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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-2670.1/93

ATTY/TYPIST: KT:rmh

BRIEF TITLE:

2 **E2SSB 5451** - H AMD  
3 By Representative

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (21) "Escape" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1        (b) Has, before the commission of the offense under (a) of this  
2 subsection, been convicted as an offender on at least two separate  
3 occasions, whether in this state or elsewhere, of felonies that under  
4 the laws of this state would have a seriousness level of X or above. Of  
5 these two or more previous convictions, at least one conviction must  
6 have occurred before the commission of any of the other offenses with  
7 a seriousness level of X or above for which the offender was previously  
8 convicted.

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

11        ~~((25))~~ (33) "Restitution" means the requirement that the offender  
12 pay a specific sum of money over a specific period of time to the court  
13 as payment of damages. The sum may include both public and private  
14 costs. The imposition of a restitution order does not preclude civil  
15 redress.

16        ~~((26))~~ (34) "Serious traffic offense" means:

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

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

25        ~~((27))~~ (35) "Serious violent offense" is a subcategory of violent  
26 offense and means:

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

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

35        ~~((28))~~ (36) "Sentence range" means the sentencing court's  
36 discretionary range in imposing a nonappealable sentence.

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

38        (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
39 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal



1 attempt, criminal solicitation, or criminal conspiracy to commit such  
2 crimes;

3 (b) A felony with a finding of sexual motivation under RCW  
4 9.94A.127; or

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

8 (~~(30)~~) (38) "Sexual motivation" means that one of the purposes  
9 for which the defendant committed the crime was for the purpose of his  
10 or her sexual gratification.

11 (~~(31)~~) (39) "Total confinement" means confinement inside the  
12 physical boundaries of a facility or institution operated or utilized  
13 under contract by the state or any other unit of government for twenty-  
14 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

15 (~~(32)~~) (40) "Transition training" means written and verbal  
16 instructions and assistance provided by the department to the offender  
17 during the two weeks prior to the offender's successful completion of  
18 the work ethic camp program. The transition training shall include  
19 instructions in the offender's requirements and obligations during the  
20 offender's period of community custody.

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

24 (~~(33)~~) (42) "Violent offense" means:

25 (a) Any of the following felonies, as now existing or hereafter  
26 amended: Any felony defined under any law as a class A felony or an  
27 attempt to commit a class A felony, criminal solicitation of or  
28 criminal conspiracy to commit a class A felony, manslaughter in the  
29 first degree, manslaughter in the second degree, indecent liberties if  
30 committed by forcible compulsion, kidnapping in the second degree,  
31 arson in the second degree, assault in the second degree, assault of a  
32 child in the second degree, extortion in the first degree, robbery in  
33 the second degree, vehicular assault, and vehicular homicide, when  
34 proximately caused by the driving of any vehicle by any person while  
35 under the influence of intoxicating liquor or any drug as defined by  
36 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

4 (~~((34))~~) (43) "Work crew" means a program of partial confinement  
5 consisting of civic improvement tasks for the benefit of the community  
6 of not less than thirty-five hours per week that complies with RCW  
7 9.94A.135. (~~(The civic improvement tasks shall be performed on public  
8 property or on private property owned or operated by nonprofit  
9 entities, except that, for emergency purposes only, work crews may  
10 perform snow removal on any private property.)~~) The civic improvement  
11 tasks shall have minimal negative impact on existing private industries  
12 or the labor force in the county where the service or labor is  
13 performed. The civic improvement tasks shall not affect employment  
14 opportunities for people with developmental disabilities contracted  
15 through sheltered workshops as defined in RCW 82.04.385. Only those  
16 offenders sentenced to a facility operated or utilized under contract  
17 by a county or the state are eligible to participate on a work crew.  
18 Offenders sentenced for a sex offense as defined in subsection (~~((29))~~)  
19 (37) of this section are not eligible for the work crew program.

20 (~~((35))~~) (44) "Work ethic camp" means an alternative incarceration  
21 program designed to reduce recidivism and lower the costs of  
22 corrections by requiring offenders to complete a comprehensive array of  
23 job and vocational experiences, character-building work ethics  
24 training, life management skills development, drug rehabilitation,  
25 counseling, literacy training, and basic adult education.

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

31 (~~((36)~~) "Home detention" means a program of partial confinement  
32 available to offenders wherein the offender is confined in a private  
33 residence subject to electronic surveillance. Home detention may not  
34 be imposed for offenders convicted of a violent offense, any sex  
35 offense, any drug offense, reckless burning in the first or second  
36 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third  
37 degree as defined in RCW 9A.36.031, assault of a child in the third  
38 degree, unlawful imprisonment as defined in RCW 9A.40.040, or  
39 harassment as defined in RCW 9A.46.020. Home detention may be imposed

1 for offenders convicted of possession of a controlled substance (RCW  
2 69.50.401(d)) or forged prescription for a controlled substance (RCW  
3 69.50.403) if the offender fulfills the participation conditions set  
4 forth in this subsection and is monitored for drug use by treatment  
5 alternatives to street crime (TASC) or a comparable court or agency-  
6 referred program.

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

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

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

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

1 (1) Except as authorized in subsections (2), (4), (5), ~~((and))~~ (6),  
2 (7), and (9) of this section and section 16 of this act, the court  
3 shall impose a sentence within the sentence range for the offense.

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

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

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

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

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

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

4 (c) Pursue a prescribed, secular course of study or vocational  
5 training;

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

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

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

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

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

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

31 (i) Approved adult education;

32 (ii) Approved vocational-technical training;

33 (iii) Community service;

34 (iv) Day fines;

35 (v) Day reporting;

36 (vi) Drug or alcohol monitoring;

37 (vii) Home detention;

38 (viii) Inpatient treatment;

39 (ix) Outpatient treatment;

1       (x) Partial confinement;  
2       (xi) Work crews;  
3       (xii) Work release; and  
4       (xiii) Any other nonincarcerative option that is consistent with  
5 the purposes of this chapter.

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

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

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

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

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

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

- 1       (i) Devote time to a specific employment or training;
- 2       (ii) Participate in outpatient substance abuse treatment;
- 3       (iii) Remain within prescribed geographical boundaries and notify  
4 the court or the community corrections officer before any change in the  
5 offender's address or employment;
- 6       (iv) Report as directed to a community corrections officer;
- 7       (v) Pay all court-ordered legal financial obligations;
- 8       (vi) Perform community service work;
- 9       (vii) Pay a day fine;
- 10       (viii) Stay out of areas designated by the sentencing judge;
- 11       (ix) Undergo day supervision.

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

24       (d) If a sentencing judge has sentenced an offender pursuant to the  
25 special drug offender sentencing alternative, the offender is not  
26 eligible for placement in a work ethic camp as provided in section 21  
27 of this act. The department shall establish one work ethic camp as  
28 provided in section 20 of this act.

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

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

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

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

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

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

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

24       (D) Anticipated length of treatment; and

25       (E) Recommended crime-related prohibitions.

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

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



1 than eight years of confinement, the court may suspend the execution of  
2 the sentence and impose the following conditions of suspension:

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

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

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

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

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

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

24 (vi) Except as provided in (a)(vii) of this subsection, after July  
25 1, 1991, examinations and treatment ordered pursuant to this subsection  
26 shall only be conducted by sex offender treatment providers certified  
27 by the department of health pursuant to chapter 18.155 RCW.

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

38 For purposes of this subsection, "victim" means any person who has  
39 sustained emotional, psychological, physical, or financial injury to

1 person or property as a result of the crime charged. "Victim" also  
2 means a parent or guardian of a victim who is a minor child unless the  
3 parent or guardian is the perpetrator of the offense.

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

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

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

- 35 (i) Devote time to a specific employment or occupation;  
36 (ii) Remain within prescribed geographical boundaries and notify  
37 the court or the community corrections officer prior to any change in  
38 the offender's address or employment;

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

3 (iv) Undergo available outpatient treatment.

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

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

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

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

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

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

28 (iii) Report as directed to the court and a community corrections  
29 officer;

30 (iv) Undergo available outpatient treatment.

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

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

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

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

30 (b) When a court sentences a person to a term of total confinement  
31 to the custody of the department of corrections for an offense  
32 categorized as a sex offense or serious violent offense committed on or  
33 after July 1, 1990, the court shall in addition to other terms of the  
34 sentence, sentence the offender to community placement for two years or  
35 up to the period of earned early release awarded pursuant to RCW  
36 9.94A.150 (1) and (2), whichever is longer.

37 (c) When a court sentences a person to a term of total confinement  
38 to the custody of the department of corrections for vehicular homicide  
39 or vehicular assault committed after June 30, 1993, and the person has

1 been found pursuant to RCW 46.61.524 to have an alcohol or drug  
2 problem, the court shall in addition to other terms of the sentence,  
3 sentence the offender to community placement for one year or up to the  
4 period of earned early release awarded pursuant to RCW 9.94A.150 (1)  
5 and (2), whichever is longer. In ordering community placement under  
6 this subsection (10)(c), the court shall waive all conditions of  
7 community placement except the following:

8 (i) The offender shall abstain from alcohol and nonprescribed  
9 controlled substances;

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

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

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

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

18 (d) The community placement under this subsection (10) shall begin  
19 either upon completion of the term of confinement or at such time as  
20 the offender is transferred to community custody in lieu of earned  
21 early release in accordance with RCW 9.94A.150 (1) and (2). When the  
22 court sentences an offender under this subsection (10) to the statutory  
23 maximum period of confinement then the community placement portion of  
24 the sentence shall consist entirely of the community custody to which  
25 the offender may become eligible, in accordance with RCW 9.94A.150 (1)  
26 and (2). Any period of community custody actually served shall be  
27 credited against the community placement portion of the sentence.  
28 Unless a condition is waived by the court, the terms of community  
29 placement for offenders sentenced pursuant to this section shall  
30 include the following conditions:

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

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

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

37 (iv) An offender in community custody shall not unlawfully possess  
38 controlled substances;

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

3 (vi) The residence location and living arrangements are subject to  
4 the prior approval of the department of corrections during the period  
5 of community placement.

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

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

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

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

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

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

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

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

26 (~~(10)~~) (12) If a sentence imposed includes payment of a legal  
27 financial obligation, the sentence shall specify the total amount of  
28 the legal financial obligation owed, and shall require the offender to  
29 pay a specified monthly sum toward that legal financial obligation.  
30 Restitution to victims shall be paid prior to any other payments of  
31 monetary obligations. Any legal financial obligation that is imposed  
32 by the court may be collected by the department, which shall deliver  
33 the amount paid to the county clerk for credit. The offender's  
34 compliance with payment of legal financial obligations shall be  
35 supervised by the department. All monetary payments ordered shall be  
36 paid no later than ten years after the last date of release from  
37 confinement pursuant to a felony conviction or the date the sentence  
38 was entered. Independent of the department, the party or entity to  
39 whom the legal financial obligation is owed shall have the authority to

1 utilize any other remedies available to the party or entity to collect  
2 the legal financial obligation. Nothing in this section makes the  
3 department, the state, or any of its employees, agents, or other  
4 persons acting on their behalf liable under any circumstances for the  
5 payment of these legal financial obligations. If an order includes  
6 restitution as one of the monetary assessments, the county clerk shall  
7 make disbursements to victims named in the order.

8 ~~((11))~~ (13) Except as provided under RCW 9.94A.140(1) and  
9 9.94A.142(1), a court may not impose a sentence providing for a term of  
10 confinement or community supervision or community placement which  
11 exceeds the statutory maximum for the crime as provided in chapter  
12 9A.20 RCW.

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

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

32 ~~((14))~~ (16) The sentencing court shall give the offender credit  
33 for all confinement time served before the sentencing if that  
34 confinement was solely in regard to the offense for which the offender  
35 is being sentenced.

36 ~~((15))~~ (17) A departure from the standards in RCW 9.94A.400 (1)  
37 and (2) governing whether sentences are to be served consecutively or  
38 concurrently is an exceptional sentence subject to the limitations in



1 subsections (2) and (3) of this section, and may be appealed by the  
2 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

3 ~~((16))~~ (18) The court shall order restitution whenever the  
4 offender is convicted of a felony that results in injury to any person  
5 or damage to or loss of property, whether the offender is sentenced to  
6 confinement or placed under community supervision, unless extraordinary  
7 circumstances exist that make restitution inappropriate in the court's  
8 judgment. The court shall set forth the extraordinary circumstances in  
9 the record if it does not order restitution.

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

17 ~~((18))~~ (20) In any sentence of partial confinement, the court may  
18 require the defendant to serve the partial confinement in work release,  
19 in a program of home detention, on work crew, or in a combined program  
20 of work crew and home detention.

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

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

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

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

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

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

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

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

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

7 (a) If the maximum term in the range is one year or less, the  
8 minimum term in the range shall be no less than one-third of the  
9 maximum term in the range, except that if the maximum term in the range  
10 is ninety days or less, the minimum term may be less than one-third of  
11 the maximum;

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

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

17 (5) ~~((In carrying out its duties under subsection (2) of this  
18 section, the commission shall give consideration to the existing  
19 guidelines adopted by the association of superior court judges and the  
20 Washington association of prosecuting attorneys and the experience  
21 gained through use of those guidelines.))~~ The commission shall  
22 emphasize confinement for the violent offender and alternatives to  
23 total confinement for the nonviolent offender.

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

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

1       (8) The sentencing reform act has been in effect since July 1,  
2 1984, and several modifications to sentences have occurred. The  
3 sentencing guidelines commission shall reevaluate the proportionality  
4 and fairness of sentences contained in RCW 9.94A.120, as well as  
5 practical workability of sentences and ranges. The commission shall  
6 develop recommendations on alternative punishments to total confinement  
7 for nonviolent offenders. The commission shall evaluate the impact of  
8 revisions to RCW 9.94A.120 (6) and (7). The commission shall submit  
9 preliminary findings to the legislature by December 1, 1994, and shall  
10 submit the final report to the legislature by December 1, 1995. The  
11 report shall describe the changes in sentencing practices related to  
12 the use of alternatives to total confinement for nonviolent offenders  
13 and include the impact of sentencing alternatives on state prisons and  
14 county jail population, the savings in state and local resources, and  
15 the impact on recidivism rates. The commission shall establish a  
16 baseline for evaluating recidivism of all felony offenders whether  
17 under the jurisdiction of the department or counties.

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

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

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

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

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

1 per diem cost per offender in the facility. The office of financial  
2 management shall determine to what extent, if any, reimbursement shall  
3 be reduced or eliminated because of funds provided by the legislature  
4 to the department of corrections for the purpose of covering the cost  
5 of county use of state partial confinement facilities. The office of  
6 financial management shall reestablish reimbursement rates each even-  
7 numbered year.

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

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

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

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

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

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

32 (b) The state has the burden of showing noncompliance by a  
33 preponderance of the evidence. If the court finds that the violation  
34 has occurred, it may order the offender to be confined for a period not  
35 to exceed sixty days for each violation(~~(, and)~~). The court may (i)  
36 convert a term of partial confinement to total confinement, (ii)  
37 convert community service obligation to total or partial confinement,  
38 ((or)) (iii) convert monetary obligations, except restitution and the

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

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

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

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

14 TABLE 2

15 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

16	XV	Aggravated Murder 1 (RCW 10.95.020)
17	XIV	Murder 1 (RCW 9A.32.030)
18		Homicide by Abuse (RCW 9A.32.055)
19	XIII	Murder 2 (RCW 9A.32.050)
20	XII	Assault 1 (RCW 9A.36.011)
21		Assault of a Child 1 (RCW 9A.36.120)
22	XI	Rape 1 (RCW 9A.44.040)
23		Rape of a Child 1 (RCW 9A.44.073)
24	X	Kidnapping 1 (RCW 9A.40.020)
25		Rape 2 (RCW 9A.44.050)
26		Rape of a Child 2 (RCW 9A.44.076)
27		Child Molestation 1 (RCW 9A.44.083)
28		Damaging building, etc., by explosion with
29		threat to human being (RCW
30		70.74.280(1))
31		Over 18 and deliver heroin or narcotic
32		from Schedule I or II to someone
33		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 28, chapter ...,  
34 Laws of 1993 (section 28 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 NEW SECTION. **Sec. 16.** A new section is added to chapter 9.94A RCW  
26 to read as follows:

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

1 (2) If a person is charged with a sexually violent offense the  
2 prosecutor shall file written notice if the prosecutor intends to ask  
3 the court to find that the defendant is a sexually violent predator and  
4 to sentence the defendant to life imprisonment without the possibility  
5 of release, community custody, or parole. The prosecutor shall serve  
6 the defendant and the defendant's attorney with the notice within  
7 thirty days after the defendant's arraignment on the charge. Except  
8 with the consent of the prosecutor, during the period in which the  
9 prosecutor may file the notice of the special sentencing proceeding,  
10 the defendant may not tender a plea of guilty to the sexually violent  
11 offense nor may the court accept a plea of guilty to the charge. If  
12 the notice of the special sentencing proceeding is not filed and served  
13 as provided in this subsection, the prosecutor may not seek and the  
14 court may not make a finding that the defendant is a sexually violent  
15 predator. A defendant who is convicted of a sexually violent offense  
16 but is not found to be a sexually violent predator shall be sentenced  
17 according to the remaining provisions of this chapter.

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

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

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

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

30 (d) "Sexually violent offense" means an act committed on or after  
31 the effective date of this section, that is: (i) An act defined in  
32 Title 9A RCW as rape in the first degree, rape in the second degree by  
33 forcible compulsion, rape of a child in the first or second degree,  
34 statutory rape in the first or second degree, indecent liberties by  
35 forcible compulsion, indecent liberties against a child under age  
36 fourteen, incest against a child under age fourteen, or child  
37 molestation in the first or second degree; or (ii) an act of murder in  
38 the first or second degree, assault in the first or second degree,  
39 assault of a child in the first or second degree, kidnapping in the

1 fist or second degree, burglary in the first degree, residential  
2 burglary, or unlawful imprisonment, which has been determined beyond a  
3 reasonable doubt to have been sexually motivated, as that term is  
4 defined in RCW 9.94A.030; or (iii) an act as described in chapter 9A.28  
5 RCW, that is an attempt, criminal solicitation, or criminal conspiracy  
6 to commit one of the felonies designated in (d) (i) or (ii) of this  
7 subsection.

8       **Sec. 17.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to  
9 read as follows:

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

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

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

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

23       (d) For a class A, B, or C felony that is classified as a sexually  
24 violent offense as defined in section 16 of this act, by confinement in  
25 a state correctional facility for a term of life imprisonment without  
26 release, community custody, or parole. The court may also impose a  
27 fine in an amount fixed by the court of fifty thousand dollars. This  
28 subsection applies only to those sexually violent offenses committed on  
29 or after the effective date of this section.

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

35       (3) Misdemeanor. Every person convicted of a misdemeanor defined  
36 in Title 9A RCW shall be punished by imprisonment in the county jail  
37 for a maximum term fixed by the court of not more than ninety days, or

1 by a fine in an amount fixed by the court of not more than one thousand  
2 dollars, or by both such imprisonment and fine.

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

5 **Sec. 18.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read  
6 as follows:

7 No person serving a sentence imposed pursuant to this chapter and  
8 committed to the custody of the department shall leave the confines of  
9 the correctional facility or be released prior to the expiration of the  
10 sentence except as follows:

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

32 (2) A person convicted of a sex offense or an offense categorized  
33 as a serious violent offense, assault in the second degree, assault of  
34 a child in the second degree, vehicular homicide, vehicular assault,  
35 any crime against a person where it is determined in accordance with  
36 RCW 9.94A.125 that the defendant or an accomplice was armed with a  
37 deadly weapon at the time of commission, or any felony offense under  
38 chapter 69.50 or 69.52 RCW may become eligible, in accordance with a



1 program developed by the department, for transfer to community custody  
2 status in lieu of earned early release time pursuant to subsection (1)  
3 of this section;

4 (3) An offender may leave a correctional facility pursuant to an  
5 authorized furlough or leave of absence. In addition, offenders may  
6 leave a correctional facility when in the custody of a corrections  
7 officer or officers;

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

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

15 (6) The governor may pardon any offender;

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

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

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

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

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

4 The legislature finds that the explosion of drug crimes since the  
5 inception of the sentencing reform act and the response of the criminal  
6 justice system have resulted in a much higher proportion of substance  
7 abuse-affected offenders in the state's prisons and jails. The needs  
8 of this population differ from those of other offenders and present a  
9 great challenge to the system. The problems are exacerbated by the  
10 shortage of drug treatment and counseling programs both in and outside  
11 of prisons.

12 The legislature finds that the concept of a work ethic camp that  
13 requires the offender to complete an appropriate and balanced  
14 combination of highly structured and goal-oriented work programs such  
15 as correctional industries based work camps and/or class I and class II  
16 work projects, drug rehabilitation, and intensive life management work  
17 ethic training, can successfully reduce offender recidivism and lower  
18 the overall cost of incarceration.

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

26 NEW SECTION. **Sec. 20.** The department of corrections shall  
27 establish one work ethic camp. The secretary shall locate the work  
28 ethic camp within an already existing department compound or facility,  
29 or in a facility that is scheduled to come on line within the initial  
30 implementation date outlined in this section. The facility selected  
31 for the camp shall appropriately accommodate the logistical and cost-  
32 effective objectives contained in sections 19 through 23 of this  
33 section. The department shall be ready to assign inmates to the camp  
34 one hundred twenty days after the effective date of this section. The  
35 department shall establish the work ethic camp program cycle to last  
36 from one hundred twenty to one hundred eighty days. The department  
37 shall develop all aspects of the work ethic camp program including, but  
38 not limited to, program standards, conduct standards, educational

1 components including general education development test achievement,  
2 offender incentives, drug rehabilitation program parameters, individual  
3 and team work goals, techniques for improving the offender's self-  
4 esteem, citizenship skills for successful living in the community,  
5 measures to hold the offender accountable for his or her behavior, and  
6 the successful completion of the work ethic camp program granted to the  
7 offender based on successful attendance, participation, and performance  
8 as defined by the secretary. The work ethic camp shall be designed and  
9 implemented so that offenders are continually engaged in meaningful  
10 activities and unstructured time is kept to a minimum. In addition,  
11 the department is encouraged to explore the integration and overlay of  
12 a military style approach to the work ethic camp.

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

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

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

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

20 (c) Has no current or prior convictions for any sex offenses or  
21 violent offenses.

22 (2) If the sentencing judge determines that the offender is  
23 eligible for the work ethic camp and is likely to qualify under  
24 subsection (3) of this section, the judge shall impose a sentence  
25 within the standard range and may recommend that the offender serve the  
26 sentence at a work ethic camp. The sentence shall provide that if the  
27 offender successfully completes the program, the department shall  
28 convert the period of work ethic camp confinement at the rate of one  
29 day of work ethic camp confinement to three days of total standard  
30 confinement. The court shall also provide that upon completion of the  
31 work ethic camp program, the offender shall be released on community  
32 custody for any remaining time of total confinement.

33 (3) The department shall place the offender in the work ethic camp  
34 program, subject to capacity, unless the department determines that the  
35 offender has physical or mental impairments that would prevent  
36 participation and completion of the program, or the offender refuses to  
37 agree to the terms and conditions of the program.

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

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

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

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

1 inmates employed through work ethic camps shall not be counted towards  
2 this total percentage.

3 NEW SECTION. **Sec. 23.** The work ethic camp program established in  
4 sections 19 through 23 of this act shall be considered a pilot  
5 alternative incarceration program and remain in effect until July 1,  
6 1998. The department and the office of financial management shall  
7 monitor and analyze the effectiveness of the incarceration program and  
8 complete a final outcome evaluation study by January 15, 1998. The  
9 study shall include: The recidivism rates of successful program  
10 graduates, analysis of the overall program costs, the ability to  
11 maintain public safety, and any other pertinent data established by the  
12 department. The department may encourage interested universities to  
13 participate in studies that will enhance the effectiveness of the  
14 program.

15 The department of corrections shall seek the availability of  
16 federal funds for the planning, implementation, evaluation, and  
17 training of staff for work ethic camp programs, substance abuse  
18 programs, and offender education programs.

19 NEW SECTION. **Sec. 24.** Sections 19 through 23 of this act are each  
20 added to chapter 72.09 RCW.

21 NEW SECTION. **Sec. 25.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

25 NEW SECTION. **Sec. 26.** Sections 16 and 17 of this act shall not  
26 take effect unless the Washington state supreme court in a final  
27 decision holds that civil commitment of sexually violent predators  
28 under chapter 71.09 RCW is unconstitutional. If the Washington state  
29 supreme court holds in a final decision that civil commitment of  
30 sexually violent predators under chapter 71.09 RCW is unconstitutional,  
31 sections 16 and 17 of this act shall take effect on the date that the  
32 Washington state supreme court issues its final decision. Sections 16  
33 and 17 of this act shall apply to all sexually violent crimes committed  
34 on or after the effective date of sections 16 and 17 of this act.

1        NEW SECTION.    **Sec. 27.**    This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and shall take  
4 effect July 1, 1993, except for sections 16 and 17 of this act, which  
5 shall take effect pursuant to section 26 of this act.

6        NEW SECTION.    **Sec. 28.**    The sum of two million dollars, or as much  
7 thereof as may be necessary, is appropriated for the biennium ending  
8 July 1, 1995, from the state general fund to the department of  
9 corrections for the purposes of section 12 of this act. Expenditure of  
10 each three dollars from this appropriation shall be matched by at least  
11 one dollar from other funding sources available to counties."

--- END ---