinement to community supervision and to place conditions on the

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

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

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

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

9 (iv) Undergo available outpatient treatment.

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

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

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

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

1 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an  
2 offender under this subsection to the statutory maximum period of  
3 confinement then the community placement portion of the sentence shall  
4 consist entirely of such community custody to which the offender may  
5 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any  
6 period of community custody actually served shall be credited against  
7 the community placement portion of the sentence.

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

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

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

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

33 (iv) An offender in community custody shall not unlawfully possess  
34 controlled substances;

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

37 (vi) The residence location and living arrangements are subject to  
38 the prior approval of the department of corrections during the period  
39 of community placement.

1 (c) The court may also order any of the following special  
2 conditions:

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

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

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

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

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

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

15 (~~(9)~~) (11) If the court imposes a sentence requiring confinement  
16 of thirty days or less, the court may, in its discretion, specify that  
17 the sentence be served on consecutive or intermittent days. A sentence  
18 requiring more than thirty days of confinement shall be served on  
19 consecutive days. Local jail administrators may schedule court-ordered  
20 intermittent sentences as space permits.

21 (~~(10)~~) (12) If a sentence imposed includes payment of a legal  
22 financial obligation, the sentence shall specify the total amount of  
23 the legal financial obligation owed, and shall require the offender to  
24 pay a specified monthly sum toward that legal financial obligation.  
25 Restitution to victims shall be paid prior to any other payments of  
26 monetary obligations. Any legal financial obligation that is imposed  
27 by the court may be collected by the department, which shall deliver  
28 the amount paid to the county clerk for credit. The offender's  
29 compliance with payment of legal financial obligations shall be  
30 supervised by the department. All monetary payments ordered shall be  
31 paid no later than ten years after the last date of release from  
32 confinement pursuant to a felony conviction or the date the sentence  
33 was entered. Independent of the department, the party or entity to  
34 whom the legal financial obligation is owed shall have the authority to  
35 utilize any other remedies available to the party or entity to collect  
36 the legal financial obligation. Nothing in this section makes the  
37 department, the state, or any of its employees, agents, or other  
38 persons acting on their behalf liable under any circumstances for the  
39 payment of these legal financial obligations. If an order includes

1 restitution as one of the monetary assessments, the county clerk shall  
2 make disbursements to victims named in the order.

3 ~~((11))~~ (13) Except as provided under RCW 9.94A.140(1) and  
4 9.94A.142(1), a court may not impose a sentence providing for a term of  
5 confinement or community supervision or community placement which  
6 exceeds the statutory maximum for the crime as provided in chapter  
7 9A.20 RCW.

8 ~~((12))~~ (14) All offenders sentenced to terms involving community  
9 supervision, community service, community placement, or legal financial  
10 obligation shall be under the supervision of the secretary of the  
11 department of corrections or such person as the secretary may designate  
12 and shall follow explicitly the instructions of the secretary including  
13 reporting as directed to a community corrections officer, remaining  
14 within prescribed geographical boundaries, notifying the community  
15 corrections officer of any change in the offender's address or  
16 employment, and paying the supervision fee assessment.

17 ~~((13))~~ (15) All offenders sentenced to terms involving community  
18 supervision, community service, or community placement under the  
19 supervision of the department of corrections shall not own, use, or  
20 possess firearms or ammunition. Offenders who own, use, or are found  
21 to be in actual or constructive possession of firearms or ammunition  
22 shall be subject to the appropriate violation process and sanctions.  
23 "Constructive possession" as used in this subsection means the power  
24 and intent to control the firearm or ammunition. "Firearm" as used in  
25 this subsection means a weapon or device from which a projectile may be  
26 fired by an explosive such as gunpowder.

27 ~~((14))~~ (16) The sentencing court shall give the offender credit  
28 for all confinement time served before the sentencing if that  
29 confinement was solely in regard to the offense for which the offender  
30 is being sentenced.

31 ~~((15))~~ (17) A departure from the standards in RCW 9.94A.400 (1)  
32 and (2) governing whether sentences are to be served consecutively or  
33 concurrently is an exceptional sentence subject to the limitations in  
34 subsections (2) and (3) of this section, and may be appealed by the  
35 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

36 ~~((16))~~ (18) The court shall order restitution whenever the  
37 offender is convicted of a felony that results in injury to any person  
38 or damage to or loss of property, whether the offender is sentenced to  
39 confinement or placed under community supervision, unless extraordinary

1 circumstances exist that make restitution inappropriate in the court's  
2 judgment. The court shall set forth the extraordinary circumstances in  
3 the record if it does not order restitution.

4 ~~((17))~~ (19) As a part of any sentence, the court may impose and  
5 enforce an order that relates directly to the circumstances of the  
6 crime for which the offender has been convicted, prohibiting the  
7 offender from having any contact with other specified individuals or a  
8 specific class of individuals for a period not to exceed the maximum  
9 allowable sentence for the crime, regardless of the expiration of the  
10 offender's term of community supervision or community placement.

11 ~~((18))~~ (20) In any sentence of partial confinement, the court may  
12 require the defendant to serve the partial confinement in work release,  
13 in a program of home detention, on work crew, or in a combined program  
14 of work crew and home detention.

15 ~~((19))~~ (21) All court-ordered legal financial obligations  
16 collected by the department and remitted to the county clerk shall be  
17 credited and paid where restitution is ordered. Restitution shall be  
18 paid prior to any other payments of monetary obligations.

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

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

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

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

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

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

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

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



1 (a) If the maximum term in the range is one year or less, the  
2 minimum term in the range shall be no less than one-third of the  
3 maximum term in the range, except that if the maximum term in the range  
4 is ninety days or less, the minimum term may be less than one-third of  
5 the maximum;

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

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

11 ~~((In carrying out its duties under subsection (2) of this  
12 section, the commission shall give consideration to the existing  
13 guidelines adopted by the association of superior court judges and the  
14 Washington association of prosecuting attorneys and the experience  
15 gained through use of those guidelines.))~~ The commission shall  
16 emphasize confinement for the violent offender and alternatives to  
17 total confinement for the nonviolent offender.

18 (6) ~~((This))~~ The commission shall biennially conduct a study to  
19 determine the capacity of correctional facilities and programs which  
20 are or will be available. ~~((While the commission need not consider  
21 such capacity in arriving at its recommendations,))~~ The commission  
22 shall project whether the implementation of ((its recommendations)) the  
23 standard sentence ranges would result in exceeding such capacity. If  
24 the commission finds that this result would probably occur, then the  
25 commission shall prepare an additional list of standard sentence~~((s))~~  
26 ranges which shall be consistent with such capacity.

27 (7) The commission may recommend to the legislature revisions or  
28 modifications to the standard sentence ranges and other standards.  
29 ~~((If implementation of the revisions or modifications would result in  
30 exceeding the capacity of correctional facilities, then the commission  
31 shall accompany its recommendation with an additional list of standard  
32 sentence ranges which are consistent with correction capacity))~~ The  
33 commission shall prepare a report that updates the most recent capacity  
34 study of correctional facilities and programs, and includes projections  
35 on whether the implementation of the standard sentence ranges will  
36 exceed this capacity. This report shall be submitted to the  
37 legislature by December 1, 1993.

38 (8) The sentencing reform act has been in effect since July 1,  
39 1984, and several modifications to sentences have occurred. The

1 sentencing guidelines commission shall reevaluate the proportionality  
2 and fairness of sentences contained in RCW 9.94A.120, as well as  
3 practical workability of sentences and ranges. The commission shall  
4 develop recommendations on alternative punishments to total confinement  
5 for nonviolent offenders. The commission shall evaluate the impact of  
6 revisions to RCW 9.94A.120 (6) and (7). The commission shall submit  
7 preliminary findings to the legislature by December 1, 1994, and shall  
8 submit the final report to the legislature by December 1, 1995. The  
9 report shall describe the changes in sentencing practices related to  
10 the use of alternatives to total confinement for nonviolent offenders  
11 and include the impact of sentencing alternatives on state prisons and  
12 county jail population, the savings in state and local resources, and  
13 the impact on recidivism rates. The commission shall establish a  
14 baseline for evaluating recidivism of all felony offenders whether  
15 under the jurisdiction of the department or counties.

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

18 ((+9)) (10) The commission shall exercise its duties under this  
19 section in conformity with chapter 34.05 RCW, as now existing or  
20 hereafter amended.

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

23 (1) A sentence that includes a term or terms of confinement  
24 totaling more than one year shall be served in a facility or  
25 institution operated, or utilized under contract, by the state. Except  
26 as provided for in subsection (3) or (4) of this section, a sentence of  
27 not more than one year of confinement shall be served in a facility  
28 operated, licensed, or utilized under contract, by the county, or if  
29 home detention or work crew has been ordered by the court, in the  
30 residence of either the defendant or a member of the defendant's  
31 immediate family.

32 (2) If a county uses a state partial confinement facility for the  
33 partial confinement of a person sentenced to confinement for not more  
34 than one year, the county shall reimburse the state for the use of the  
35 facility as provided for in this subsection. The office of financial  
36 management shall set the rate of reimbursement based upon the average  
37 per diem cost per offender in the facility. The office of financial  
38 management shall determine to what extent, if any, reimbursement shall

1 be reduced or eliminated because of funds provided by the legislature  
2 to the department of corrections for the purpose of covering the cost  
3 of county use of state partial confinement facilities. The office of  
4 financial management shall reestablish reimbursement rates each even-  
5 numbered year.

6 (3) A person who is sentenced for a felony to a term of not more  
7 than one year, and who is committed or returned to incarceration in a  
8 state facility on another felony conviction, either under the  
9 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter  
10 shall serve all terms of confinement, including a sentence of not more  
11 than one year, in a facility or institution operated, or utilized under  
12 contract, by the state, consistent with the provisions of RCW  
13 9.94A.400.

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

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

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

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

26 (a) The court, upon the motion of the state, or upon its own  
27 motion, shall require the offender to show cause why the offender  
28 should not be punished for the noncompliance. The court may issue a  
29 summons or a warrant of arrest for the offender's appearance;

30 (b) The state has the burden of showing noncompliance by a  
31 preponderance of the evidence. If the court finds that the violation  
32 has occurred, it may order the offender to be confined for a period not  
33 to exceed sixty days for each violation(~~(, and)~~). The total amount of  
34 confinement time the court may order for all violations that occur  
35 during a term of community supervision shall not exceed the high end of  
36 the sentence range for the offense. The court may (i) convert a term  
37 of partial confinement to total confinement, (ii) convert community  
38 service obligation to total or partial confinement, (~~(or)~~) (iii)

1 convert monetary obligations, except restitution and the crime victim  
2 penalty assessment, to community service hours at the rate of the state  
3 minimum wage as established in RCW 49.46.020 for each hour of community  
4 service, or (iv) convert to other sentencing alternatives as authorized  
5 in RCW 9.94A.380. Any time served in confinement awaiting a hearing on  
6 noncompliance shall be credited against any confinement order by the  
7 court; and

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

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

13 **Sec. 7.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are  
14 each reenacted and amended to read as follows:

15 TABLE 2

16 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

17	XV	Aggravated Murder 1 (RCW 10.95.020)
18	XIV	Murder 1 (RCW 9A.32.030)
19		Homicide by Abuse (RCW 9A.32.055)
20	XIII	Murder 2 (RCW 9A.32.050)
21	XII	Assault 1 (RCW 9A.36.011)
22		Assault of a Child 1 (RCW 9A.36.120)
23	XI	Rape 1 (RCW 9A.44.040)
24		Rape of a Child 1 (RCW 9A.44.073)
25	X	Kidnapping 1 (RCW 9A.40.020)
26		Rape 2 (RCW 9A.44.050)
27		Rape of a Child 2 (RCW 9A.44.076)
28		Child Molestation 1 (RCW 9A.44.083)
29		Damaging building, etc., by explosion with
30		threat to human being (RCW
31		70.74.280(1))
32		Over 18 and deliver heroin or narcotic
33		from Schedule I or II to someone
34		under 18 (RCW 69.50.406)

1                   Leading Organized Crime (RCW  
2                    9A.82.060(1)(a))

3       IX            Assault of a Child 2 (RCW 9A.36.130)  
4                    Robbery 1 (RCW 9A.56.200)  
5                    Manslaughter 1 (RCW 9A.32.060)  
6                    Explosive devices prohibited (RCW  
7                    70.74.180)  
8                    Indecent Liberties (with forcible  
9                    compulsion) (RCW 9A.44.100(1)(a))  
10                  Endangering life and property by  
11                  explosives with threat to human being  
12                  (RCW 70.74.270)  
13                  Over 18 and deliver narcotic from Schedule  
14                  III, IV, or V or a nonnarcotic from  
15                  Schedule I-V to someone under 18 and  
16                  3 years junior (RCW 69.50.406)  
17                  Controlled Substance Homicide (RCW  
18                  69.50.415)  
19                  Sexual Exploitation (RCW 9.68A.040)  
20                  Inciting Criminal Profiteering (RCW  
21                  9A.82.060(1)(b))

22       VIII         Arson 1 (RCW 9A.48.020)  
23                    Promoting Prostitution 1 (RCW 9A.88.070)  
24                    Selling for profit (controlled or  
25                    counterfeit) any controlled substance  
26                    (RCW 69.50.410)  
27                    Manufacture, deliver, or possess with  
28                    intent to deliver heroin or cocaine  
29                    (RCW 69.50.401(a)(1)(i))  
30                    Manufacture, deliver, or possess with  
31                    intent to deliver methamphetamine  
32                    (RCW 69.50.401(a)(1)(ii))  
33                    Vehicular Homicide, by being under the  
34                    influence of intoxicating liquor or  
35                    any drug or by the operation of any  
36                    vehicle in a reckless manner (RCW  
37                    46.61.520)

1 VII Burglary 1 (RCW 9A.52.020)  
2 Vehicular Homicide, by disregard for the  
3 safety of others (RCW 46.61.520)  
4 Introducing Contraband 1 (RCW 9A.76.140)  
5 Indecent Liberties (without forcible  
6 compulsion) (RCW 9A.44.100(1) (b) and  
7 (c))  
8 Child Molestation 2 (RCW 9A.44.086)  
9 Dealing in depictions of minor engaged in  
10 sexually explicit conduct (RCW  
11 9.68A.050)  
12 Sending, bringing into state depictions of  
13 minor engaged in sexually explicit  
14 conduct (RCW 9.68A.060)  
15 Involving a minor in drug dealing (RCW  
16 69.50.401(f))

17 VI Bribery (RCW 9A.68.010)  
18 Manslaughter 2 (RCW 9A.32.070)  
19 Rape of a Child 3 (RCW 9A.44.079)  
20 Intimidating a Juror/Witness (RCW  
21 9A.72.110, 9A.72.130)  
22 Damaging building, etc., by explosion with  
23 no threat to human being (RCW  
24 70.74.280(2))  
25 Endangering life and property by  
26 explosives with no threat to human  
27 being (RCW 70.74.270)  
28 Incest 1 (RCW 9A.64.020(1))  
29 Manufacture, deliver, or possess with  
30 intent to deliver narcotics from  
31 Schedule I or II (except heroin or  
32 cocaine) (RCW 69.50.401(a)(1)(i))  
33 Intimidating a Judge (RCW 9A.72.160)  
34 Bail Jumping with Murder 1 (RCW  
35 9A.76.170(2)(a))  
36 Money Laundering, with attempt to conceal  
37 or avoid reporting (RCW  
38 9A.83.020(1)(b) and (c))

1 V Criminal Mistreatment 1 (RCW 9A.42.020)  
2 Rape 3 (RCW 9A.44.060)  
3 Sexual Misconduct with a Minor 1 (RCW  
4 9A.44.093)  
5 Child Molestation 3 (RCW 9A.44.089)  
6 Kidnapping 2 (RCW 9A.40.030)  
7 Extortion 1 (RCW 9A.56.120)  
8 Incest 2 (RCW 9A.64.020(2))  
9 Perjury 1 (RCW 9A.72.020)  
10 Extortionate Extension of Credit (RCW  
11 9A.82.020)  
12 Advancing money or property for  
13 extortionate extension of credit (RCW  
14 9A.82.030)  
15 Extortionate Means to Collect Extensions  
16 of Credit (RCW 9A.82.040)  
17 Rendering Criminal Assistance 1 (RCW  
18 9A.76.070)  
19 Bail Jumping with class A Felony (RCW  
20 9A.76.170(2)(b))  
21 Delivery of imitation controlled substance  
22 by person eighteen or over to person  
23 under eighteen (RCW 69.52.030(2))

24 IV Residential Burglary (RCW 9A.52.025)  
25 Theft of Livestock 1 (RCW 9A.56.080)  
26 Robbery 2 (RCW 9A.56.210)  
27 Assault 2 (RCW 9A.36.021)  
28 Escape 1 (RCW 9A.76.110)  
29 Arson 2 (RCW 9A.48.030)  
30 Bribing a Witness/Bribe Received by  
31 Witness (RCW 9A.72.090, 9A.72.100)  
32 Malicious Harassment (RCW 9A.36.080)  
33 Threats to Bomb (RCW 9.61.160)  
34 Willful Failure to Return from Furlough  
35 (RCW 72.66.060)  
36 Hit and Run « Injury Accident (RCW  
37 46.52.020(4))  
38 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with  
2 intent to deliver narcotics from  
3 Schedule III, IV, or V or  
4 nonnarcotics from Schedule I-V  
5 (except marijuana or  
6 methamphetamines) (RCW  
7 69.50.401(a)(1) (ii) through (iv))  
8 Influencing Outcome of Sporting Event (RCW  
9 9A.82.070)  
10 Use of Proceeds of Criminal Profiteering  
11 (RCW 9A.82.080 (1) and (2))  
12 Knowingly Trafficking in Stolen Property  
13 (RCW 9A.82.050(2))  
14 Money Laundering, Spending (RCW  
15 9A.83.020(1)(a))  
16 III Criminal Mistreatment 2 (RCW 9A.42.030)  
17 Extortion 2 (RCW 9A.56.130)  
18 Unlawful Imprisonment (RCW 9A.40.040)  
19 Assault 3 (RCW 9A.36.031)  
20 Assault of a Child 3 (RCW 9A.36.140)  
21 Custodial Assault (RCW 9A.36.100)  
22 Unlawful possession of firearm or pistol by felon (RCW  
23 9.41.040)  
24 Harassment (RCW 9A.46.020)  
25 Promoting Prostitution 2 (RCW 9A.88.080)  
26 Willful Failure to Return from Work  
27 Release (RCW 72.65.070)  
28 Burglary 2 (RCW 9A.52.030)  
29 Introducing Contraband 2 (RCW 9A.76.150)  
30 Communication with a Minor for Immoral  
31 Purposes (RCW 9.68A.090)  
32 Patronizing a Juvenile Prostitute (RCW  
33 9.68A.100)  
34 Escape 2 (RCW 9A.76.120)  
35 Perjury 2 (RCW 9A.72.030)  
36 Bail Jumping with class B or C Felony (RCW  
37 9A.76.170(2)(c))  
38 Intimidating a Public Servant (RCW  
39 9A.76.180)



1 Tampering with a Witness (RCW 9A.72.120)  
2 Manufacture, deliver, or possess with  
3 intent to deliver marijuana (RCW  
4 69.50.401(a)(1)(ii))  
5 Delivery of a material in lieu of a  
6 controlled substance (RCW  
7 69.50.401(c))  
8 Manufacture, distribute, or possess with  
9 intent to distribute an imitation  
10 controlled substance (RCW  
11 69.52.030(1))  
12 Recklessly Trafficking in Stolen Property  
13 (RCW 9A.82.050(1))  
14 Theft of Livestock 2 (RCW 9A.56.080)  
15 Securities Act violation (RCW 21.20.400)

16 II Malicious Mischief 1 (RCW 9A.48.070)  
17 Possession of Stolen Property 1 (RCW  
18 9A.56.150)  
19 Theft 1 (RCW 9A.56.030)  
20 Motor Vehicle Theft (section 10 of this  
21 act)  
22 Possession of controlled substance that is  
23 either heroin or narcotics from  
24 Schedule I or II (RCW 69.50.401(d))  
25 Possession of phencyclidine (PCP) (RCW  
26 69.50.401(d))  
27 Create, deliver, or possess a counterfeit  
28 controlled substance (RCW  
29 69.50.401(b))  
30 Computer Trespass 1 (RCW 9A.52.110)  
31 Reckless Endangerment 1 (RCW 9A.36.045)  
32 Escape from Community Custody (RCW  
33 72.09.310)

34 I Theft 2 (RCW 9A.56.040)  
35 Possession of Stolen Property 2 (RCW  
36 9A.56.160)  
37 Forgery (RCW 9A.60.020)

1 Taking Motor Vehicle Without Permission  
2 (RCW 9A.56.070)  
3 Vehicle Prowl 1 (RCW 9A.52.095)  
4 Attempting to Elude a Pursuing Police  
5 Vehicle (RCW 46.61.024)  
6 Malicious Mischief 2 (RCW 9A.48.080)  
7 Reckless Burning 1 (RCW 9A.48.040)  
8 Unlawful Issuance of Checks or Drafts (RCW  
9 9A.56.060)  
10 Unlawful Use of Food Stamps (RCW 9.91.140  
11 (2) and (3))  
12 False Verification for Welfare (RCW  
13 74.08.055)  
14 Forged Prescription (RCW 69.41.020)  
15 Forged Prescription for a Controlled  
16 Substance (RCW 69.50.403)  
17 Possess controlled substance that is a  
18 narcotic from Schedule III, IV, or V  
19 or non-narcotic from Schedule I-V  
20 (except phencyclidine) (RCW  
21 69.50.401(d))

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

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

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

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

33 (2) Except as provided in subsection (4) of this section, class A  
34 and sex prior felony convictions shall always be included in the  
35 offender score. Class B prior felony convictions other than sex  
36 offenses shall not be included in the offender score, if since the last  
37 date of release from confinement (including full-time residential

1 treatment) pursuant to a felony conviction, if any, or entry of  
2 judgment and sentence, the offender had spent ten consecutive years in  
3 the community without being convicted of any felonies. Class C prior  
4 felony convictions other than sex offenses shall not be included in the  
5 offender score if, since the last date of release from confinement  
6 (including full-time residential treatment) pursuant to a felony  
7 conviction, if any, or entry of judgment and sentence, the offender had  
8 spent five consecutive years in the community without being convicted  
9 of any felonies. Serious traffic convictions shall not be included in  
10 the offender score if, since the last date of release from confinement  
11 (including full-time residential treatment) pursuant to a felony  
12 conviction, if any, or entry of judgment and sentence, the offender  
13 spent five years in the community without being convicted of any  
14 serious traffic or felony traffic offenses. This subsection applies to  
15 both adult and juvenile prior convictions.

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

19 (4) Always include juvenile convictions for sex offenses. Include  
20 other class A juvenile felonies only if the offender was 15 or older at  
21 the time the juvenile offense was committed. Include other class B and  
22 C juvenile felony convictions only if the offender was 15 or older at  
23 the time the juvenile offense was committed and the offender was less  
24 than 23 at the time the offense for which he or she is being sentenced  
25 was committed.

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

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

31 (a) Prior adult offenses which were found, under RCW  
32 9.94A.400(1)(a), to encompass the same criminal conduct, shall be  
33 counted as one offense, the offense that yields the highest offender  
34 score. The current sentencing court shall determine with respect to  
35 other prior adult offenses for which sentences were served concurrently  
36 whether those offenses shall be counted as one offense or as separate  
37 offenses, and if the court finds that they shall be counted as one  
38 offense, then the offense that yields the highest offender score shall  
39 be used;

1 (b) Juvenile prior convictions entered or sentenced on the same  
2 date shall count as one offense, the offense that yields the highest  
3 offender score, except for juvenile prior convictions for violent  
4 offenses with separate victims, which shall count as separate offenses;  
5 and

6 (c) In the case of multiple prior convictions for offenses  
7 committed before July 1, 1986, for the purpose of computing the  
8 offender score, count all adult convictions served concurrently as one  
9 offense, and count all juvenile convictions entered on the same date as  
10 one offense. Use the conviction for the offense that yields the  
11 highest offender score.

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

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

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

25 (10) If the present conviction is for Murder 1 or 2, Assault 1,  
26 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count  
27 three points for prior adult and juvenile convictions for crimes in  
28 these categories, two points for each prior adult and juvenile violent  
29 conviction (not already counted), one point for each prior adult  
30 nonviolent felony conviction, and 1/2 point for each prior juvenile  
31 nonviolent felony conviction.

32 (11) If the present conviction is for Burglary 1, count prior  
33 convictions as in subsection (9) of this section; however count two  
34 points for each prior adult Burglary 2 or residential burglary  
35 conviction, and one point for each prior juvenile Burglary 2 or  
36 residential burglary conviction.

37 (12) If the present conviction is for a felony traffic offense  
38 count two points for each adult or juvenile prior conviction for  
39 Vehicular Homicide or Vehicular Assault; for each felony offense or

1 serious traffic offense, count one point for each adult and 1/2 point  
2 for each juvenile prior conviction.

3 (13) If the present conviction is for a drug offense count three  
4 points for each adult prior felony drug offense conviction and two  
5 points for each juvenile drug offense. All other adult and juvenile  
6 felonies are scored as in subsection (9) of this section if the current  
7 drug offense is violent, or as in subsection (8) of this section if the  
8 current drug offense is nonviolent.

9 (14) If the present conviction is for Willful Failure to Return  
10 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
11 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
12 72.09.310, count only prior escape convictions in the offender score.  
13 Count adult prior escape convictions as one point and juvenile prior  
14 escape convictions as 1/2 point.

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

18 (16) If the present conviction is for Burglary 2 or residential  
19 burglary, count priors as in subsection (8) of this section; however,  
20 count two points for each adult and juvenile prior Burglary 1  
21 conviction, two points for each adult prior Burglary 2 or residential  
22 burglary conviction, and one point for each juvenile prior Burglary 2  
23 or residential burglary conviction.

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

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

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

32 **Sec. 9.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are  
33 each reenacted and amended to read as follows:

34 (1) Alternatives to total confinement are available for offenders  
35 with sentences of one year or less. These alternatives include the  
36 following sentence conditions that the court may order as substitutes  
37 for total confinement: ~~((+1))~~ (a) One day of partial confinement may  
38 be substituted for one day of total confinement; ~~((+2))~~ (b) in

1 addition, for offenders convicted of nonviolent offenses only, eight  
2 hours of community service may be substituted for one day of total  
3 confinement, with a maximum conversion limit of two hundred forty hours  
4 or thirty days. Community service hours must be completed within the  
5 period of community supervision or a time period specified by the  
6 court, which shall not exceed twenty-four months, pursuant to a  
7 schedule determined by the department.

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

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

15 (2) "Authorized sentencing options" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

7       (5) The department shall determine the rules for calculating the  
8 value of a day fine based on the offender's income and reasonable  
9 obligations which the offender has for the support of the offender and  
10 any dependents. These rules shall be developed in consultation with  
11 the administrator for the courts, the office of financial management,  
12 and the sentencing guidelines commission.

13       **NEW SECTION. Sec. 10.** A new section is added to chapter 9A.56 RCW  
14 to read as follows:

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

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

18       **Sec. 11.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to read  
19 as follows:

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

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

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

28       (c) An access device; or

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

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

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

34       **NEW SECTION. Sec. 12.** A new section is added to chapter 72.09 RCW  
35 to read as follows:

1 (1) The department in conjunction with the office of financial  
2 management shall establish a pool of funding for grants to counties for  
3 offender placements in alternative sentences to incarceration as  
4 enumerated in RCW 9.94A.380.

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

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

37 (4) The office of financial management and the department after  
38 review and approval of alternative sentencing plans submitted by  
39 counties and no later than October 1, 1994, shall report to the



1 partnership advisory committee established in RCW 72.09.300(7) on the  
2 quality of the plans, implementation issues, policy issues with state-  
3 wide implications, and any other information necessary to strengthen  
4 the alternative sentencing efforts of local governments in the state of  
5 Washington. The office of financial management or the department shall  
6 make available copies of the alternative sentencing plans to the  
7 partnership advisory committee upon request of the committee. The  
8 partnership advisory committee is encouraged to advise the office of  
9 financial management and the department on matters concerning  
10 alternative sentences and other criminal justice issues. The secretary  
11 shall convene the partnership advisory committee as required to provide  
12 reasonable discussion between the state and local governments  
13 concerning the implementation and operations of alternative sentences  
14 at the local level.

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

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

30 NEW SECTION. **Sec. 13.** (1) The Washington council on justice  
31 policy is hereby established. The council shall consist of twenty-four  
32 members appointed by the governor. Membership shall include:

- 33 (a) One representative of city governments;
- 34 (b) One representative of county governments;
- 35 (c) One representative of sheriffs and police;
- 36 (d) One representative of jail managers;
- 37 (e) One representative of criminal defense attorneys;
- 38 (f) One representative of prosecuting attorneys;

- 1 (g) One representative of the judiciary;
- 2 (h) One representative of juvenile court administrators;
- 3 (i) One representative of community providers for juvenile  
4 offenders;
- 5 (j) Two representatives of business;
- 6 (k) Two representatives of labor;
- 7 (l) One representative of higher education;
- 8 (m) One representative of common schools;
- 9 (n) One representative from crime victims' organizations;
- 10 (o) Six legislators, two from each of the majority caucuses in the  
11 house of representatives and senate, and one from each of the minority  
12 caucuses in the house of representatives and senate; and
- 13 (p) Two citizen representatives, one from eastern Washington and  
14 one from western Washington.

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

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

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

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

36 NEW SECTION. **Sec. 14.** A new section is added to chapter 72.02  
37 RCW to read as follows:

1 The secretary shall review the classification structure for  
2 establishing the custody levels of inmates in state correctional  
3 facilities. The review shall take place every three years beginning in  
4 1993. As part of the review, the secretary shall seek technical  
5 assistance from the national institute of corrections. The national  
6 institute of corrections is encouraged to evaluate and provide written  
7 comments regarding the classification structure for the appropriate  
8 placement of inmates in state correctional facilities. The secretary  
9 shall report on the inmate classification system to the house of  
10 representatives committee on corrections and the senate committee on  
11 law and justice, every third legislative session beginning with the  
12 1997 legislature.

13 **Sec. 15.** RCW 9.94A.160 and 1984 c 246 s 1 are each amended to read  
14 as follows:

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

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

36 ~~(2) If the emergency occurs prior to July 1, 1988, call the board~~  
37 ~~of prison terms and paroles into an emergency meeting for the purpose~~  
38 ~~of evaluating its guidelines and procedures for release of prisoners~~

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

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

25 **Sec. 16.** RCW 9.92.151 and 1990 c 3 s 201 are each amended to read  
26 as follows:

27 The sentence of a prisoner confined in a county jail facility for  
28 a felony, gross misdemeanor, or misdemeanor conviction may be reduced  
29 by earned release credits in accordance with procedures that shall be  
30 developed and promulgated by the correctional agency having  
31 jurisdiction. The earned early release time shall be for good behavior  
32 and good performance as determined by the correctional agency having  
33 jurisdiction. Any program established pursuant to this section shall  
34 allow an offender to earn early release credits for presentence  
35 incarceration. The correctional agency shall not credit the offender  
36 with earned early release credits in advance of the offender actually  
37 earning the credits. In the case of an offender convicted of a serious  
38 violent offense or a sex offense that is a class A felony committed on

1 or after July 1, 1990, the aggregate earned early release time may not  
2 exceed fifteen percent of the sentence.

3 (1) In the case of an offender convicted of a violent offense, or  
4 a sex offense with a seriousness level of VII or greater, committed on  
5 or after July 1, 1993, or an offender sentenced pursuant to RCW  
6 9.94A.120(7), the aggregate earned early release time may not exceed  
7 one-third of the sentence. In no other case may the aggregate earned  
8 early release time exceed ((one-third)) forty-five percent of the total  
9 sentence. This subsection applies to an offender convicted of an  
10 offense before July 1, 1996.

11 (2) In the case of an offender convicted of an offense on or after  
12 July 1, 1996, the aggregate earned early release time may not exceed  
13 one-third of the total sentence.

14 **Sec. 17.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read  
15 as follows:

16 No person serving a sentence imposed pursuant to this chapter and  
17 committed to the custody of the department shall leave the confines of  
18 the correctional facility or be released prior to the expiration of the  
19 sentence except as follows:

20 (1) Except as otherwise provided for in subsection (2) of this  
21 section, the term of the sentence of an offender committed to a  
22 correctional facility operated by the department, may be reduced by  
23 earned early release time in accordance with procedures that shall be  
24 developed and promulgated by the correctional agency having  
25 jurisdiction in which the offender is confined. The earned early  
26 release time shall be for good behavior and good performance, as  
27 determined by the correctional agency having jurisdiction. The  
28 correctional agency shall not credit the offender with earned early  
29 release credits in advance of the offender actually earning the  
30 credits. Any program established pursuant to this section shall allow  
31 an offender to earn early release credits for presentence  
32 incarceration. If an offender is transferred from a county jail to the  
33 department of corrections, the county jail facility shall certify to  
34 the department the amount of time spent in custody at the facility and  
35 the amount of earned early release time. In the case of an offender  
36 convicted of a serious violent offense or a sex offense that is a class  
37 A felony committed on or after July 1, 1990, the aggregate earned early  
38 release time may not exceed fifteen percent of the sentence.

1       (a) In the case of an offender convicted of a violent offense, or  
2 a sex offense with a seriousness level of VII or greater, committed on  
3 or after July 1, 1993, or an offender sentenced pursuant to RCW  
4 9.94A.120(7), the aggregate earned early release time may not exceed  
5 one-third of the sentence. In no other case shall the aggregate earned  
6 early release time exceed ((one-third)) forty-five percent of the total  
7 sentence. This subsection (1)(a) applies to an offender convicted of  
8 an offense before July 1, 1996;

9       (b) In the case of an offender convicted of an offense on or after  
10 July 1, 1996, the aggregate earned early release time may not exceed  
11 one-third of the total sentence;

12       (2) A person convicted of a sex offense or an offense categorized  
13 as a serious violent offense, assault in the second degree, assault of  
14 a child in the second degree, any crime against a person where it is  
15 determined in accordance with RCW 9.94A.125 that the defendant or an  
16 accomplice was armed with a deadly weapon at the time of commission, or  
17 any felony offense under chapter 69.50 or 69.52 RCW may become  
18 eligible, in accordance with a program developed by the department, for  
19 transfer to community custody status in lieu of earned early release  
20 time pursuant to subsection (1) of this section;

21       (3) An offender may leave a correctional facility pursuant to an  
22 authorized furlough or leave of absence. In addition, offenders may  
23 leave a correctional facility when in the custody of a corrections  
24 officer or officers;

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

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

32       (6) The governor may pardon any offender;

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

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

1       **Sec. 18.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read  
2 as follows:

3       (1) All cities and counties are authorized to establish and  
4 maintain farms, camps, and work release programs and facilities, as  
5 well as special detention facilities. The facilities shall meet the  
6 requirements of chapter 70.48 RCW and any rules adopted thereunder.

7       (2) Farms and camps may be established either inside or outside the  
8 territorial limits of a city or county. A sentence of confinement in  
9 a city or county jail may include placement in a farm or camp. Unless  
10 directed otherwise by court order, the chief law enforcement officer or  
11 department of corrections, may transfer the prisoner to a farm or camp.  
12 The sentencing court, chief law enforcement officer, or department of  
13 corrections may not transfer to a farm or camp a greater number of  
14 prisoners than can be furnished with constructive employment and can be  
15 reasonably accommodated.

16       (3) The city or county may establish a city or county work release  
17 program and housing facilities for the prisoners in the program. In  
18 such regard, factors such as employment conditions and the condition of  
19 jail facilities should be considered. When a work release program is  
20 established the following provisions apply:

21       (a) A person convicted of a felony and placed in a city or county  
22 jail is eligible for the work release program. A person sentenced to  
23 a city or county jail is eligible for the work release program. The  
24 program may be used as a condition of probation for a criminal offense.  
25 Good conduct is a condition of participation in the program.

26       (b) The court may permit a person who is currently, regularly  
27 employed to continue his or her employment. The chief law enforcement  
28 officer or department of corrections shall make all necessary  
29 arrangements if possible. The court may authorize the person to seek  
30 suitable employment and may authorize the chief law enforcement officer  
31 or department of corrections to make reasonable efforts to find  
32 suitable employment for the person. A person participating in the work  
33 release program may not work in an establishment where there is a labor  
34 dispute.

35       (c) The work release prisoner shall be confined in a work release  
36 facility or jail unless authorized to be absent from the facility for  
37 program-related purposes, unless the court directs otherwise.

38       (d) Each work release prisoner's earnings may be collected by the  
39 chief law enforcement officer or a designee. The chief law enforcement

1 officer or a designee may deduct from the earnings moneys for the  
2 payments for the prisoner's board, personal expenses inside and outside  
3 the jail, a share of the administrative expenses of this section,  
4 court-ordered victim compensation, and court-ordered restitution.  
5 Support payments for the prisoner's dependents, if any, shall be made  
6 as directed by the court. With the prisoner's consent, the remaining  
7 funds may be used to pay the prisoner's preexisting debts. Any  
8 remaining balance shall be returned to the prisoner.

9 (e) The prisoner's sentence may be reduced by earned early release  
10 time in accordance with procedures that shall be developed and  
11 promulgated by the work release facility. The earned early release  
12 time shall be for good behavior and good performance as determined by  
13 the facility. The facility shall not credit the offender with earned  
14 early release credits in advance of the offender actually earning the  
15 credits. In the case of an offender convicted of a serious violent  
16 offense or a sex offense that is a class A felony committed on or after  
17 July 1, 1990, the aggregate earned early release time may not exceed  
18 fifteen percent of the sentence.

19 (i) In the case of an offender convicted of a violent offense, or  
20 a sex offense with a seriousness level of VII or greater, committed on  
21 or after July 1, 1993, or an offender sentenced pursuant to RCW  
22 9.94A.120(7), the aggregate earned early release time may not exceed  
23 one-third of the sentence. In no other case may the aggregate earned  
24 early release time exceed ((one-third)) forty-five percent of the total  
25 sentence. This subsection (3)(e)(i) applies to an offender convicted  
26 of an offense before July 1, 1996;

27 (ii) In the case of an offender convicted of an offense on or after  
28 July 1, 1996, the aggregate earned early release time may not exceed  
29 one-third of the total sentence.

30 (f) If the work release prisoner violates the conditions of custody  
31 or employment, the prisoner shall be returned to the sentencing court.  
32 The sentencing court may require the prisoner to spend the remainder of  
33 the sentence in actual confinement and may cancel any earned reduction  
34 of the sentence.

35 (4) A special detention facility may be operated by a  
36 noncorrectional agency or by noncorrectional personnel by contract with  
37 the governing unit. The employees shall meet the standards of training  
38 and education established by the criminal justice training commission  
39 as authorized by RCW 43.101.080. The special detention facility may



1 use combinations of features including, but not limited to, low-  
2 security or honor prisoner status, work farm, work release, community  
3 review, prisoner facility maintenance and food preparation, training  
4 programs, or alcohol or drug rehabilitation programs. Special  
5 detention facilities may establish a reasonable fee schedule to cover  
6 the cost of facility housing and programs. The schedule shall be on a  
7 sliding basis that reflects the person's ability to pay.

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

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

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

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

35 The legislature finds that the concept of a work ethic camp that  
36 requires the offender to complete an appropriate and balanced  
37 combination of highly structured and goal-oriented work programs such  
38 as correctional industries based work camps and/or class I and class II

1 work projects, drug rehabilitation, and intensive life management work  
2 ethic training, can successfully reduce offender recidivism and lower  
3 the overall cost of incarceration.

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

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

36 NEW SECTION. **Sec. 21.** A new section is added to chapter 9.94A RCW  
37 to read as follows:

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

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

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

6 (c) Has no current or prior convictions for any sex offenses or  
7 violent offenses.

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

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

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

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

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

37 NEW SECTION. **Sec. 22.** The work ethic camp shall employ one  
38 hundred percent of all inmates. The employment options available for

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

26 NEW SECTION. **Sec. 23.** The work ethic camp program established in  
27 sections 19 through 23 of this act shall be considered a pilot  
28 alternative incarceration program and remain in effect until July 1,  
29 1998. The department and the office of financial management shall  
30 monitor and analyze the effectiveness of the incarceration program and  
31 complete a final outcome evaluation study by January 15, 1998. The  
32 study shall include: The recidivism rates of successful program  
33 graduates, analysis of the overall program costs, the ability to  
34 maintain public safety, and any other pertinent data established by the  
35 department. The department may encourage interested universities to  
36 participate in studies that will enhance the effectiveness of the  
37 program.

1 The department of corrections shall seek the availability of  
2 federal funds for the planning, implementation, evaluation, and  
3 training of staff for work ethic camp programs, substance abuse  
4 programs, and offender education programs.

5 NEW SECTION. **Sec. 24.** (1) The department of corrections shall  
6 conduct a comprehensive review and analysis of their offender health  
7 care system including all its corresponding expenditures during the  
8 1991-93 biennium.

9 (2) The department shall review, analyze, and provide a report of  
10 all departmental health services quarterly reports beginning from 1988  
11 through the most current one. The report shall provide data indicating  
12 the cost and encounter trends of all medical, dental, mental health,  
13 and ancillary services provided for offenders within the division of  
14 offender programs, division of prisons, and division of community  
15 corrections. The trend data shall, to the extent possible, include,  
16 but not be limited to: (a) Total service hours and encounters for  
17 consultant/contract services delivered within a department facility or  
18 program; (b) medical encounters by department staff; (c) encounters  
19 conducted off-site; (d) total medication line visits; (e) inpatient  
20 days for department inpatient services and community facilities; (f)  
21 dental off-site and on-site encounters; (g) full mental health  
22 utilization data; (h) total prescriptions ordered for each facility and  
23 overall; (i) total laboratory services for each facility and overall;  
24 (j) total radiological procedures for each facility and overall; and  
25 (k) to the extent possible, the total ICD-9 codes for encounters  
26 specific to off-site hospital services or any other sources that  
27 provide such data. The analysis required in (a) through (k) of this  
28 subsection shall include, to the extent possible, a breakdown for each  
29 of the above categories by facility and include prerelease and work  
30 release facilities.

31 (3) The department shall describe in the report its current health  
32 information system capabilities. The report shall include, but not be  
33 limited to, its offender health information systems reporting  
34 capabilities, data sources, and principal limitations of the current  
35 system. To the extent possible and within existing resources, the  
36 description shall contain an action plan for developing and  
37 implementing a basic, yet fully integrated, health care and financial  
38 information system for all department of corrections facilities and for

1 all offender health care. The basic offender health care data system  
2 should be able to identify cost centers, utilization patterns,  
3 pharmaceuticals and supplies ordering, and tracking by patient and by  
4 cost center, encounter specific diagnosis data, both contract and  
5 noncontract provider and off-site hospital practice patterns, and all  
6 procedure costs. The action plan shall include, to the extent  
7 possible, basic information systems configurations, basic hardware  
8 specifications, the total estimated cost for hardware, software,  
9 maintenance, and personnel, the estimated time line for installation  
10 and live use, and the potential and expected system development  
11 obstacles.

12 The department shall also investigate the potential for: (a)  
13 Integrating its offender health information system with the existing  
14 health information systems at western state hospital or any other  
15 state-supported facilities willing and able to share their health care  
16 information system software and expertise; (b) sharing software and/or  
17 hardware using current modem technology; and (c) using and modifying  
18 nonproprietary software for use in a state-wide offender data base and  
19 on-line health information system.

20 (4) The department shall report its progress to date and estimated  
21 or potential saving on: (a) The development of purchasing any  
22 offenders health services through preferred contract providers state-  
23 wide; (b) the consolidated purchasing of high technology services; (c)  
24 the coordination of bulk purchasing of equipment, supplies, and  
25 pharmaceuticals; (d) the use of generic pharmaceuticals; (e) the extent  
26 to which the department has coordinated with the department of health  
27 and the department of social and health services to develop health  
28 promotion and prevention care, substance abuse treatment, and mental  
29 health treatment including the development of pilot programs using  
30 federal grant assistance for training, research, or program  
31 implementation; (f) the extent the department has developed protocols  
32 for utilization review for assessing the medical necessity and  
33 appropriateness of care purchased from contracted or fee for service  
34 community-based providers and for the appropriate level of provider  
35 contracted in-house; (g) the feasibility of involving other state or  
36 federal programs in picking up the costs for offender health care; (h)  
37 the current and potential relationships between the department and the  
38 two mental health hospitals operated by the division of mental health,  
39 and any other state-owned or operated institutions, agencies, or

1 departments, including but not limited to the University of Washington  
2 medical school, Harborview hospital, and Eastern Washington University;  
3 (i) the feasibility of developing a preferred provider contract with  
4 the state's community health care clinic consortium; (j) an estimate of  
5 the number of offenders in need of chronic long-term care, their ages,  
6 offense, level of incarceration, level of security risk, protocols if  
7 developed for managing the health care and security of these offenders,  
8 and any other cost saving recommendations for managing offenders in  
9 need of chronic long-term care; (k) the degree to which the department  
10 can recover health care costs from the offender through their wages  
11 while working in correctional industries, or directly through their own  
12 resources or insurance, or through their spouse's insurance.

13 (5) The department of corrections shall submit an initial copy of  
14 the report to the health care authority, the department of health, and  
15 the department of social and health services, for their written  
16 comments regarding recommendations for departmental coordination or  
17 cooperation, or any other cost savings recommendations by September 1,  
18 1993. The department shall provide a final copy of the report,  
19 including any comments provided by the departments, to the appropriate  
20 committees of the senate and the house of representatives by December  
21 12, 1993.

22 NEW SECTION. **Sec. 25.** The department of corrections shall consult  
23 with the state health care authority to identify how the department of  
24 corrections shall develop a working plan to correspond to the health  
25 care reform measures that require all departments to place all state  
26 purchased health services in a community-rated, single risk pool under  
27 the direct administrative authority of the state purchasing agent by  
28 July 1, 1997. The department of corrections shall report the findings  
29 to the chairs of the house of representatives health care committee and  
30 committee on corrections and the chairs of the senate committee on  
31 health and human services and the law and justice committee by December  
32 12, 1993.

33 **Sec. 26.** RCW 72.09.080 and 1989 c 185 s 5 are each amended to read  
34 as follows:

35 (1) The correctional industries board of directors shall consist of  
36 nine voting members, appointed by the governor upon recommendation by  
37 the secretary. Each member shall serve a three-year staggered term.

1 Initially, the governor shall appoint three members to one-year terms,  
2 three members to two-year terms, and three members to three-year terms.  
3 The speaker of the house of representatives and the president of the  
4 senate shall each appoint one member from each of the two largest  
5 caucuses in their respective houses. The legislators so appointed  
6 shall be nonvoting members and shall serve two-year terms, or until  
7 they cease to be members of the house from which they were appointed,  
8 whichever occurs first. The nine members appointed by the governor  
9 shall include representatives from both labor and industry. The  
10 business representatives shall be chosen from a list of nominations  
11 provided by state-wide business organizations representing cross-  
12 sections of industries and all sizes of employers.

13 (2) The board of directors shall elect a chair and such other  
14 officers as it deems appropriate from among the voting members.

15 (3) The voting members of the board of directors shall serve with  
16 compensation pursuant to RCW 43.03.240 and shall be reimbursed by the  
17 department for travel expenses and per diem under RCW 43.03.050 and  
18 43.03.060, as now or hereafter amended. Legislative members shall be  
19 reimbursed under RCW 44.04.120, as now or hereafter amended.

20 (4) The secretary shall provide such staff services, facilities,  
21 and equipment as the board shall require to carry out its duties.

22 **Sec. 27.** RCW 72.09.102 and 1986 c 94 s 1 are each amended to read  
23 as follows:

24 The department of corrections and department of general  
25 administration shall ~~((develop the following for legislative review:~~  
26 ~~(1) A plan for production within the department of corrections of one~~  
27 ~~or more commodities not currently being produced within the department~~  
28 ~~for use within all state institutions and which may be sold to state~~  
29 ~~correctional systems in other states; (2) a plan for purchasing~~  
30 ~~commodities produced by correctional systems located in other states to~~  
31 ~~the degree the plan would be cost effective and would involve~~  
32 ~~reciprocal marketing agreements between the several states represented;~~  
33 ~~and (3) a plan to purchase, where cost effective, materials used in the~~  
34 ~~production of prison made goods jointly with prison industry programs~~  
35 ~~in other states. The plans shall be submitted to the legislature by~~  
36 ~~March, 1987))):~~

37 (1) Adopt administrative rules as approved by the correctional  
38 industries board of directors, that assure the preferential purchase of



1 goods and services provided by class II inmate work programs required  
2 through state contracts to the maximum extent feasible as provided in  
3 RCW 43.19.534. The rules must reference the following: Goods and  
4 services purchased from correctional industries must meet the  
5 reasonable requirements of the purchaser including timeliness of  
6 delivery, equal or better quality compared to goods or services  
7 provided by the private sector, and cost-effectiveness based on fair  
8 market value. The preference assured under the rules must be no more  
9 than ten percent of the total bid amount.

10 (2) Jointly develop an annual report on the purchase of all  
11 correctional industries goods and services through state contracts  
12 during the prior fiscal year and establish a tracking mechanism for  
13 identifying offenders working in class I and class II jobs in the prior  
14 year. The report shall be provided to the chairs of the appropriate  
15 committees of the legislature by December 12 of each year.

16 **Sec. 28.** RCW 43.19.534 and 1986 c 94 s 2 are each amended to read  
17 as follows:

18 State agencies, the legislature, and departments shall purchase for  
19 their use all ((articles or products required by the agencies or  
20 departments which)) goods and services that are produced or provided in  
21 whole or in part from class II inmate work programs operated by the  
22 department of corrections through state contract insofar as those  
23 industries are able to meet demands of quantity, cost, and quality.  
24 These ((articles and products)) goods and services shall not be  
25 purchased from any other source ((unless, upon application by the  
26 department or agency: (1) The department of general administration  
27 finds that the articles or products do not meet the reasonable  
28 requirements of the agency or department, (2) are not of equal or  
29 better quality, or (3) the price of the product or service is higher  
30 than that produced by the private sector)) except as allowed in rules  
31 as authorized in RCW 72.09.102.

32 NEW SECTION. **Sec. 29.** A new section is added to chapter 72.09 RCW  
33 to read as follows:

34 The secretary shall increase offender participation in class I and  
35 class II correctional industries work programs, incrementally, based on  
36 the ending of fiscal year 1993 combined participation levels, until a

1 twenty percent increase is achieved by December 30, 1997, and a thirty  
2 percent increase is achieved by December 30, 2000.

3 **Sec. 30.** RCW 72.09.110 and 1991 c 133 s 1 are each amended to read  
4 as follows:

5 All inmates working in prison industries shall participate in the  
6 cost of corrections, including costs to develop and implement  
7 correctional industries programs. ~~((The secretary shall develop a  
8 formula which can be used to determine the extent to which the wages of  
9 these inmates will be deducted for this purpose. The amount so  
10 deducted shall be placed in the general fund and shall be a reasonable  
11 amount which will not unduly discourage the incentive to work.))~~ The  
12 secretary shall develop a formula for the distribution of offender  
13 wages and gratuities. The formula shall include a minimum deduction of  
14 twenty percent of gross wages for class I offender employees and all  
15 other offender employees who make at least minimum wage, to cover the  
16 cost of incarceration; ten percent to be deposited in the offenders  
17 account until it reaches a total of one thousand five hundred dollars;  
18 and ten percent to be deducted and transmitted to the state crime  
19 victims compensation account.

20 Ten percent of class II offenders wages or gratuity and five  
21 percent of class III and class IV offenders wages or gratuity shall be  
22 deducted and transmitted to the crime victims compensation account. In  
23 addition, the formula shall include deductions from each offender's  
24 wage or gratuity payments to satisfy court-ordered legal and financial  
25 obligations, and other offender debts.

26 All funds gained from deductions for the cost of incarceration  
27 shall be deposited in a dedicated fund with the department and shall be  
28 used only for the purpose of enhancing and maintaining the correctional  
29 industries program until December 31, 2010. Thereafter, all funds  
30 shall be deposited in the general fund. The department shall develop  
31 the necessary administrative structure to recover offenders' wages and  
32 gratuities and keep records of the amount offenders pay for the cost of  
33 incarceration. The amount deducted for the cost of incarceration  
34 should not unduly discourage the incentive to work. The secretary may  
35 direct the state treasurer to deposit a portion of these moneys in the  
36 crime victims compensation account. ~~((Except))~~ The secretary shall  
37 direct that all moneys received by an inmate((7)) for testifying in any

1 judicial proceeding(~~(7-90)~~) shall be deposited into the crime victims  
2 compensation account.

3 When the secretary finds it appropriate and consistent with current  
4 laws regarding offenders' legal financial obligations and not unduly  
5 destructive of the work incentive, the secretary shall also provide  
6 deductions for (~~restitution~~) savings(~~(7)~~) and family support.

7 NEW SECTION. Sec. 31. By January 1, 1994, the secretary of  
8 corrections shall submit a report to the chief clerk of the house of  
9 representatives and secretary of the senate containing an  
10 identification and description of any impediments that the secretary  
11 believes might prevent the department from achieving compliance with  
12 the inmate work participation percentages specified in section 29 of  
13 this act. The secretary also shall include in the report alternative  
14 ways to remove any identified impediments. The chief clerk and  
15 secretary shall distribute the report to the appropriate standing  
16 committees.

17 NEW SECTION. Sec. 32. Sections 19 through 23 of this act are each  
18 added to chapter 72.09 RCW.

19 NEW SECTION. Sec. 33. If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23 NEW SECTION. Sec. 34. This act is necessary for the immediate  
24 preservation of the public peace, health, or safety, or support of the  
25 state government and its existing public institutions, and shall take  
26 effect July 1, 1993.

27 NEW SECTION. Sec. 35. The sum of two million dollars, or as much  
28 thereof as may be necessary, is appropriated for the biennium ending  
29 July 1, 1995, from the state general fund to the department of  
30 corrections for the purposes of RCW 72.09.300. Expenditure of each  
31 three dollars from this appropriation shall be matched by at least one  
32 dollar from other funding sources available to counties."

--- END ---