
SUBSTITUTE HOUSE BILL 2053

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Corrections (originally sponsored by Representatives Morris, Long, R. Fisher and Ogden; by request of Governor Lowry)

Read first time 03/03/93.

1 AN ACT Relating to sentencing; amending RCW 9.94A.190, 9.94A.200,
2 9.94A.270, 9.94A.310, and 9A.56.040; reenacting and amending RCW
3 9.94A.030, 9.94A.120, 9.94A.320, 9.94A.360, and 9.94A.380; adding new
4 sections to chapter 9.94A RCW; adding a new section to chapter 9A.56
5 RCW; adding a new section to chapter 72.09 RCW; adding a new section to
6 chapter 72.02 RCW; creating a new section; prescribing penalties;
7 making an appropriation; providing an effective date; and declaring an
8 emergency.

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

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

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Collect," or any derivative thereof, "collect and remit," or
15 "collect and deliver," when used with reference to the department of
16 corrections, means that the department is responsible for monitoring
17 and enforcing the offender's sentence with regard to the legal
18 financial obligation, receiving payment thereof from the offender, and,

1 consistent with current law, delivering daily the entire payment to the
2 superior court clerk without depositing it in a departmental account.

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

4 (3) "Community corrections officer" means an employee of the
5 department who is responsible for carrying out specific duties in
6 supervision of sentenced offenders and monitoring of sentence
7 conditions.

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

13 (5) "Community placement" means that period during which the
14 offender is subject to the conditions of community custody and/or
15 postrelease supervision, which begins either upon completion of the
16 term of confinement (postrelease supervision) or at such time as the
17 offender is transferred to community custody in lieu of earned early
18 release. Community placement may consist of entirely community
19 custody, entirely postrelease supervision, or a combination of the two.

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

22 (7) "Community supervision" means a period of time during which a
23 convicted offender is subject to crime-related prohibitions and other
24 sentence conditions imposed by a court pursuant to this chapter or RCW
25 46.61.524. For first-time offenders, the supervision may include
26 crime-related prohibitions and other conditions imposed pursuant to RCW
27 9.94A.120(5). For purposes of the interstate compact for out-of-state
28 supervision of parolees and probationers, RCW 9.95.270, community
29 supervision is the functional equivalent of probation and should be
30 considered the same as probation by other states.

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

33 (9) "Conviction" means an adjudication of guilt pursuant to Titles
34 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
35 acceptance of a plea of guilty.

36 (10) "Court-ordered legal financial obligation" means a sum of
37 money that is ordered by a superior court of the state of Washington
38 for legal financial obligations which may include restitution to the
39 victim, statutorily imposed crime victims' compensation fees as

1 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
2 drug funds, court-appointed attorneys' fees, and costs of defense,
3 fines, and any other financial obligation that is assessed to the
4 offender as a result of a felony conviction.

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

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

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

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

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

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

37 (~~(14)~~) (16) "Determinate sentence" means a sentence that states
38 with exactitude the number of actual years, months, or days of total
39 confinement, of partial confinement, of community supervision, the

1 number of actual hours or days of community service work, or dollars or
2 terms of a legal financial obligation. The fact that an offender
3 through "earned early release" can reduce the actual period of
4 confinement shall not affect the classification of the sentence as a
5 determinate sentence.

6 ~~((15))~~ (17) "Disposable earnings" means that part of the earnings
7 of an individual remaining after the deduction from those earnings of
8 any amount required by law to be withheld. For the purposes of this
9 definition, "earnings" means compensation paid or payable for personal
10 services, whether denominated as wages, salary, commission, bonuses, or
11 otherwise, and, notwithstanding any other provision of law making the
12 payments exempt from garnishment, attachment, or other process to
13 satisfy a court-ordered legal financial obligation, specifically
14 includes periodic payments pursuant to pension or retirement programs,
15 or insurance policies of any type, but does not include payments made
16 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
17 or Title 74 RCW.

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

19 (a) Any felony violation of chapter 69.50 RCW except possession of
20 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
21 controlled substance (RCW 69.50.403);

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

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

28 ~~((17))~~ (19) "Drug or alcohol monitoring" means the obligation to
29 remain free of any nonprescribed controlled substance or of any
30 alcoholic beverage and to submit to periodic testing in a program to
31 monitor that status as directed by the department of corrections, such
32 as drug monitoring under a treatment alternatives to street crime
33 (TASC) or comparable program.

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

36 (21) "Eligible offender" means any person (a) who has been
37 convicted of a nonviolent offense that is not a sex offense and that is
38 not the manufacture, delivery, or possession with intent to manufacture
39 or deliver a controlled substance classified in schedule I or II that

1 is a narcotic drug or the selling for profit any controlled substance
2 or counterfeit substance classified in schedule I, RCW 69.50.204,
3 except leaves and flowering tops of marijuana, (b) who has no prior or
4 other current convictions for a violent offense or a sex offense, and
5 (c) who has not more than two prior convictions in this state, another
6 state, or the United States of nonviolent felony offenses. For the
7 purpose of this subsection a juvenile adjudication for an offense,
8 other than a sex offense, committed before the age of fifteen years is
9 not a previous felony conviction.

10 (22) "Escape" means:

11 (a) Escape in the first degree (RCW 9A.76.110), escape in the
12 second degree (RCW 9A.76.120), willful failure to return from furlough
13 (RCW 72.66.060), willful failure to return from work release (RCW
14 72.65.070), or willful failure to be available for supervision by the
15 department while in community custody (RCW 72.09.310); or

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

19 ~~((18))~~ (23) "Felony traffic offense" means:

20 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
21 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
22 and-run injury-accident (RCW 46.52.020(4)); or

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

26 ~~((19))~~ (24) "Fines" means the requirement that the offender pay
27 a specific sum of money over a specific period of time to the court.

28 ~~((20))~~ (25)(a) "First-time offender" means any person who is
29 convicted of a felony (i) not classified as a violent offense or a sex
30 offense under this chapter, or (ii) that is not the manufacture,
31 delivery, or possession with intent to manufacture or deliver a
32 controlled substance classified in schedule I or II that is a narcotic
33 drug or the selling for profit ~~((ef))~~ of any controlled substance or
34 counterfeit substance classified in schedule I, RCW 69.50.204, except
35 leaves and flowering tops of marihuana, and except as provided in (b)
36 of this subsection, who previously has never been convicted of a felony
37 in this state, federal court, or another state, and who has never
38 participated in a program of deferred prosecution for a felony offense.

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

4 (~~((21))~~) (26) "Home detention" means a program of partial
5 confinement available to offenders wherein the offender is confined in
6 a private residence subject to electronic surveillance or other state
7 of the art electronic monitoring technology. Home detention may not be
8 imposed for offenders convicted of a violent offense, any sex offense,
9 any drug offense, reckless burning in the first or second degree as
10 defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as
11 defined in RCW 9A.36.031, assault of a child in the third degree,
12 unlawful imprisonment as defined in RCW 9A.40.040, or harassment as
13 defined in RCW 9A.46.020. Home detention may be imposed for offenders
14 convicted of possession of a controlled substance (RCW 69.50.401(d)) or
15 forged prescription for a controlled substance (RCW 69.50.403) if the
16 offender fulfills the participation conditions set forth in this
17 subsection and is monitored for drug use by treatment alternatives to
18 street crime (TASC) or a comparable court or agency-referred program.

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

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

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

8 (27) "Inpatient treatment" means participation in a treatment
9 program certified by the state which requires the offender to be
10 present at least twelve hours per day.

11 (28) "Nonviolent offense" means an offense which is not a violent
12 offense.

13 ~~((22))~~ (29) "Offender" means a person who has committed a felony
14 established by state law and is eighteen years of age or older or is
15 less than eighteen years of age but whose case has been transferred by
16 the appropriate juvenile court to a criminal court pursuant to RCW
17 13.40.110. Throughout this chapter, the terms "offender" and
18 "defendant" are used interchangeably.

19 ~~((23))~~ (30) "Outpatient treatment" means participation in a
20 treatment program certified by the state or recommended by the
21 department of corrections which does not require the offender to be
22 present for more than twelve hours per day.

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

31 ~~((24))~~ (32) "Persistent offender" is any person who:

32 (a) Is convicted in this state of any felony with a seriousness
33 level of X or above, as provided in RCW 9.94A.320; and

34 (b) Has, before the commission of the offense under (a) of this
35 subsection, been convicted as an offender on at least two separate
36 occasions, whether in this state or elsewhere, of felonies that under
37 the laws of this state would have a seriousness level of X or above. Of
38 these two or more previous convictions, at least one conviction must
39 have occurred before the commission of any of the other offenses with

1 a seriousness level of X or above for which the offender was previously
2 convicted.

3 (33) "Postrelease supervision" is that portion of an offender's
4 community placement that is not community custody.

5 ~~((25))~~ (34) "Restitution" means the requirement that the offender
6 pay a specific sum of money over a specific period of time to the court
7 as payment of damages. The sum may include both public and private
8 costs. The imposition of a restitution order does not preclude civil
9 redress.

10 ~~((26))~~ (35) "Serious traffic offense" means:

11 (a) Driving while under the influence of intoxicating liquor or any
12 drug (RCW 46.61.502), actual physical control while under the influence
13 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
14 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
15 or

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

19 ~~((27))~~ (36) "Serious violent offense" is a subcategory of violent
20 offense and means:

21 (a) Murder in the first degree, homicide by abuse, murder in the
22 second degree, assault in the first degree, kidnapping in the first
23 degree, or rape in the first degree, assault of a child in the first
24 degree, or an attempt, criminal solicitation, or criminal conspiracy to
25 commit one of these felonies; or

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

29 ~~((28))~~ (37) "Sentence range" means the sentencing court's
30 discretionary range in imposing a nonappealable sentence.

31 ~~((29))~~ (38) "Sex offense" means:

32 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
33 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
34 attempt, criminal solicitation, or criminal conspiracy to commit such
35 crimes;

36 (b) A felony with a finding of sexual motivation under RCW
37 9.94A.127; or

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 sex
3 offense under (a) of this subsection.

4 (~~((30))~~) (39) "Sexual motivation" means that one of the purposes
5 for which the defendant committed the crime was for the purpose of his
6 or her sexual gratification.

7 (~~((31))~~) (40) "Total confinement" means confinement inside the
8 physical boundaries of a facility or institution operated or utilized
9 under contract by the state or any other unit of government for twenty-
10 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

11 (~~((32))~~) (41) "Victim" means any person who has sustained
12 emotional, psychological, physical, or financial injury to person or
13 property as a direct result of the crime charged.

14 (~~((33))~~) (42) "Violent offense" means:

15 (a) Any of the following felonies, as now existing or hereafter
16 amended: Any felony defined under any law as a class A felony or an
17 attempt to commit a class A felony, criminal solicitation of or
18 criminal conspiracy to commit a class A felony, manslaughter in the
19 first degree, manslaughter in the second degree, indecent liberties if
20 committed by forcible compulsion, kidnapping in the second degree,
21 arson in the second degree, assault in the second degree, assault of a
22 child in the second degree, extortion in the first degree, robbery in
23 the second degree, vehicular assault, and vehicular homicide, when
24 proximately caused by the driving of any vehicle by any person while
25 under the influence of intoxicating liquor or any drug as defined by
26 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

33 (~~((34))~~) (43) "Work crew" means a program of partial confinement
34 consisting of civic improvement tasks for the benefit of the community
35 of not less than thirty-five hours per week that complies with RCW
36 9.94A.135. (~~((The civic improvement tasks shall be performed on public
37 property or on private property owned or operated by nonprofit
38 entities, except that, for emergency purposes only, work crews may
39 perform snow removal on any private property.))~~) The civic improvement

1 tasks shall have minimal negative impact on existing private industries
2 or the labor force in the county where the service or labor is
3 performed. The civic improvement tasks shall not affect employment
4 opportunities for people with developmental disabilities contracted
5 through sheltered workshops as defined in RCW 82.04.385. Only those
6 offenders sentenced to a facility operated or utilized under contract
7 by a county are eligible to participate on a work crew. Offenders
8 sentenced for a sex offense as defined in subsection ~~((29))~~ (40) of
9 this section are not eligible for the work crew program.

10 ~~((35))~~ (44) "Work ethic camp" means a program of total
11 confinement that complies with section 16(2) of this act. The camp
12 requires offenders to complete a comprehensive array of job and
13 vocational experiences, character-building work ethics training, life
14 management skills development, drug rehabilitation, literacy training,
15 and basic adult education. All inmates must be employed in the camp
16 in meaningful work opportunities that will help the offender find
17 employment after successfully completing the program. The objectives
18 of the camp are to deter offenders from committing additional crimes by
19 requiring them to experience the realities of prison life and
20 simultaneously complete an intense range of character and skill
21 building challenges.

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

27 ~~((36))~~ "Home detention" means a program of partial confinement
28 available to offenders wherein the offender is confined in a private
29 residence subject to electronic surveillance. Home detention may not
30 be imposed for offenders convicted of a violent offense, any sex
31 offense, any drug offense, reckless burning in the first or second
32 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
33 degree as defined in RCW 9A.36.031, assault of a child in the third
34 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
35 harassment as defined in RCW 9A.46.020. Home detention may be imposed
36 for offenders convicted of possession of a controlled substance (RCW
37 69.50.401(d)) or forged prescription for a controlled substance (RCW
38 69.50.403) if the offender fulfills the participation conditions set
39 forth in this subsection and is monitored for drug use by treatment

1 alternatives to street crime (TASC) or a comparable court or agency-
2 referred program.

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

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

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

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

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

37 (2) The court may impose a sentence outside the standard sentence
38 range for that offense if it finds, considering the purpose of this

1 chapter, that there are substantial and compelling reasons justifying
2 an exceptional sentence.

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

7 (4) A persistent offender shall be sentenced to a term of total
8 confinement for the statutory maximum for the offense, but if the
9 statutory maximum for the offense is life imprisonment, then to a term
10 of ninety-nine years. An offender may be sentenced to death when
11 authorized by RCW 10.95.030, if found guilty of the crime of aggravated
12 murder in the first degree, notwithstanding the maximum sentence under
13 any other law. An offender convicted of the crime of murder in the
14 first degree shall be sentenced to a term of total confinement not less
15 than twenty years. An offender convicted of the crime of assault in
16 the first degree or assault of a child in the first degree where the
17 offender used force or means likely to result in death or intended to
18 kill the victim shall be sentenced to a term of total confinement not
19 less than five years. An offender convicted of the crime of rape in
20 the first degree shall be sentenced to a term of total confinement not
21 less than five years, and shall not be eligible for furlough, work
22 release or other authorized leave of absence from the correctional
23 facility during such minimum five-year term except for the purpose of
24 commitment to an inpatient treatment facility. The foregoing minimum
25 terms of total confinement are mandatory and shall not be varied or
26 modified as provided in subsection (2) of this section.

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

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

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

1 (c) Pursue a prescribed, secular course of study or vocational
2 training;

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

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

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

10 (6)(a) In sentencing an eligible offender with a sentence range
11 classified in zone I as defined in RCW 9.94A.310(6), the sentencing
12 judge shall fix a period of total confinement within the sentence range
13 not to exceed the midpoint of the standard range and may convert all
14 total confinement to community service, day fines, home detention or
15 drug or alcohol monitoring, or some combination of those authorized
16 sentencing options at the rates provided in RCW 9.94A.380 and may
17 impose a period of community supervision to run until such authorized
18 sentence options are completed, but in no event longer than one year.

19 (b) In sentencing an eligible offender with a sentence range
20 classified in zone II as defined in RCW 9.94A.310(6), the sentencing
21 judge shall fix a period of total confinement within the sentence range
22 up to the midpoint of the standard range and may convert all or any
23 part of the period of total confinement to one or more of the
24 authorized sentencing options at the rate provided in RCW 9.94A.380 and
25 may impose a period of community supervision to run until such
26 authorized sentencing options are completed, but in no event longer
27 than one year.

28 (c) A sentencing judge may impose a sentence within the standard
29 range applicable to the offender without regard to (a) or (b) of this
30 subsection if the sentencing judge determines that specific individual
31 characteristics of the offender demonstrate that a sentence imposed
32 pursuant to (a) or (b) of this subsection will not adequately protect
33 public safety. Whenever a sentencing judge does not impose a sentence
34 pursuant to (a) or (b) of this subsection the sentencing judge shall
35 set forth the reasons in writing. Such a sentence is not an
36 exceptional sentence and shall not be subject to appellate review.

37 (d) A sentencing judge who has imposed a sentence containing
38 authorized sentencing options may, upon notice and hearing, convert any
39 unserved sentencing options to any other authorized sentencing option

1 at the rate provided in RCW 9.94A.380 at any time during the sentence.
2 This provision does not authorize any increase in the length of
3 sentence imposed at the original sentencing.

4 (7)(a) When an offender is convicted of the manufacture, delivery,
5 or possession with intent to manufacture or deliver a controlled
6 substance classified in schedule I or II that is a narcotic drug and
7 the violation does not involve the following: (i) A sentence
8 enhancement under RCW 9.94A.310(3); (ii) the offender has no prior or
9 other current felony convictions in this state, another state, or the
10 United States; (iii) the offender has not previously been sentenced
11 under this special drug sentencing alternative; and (iv) the offense
12 involved only a small quantity of the particular controlled substance
13 as determined by the judge upon consideration of such factors as the
14 weight, purity, packaging, sale price, and street value of the
15 controlled substance. If the sentencing judge determines the offender
16 is eligible for this option and that the offender and the community
17 will benefit from the use of the special drug offender sentencing
18 alternative, the judge may waive imposition of a sentence within the
19 standard range and impose a sentence that must include a period of
20 total confinement in a state facility for one-half of the midpoint of
21 the standard range. The court shall also impose one year of community
22 custody of which no more than three months of the sentence may be
23 served in a work release status. Community custody must include crime-
24 related prohibitions, a prohibition against using illegal controlled
25 substances, and a requirement to submit to urinalysis or other drug or
26 alcohol monitoring.

27 (b) In addition, the court may impose any of the following
28 conditions:

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

30 (ii) Undergo available treatment alternatives to street crime
31 (TASC) or comparable outpatient treatment for up to the period of
32 community custody;

33 (iii) Inpatient treatment not to exceed the confinement time
34 imposed at sentencing;

35 (iv) Undergo day reporting;

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

39 (vi) Report as directed to a community corrections officer;

1 (vii) Pay all court-ordered legal financial obligations as provided
2 in RCW 9.94A.030 and/or perform community service work;

3 (viii) Pay day fine;

4 (ix) Stay out of areas designated by the sentencing judge.

5 If the offender violates these sentence conditions, sanctions shall
6 be imposed by the department of corrections administratively, as with
7 community custody status, with notice to the prosecuting attorney and
8 the sentencing court. Upon motion of the court or the prosecuting
9 attorney, a modification hearing shall be held by the court. If the
10 court finds that conditions have been willfully violated, the court may
11 impose confinement of not more than an additional one-quarter of the
12 midpoint of the standard sentence range. All total confinement,
13 including inpatient treatment, served during the period of community
14 custody shall be credited to the offender, regardless of whether the
15 total confinement is served as a result of the original sentence, as a
16 result of a sanction imposed by the department of corrections, or as a
17 result of a violation found by the court. In no event shall all
18 periods of total confinement, however imposed, exceed three-quarters of
19 the standard sentence range.

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

31 ((+7)) (9)(a)(i) When an offender is convicted of a sex offense
32 other than a violation of RCW 9A.44.050 or a sex offense that is also
33 a serious violent offense and has no prior convictions for a sex
34 offense or any other felony sex offenses in this or any other state,
35 the sentencing court, on its own motion or the motion of the state or
36 the defendant, may order an examination to determine whether the
37 defendant is amenable to treatment.

38 The report of the examination shall include at a minimum the
39 following: The defendant's version of the facts and the official

1 version of the facts, the defendant's offense history, an assessment of
2 problems in addition to alleged deviant behaviors, the offender's
3 social and employment situation, and other evaluation measures used.
4 The report shall set forth the sources of the evaluator's information.

5 The examiner shall assess and report regarding the defendant's
6 amenability to treatment and relative risk to the community. A
7 proposed treatment plan shall be provided and shall include, at a
8 minimum:

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

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

12 (C) Monitoring plans, including any requirements regarding living
13 conditions, lifestyle requirements, and monitoring by family members
14 and others;

15 (D) Anticipated length of treatment; and

16 (E) Recommended crime-related prohibitions.

17 The court on its own motion may order, or on a motion by the state
18 shall order, a second examination regarding the offender's amenability
19 to treatment. The evaluator shall be selected by the party making the
20 motion. The defendant shall pay the cost of any second examination
21 ordered unless the court finds the defendant to be indigent in which
22 case the state shall pay the cost.

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

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

35 (B) The court shall order treatment for any period up to three
36 years in duration. The court in its discretion shall order outpatient
37 sex offender treatment or inpatient sex offender treatment, if
38 available. A community mental health center may not be used for such
39 treatment unless it has an appropriate program designed for sex

1 offender treatment. The offender shall not change sex offender
2 treatment providers or treatment conditions without first notifying the
3 prosecutor, the community corrections officer, and the court, and shall
4 not change providers without court approval after a hearing if the
5 prosecutor or community corrections officer object to the change. In
6 addition, as conditions of the suspended sentence, the court may impose
7 other sentence conditions including up to six months of confinement,
8 not to exceed the sentence range of confinement for that offense,
9 crime-related prohibitions, and requirements that the offender perform
10 any one or more of the following:

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

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

15 (III) Report as directed to the court and a community corrections
16 officer;

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

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

22 (iii) The sex offender therapist shall submit quarterly reports on
23 the defendant's progress in treatment to the court and the parties.
24 The report shall reference the treatment plan and include at a minimum
25 the following: Dates of attendance, defendant's compliance with
26 requirements, treatment activities, the defendant's relative progress
27 in treatment, and any other material as specified by the court at
28 sentencing.

29 (iv) At the time of sentencing, the court shall set a treatment
30 termination hearing for three months prior to the anticipated date for
31 completion of treatment. Prior to the treatment termination hearing,
32 the treatment professional and community corrections officer shall
33 submit written reports to the court and parties regarding the
34 defendant's compliance with treatment and monitoring requirements, and
35 recommendations regarding termination from treatment, including
36 proposed community supervision conditions. Either party may request
37 and the court may order another evaluation regarding the advisability
38 of termination from treatment. The defendant shall pay the cost of any
39 additional evaluation ordered unless the court finds the defendant to

1 be indigent in which case the state shall pay the cost. At the
2 treatment termination hearing the court may: (A) Modify conditions of
3 community supervision, and either (B) terminate treatment, or (C)
4 extend treatment for up to the remaining period of community
5 supervision.

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

13 (vi) Except as provided in (a)(vii) of this subsection, after July
14 1, 1991, examinations and treatment ordered pursuant to this subsection
15 shall only be conducted by sex offender treatment providers certified
16 by the department of health pursuant to chapter 18.155 RCW.

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

27 For purposes of this subsection, "victim" means any person who has
28 sustained emotional, psychological, physical, or financial injury to
29 person or property as a result of the crime charged. "Victim" also
30 means a parent or guardian of a victim who is a minor child unless the
31 parent or guardian is the perpetrator of the offense.

32 (b) When an offender is convicted of any felony sex offense
33 committed before July 1, 1987, and is sentenced to a term of
34 confinement of more than one year but less than six years, the
35 sentencing court may, on its own motion or on the motion of the
36 offender or the state, order the offender committed for up to thirty
37 days to the custody of the secretary of social and health services for
38 evaluation and report to the court on the offender's amenability to
39 treatment at these facilities. If the secretary of social and health

1 services cannot begin the evaluation within thirty days of the court's
2 order of commitment, the offender shall be transferred to the state for
3 confinement pending an opportunity to be evaluated at the appropriate
4 facility. The court shall review the reports and may order that the
5 term of confinement imposed be served in the sexual offender treatment
6 program at the location determined by the secretary of social and
7 health services or the secretary's designee, only if the report
8 indicates that the offender is amenable to the treatment program
9 provided at these facilities. The offender shall be transferred to the
10 state pending placement in the treatment program. Any offender who has
11 escaped from the treatment program shall be referred back to the
12 sentencing court.

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

18 If the offender successfully completes the treatment program before
19 the expiration of the term of confinement, the court may convert the
20 balance of confinement to community supervision and may place
21 conditions on the offender including crime-related prohibitions and
22 requirements that the offender perform any one or more of the
23 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 community supervision,
32 the court may order the offender to serve out the balance of the
33 community supervision term in confinement in the custody of the
34 department of corrections.

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

37 (c) When an offender commits any felony sex offense on or after
38 July 1, 1987, and is sentenced to a term of confinement of more than
39 one year but less than six years, the sentencing court may, on its own

1 motion or on the motion of the offender or the state, request the
2 department of corrections to evaluate whether the offender is amenable
3 to treatment and the department may place the offender in a treatment
4 program within a correctional facility operated by the department.

5 Except for an offender who has been convicted of a violation of RCW
6 9A.44.040 or 9A.44.050, if the offender completes the treatment program
7 before the expiration of his or her term of confinement, the department
8 of corrections may request the court to convert the balance of
9 confinement to community supervision and to place conditions on the
10 offender including crime-related prohibitions and requirements that the
11 offender perform any one or more of the following:

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

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

16 (iii) Report as directed to the court and a community corrections
17 officer;

18 (iv) Undergo available outpatient treatment.

19 If the offender violates any of the terms of his or her community
20 supervision, the court may order the offender to serve out the balance
21 of his or her community supervision term in confinement in the custody
22 of the department of corrections.

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

27 (d) Offenders convicted and sentenced for a sex offense committed
28 prior to July 1, 1987, may, subject to available funds, request an
29 evaluation by the department of corrections to determine whether they
30 are amenable to treatment. If the offender is determined to be
31 amenable to treatment, the offender may request placement in a
32 treatment program within a correctional facility operated by the
33 department. Placement in such treatment program is subject to
34 available funds.

35 ((+8)) (10)(a) When a court sentences a person to a term of total
36 confinement to the custody of the department of corrections for an
37 offense categorized as a sex offense or a serious violent offense
38 committed after July 1, 1988, but before July 1, 1990, assault in the
39 second degree, assault of a child in the second degree, any crime

1 against a person where it is determined in accordance with RCW
2 9.94A.125 that the defendant or an accomplice was armed with a deadly
3 weapon at the time of commission, or any felony offense under chapter
4 69.50 or 69.52 RCW not sentenced under subsection (6) or (7) of this
5 section, committed on or after July 1, 1988, the court shall in
6 addition to the other terms of the sentence, sentence the offender to
7 a one-year term of community placement beginning either upon completion
8 of the term of confinement or at such time as the offender is
9 transferred to community custody in lieu of earned early release in
10 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an
11 offender under this subsection to the statutory maximum period of
12 confinement then the community placement portion of the sentence shall
13 consist entirely of such community custody to which the offender may
14 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any
15 period of community custody actually served shall be credited against
16 the community placement portion of the sentence.

17 (b) When a court sentences a person to a term of total confinement
18 to the custody of the department of corrections for an offense
19 categorized as a sex offense or serious violent offense committed on or
20 after July 1, 1990, the court shall in addition to other terms of the
21 sentence, sentence the offender to community placement for two years or
22 up to the period of earned early release awarded pursuant to RCW
23 9.94A.150 (1) and (2), whichever is longer. The community placement
24 shall begin either upon completion of the term of confinement or at
25 such time as the offender is transferred to community custody in lieu
26 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
27 When the court sentences an offender under this subsection to the
28 statutory maximum period of confinement then the community placement
29 portion of the sentence shall consist entirely of the community custody
30 to which the offender may become eligible, in accordance with RCW
31 9.94A.150 (1) and (2). Any period of community custody actually served
32 shall be credited against the community placement portion of the
33 sentence. Unless a condition is waived by the court, the terms of
34 community placement for offenders sentenced pursuant to this section
35 shall include the following conditions:

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

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

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

3 (iv) An offender in community custody shall not unlawfully possess
4 controlled substances;

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

7 (vi) The residence location and living arrangements are subject to
8 the prior approval of the department of corrections during the period
9 of community placement.

10 (c) The court may also order any of the following special
11 conditions:

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

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

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

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

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

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

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

30 (~~(+10)~~) (12) If a sentence imposed includes payment of a legal
31 financial obligation, the sentence shall specify the total amount of
32 the legal financial obligation owed, and shall require the offender to
33 pay a specified monthly sum toward that legal financial obligation.
34 Restitution to victims shall be paid prior to any other payments of
35 monetary obligations. Any legal financial obligation that is imposed
36 by the court may be collected by the department, which shall deliver
37 the amount paid to the county clerk for credit. The offender's
38 compliance with payment of legal financial obligations shall be
39 supervised by the department. All monetary payments ordered shall be

1 paid no later than ten years after the last date of release from
2 confinement pursuant to a felony conviction or the date the sentence
3 was entered. Independent of the department, the party or entity to
4 whom the legal financial obligation is owed shall have the authority to
5 utilize any other remedies available to the party or entity to collect
6 the legal financial obligation. Nothing in this section makes the
7 department, the state, or any of its employees, agents, or other
8 persons acting on their behalf liable under any circumstances for the
9 payment of these legal financial obligations. If an order includes
10 restitution as one of the monetary assessments, the county clerk shall
11 make disbursements to victims named in the order.

12 ~~((11))~~ (13) Except as provided under RCW 9.94A.140(1) and
13 9.94A.142(1), a court may not impose a sentence providing for a term of
14 confinement or community supervision or community placement which
15 exceeds the statutory maximum for the crime as provided in chapter
16 9A.20 RCW.

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

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

36 ~~((14))~~ (16) The sentencing court shall give the offender credit
37 for all confinement time served before the sentencing if that
38 confinement was solely in regard to the offense for which the offender
39 is being sentenced.

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

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

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

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

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

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

30 (1) The sentencing reform act has been in effect since July 1,
31 1984, and several modifications to sentences have occurred. The
32 sentencing guidelines commission shall reevaluate the proportionality
33 and fairness of sentences contained in RCW 9.94A.120, as well as
34 practical workability of sentences and ranges. The commission shall
35 evaluate the impact of revisions to RCW 9.94A.120 (6) and (7), and the
36 sentence reductions in section 16 of this act. The commission shall
37 submit preliminary findings to the legislature by December 1, 1994, and
38 shall submit the final report to the legislature by December 1, 1995.

1 The report shall describe the changes in sentencing practices related
2 to the use of alternatives to total confinement for nonviolent
3 offenders and include the impact of sentencing alternatives on state
4 prison and county jail populations, the savings in state and local
5 resources, and the impact on recidivism rates. The commission shall
6 establish a baseline for evaluating recidivism of all felony offenders
7 whether under the jurisdiction of the department or counties.

8 (2) Sentencing practices vary widely across the state for offenders
9 convicted of misdemeanor offenses. Fairness in sentencing is of great
10 concern as well as escalating costs associated with processing and
11 housing misdemeanant offenders. The commission shall conduct a study of
12 misdemeanor offenses to determine the magnitude of offenders convicted
13 of misdemeanors, the extent to which offenders are sentenced
14 differently, how sentences are served, analyze any other information
15 necessary to better understand the impact of the misdemeanant
16 population on the criminal justice system, and to recommend a
17 determinate sentencing grid for misdemeanor offenses. The commission
18 shall submit a final report to the legislature by December 1, 1995.

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

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

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

1 of county use of state partial confinement facilities. The office of
2 financial management shall reestablish reimbursement rates each even-
3 numbered year.

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

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

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

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

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

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

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

1 penalty assessment, to community service hours at the rate of the state
2 minimum wage as established in RCW 49.46.020 for each hour of community
3 service, or (iv) convert to other sentencing alternatives as authorized
4 in RCW 9.94A.380. Any time served in confinement awaiting a hearing on
5 noncompliance shall be credited against any confinement order by the
6 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. 6.** RCW 9.94A.270 and 1991 c 104 s 1 are each amended to read
13 as follows:

14 (1) Whenever a punishment imposed under this chapter requires
15 supervision services to be provided, the offender shall pay to the
16 department of corrections the monthly assessment, prescribed under
17 subsection (2) of this section, which shall be for the duration of the
18 terms of supervision and which shall be considered as payment or part
19 payment of the cost of providing supervision to the offender. The
20 department may exempt or defer a person from the payment of all or any
21 part of the assessment based upon any of the following factors:

22 (a) The offender has diligently attempted but has been unable to
23 obtain employment that provides the offender sufficient income to make
24 such payments.

25 (b) The offender is a student in a school, college, university, or
26 a course of vocational or technical training designed to fit the
27 student for gainful employment.

28 (c) The offender has an employment handicap, as determined by an
29 examination acceptable to or ordered by the department.

30 (d) The offender's age prevents him or her from obtaining
31 employment.

32 (e) The offender is responsible for the support of dependents and
33 the payment of the assessment constitutes an undue hardship on the
34 offender.

35 (f) Other extenuating circumstances as determined by the
36 department.

37 (2) The department of corrections shall adopt a rule prescribing
38 the amount of the assessment. The department may, if it finds it

1 appropriate, prescribe a schedule of assessments that shall vary in
 2 accordance with the intensity or cost of the supervision. The
 3 department may not prescribe any assessment that is less than ten
 4 dollars nor more than ((fifty)) sixty-two dollars.

5 (3) All amounts required to be paid under this section shall be
 6 collected by the department of corrections and deposited by the
 7 department in the dedicated fund established pursuant to RCW 72.11.040.

8 (4) This section shall not apply to probation services provided
 9 under an interstate compact pursuant to chapter 9.95 RCW or to
 10 probation services provided for persons placed on probation prior to
 11 June 10, 1982.

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

14 (1) TABLE 1

15 Sentencing Grid

16 SERIOUSNESS

17 SCORE OFFENDER SCORE

18 9 or

19 0 1 2 3 4 5 6 7 8 9 or
more

20

21 XV Life Sentence without Parole/Death Penalty

22

23 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y

24 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

25 320 333 347 361 374 388 416 450 493 548

26

27 XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y

28 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-

29 164 178 192 205 219 233 260 288 342 397

30

31 XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m

32 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-

33 123 136 147 160 171 184 216 236 277 318

34

1	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
2		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
3		102	114	125	136	147	158	194	211	245	280
4											
5	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
6		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
7		68	75	82	89	96	102	130	144	171	198
8											
9	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
10		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
11		41	48	54	61	68	75	102	116	144	171
12											
13	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
14		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
15		27	34	41	48	54	61	89	102	116	144
16											
17	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
18		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
19		20	27	34	41	48	54	75	89	102	116
20											
21	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
22		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
23		14	20	27	34	41	48	61	75	89	102
24											
25	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
26		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
27		12	14	17	20	29	43	54	68	82	96
28											
29	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
30		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
31		9	12	14	17	20	29	43	57	70	84
32											
33	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
34		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
35		3	8	12	12	16	22	29	43	57	68
36											
37	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
38		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
39		Days	6	9	12	14	18	22	29	43	57

1
2
3
4
5

I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

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

10 (2) For persons convicted of the anticipatory offenses of criminal
11 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
12 presumptive sentence is determined by locating the sentencing grid
13 sentence range defined by the appropriate offender score and the
14 seriousness level of the completed crime, and multiplying the range by
15 75 percent.

16 (3) The following additional times shall be added to the
17 presumptive sentence if the offender or an accomplice was armed with a
18 deadly weapon as defined in this chapter and the offender is being
19 sentenced for one of the crimes listed in this subsection. If the
20 offender or an accomplice was armed with a deadly weapon and the
21 offender is being sentenced for an anticipatory offense under chapter
22 9A.28 RCW to commit one of the crimes listed in this subsection, the
23 following times shall be added to the presumptive range determined
24 under subsection (2) of this section:

25 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.-
26 200), or Kidnapping 1 (RCW 9A.40.020)

27 (b) 18 months for Burglary 1 (RCW 9A.52.020)

28 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault
29 of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110), Kidnapping 2
30 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW
31 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug
32 offense.

33 (4) The following additional times shall be added to the
34 presumptive sentence if the offender or an accomplice committed the
35 offense while in a county jail or state correctional facility as that
36 term is defined in this chapter and the offender is being sentenced for
37 one of the crimes listed in this subsection. If the offender or an
38 accomplice committed one of the crimes listed in this subsection while

1 in a county jail or state correctional facility as that term is defined
2 in this chapter, and the offender is being sentenced for an anticipa-
3 tory offense under chapter 9A.28 RCW to commit one of the crimes listed
4 in this subsection, the following times shall be added to the
5 presumptive sentence range determined under subsection (2) of this
6 section:

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

9 (b) Fifteen months for offenses committed under RCW
10 69.50.401(a)(1)(ii), (iii), and (iv);

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

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

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

18 (6)(a) The following sentence ranges are classified as zone I:

19 (i) A crime of seriousness level I and an offender score of 0 or
20 1; and

21 (ii) A crime of seriousness level II and an offender score of 0.

22 (b) The following sentence ranges are classified as zone II:

23 (i) A crime of seriousness level I and an offender score of 2, 3,
24 4, or 5;

25 (ii) A crime of seriousness level II and an offender score of 1,
26 2, or 3;

27 (iii) A crime of seriousness level III and an offender score of 0,
28 1, 2, or 3;

29 (iv) A crime of seriousness level IV and an offender score of 0 or
30 1; or

31 (v) A crime of seriousness level V and an offender score of 0.

32 **Sec. 8.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are
33 each reenacted and amended to read as follows:

34 TABLE 2

35 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

36 XV Aggravated Murder 1 (RCW 10.95.020)

1 XIV Murder 1 (RCW 9A.32.030)
2 Homicide by Abuse (RCW 9A.32.055)
3 XIII Murder 2 (RCW 9A.32.050)
4 XII Assault 1 (RCW 9A.36.011)
5 Assault of a Child 1 (RCW 9A.36.120)
6 XI Rape 1 (RCW 9A.44.040)
7 Rape of a Child 1 (RCW 9A.44.073)
8 X Kidnapping 1 (RCW 9A.40.020)
9 Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Child Molestation 1 (RCW 9A.44.083)
12 Damaging building, etc., by explosion with
13 threat to human being (RCW
14 70.74.280(1))
15 Over 18 and deliver heroin or narcotic from
16 Schedule I or II to someone under 18
17 (RCW 69.50.406)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 IX Assault of a Child 2 (RCW 9A.36.130)
21 Robbery 1 (RCW 9A.56.200)
22 Manslaughter 1 (RCW 9A.32.060)
23 Explosive devices prohibited (RCW 70.74.180)
24 Indecent Liberties (with forcible
25 compulsion) (RCW 9A.44.100(1)(a))
26 Endangering life and property by explosives
27 with threat to human being (RCW
28 70.74.270)
29 Over 18 and deliver narcotic from Schedule
30 III, IV, or V or a nonnarcotic from
31 Schedule I-V to someone under 18 and 3
32 years junior (RCW 69.50.406)
33 Controlled Substance Homicide (RCW
34 69.50.415)

1 Sexual Exploitation (RCW 9.68A.040)
2 Inciting Criminal Profiteering (RCW
3 9A.82.060(1)(b))

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

19 VII Burglary 1 (RCW 9A.52.020)
20 Vehicular Homicide, by disregard for the
21 safety of others (RCW 46.61.520)
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Indecent Liberties (without forcible
24 compulsion) (RCW 9A.44.100(1) (b) and
25 (c))
26 Child Molestation 2 (RCW 9A.44.086)
27 Dealing in depictions of minor engaged in
28 sexually explicit conduct (RCW
29 9.68A.050)
30 Sending, bringing into state depictions of
31 minor engaged in sexually explicit
32 conduct (RCW 9.68A.060)
33 Involving a minor in drug dealing (RCW
34 69.50.401(f))

35 VI Bribery (RCW 9A.68.010)
36 Manslaughter 2 (RCW 9A.32.070)
37 Rape of a Child 3 (RCW 9A.44.079)

1 Intimidating a Juror/Witness (RCW 9A.72.110,
2 9A.72.130)
3 Damaging building, etc., by explosion with
4 no threat to human being (RCW
5 70.74.280(2))
6 Endangering life and property by explosives
7 with no threat to human being (RCW
8 70.74.270)
9 Incest 1 (RCW 9A.64.020(1))
10 Manufacture, deliver, or possess with intent
11 to deliver narcotics from Schedule I or
12 II (except heroin or cocaine) (RCW
13 69.50.401(a)(1)(i))
14 Intimidating a Judge (RCW 9A.72.160)
15 Bail Jumping with Murder 1 (RCW
16 9A.76.170(2)(a))
17 Money Laundering, with attempt to conceal or
18 avoid reporting (RCW 9A.83.020(1)(b)
19 and (c))
20 V Criminal Mistreatment 1 (RCW 9A.42.020)
21 Rape 3 (RCW 9A.44.060)
22 Sexual Misconduct with a Minor 1 (RCW
23 9A.44.093)
24 Child Molestation 3 (RCW 9A.44.089)
25 Kidnapping 2 (RCW 9A.40.030)
26 Extortion 1 (RCW 9A.56.120)
27 Incest 2 (RCW 9A.64.020(2))
28 Perjury 1 (RCW 9A.72.020)
29 Extortionate Extension of Credit (RCW
30 9A.82.020)
31 Advancing money or property for extortionate
32 extension of credit (RCW 9A.82.030)
33 Extortionate Means to Collect Extensions of
34 Credit (RCW 9A.82.040)
35 Rendering Criminal Assistance 1 (RCW
36 9A.76.070)
37 Bail Jumping with class A Felony (RCW
38 9A.76.170(2)(b))

1 Delivery of imitation controlled substance
2 by person eighteen or over to person
3 under eighteen (RCW 69.52.030(2))

4 IV Residential Burglary (RCW 9A.52.025)
5 Theft of Livestock 1 (RCW 9A.56.080)
6 Robbery 2 (RCW 9A.56.210)
7 Assault 2 (RCW 9A.36.021)
8 Escape 1 (RCW 9A.76.110)
9 Arson 2 (RCW 9A.48.030)

10 Bribing a Witness/Bribe Received by Witness
11 (RCW 9A.72.090, 9A.72.100)
12 Malicious Harassment (RCW 9A.36.080)
13 Threats to Bomb (RCW 9.61.160)
14 Willful Failure to Return from Furlough (RCW
15 72.66.060)
16 Hit and Run « Injury Accident (RCW
17 46.52.020(4))
18 Vehicular Assault (RCW 46.61.522)
19 Manufacture, deliver, or possess with intent
20 to deliver narcotics from Schedule III,
21 IV, or V or nonnarcotics from Schedule
22 I-V (except marijuana or
23 methamphetamines) (RCW 69.50.401(a)(1)
24 (ii) through (iv))
25 Influencing Outcome of Sporting Event (RCW
26 9A.82.070)
27 Use of Proceeds of Criminal Profiteering
28 (RCW 9A.82.080 (1) and (2))
29 Knowingly Trafficking in Stolen Property
30 (RCW 9A.82.050(2))
31 Money Laundering, Spending (RCW
32 9A.83.020(1)(a))

33 III Criminal Mistreatment 2 (RCW 9A.42.030)
34 Extortion 2 (RCW 9A.56.130)
35 Unlawful Imprisonment (RCW 9A.40.040)
36 Assault 3 (RCW 9A.36.031)
37 Assault of a Child 3 (RCW 9A.36.140)
38 Custodial Assault (RCW 9A.36.100)

1 Unlawful possession of firearm or pistol by felon (RCW
2 9.41.040)
3 Harassment (RCW 9A.46.020)
4 Promoting Prostitution 2 (RCW 9A.88.080)
5 Willful Failure to Return from Work Release
6 (RCW 72.65.070)
7 Burglary 2 (RCW 9A.52.030)
8 Introducing Contraband 2 (RCW 9A.76.150)
9 Communication with a Minor for Immoral
10 Purposes (RCW 9.68A.090)
11 Patronizing a Juvenile Prostitute (RCW
12 9.68A.100)
13 Escape 2 (RCW 9A.76.120)
14 Perjury 2 (RCW 9A.72.030)
15 Bail Jumping with class B or C Felony (RCW
16 9A.76.170(2)(c))
17 Intimidating a Public Servant (RCW
18 9A.76.180)
19 Tampering with a Witness (RCW 9A.72.120)
20 Manufacture, deliver, or possess with intent
21 to deliver marijuana (RCW
22 69.50.401(a)(1)(ii))
23 Delivery of a material in lieu of a
24 controlled substance (RCW 69.50.401(c))
25 Manufacture, distribute, or possess with
26 intent to distribute an imitation
27 controlled substance (RCW 69.52.030(1))
28 Recklessly Trafficking in Stolen Property
29 (RCW 9A.82.050(1))
30 Theft of Livestock 2 (RCW 9A.56.080)
31 Securities Act violation (RCW 21.20.400)
32 II Malicious Mischief 1 (RCW 9A.48.070)
33 Possession of Stolen Property 1 (RCW
34 9A.56.150)
35 Theft 1 (RCW 9A.56.030)
36 Motor Vehicle Theft (section 11 of this act)
37 Possession of controlled substance that is
38 either heroin or narcotics from
39 Schedule I or II (RCW 69.50.401(d))

1 Possession of phencyclidine (PCP) (RCW
2 69.50.401(d))
3 Create, deliver, or possess a counterfeit
4 controlled substance (RCW 69.50.401(b))
5 Computer Trespass 1 (RCW 9A.52.110)
6 Reckless Endangerment 1 (RCW 9A.36.045)
7 Escape from Community Custody (RCW
8 72.09.310)

9 I Theft 2 (RCW 9A.56.040)
10 Possession of Stolen Property 2 (RCW
11 9A.56.160)
12 Forgery (RCW 9A.60.020)
13 Taking Motor Vehicle Without Permission (RCW
14 9A.56.070)
15 Vehicle Prowl 1 (RCW 9A.52.095)
16 Attempting to Elude a Pursuing Police
17 Vehicle (RCW 46.61.024)
18 Malicious Mischief 2 (RCW 9A.48.080)
19 Reckless Burning 1 (RCW 9A.48.040)
20 Unlawful Issuance of Checks or Drafts (RCW
21 9A.56.060)
22 Unlawful Use of Food Stamps (RCW 9.91.140
23 (2) and (3))
24 False Verification for Welfare (RCW
25 74.08.055)
26 Forged Prescription (RCW 69.41.020)
27 Forged Prescription for a Controlled
28 Substance (RCW 69.50.403)
29 Possess controlled substance that is a
30 narcotic from Schedule III, IV, or V or
31 non-narcotic from Schedule I-V (except
32 phencyclidine) (RCW 69.50.401(d))

33 **Sec. 9.** RCW 9.94A.360 and 1992 c 145 s 10 and 1992 c 75 s 4 are
34 each reenacted and amended to read as follows:

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

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

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

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

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

31 (4) Always include juvenile convictions for sex offenses. Include
32 other class A juvenile felonies only if the offender was 15 or older at
33 the time the juvenile offense was committed. Include other class B and
34 C juvenile felony convictions only if the offender was 15 or older at
35 the time the juvenile offense was committed and the offender was less
36 than 23 at the time the offense for which he or she is being sentenced
37 was committed.

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

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

6 (a) Prior adult offenses which were found, under RCW
7 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
8 counted as one offense, the offense that yields the highest offender
9 score. The current sentencing court shall determine with respect to
10 other prior adult offenses for which sentences were served concurrently
11 whether those offenses shall be counted as one offense or as separate
12 offenses, and if the court finds that they shall be counted as one
13 offense, then the offense that yields the highest offender score shall
14 be used;

15 (b) Juvenile prior convictions entered or sentenced on the same
16 date shall count as one offense, the offense that yields the highest
17 offender score, except for juvenile prior convictions for violent
18 offenses with separate victims, which shall count as separate offenses;
19 and

20 (c) In the case of multiple prior convictions for offenses
21 committed before July 1, 1986, for the purpose of computing the
22 offender score, count all adult convictions served concurrently as one
23 offense, and count all juvenile convictions entered on the same date as
24 one offense. Use the conviction for the offense that yields the
25 highest offender score.

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

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

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

1 (10) If the present conviction is for Murder 1 or 2, Assault 1,
2 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count
3 three points for prior adult and juvenile convictions for crimes in
4 these categories, two points for each prior adult and juvenile violent
5 conviction (not already counted), one point for each prior adult
6 nonviolent felony conviction, and 1/2 point for each prior juvenile
7 nonviolent felony conviction.

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

13 (12) If the present conviction is for a felony traffic offense
14 count two points for each adult or juvenile prior conviction for
15 Vehicular Homicide or Vehicular Assault; for each felony offense or
16 serious traffic offense, count one point for each adult and 1/2 point
17 for each juvenile prior conviction.

18 (13) If the present conviction is for a drug offense count three
19 points for each adult prior felony drug offense conviction and two
20 points for each juvenile drug offense. All other adult and juvenile
21 felonies are scored as in subsection (9) of this section if the current
22 drug offense is violent, or as in subsection (8) of this section if the
23 current drug offense is nonviolent.

24 (14) If the present conviction is for Willful Failure to Return
25 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
26 Release, RCW 72.65.070, or Escape from Community Custody, RCW
27 72.09.310, count only prior escape convictions in the offender score.
28 Count adult prior escape convictions as one point and juvenile prior
29 escape convictions as 1/2 point.

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

33 (16) If the present conviction is for Burglary 2 or residential
34 burglary, count priors as in subsection (8) of this section; however,
35 count two points for each adult and juvenile prior Burglary 1
36 conviction, two points for each adult prior Burglary 2 or residential
37 burglary conviction, and one point for each juvenile prior Burglary 2
38 or residential burglary conviction.

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

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

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

9 **Sec. 10.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
10 each reenacted and amended to read as follows:

11 (1) Alternatives to total confinement are available for offenders
12 ((with sentences)) not sentenced under RCW 9.94A.120(6)(a) or (b) to a
13 term of one year or less. These alternatives include the following
14 sentence conditions that the court may order as substitutes for total
15 confinement: ((+1)) (a) One day of partial confinement may be
16 substituted for one day of total confinement; ((+2)) (b) in addition,
17 for offenders convicted of nonviolent offenses only, eight hours of
18 community service may be substituted for one day of total confinement,
19 with a maximum conversion limit of two hundred forty hours or thirty
20 days. Community service hours must be completed within the period of
21 community supervision or a time period specified by the court, which
22 shall not exceed twenty-four months, pursuant to a schedule determined
23 by the department.

24 For sentences of nonviolent offenders not sentenced under RCW
25 9.94A.120(6)(a) or (b) for one year or less, the court shall consider
26 and give priority to available alternatives to total confinement and
27 shall state its reasons in writing on the judgment and sentence form if
28 the alternatives are not used.

29 (2) "Authorized sentencing options" means:

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

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

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

36 (d) Work ethic camp as defined in RCW 9.94A.030 at the rate of
37 one day of work ethic camp for three days of total confinement;

1 (e) Work release as defined in RCW 9.94A.030 at the rate of one
2 day of work release for one day of total confinement;

3 (f) Home detention as defined in RCW 9.94A.030 at the rate of one
4 day of home detention for one day of total confinement;

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

7 (h) Drug or alcohol monitoring as defined in RCW 9.94A.030 at the
8 rate of five days of drug or alcohol monitoring for one day of total
9 confinement;

10 (i) Inpatient treatment as defined in RCW 9.94A.030 at the rate of
11 one day of inpatient treatment for one day of total confinement;

12 (j) Day fine as defined in RCW 9.94A.030 at the rate of one day of
13 day fine for one day of total confinement;

14 (k) Education or training as defined in RCW 9.94A.030 at the rate
15 of five hours of education or training for one day of total
16 confinement; or

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

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

22 (4) The department shall determine the rules for calculating the
23 value of a day fine based on the offender's income and reasonable
24 obligations which the offender has for the support of the offender and
25 any dependents. These rules shall be developed in consultation with
26 the administrator for the courts, the office of financial management,
27 and the sentencing guidelines commission.

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

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

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

33 **Sec. 12.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to
34 read as follows:

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

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

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

7 (c) An access device; or

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

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

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

13 NEW SECTION. **Sec. 13.** A new section is added to chapter 72.09
14 RCW to read as follows:

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

19 (2) The department of corrections in conjunction with the office
20 of financial management shall develop guidelines and criteria for
21 counties to develop plans for alternative sentence placements.
22 Guidelines, criteria, and rules necessary for counties to follow during
23 the grant application process shall be in effect by June 1, 1993.
24 Counties may make application immediately thereafter. The plans shall
25 be: (a) Reviewed as part of the local criminal justice planning
26 process per RCW 72.09.300, and (b) approved by the county legislative
27 authority or county executive, prior to submittal to the office of
28 financial management. Plans may represent a single county or
29 combination of counties. Plans developed by counties shall contain
30 estimates of funding for planning, development, or enhancement of
31 alternative placements to incarceration.

32 (3) Proposed plans for alternative sentences to incarceration
33 shall be reviewed and approved by the office of financial management in
34 conjunction with the department of corrections. State funding for
35 approved plans shall be provided from funds appropriated to the
36 department of corrections for the purpose of implementing sentencing
37 alternatives and shall be expended solely for the support of
38 alternative sentences to incarceration. State funding provided in

1 section 19, chapter ..., Laws of 1993 (section 19 of this act) shall
2 not supplant existing funds currently expended by counties for
3 alternative sentences to incarceration.

4 (4) A single county or combination of counties may elect to have
5 the department of corrections develop and implement alternative
6 sentencing placements to incarceration on their behalf. The department
7 shall submit the plan to the office of financial management for review.
8 Counties with an unincorporated population over twenty thousand that
9 request technical assistance from the department of corrections shall
10 reimburse the department of corrections for costs incurred in the
11 development of alternative sentencing plans.

12 (5) Counties shall be eligible for funding of up to seventy-five
13 percent of the costs identified in the approved plan. Counties shall be
14 responsible for funding twenty-five percent of the amount funded by the
15 state. Counties are encouraged to pursue fines, fees, and recoveries
16 from offenders who participate in these alternative sanctions as an
17 off-set to their twenty-five percent share.

18 NEW SECTION. **Sec. 14.** (1) The Washington council on justice
19 policy is hereby established. The council shall consist of twenty-one
20 members appointed by the governor. Membership shall include:

- 21 (a) One representative of city governments;
- 22 (b) One representative of county governments;
- 23 (c) One representative of sheriffs and police;
- 24 (d) One representative of criminal defense attorneys;
- 25 (e) One representative of prosecuting attorneys;
- 26 (f) One representative of the judiciary;
- 27 (g) Two representatives of business;
- 28 (h) Two representatives of labor;
- 29 (i) One representative of higher education;
- 30 (j) One representative of common schools;
- 31 (k) One representative from crime victims' organizations;
- 32 (l) Six legislators, two from each of the majority caucuses in the
33 house of representatives and senate, and one from each of the minority
34 caucuses in the house of representatives and senate; and
- 35 (m) Two citizen representatives, one from eastern Washington and
36 one from western Washington.

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

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

6 (4) The council shall review and evaluate the state's long-range
7 strategy regarding criminal justice policies. The scope of
8 deliberations shall include, but not be limited to, crime prevention,
9 juvenile and adult criminal justice, substance abuse and treatment, and
10 criminal justice information reporting. The council shall consult with
11 state and local entities involved in the criminal justice system such
12 as the sentencing guidelines commission, the juvenile disposition
13 standards board, the office of financial management, the administrator
14 for the courts, the Washington state association of counties, the
15 Washington state association of county officials, the association of
16 Washington cities, the public defenders association, and the Washington
17 association of sheriffs and police chiefs, and may consult with other
18 organizations involved with or that have an interest in criminal
19 justice programs or services, as required.

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

22 NEW SECTION. **Sec. 15.** A new section is added to chapter 72.02
23 RCW to read as follows:

24 The secretary shall review the classification structure for
25 establishing the custody levels of inmates in state correctional
26 facilities. The review shall take place every three years beginning in
27 1993. As part of the review, the secretary shall seek technical
28 assistance from the national institute of corrections. The national
29 institute of corrections is encouraged to evaluate and provide written
30 comments regarding the classification structure for the appropriate
31 placement of inmates in state correctional facilities. The secretary
32 shall report on the inmate classification system to the house of
33 representatives committee on corrections and the senate committee on
34 law and justice, every third legislative session beginning with the
35 1997 legislature.

36 NEW SECTION. **Sec. 16.** A new section is added to chapter 9.94A
37 RCW to read as follows:

1 (1) On the effective date of this act, in addition to any other
2 sentence reductions, the department shall reduce the length of total
3 confinement by sixty days for all offenders in the custody of the
4 department convicted of offenses that are not serious violent offenses,
5 violent offenses committed against a minor, or sex offenses. The
6 department is not required to grant an early release under this section
7 to any offender who is within thirty days of release from total
8 confinement on the effective date of this act.

9 The department shall reduce the length of total confinement by
10 sixty days for all offenders convicted of offenses that are not serious
11 violent offenses, violent offenses committed against a minor, or sex
12 offenses who are sentenced on or after the effective date of this act
13 but before January 1, 1995.

14 If the department determines that any offenders convicted of
15 serious violent offenses, violent offenses committed against a minor,
16 or sex offenses qualify for sentence reductions under this subsection
17 (1), by reason of judicial interpretation which is affirmed on appeal
18 this program is void and the department shall immediately discontinue
19 any further reductions under this section.

20 (2)(a) The department shall establish at least one work ethic
21 camp. The camp shall be located within an already existing department
22 compound or facility, or in a facility that is scheduled to open within
23 one hundred eighty days after the effective date of this act. The
24 department is responsible for developing all aspects of the camp,
25 including but not limited to, program standards, conduct standards,
26 educational components, special offender incentives, drug
27 rehabilitation parameters, work goals, and the successful completion of
28 the camp requirements as defined by the secretary.

29 (b) Offenders shall be recommended for consideration to
30 participate in the camp upon the time of their sentencing by the
31 sentencing judge. An offender must be sentenced to a term of total
32 confinement of at least two years in order to be eligible for the camp
33 program. The court shall send a copy of the offender's sentence to the
34 department within five working days after the sentencing. The
35 department shall arrange to take custody of the offender within its
36 established customary time frame after the documents have been provided
37 to the department by the court. The department is responsible for
38 determining if an offender is eligible for the incarceration program,
39 except that no offender convicted of any sex offense or violent offense

1 is eligible for the program. The department may place inmates eligible
2 for the work ethic camp in program beds that have not been utilized by
3 the court. The secretary shall ensure that court-referred inmates
4 receive priority placement in the program.

5 (c) An inmate who fails to complete the work ethic camp, who is
6 administratively terminated from the program, or who otherwise violates
7 the conditions of supervision as defined by the department, shall be
8 reclassified to serve the unexpired term of his or her sentence as
9 ordered by the sentencing court.

10 (d) The department shall determine the number of days that must be
11 served in the camp to be considered a successful graduate of the
12 program, but it must be at least one hundred eighty days. On
13 successful completion of the camp program, an inmate may be placed in
14 authorized sentencing options as defined by RCW 9.94A.380. If an
15 inmate has successfully completed the camp program, the sentencing
16 court may convert the remainder of the inmate's sentence to community
17 custody. If an inmate violates sentence conditions, sanctions shall be
18 imposed administratively, as with community custody status, with notice
19 to the prosecuting attorney and the sentencing court. An inmate is
20 eligible to accrue earned early release credits while in the work ethic
21 camp.

22 (e) The department is encouraged to explore the integration and
23 overlay of a military-style approach to the work ethic camp.

24 (3) The department shall seek available funds for the planning,
25 implementation, evaluation, and training of staff for work ethic camps,
26 substance abuse, and offender education programs.

27 NEW SECTION. **Sec. 17.** If any provision of this act or its
28 application to any person or circumstance is held invalid, the
29 remainder of the act or the application of the provision to other
30 persons or circumstances is not affected.

31 NEW SECTION. **Sec. 18.** (1) This act is necessary for the
32 immediate preservation of the public peace, health, or safety, or
33 support of the state government and its existing public institutions,
34 and shall take effect July 1, 1993.

35 (2) Persons sentenced for adjusted nonviolent offenses prior to
36 July 1, 1993, shall have their sentences adjusted pursuant to this act
37 by the secretary of corrections or the secretary's designee, or by the

1 administrator of the local correctional facility in which the offender
2 is confined. Sentences that were originally longer than one year
3 before adjustment shall be served in a state facility or institution
4 operated, or utilized under contract, by the state.

5 NEW SECTION. **Sec. 19.** The sum of two million dollars, or as much
6 thereof as may be necessary, is appropriated for the biennium ending
7 July 1, 1995, from the state general fund to the department of
8 corrections for the purposes of section 13 of this act. Expenditure of
9 each three dollars from this appropriation shall be matched by at least
10 one dollar from other funding sources available to counties.

--- END ---