

2 **E2SSB 5451** - H AMD 000683 WITHDRAWN 4-23-93

3 By Representative R. Meyers

4

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (21) "Escape" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (a) Is convicted in this state of rape in the second degree or a
38 serious violent offense as defined in subsection (35) of this section,

1 except for an attempt, criminal solicitation, or criminal conspiracy to
2 commit a serious violent offense; and

3 (b) Has, before the commission of the offense under (a) of this
4 subsection, been convicted as an offender on at least two separate
5 occasions, whether in this state or elsewhere, of felonies that under
6 the laws of this state would be an offense under (a) of this
7 subsection. Of these two or more previous convictions, at least one
8 conviction must have occurred before the commission of any of the other
9 offenses under (a) of this subsection for which the offender was
10 previously convicted. Equivalent crimes committed as a juvenile may be
11 counted as a prior conviction under this subsection only if the
12 conviction was obtained in adult court.

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

15 ~~((25))~~ (33) "Restitution" means the requirement that the offender
16 pay a specific sum of money over a specific period of time to the court
17 as payment of damages. The sum may include both public and private
18 costs. The imposition of a restitution order does not preclude civil
19 redress.

20 ~~((26))~~ (34) "Serious traffic offense" means:

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

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

29 ~~((27))~~ (35) "Serious violent offense" is a subcategory of violent
30 offense and means:

31 (a) Murder in the first degree, homicide by abuse, murder in the
32 second degree, assault in the first degree, kidnapping in the first
33 degree, or rape in the first degree, assault of a child in the first
34 degree, or an attempt, criminal solicitation, or criminal conspiracy to
35 commit one of these felonies; or

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

1 (~~(28)~~) (36) "Sentence range" means the sentencing court's
2 discretionary range in imposing a nonappealable sentence.

3 (~~(29)~~) (37) "Sex offense" means:

4 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
5 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
6 attempt, criminal solicitation, or criminal conspiracy to commit such
7 crimes;

8 (b) A felony with a finding of sexual motivation under RCW
9 9.94A.127; or

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

13 (~~(30)~~) (38) "Sexual motivation" means that one of the purposes
14 for which the defendant committed the crime was for the purpose of his
15 or her sexual gratification.

16 (~~(31)~~) (39) "Total confinement" means confinement inside the
17 physical boundaries of a facility or institution operated or utilized
18 under contract by the state or any other unit of government for twenty-
19 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

20 (~~(32)~~) (40) "Transition training" means written and verbal
21 instructions and assistance provided by the department to the offender
22 during the two weeks prior to the offender's successful completion of
23 the work ethic camp program. The transition training shall include
24 instructions in the offender's requirements and obligations during the
25 offender's period of community custody.

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

29 (~~(33)~~) (42) "Violent offense" means:

30 (a) Any of the following felonies, as now existing or hereafter
31 amended: Any felony defined under any law as a class A felony or an
32 attempt to commit a class A felony, criminal solicitation of or
33 criminal conspiracy to commit a class A felony, manslaughter in the
34 first degree, manslaughter in the second degree, indecent liberties if
35 committed by forcible compulsion, kidnapping in the second degree,
36 arson in the second degree, assault in the second degree, assault of a
37 child in the second degree, extortion in the first degree, robbery in
38 the second degree, vehicular assault, and vehicular homicide, when
39 proximately caused by the driving of any vehicle by any person while

1 under the influence of intoxicating liquor or any drug as defined by
2 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

9 ~~((34))~~ (43) "Work crew" means a program of partial confinement
10 consisting of civic improvement tasks for the benefit of the community
11 of not less than thirty-five hours per week that complies with RCW
12 9.94A.135. ~~((The civic improvement tasks shall be performed on public
13 property or on private property owned or operated by nonprofit
14 entities, except that, for emergency purposes only, work crews may
15 perform snow removal on any private property.))~~ The civic improvement
16 tasks shall have minimal negative impact on existing private industries
17 or the labor force in the county where the service or labor is
18 performed. The civic improvement tasks shall not affect employment
19 opportunities for people with developmental disabilities contracted
20 through sheltered workshops as defined in RCW 82.04.385. Only those
21 offenders sentenced to a facility operated or utilized under contract
22 by a county or the state are eligible to participate on a work crew.
23 Offenders sentenced for a sex offense as defined in subsection ~~((29))~~
24 (37) of this section are not eligible for the work crew program.

25 ~~((35))~~ (44) "Work ethic camp" means an alternative incarceration
26 program designed to reduce recidivism and lower the costs of
27 corrections by requiring offenders to complete a comprehensive array of
28 job and vocational experiences, character-building work ethics
29 training, life management skills development, drug rehabilitation,
30 counseling, literacy training, and basic adult education.

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

36 ~~((36))~~ "Home detention" means a program of partial confinement
37 available to offenders wherein the offender is confined in a private
38 residence subject to electronic surveillance. Home detention may not
39 be imposed for offenders convicted of a violent offense, any sex

1 offense, any drug offense, reckless burning in the first or second
2 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
3 degree as defined in RCW 9A.36.031, assault of a child in the third
4 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
5 harassment as defined in RCW 9A.46.020. Home detention may be imposed
6 for offenders convicted of possession of a controlled substance (RCW
7 69.50.401(d)) or forged prescription for a controlled substance (RCW
8 69.50.403) if the offender fulfills the participation conditions set
9 forth in this subsection and is monitored for drug use by treatment
10 alternatives to street crime (TASC) or a comparable court or agency-
11 referred program.

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

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

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

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

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

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

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

16 (4) A persistent offender shall be sentenced to a term of total
17 confinement for life without the possibility of parole due to the
18 repeated commission of crimes that represent a serious danger to the
19 public safety. An offender convicted of the crime of murder in the
20 first degree shall be sentenced to a term of total confinement not less
21 than twenty years. An offender convicted of the crime of assault in
22 the first degree or assault of a child in the first degree where the
23 offender used force or means likely to result in death or intended to
24 kill the victim shall be sentenced to a term of total confinement not
25 less than five years. An offender convicted of the crime of rape in
26 the first degree shall be sentenced to a term of total confinement not
27 less than five years, and shall not be eligible for furlough, work
28 release or other authorized leave of absence from the correctional
29 facility during such minimum five-year term except for the purpose of
30 commitment to an inpatient treatment facility. The foregoing minimum
31 terms of total confinement are mandatory and shall not be varied or
32 modified as provided in subsection (2) of this section.

33 (5) In sentencing a first-time offender with a sentence range of
34 more than ninety days the court may waive the imposition of a sentence
35 within the sentence range and impose a sentence which may include up to
36 ninety days of confinement in a facility operated or utilized under
37 contract by the county and a requirement that the offender refrain from
38 committing new offenses. The sentence may also include up to ~~((two))~~
39 one year~~((s))~~ of community supervision, which, in addition to crime-

1 related prohibitions, may include requirements that the offender
2 perform any one or more of the following:

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

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

7 (c) Pursue a prescribed, secular course of study or vocational
8 training;

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

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

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

16 (6)(a) When sentencing an offender who is not a violent offender or
17 a sex offender and whose presumptive sentence is twelve months or less,
18 the court shall first determine if it is appropriate that such sentence
19 be served primarily or exclusively under one or more of the sentencing
20 options set forth in (c) of this subsection. If the court determines
21 that a period of total confinement is appropriate in order to
22 adequately punish the offender and to serve the best interest of
23 society, the court shall order total confinement for the minimum time
24 necessary to carry out the goals of this chapter.

25 (b) To impose a sentence consisting of sentencing options, the
26 court shall determine the standard range for the offender and then
27 convert that amount of total confinement as is necessary into the
28 sentencing options the court finds appropriate for the offender.
29 Sentencing options that are imposed under this section may be used in
30 any combination and may also be combined with total confinement.
31 Conversions of total confinement to sentencing options shall be clearly
32 indicated on the judgment and sentence.

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

34 (i) Approved adult education;

35 (ii) Approved vocational-technical training;

36 (iii) Community service;

37 (iv) Day fines;

38 (v) Day reporting;

39 (vi) Drug or alcohol monitoring;

1 (vii) Home detention;
2 (viii) Inpatient treatment;
3 (ix) Outpatient treatment;
4 (x) Partial confinement;
5 (xi) Work crews;
6 (xii) Work release; and
7 (xiii) Any other nonincarcerative option that is consistent with
8 the purposes of this chapter.

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

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

16 (i) The offender is convicted of the manufacture, delivery, or
17 possession with intent to manufacture or deliver a controlled substance
18 classified in schedule I or II that is a narcotic drug and the
19 violation does not involve a sentence enhancement under RCW
20 9.94A.310(3);

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

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

27 (b) If the sentencing judge determines that the offender is
28 eligible for this option and that the offender and the community will
29 benefit from the use of the special drug offender sentencing
30 alternative, the judge may waive imposition of a sentence within the
31 standard range and impose a sentence that must include a period of
32 total confinement in a state facility for one-half of the midpoint of
33 the standard range. During incarceration in the state facility, the
34 offender must be involved in substance abuse treatment provided by the
35 department. No more than three months of the sentence may be served in
36 a work release status. The court shall also impose one year of
37 community custody that must include crime-related prohibitions, a
38 condition to not use illegal controlled substances, and to submit to
39 urinalysis or other testing to monitor that status. The department may

1 require the offender to pay thirty dollars per month while on community
2 custody to offset the cost of monitoring. In addition, the court may
3 impose any of the following conditions:

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

5 (ii) Participate in outpatient substance abuse treatment;

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

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

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

11 (vi) Perform community service work;

12 (vii) Pay a day fine;

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

14 (ix) Undergo day supervision.

15 (c) If the offender violates any of the sentence conditions in (b)
16 of this subsection, the department shall impose sanctions
17 administratively, with notice to the prosecuting attorney and the
18 sentencing court. Upon motion of the court or the prosecuting
19 attorney, a violation hearing shall be held by the court. If the court
20 finds that conditions have been willfully violated, the court may
21 impose confinement consisting of the remaining one-half of the midpoint
22 of the standard range. All total confinement served during the period
23 of community custody shall be credited to the offender, regardless of
24 whether the total confinement is served as a result of the original
25 sentence, as a result of a sanction imposed by the department of
26 corrections, or as a result of a violation found by the court.

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

38 ((+7)) (9)(a)(i) When an offender is convicted of a sex offense
39 other than a violation of RCW 9A.44.050 or a sex offense that is also

1 a serious violent offense and has no prior convictions for a sex
2 offense or any other felony sex offenses in this or any other state,
3 the sentencing court, on its own motion or the motion of the state or
4 the defendant, may order an examination to determine whether the
5 defendant is amenable to treatment.

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

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

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

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

19 (C) Monitoring plans, including any requirements regarding living
20 conditions, lifestyle requirements, and monitoring by family members
21 and others;

22 (D) Anticipated length of treatment; and

23 (E) Recommended crime-related prohibitions.

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

30 (ii) After receipt of the reports, the court shall consider whether
31 the offender and the community will benefit from use of this special
32 sexual offender sentencing alternative and consider the victim's
33 opinion whether the offender should receive a treatment disposition
34 under this subsection. If the court determines that this special sex
35 offender sentencing alternative is appropriate, the court shall then
36 impose a sentence within the sentence range. If this sentence is less
37 than eight years of confinement, the court may suspend the execution of
38 the sentence and impose the following conditions of suspension:

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

4 (B) The court shall order treatment for any period up to three
5 years in duration. The court in its discretion shall order outpatient
6 sex offender treatment or inpatient sex offender treatment, if
7 available. A community mental health center may not be used for such
8 treatment unless it has an appropriate program designed for sex
9 offender treatment. The offender shall not change sex offender
10 treatment providers or treatment conditions without first notifying the
11 prosecutor, the community corrections officer, and the court, and shall
12 not change providers without court approval after a hearing if the
13 prosecutor or community corrections officer object to the change. In
14 addition, as conditions of the suspended sentence, the court may impose
15 other sentence conditions including up to six months of confinement,
16 not to exceed the sentence range of confinement for that offense,
17 crime-related prohibitions, and requirements that the offender perform
18 any one or more of the following:

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

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

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

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

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

30 (iii) The sex offender therapist shall submit quarterly reports on
31 the defendant's progress in treatment to the court and the parties.
32 The report shall reference the treatment plan and include at a minimum
33 the following: Dates of attendance, defendant's compliance with
34 requirements, treatment activities, the defendant's relative progress
35 in treatment, and any other material as specified by the court at
36 sentencing.

37 (iv) At the time of sentencing, the court shall set a treatment
38 termination hearing for three months prior to the anticipated date for
39 completion of treatment. Prior to the treatment termination hearing,

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

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

21 (vi) Except as provided in (a)(vii) of this subsection, after July
22 1, 1991, examinations and treatment ordered pursuant to this subsection
23 shall only be conducted by sex offender treatment providers certified
24 by the department of health pursuant to chapter 18.155 RCW.

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

35 For purposes of this subsection, "victim" means any person who has
36 sustained emotional, psychological, physical, or financial injury to
37 person or property as a result of the crime charged. "Victim" also
38 means a parent or guardian of a victim who is a minor child unless the
39 parent or guardian is the perpetrator of the offense.

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

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

26 If the offender successfully completes the treatment program before
27 the expiration of the term of confinement, the court may convert the
28 balance of confinement to community supervision and may place
29 conditions on the offender including crime-related prohibitions and
30 requirements that the offender perform any one or more of the
31 following:

- 32 (i) Devote time to a specific employment or occupation;
- 33 (ii) Remain within prescribed geographical boundaries and notify
34 the court or the community corrections officer prior to any change in
35 the offender's address or employment;
- 36 (iii) Report as directed to the court and a community corrections
37 officer;
- 38 (iv) Undergo available outpatient treatment.

1 If the offender violates any of the terms of community supervision,
2 the court may order the offender to serve out the balance of the
3 community supervision term in confinement in the custody of the
4 department of corrections.

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

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

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

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

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

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

27 (iv) Undergo available outpatient treatment.

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

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

36 (d) Offenders convicted and sentenced for a sex offense committed
37 prior to July 1, 1987, may, subject to available funds, request an
38 evaluation by the department of corrections to determine whether they
39 are amenable to treatment. If the offender is determined to be

1 amenable to treatment, the offender may request placement in a
2 treatment program within a correctional facility operated by the
3 department. Placement in such treatment program is subject to
4 available funds.

5 ~~((+8))~~ (10)(a) When a court sentences a person to a term of total
6 confinement to the custody of the department of corrections for an
7 offense categorized as a sex offense or a serious violent offense
8 committed after July 1, 1988, but before July 1, 1990, assault in the
9 second degree, assault of a child in the second degree, any crime
10 against a person where it is determined in accordance with RCW
11 9.94A.125 that the defendant or an accomplice was armed with a deadly
12 weapon at the time of commission, or any felony offense under chapter
13 69.50 or 69.52 RCW not sentenced under subsection (6) or (7) of this
14 section, committed on or after July 1, 1988, the court shall in
15 addition to the other terms of the sentence, sentence the offender to
16 a one-year term of community placement beginning either upon completion
17 of the term of confinement or at such time as the offender is
18 transferred to community custody in lieu of earned early release in
19 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an
20 offender under this subsection to the statutory maximum period of
21 confinement then the community placement portion of the sentence shall
22 consist entirely of such community custody to which the offender may
23 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any
24 period of community custody actually served shall be credited against
25 the community placement portion of the sentence.

26 (b) When a court sentences a person to a term of total confinement
27 to the custody of the department of corrections for an offense
28 categorized as a sex offense or serious violent offense committed on or
29 after July 1, 1990, the court shall in addition to other terms of the
30 sentence, sentence the offender to community placement for two years or
31 up to the period of earned early release awarded pursuant to RCW
32 9.94A.150 (1) and (2), whichever is longer. The community placement
33 shall begin either upon completion of the term of confinement or at
34 such time as the offender is transferred to community custody in lieu
35 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
36 When the court sentences an offender under this subsection to the
37 statutory maximum period of confinement then the community placement
38 portion of the sentence shall consist entirely of the community custody
39 to which the offender may become eligible, in accordance with RCW

1 9.94A.150 (1) and (2). Any period of community custody actually served
2 shall be credited against the community placement portion of the
3 sentence. Unless a condition is waived by the court, the terms of
4 community placement for offenders sentenced pursuant to this section
5 shall include the following conditions:

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

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

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

12 (iv) An offender in community custody shall not unlawfully possess
13 controlled substances;

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

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

19 (c) The court may also order any of the following special
20 conditions:

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

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

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

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

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

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

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

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

22 (~~(11)~~) (13) Except as provided under RCW 9.94A.140(1) and
23 9.94A.142(1), a court may not impose a sentence providing for a term of
24 confinement or community supervision or community placement which
25 exceeds the statutory maximum for the crime as provided in chapter
26 9A.20 RCW.

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

36 (~~(13)~~) (15) All offenders sentenced to terms involving community
37 supervision, community service, or community placement under the
38 supervision of the department of corrections shall not own, use, or
39 possess firearms or ammunition. Offenders who own, use, or are found

1 to be in actual or constructive possession of firearms or ammunition
2 shall be subject to the appropriate violation process and sanctions.
3 "Constructive possession" as used in this subsection means the power
4 and intent to control the firearm or ammunition. "Firearm" as used in
5 this subsection means a weapon or device from which a projectile may be
6 fired by an explosive such as gunpowder.

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

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

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

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

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

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

1 **Sec. 3.** RCW 9.94A.040 and 1986 c 257 s 18 are each amended to read
2 as follows:

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

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

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

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

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

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

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

20 (a) If the maximum term in the range is one year or less, the
21 minimum term in the range shall be no less than one-third of the
22 maximum term in the range, except that if the maximum term in the range
23 is ninety days or less, the minimum term may be less than one-third of
24 the maximum;

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

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

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

37 (6) ~~((This))~~ The commission shall biennially conduct a study to
38 determine the capacity of correctional facilities and programs which
39 are or will be available. ~~((While the commission need not consider~~

1 ~~such capacity in arriving at its recommendations,~~) The commission
2 shall project whether the implementation of (~~its recommendations~~) the
3 standard sentence ranges would result in exceeding such capacity. If
4 the commission finds that this result would probably occur, then the
5 commission shall prepare an additional list of standard sentence(~~s~~)
6 ranges which shall be consistent with such capacity.

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

13 (8) The commission shall develop recommendations on alternative
14 punishments to total confinement for nonviolent offenders. The
15 commission shall evaluate the impact of revisions to RCW 9.94A.120 (6)
16 and (7). The commission shall submit preliminary findings to the
17 legislature by December 1, 1994, and shall submit the final report to
18 the legislature by December 1, 1995. The report shall describe the
19 changes in sentencing practices related to the use of alternatives to
20 total confinement for nonviolent offenders and include the impact of
21 sentencing alternatives on state prisons and county jail population,
22 the savings in state and local resources, and the impact on recidivism
23 rates.

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

26 (~~(+9)~~) (10) The commission shall exercise its duties under this
27 section in conformity with chapter 34.05 RCW, as now existing or
28 hereafter amended.

29 **Sec. 4.** RCW 9.94A.190 and 1991 c 181 s 5 are each amended to read
30 as follows:

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

1 residence of either the defendant or a member of the defendant's
2 immediate family.

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

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

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

28 **Sec. 5.** RCW 9.94A.200 and 1989 c 252 s 7 are each amended to read
29 as follows:

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

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

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

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

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

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

19 **Sec. 6.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
20 each reenacted and amended to read as follows:

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

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

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

4 (2) "Authorized sentencing options" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 72.09 RCW
4 to read as follows:

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

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

30 (3) Proposed plans for alternative sentences to incarceration shall
31 be reviewed and approved by the office of financial management in
32 conjunction with the department. Alternatives provided cooperatively
33 by multiple jurisdictions shall receive funding priority. State
34 funding for approved plans shall be provided from funds appropriated to
35 the department for the purpose of implementing alternative sentences
36 and shall be expended solely for the support of alternative sentences
37 to incarceration. State funding provided in section 10, chapter ...,
38 Laws of 1993 (section 10 of this act), shall not supplant existing

1 funds currently expended by counties for alternative sentences to
2 incarceration.

3 (4) The office of financial management and the department after
4 review and approval of alternative sentencing plans submitted by
5 counties and no later than October 1, 1994, shall report to the
6 partnership advisory committee established in RCW 72.09.300(7) on the
7 quality of the plans, implementation issues, policy issues with state-
8 wide implications, and any other information necessary to strengthen
9 the alternative sentencing efforts of local governments in the state of
10 Washington. The office of financial management or the department shall
11 make available copies of the alternative sentencing plans to the
12 partnership advisory committee upon request of the committee. The
13 partnership advisory committee is encouraged to advise the office of
14 financial management and the department on matters concerning
15 alternative sentences and other criminal justice issues. The secretary
16 shall convene the partnership advisory committee as required to provide
17 reasonable discussion between the state and local governments
18 concerning the implementation and operations of alternative sentences
19 at the local level.

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

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

35 **Sec. 8.** RCW 43.19.534 and 1986 c 94 s 2 are each amended to read
36 as follows:

37 State agencies, the legislature, and departments shall purchase for
38 their use all (~~articles or products~~) goods and services required by

1 the legislature, agencies, or departments (~~which~~) that are produced
2 or provided in whole or in part from class II inmate work programs
3 operated by the department of corrections through state contract.
4 These (~~articles and products~~) goods and services shall not be
5 purchased from any other source unless, upon application by the
6 department or agency: (1) The department of general administration
7 finds that the articles or products do not meet the reasonable
8 requirements of the agency or department, (2) are not of equal or
9 better quality, or (3) the price of the product or service is higher
10 than that produced by the private sector. However, the criteria
11 contained in (1), (2), and (3) of this section for purchasing goods and
12 services from sources other than correctional industries do not apply
13 to goods and services produced by correctional industries that
14 primarily replace goods manufactured or services obtained from outside
15 the state. The department of corrections and department of general
16 administration shall adopt administrative rules that implement this
17 section.

18 NEW SECTION. Sec. 9. A new section is added to chapter 72.09 RCW
19 to read as follows:

20 (1) The secretary shall increase inmate participation in class I
21 and class II correctional industries work programs incrementally until
22 a combined total of fifteen percent of all eligible physically and
23 mentally able inmates are employed in class I and class II programs by
24 December 30, 1998, and thirty percent by December 30, 2001. "Eligible
25 physically and mentally able inmates" includes all inmates in
26 department facilities except inmates determined to be incapable of
27 working in correctional industries work programs due to one of the
28 following reasons only:

29 (a) The inmate has a chronic mental deficiency or is mentally
30 retarded and participation in work programs is impossible;

31 (b) The inmate has a physical disability or illness making
32 participation in work programs impossible;

33 (c) The inmate is housed in an intensive management unit.

34 (2) The department shall deduct at least fifty percent from the
35 gross wages of each inmate working in correctional industries. This
36 amount shall be first used to pay any court-ordered legal financial
37 obligations the defendant is required to pay. Upon full payment of
38 legal financial obligations, the deduction shall be deposited into a

1 department personal inmate savings account until the account reaches at
2 least two hundred fifty dollars. Thereafter, all inmates working in
3 class I, class II, class III, and class IV correctional industries
4 programs shall pay fifty percent of their gross wages earned, up to six
5 dollars per hour, toward the cost of incarceration so long as the
6 inmate has retained at least two hundred fifty dollars in a department
7 personal inmate savings account.

8 (3) The department shall explore other methods of recovering a
9 portion of the cost of the inmate's incarceration and for encouraging
10 participation in work programs, including development of incentive
11 programs that offer inmates benefits and amenities paid for only from
12 wages earned while working in a correctional industries work program.

13 (4) The department shall develop the necessary administrative
14 structure to recover inmates' wages and keep records of the amount
15 inmates pay for the costs of incarceration and amenities. All funds
16 gained from this section shall be deposited in a dedicated fund with
17 the department and shall be used only for the purpose of enhancing and
18 maintaining the correctional industries program until December 31,
19 2000, and thereafter all funds shall be deposited in the general fund.

20 (5) The expansion of inmate employment in class I and class II
21 correctional industries shall be limited to the expanded use of
22 existing correctional industry facilities and any new facilities funded
23 in the 1993-95 budget, and any expansions funded from the recovery of
24 inmate wages described in subsection (4) of this section. The
25 department shall maximize the use of existing facilities to the fullest
26 possible extent, including the addition of second and third shifts of
27 workers where possible.

28 **Sec. 10.** RCW 72.09.070 and 1989 c 185 s 4 are each amended to read
29 as follows:

30 (1) There is created a correctional industries board of directors
31 which shall have the composition provided in RCW 72.09.080.

32 (2) Consistent with general department of corrections policies and
33 procedures pertaining to the general administration of correctional
34 facilities, the board shall establish and implement policy for
35 correctional industries programs designed to:

36 (a) Offer inmates meaningful employment, work experience, and
37 training in vocations (~~which may provide~~) that are specifically
38 designed to reduce recidivism and thereby enhance public safety by

1 providing opportunities for legitimate means of livelihood upon their
2 release from custody;

3 (b) Provide industries which will reduce the tax burden of
4 corrections and save taxpayers money through production of goods and
5 services for sale and use;

6 (c) Operate correctional work programs in an effective and
7 efficient manner which are as similar as possible to those provided by
8 the private sector;

9 (d) Encourage the development of and provide for selection of,
10 contracting for, and supervision of work programs with participating
11 private enterprise firms;

12 (e) Develop and design correctional industries work programs;

13 (f) Invest available funds in correctional industries enterprises
14 and meaningful work programs that minimize the impact on in-state jobs
15 and businesses.

16 (3) The board of directors shall at least annually review the work
17 performance of the director of correctional industries division with
18 the secretary.

19 (4) The director of correctional industries division shall review
20 and evaluate the productivity, funding, and appropriateness of all
21 correctional work programs and report on their effectiveness to the
22 board and to the secretary.

23 (5) The board of directors shall have the authority to identify and
24 establish trade advisory or apprenticeship committees to advise them on
25 correctional industries work programs. The secretary shall appoint the
26 members of the committees.

27 Where a labor management trade advisory and apprenticeship
28 committee has already been established by the department pursuant to
29 RCW 72.62.050 the existing committee shall also advise the board of
30 directors.

31 **Sec. 11.** RCW 72.09.080 and 1989 c 185 s 5 are each amended to read
32 as follows:

33 (1) The correctional industries board of directors shall consist of
34 nine voting members, appointed by the governor (~~upon recommendation by~~
35 ~~the secretary~~). Each member shall serve a three-year staggered term.
36 Initially, the governor shall appoint three members to one-year terms,
37 three members to two-year terms, and three members to three-year terms.
38 The speaker of the house of representatives and the president of the

1 senate shall each appoint one member from each of the two largest
2 caucuses in their respective houses. The legislators so appointed
3 shall be nonvoting members and shall serve two-year terms, or until
4 they cease to be members of the house from which they were appointed,
5 whichever occurs first. The nine members appointed by the governor
6 shall include three representatives from ~~((both))~~ labor ~~((and~~
7 ~~industry))~~, three representatives from business representing cross-
8 sections of industries and all sizes of employers, and three members
9 from the general public.

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

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

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

19 **Sec. 12.** RCW 72.09.110 and 1991 c 133 s 1 are each amended to read
20 as follows:

21 All inmates working in prison industries shall participate in the
22 cost of corrections, including costs to develop and implement
23 correctional industries programs(~~(. The secretary shall develop a~~
24 ~~formula which can be used to determine the extent to which the wages of~~
25 ~~these inmates will be deducted for this purpose. The amount so~~
26 ~~deducted shall be placed in the general fund and shall be a reasonable~~
27 ~~amount which will not unduly discourage the incentive to work)), by~~
28 means of deductions from their gross wages. The secretary may direct
29 the state treasurer to deposit a portion of these moneys in the crime
30 victims compensation account. ~~((Except))~~ The secretary shall direct
31 that all moneys received by an inmate~~((7))~~ for testifying in any
32 judicial proceeding~~((7-90))~~ shall be deposited into the crime victims
33 compensation account.

34 When the secretary finds it appropriate and not unduly destructive
35 of the work incentive, the secretary ~~((shall))~~ may also provide
36 deductions for ~~((restitution7))~~ savings~~((7))~~ and family support.

1 **Sec. 13.** RCW 72.60.160 and 1981 c 136 s 103 are each amended to
2 read as follows:

3 All articles, materials, services, and supplies ((~~herein~~))
4 authorized by this chapter to be produced or manufactured in
5 correctional institutions ((~~may~~)) shall be purchased from the
6 institution producing or manufacturing the same by any state agency
7 ((~~or political subdivision of the state~~)) through state contract as set
8 forth in RCW 43.19.534, and the secretary shall require those
9 institutions under his direction to give preference to the purchasing
10 of their needs of such articles as are so produced.

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

21 NEW SECTION. **Sec. 15.** The following acts or parts of acts are
22 each repealed:

- 23 (1) RCW 72.09.102 and 1986 c 94 s 1; and
24 (2) RCW 72.60.190 and 1981 c 136 s 104, 1979 ex.s. c 160 s 4, &
25 1959 c 28 s 72.60.190.

26 NEW SECTION. **Sec. 16.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 17.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and shall take
33 effect July 1, 1993.

1 NEW SECTION. **Sec. 18.** The sum of two million dollars, or as much
2 thereof as may be necessary, is appropriated for the biennium ending
3 July 1, 1995, from the state general fund to the department of
4 corrections for the purposes of section 7 of this act. Expenditure of
5 each three dollars from this appropriation shall be matched by at least
6 one dollar from other funding sources available to counties."

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