

2 **SHB 2545** - S COMM AMD

3 By Committee on Human Services & Corrections

4 ADOPTED 3/1/96

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

7 "Sec. 1. RCW 4.24.550 and 1994 c 129 s 2 are each amended to read
8 as follows:

9 (1) Public agencies are authorized to release relevant and
10 necessary information regarding sex offenders to the public when the
11 release of the information is necessary for public protection.

12 (2) Local law enforcement agencies and officials who decide to
13 release information pursuant to this section shall make a good faith
14 effort to notify the public and residents at least fourteen days before
15 the sex offender is released. If a change occurs in the release plan,
16 this notification provision will not require an extension of the
17 release date. The department of corrections and the department of
18 social and health services shall provide local law enforcement
19 officials with all relevant information on sex offenders about to be
20 released or placed into the community in a timely manner. When a sex
21 offender under county jurisdiction will be released from jail and will
22 reside in a county other than the county of incarceration, the chief
23 law enforcement officer of the jail, or his or her designee, shall
24 notify the sheriff in the county where the offender will reside of the
25 offender's release as provided in RCW 70.48.470.

26 (3) An elected public official, public employee, or public agency
27 as defined in RCW 4.24.470 is immune from civil liability for damages
28 for any discretionary decision to release relevant and necessary
29 information, unless it is shown that the official, employee, or agency
30 acted with gross negligence or in bad faith. The authorization and
31 immunity in this section applies to information regarding: (a) A
32 person convicted of, or juvenile found to have committed, a sex offense
33 as defined by RCW 9.94A.030; (b) a person found not guilty of a sex
34 offense by reason of insanity under chapter 10.77 RCW; (c) a person
35 found incompetent to stand trial for a sex offense and subsequently
36 committed under chapter 71.05 or 71.34 RCW; (d) a person committed as

1 a sexual psychopath under chapter 71.06 RCW; or (e) a person committed
2 as a sexually violent predator under chapter 71.09 RCW. The immunity
3 provided under this section applies to the release of relevant
4 information to other employees or officials or to the general public.

5 (4) Except as otherwise provided by statute, nothing in this
6 section shall impose any liability upon a public official, public
7 employee, or public agency for failing to release information as
8 provided in subsections (2) and (3) of this section.

9 (5) Nothing in this section implies that information regarding
10 persons designated in subsections (2) and (3) of this section is
11 confidential except as otherwise provided by statute.

12 **Sec. 2.** RCW 70.48.470 and 1990 c 3 s 406 are each amended to read
13 as follows:

14 (1) A person having charge of a jail shall notify in writing any
15 confined person who is in the custody of the jail for a conviction of
16 a sexual offense as defined in RCW 9.94A.030 of the registration
17 requirements of RCW 9A.44.130 at the time of the inmate's release from
18 confinement, and shall obtain written acknowledgment of such
19 notification. The person shall also obtain from the inmate the county
20 of the inmate's residence upon release from jail.

21 (2) If an inmate convicted of a sexual offense will reside in a
22 county other than the county of incarceration upon release, the chief
23 law enforcement officer, or his or her designee, shall notify the
24 sheriff of the county where the inmate will reside of the inmate's
25 impending release. Notice shall be provided at least fourteen days
26 prior to the inmate's release, or if the release date is not known at
27 least fourteen days prior to release, notice shall be provided not
28 later than the day after the inmate's release.

29 **Sec. 3.** RCW 72.09.340 and 1990 c 3 s 708 are each amended to read
30 as follows:

31 (1) In making all discretionary decisions regarding release plans
32 for and supervision of ~~((sexually violent))~~ sex offenders, the
33 department ~~((of corrections))~~ shall set priorities and make decisions
34 based on an assessment of public safety risks ~~((rather than the legal~~
35 ~~category of the sentences))~~.

36 (2) The department shall, no later than September 1, 1996,
37 implement a policy governing the department's evaluation and approval

1 of release plans for sex offenders. The policy shall include, at a
2 minimum, a formal process by which victims, witnesses, and other
3 interested people may provide information and comments to the
4 department on potential safety risks to specific individuals or classes
5 of individuals posed by a specific sex offender. The department shall
6 make all reasonable efforts to publicize the availability of this
7 process through currently existing mechanisms and shall seek the
8 assistance of courts, prosecutors, law enforcement, and victims'
9 advocacy groups in doing so. Notice of an offender's proposed
10 residence shall be provided to all people registered to receive notice
11 of an offender's release under RCW 9.94A.155(2), except that in no case
12 may this notification requirement be construed to require an extension
13 of an offender's release date.

14 (3) For any offender convicted of a felony sex offense against a
15 minor victim after the effective date of this act, the department shall
16 not approve a residence location if the proposed residence: (a)
17 Includes a minor victim or child of similar age or circumstance as a
18 previous victim who the department determines may be put at substantial
19 risk of harm by the offender's residence in the household; or (b) is
20 within close proximity of the current residence of a minor victim,
21 unless the whereabouts of the minor victim cannot be determined or
22 unless such a restriction would impede family reunification efforts
23 ordered by the court or directed by the department of social and health
24 services. The department is further authorized to reject a residence
25 location if the proposed residence is within close proximity to
26 schools, child care centers, playgrounds, or other grounds or
27 facilities where children of similar age or circumstance as a previous
28 victim are present who the department determines may be put at
29 substantial risk of harm by the sex offender's residence at that
30 location.

31 (4) When the department requires supervised visitation as a term or
32 condition of a sex offender's community placement under RCW
33 9.94A.120(9)(c)(vi), the department shall, prior to approving a
34 supervisor, consider the following:

35 (a) The relationships between the proposed supervisor, the
36 offender, and the minor; (b) the proposed supervisor's acknowledgment
37 and understanding of the offender's prior criminal conduct, general
38 knowledge of the dynamics of child sexual abuse, and willingness and
39 ability to protect the minor from the potential risks posed by contact

1 with the offender; and (c) recommendations made by the department of
2 social and health services about the best interests of the child.

3 **Sec. 4.** RCW 9.94A.155 and 1994 c 129 s 3 and 1994 c 77 s 1 are
4 each reenacted and amended to read as follows:

5 (1) At the earliest possible date, and in no event later than
6 thirty days before release except in the event of escape or emergency
7 furloughs as defined in RCW 72.66.010, the department of corrections
8 shall send written notice of parole, release, community placement, work
9 release placement, furlough, or escape about a specific inmate
10 convicted of a violent offense, a sex offense as defined by RCW
11 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060
12 or 9A.46.110, to the following:

13 (a) The chief of police of the city, if any, in which the inmate
14 will reside or in which placement will be made in a work release
15 program; and

16 (b) The sheriff of the county in which the inmate will reside or in
17 which placement will be made in a work release program.

18 The sheriff of the county where the offender was convicted shall be
19 notified if the department does not know where the offender will
20 reside. The department shall notify the state patrol of the release of
21 all sex offenders, and that information shall be placed in the
22 Washington crime information center for dissemination to all law
23 enforcement.

24 (2) The same notice as required by subsection (1) of this section
25 shall be sent to the following if such notice has been requested in
26 writing about a specific inmate convicted of a violent offense, a sex
27 offense as defined by RCW 9.94A.030, or a felony harassment offense as
28 defined by RCW 9A.46.060 or 9A.46.110:

29 (a) The victim of the crime for which the inmate was convicted or
30 the victim's next of kin if the crime was a homicide;

31 (b) Any witnesses who testified against the inmate in any court
32 proceedings involving the violent offense; (~~and~~)

33 (c) Any person specified in writing by the prosecuting attorney;
34 and

35 (d) Any person who requests such notice about a specific inmate
36 convicted of a sex offense as defined by RCW 9.94A.030 from the
37 department of corrections at least sixty days prior to the expected
38 release date of the offender.

1 Information regarding victims, next of kin, or witnesses requesting
2 the notice, information regarding any other person specified in writing
3 by the prosecuting attorney to receive the notice, and the notice are
4 confidential and shall not be available to the inmate. Whenever the
5 department of corrections mails notice pursuant to this subsection and
6 the notice is returned as undeliverable, the department shall attempt
7 alternative methods of notification, including a telephone call to the
8 person's last known telephone number.

9 (3) The existence of the notice requirements contained in
10 subsections (1) and (2) of this section shall not require an extension
11 of the release date in the event that the release plan changes after
12 notification.

13 (4) If an inmate convicted of a violent offense, a sex offense as
14 defined by RCW 9.94A.030, or a felony harassment offense as defined by
15 RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the
16 department of corrections shall immediately notify, by the most
17 reasonable and expedient means available, the chief of police of the
18 city and the sheriff of the county in which the inmate resided
19 immediately before the inmate's arrest and conviction. If previously
20 requested, the department shall also notify the witnesses and the
21 victim of the crime for which the inmate was convicted or the victim's
22 next of kin if the crime was a homicide. If the inmate is recaptured,
23 the department shall send notice to the persons designated in this
24 subsection as soon as possible but in no event later than two working
25 days after the department learns of such recapture.

26 (5) If the victim, the victim's next of kin, or any witness is
27 under the age of sixteen, the notice required by this section shall be
28 sent to the parents or legal guardian of the child.

29 (6) The department of corrections shall send the notices required
30 by this chapter to the last address provided to the department by the
31 requesting party. The requesting party shall furnish the department
32 with a current address.

33 (7) The department of corrections shall keep, for a minimum of two
34 years following the release of an inmate, the following:

35 (a) A document signed by an individual as proof that that person is
36 registered in the victim or witness notification program; and

37 (b) A receipt showing that an individual registered in the victim
38 or witness notification program was mailed a notice, at the

1 individual's last known address, upon the release or movement of an
2 inmate.

3 (8) For purposes of this section the following terms have the
4 following meanings:

5 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

6 (b) "Next of kin" means a person's spouse, parents, siblings and
7 children.

8 (9) Nothing in this section shall impose any liability upon a chief
9 of police of a city or sheriff of a county for failing to request in
10 writing a notice as provided in subsection (1) of this section.

11 **Sec. 5.** RCW 9.94A.120 and 1995 c 108 s 3 are each amended to read
12 as follows:

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

15 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
16 of this section, the court shall impose a sentence within the sentence
17 range for the offense.

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

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

26 (4) A persistent offender shall be sentenced to a term of total
27 confinement for life without the possibility of parole or, when
28 authorized by RCW 10.95.030 for the crime of aggravated murder in the
29 first degree, sentenced to death, notwithstanding the maximum sentence
30 under any other law. An offender convicted of the crime of murder in
31 the first degree shall be sentenced to a term of total confinement not
32 less than twenty years. An offender convicted of the crime of assault
33 in the first degree or assault of a child in the first degree where the
34 offender used force or means likely to result in death or intended to
35 kill the victim shall be sentenced to a term of total confinement not
36 less than five years. An offender convicted of the crime of rape in
37 the first degree shall be sentenced to a term of total confinement not
38 less than five years. The foregoing minimum terms of total confinement

1 are mandatory and shall not be varied or modified as provided in
2 subsection (2) of this section. In addition, all offenders subject to
3 the provisions of this subsection shall not be eligible for community
4 custody, earned early release time, furlough, home detention, partial
5 confinement, work crew, work release, or any other form of early
6 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
7 or any other form of authorized leave of absence from the correctional
8 facility while not in the direct custody of a corrections officer or
9 officers during such minimum terms of total confinement except in the
10 case of an offender in need of emergency medical treatment or for the
11 purpose of commitment to an inpatient treatment facility in the case of
12 an offender convicted of the crime of rape in the first degree.

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

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

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

26 (c) Pursue a prescribed, secular course of study or vocational
27 training;

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

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

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

35 (6)(a) An offender is eligible for the special drug offender
36 sentencing alternative if:

37 (i) The offender is convicted of the manufacture, delivery, or
38 possession with intent to manufacture or deliver a controlled substance
39 classified in Schedule I or II that is a narcotic drug or a felony that

1 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
2 criminal solicitation, or criminal conspiracy to commit such crimes,
3 and the violation does not involve a sentence enhancement under RCW
4 9.94A.310 (3) or (4);

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

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

11 (b) If the midpoint of the standard range is greater than one year
12 and the sentencing judge determines that the offender is eligible for
13 this option and that the offender and the community will benefit from
14 the use of the special drug offender sentencing alternative, the judge
15 may waive imposition of a sentence within the standard range and impose
16 a sentence that must include a period of total confinement in a state
17 facility for one-half of the midpoint of the standard range. During
18 incarceration in the state facility, offenders sentenced under this
19 subsection shall undergo a comprehensive substance abuse assessment and
20 receive, within available resources, treatment services appropriate for
21 the offender. The treatment services shall be designed by the division
22 of alcohol and substance abuse of the department of social and health
23 services, in cooperation with the department of corrections. If the
24 midpoint of the standard range is twenty-four months or less, no more
25 than three months of the sentence may be served in a work release
26 status. The court shall also impose one year of concurrent community
27 custody and community supervision that must include appropriate
28 outpatient substance abuse treatment, crime-related prohibitions
29 including a condition not to use illegal controlled substances, and a
30 requirement to submit to urinalysis or other testing to monitor that
31 status. The court may require that the monitoring for controlled
32 substances be conducted by the department or by a treatment
33 (~~alternative[s]~~) alternatives to street crime program or a comparable
34 court or agency-referred program. The offender may be required to pay
35 thirty dollars per month while on community custody to offset the cost
36 of monitoring. In addition, the court shall impose three or more of
37 the following conditions:

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

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

4 (iii) Report as directed to a community corrections officer;

5 (iv) Pay all court-ordered legal financial obligations;

6 (v) Perform community service work;

7 (vi) Stay out of areas designated by the sentencing judge.

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

22 (d) 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 commission.

28 (7) If a sentence range has not been established for the
29 defendant's crime, the court shall impose a determinate sentence which
30 may include not more than one year of confinement, community service
31 work, a term of community supervision not to exceed one year, and/or
32 other legal financial obligations. The court may impose a sentence
33 which provides more than one year of confinement if the court finds,
34 considering the purpose of this chapter, that there are substantial and
35 compelling reasons justifying an exceptional sentence.

36 (8)(a)(i) When an offender is convicted of a sex offense other than
37 a violation of RCW 9A.44.050 or a sex offense that is also a serious
38 violent offense and has no prior convictions for a sex offense or any
39 other felony sex offenses in this or any other state, the sentencing

1 court, on its own motion or the motion of the state or the defendant,
2 may order an examination to determine whether the defendant is amenable
3 to treatment.

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

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

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

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

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

20 (D) Anticipated length of treatment; and

21 (E) Recommended crime-related prohibitions.

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

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

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

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

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

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

20 (III) Report as directed to the court and a community corrections
21 officer;

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

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

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

34 (iv) At the time of sentencing, the court shall set a treatment
35 termination hearing for three months prior to the anticipated date for
36 completion of treatment. Prior to the treatment termination hearing,
37 the treatment professional and community corrections officer shall
38 submit written reports to the court and parties regarding the
39 defendant's compliance with treatment and monitoring requirements, and

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

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

18 (vi) Except as provided in (a)(vii) of this subsection, after July
19 1, 1991, examinations and treatment ordered pursuant to this subsection
20 shall only be conducted by sex offender treatment providers certified
21 by the department of health pursuant to chapter 18.155 RCW.

22 (vii) A sex offender therapist who examines or treats a sex
23 offender pursuant to this subsection (8) does not have to be certified
24 by the department of health pursuant to chapter 18.155 RCW if the court
25 finds that: (A) The offender has already moved to another state or
26 plans to move to another state for reasons other than circumventing the
27 certification requirements; (B) no certified providers are available
28 for treatment within a reasonable geographical distance of the
29 offender's home; and (C) the evaluation and treatment plan comply with
30 this subsection (8) and the rules adopted by the department of health.

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

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

1 department of corrections to evaluate whether the offender is amenable
2 to treatment and the department may place the offender in a treatment
3 program within a correctional facility operated by the department.

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

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

22 Nothing in this subsection (8)(b) shall confer eligibility for such
23 programs for offenders convicted and sentenced for a sex offense
24 committed prior to July 1, 1987. This subsection (8)(b) does not apply
25 to any crime committed after July 1, 1990.

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

34 (9)(a) When a court sentences a person to a term of total
35 confinement to the custody of the department of corrections for an
36 offense categorized as a sex offense or a serious violent offense
37 committed after July 1, 1988, but before July 1, 1990, assault in the
38 second degree, assault of a child in the second degree, any crime
39 against a person where it is determined in accordance with RCW

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

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

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

37 (ii) The offender shall work at department of corrections-approved
38 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) As a part of any sentence imposed under (a) or (b) of this
11 subsection, the court may also order any of the following special
12 conditions:

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

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

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

19 (iv) The offender shall not consume alcohol; (~~or~~)

20 (v) The offender shall comply with any crime-related prohibitions;
21 or

22 (vi) For an offender convicted of a felony sex offense against a
23 minor victim after the effective date of this act, the offender shall
24 comply with any terms and conditions of community placement imposed by
25 the department of corrections relating to contact between the sex
26 offender and a minor victim or a child of similar age or circumstance
27 as a previous victim.

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

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

38 (11) If a sentence imposed includes payment of a legal financial
39 obligation, the sentence shall specify the total amount of the legal

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

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

24 (13) All offenders sentenced to terms involving community
25 supervision, community service, community placement, or legal financial
26 obligation shall be under the supervision of the secretary of the
27 department of corrections or such person as the secretary may designate
28 and shall follow explicitly the instructions of the secretary including
29 reporting as directed to a community corrections officer, remaining
30 within prescribed geographical boundaries, notifying the community
31 corrections officer of any change in the offender's address or
32 employment, and paying the supervision fee assessment. The department
33 may require offenders to pay for special services rendered on or after
34 July 25, 1993, including electronic monitoring, day reporting, and
35 telephone reporting, dependent upon the offender's ability to pay. The
36 department may pay for these services for offenders who are not able to
37 pay.

38 (14) All offenders sentenced to terms involving community
39 supervision, community service, or community placement under the

1 supervision of the department of corrections shall not own, use, or
2 possess firearms or ammunition. Offenders who own, use, or are found
3 to be in actual or constructive possession of firearms or ammunition
4 shall be subject to the appropriate violation process and sanctions.
5 "Constructive possession" as used in this subsection means the power
6 and intent to control the firearm or ammunition. "Firearm" as used in
7 this subsection means a weapon or device from which a projectile may be
8 fired by an explosive such as gunpowder.

9 (15) The sentencing court shall give the offender credit for all
10 confinement time served before the sentencing if that confinement was
11 solely in regard to the offense for which the offender is being
12 sentenced.

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

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

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

32 (19) In any sentence of partial confinement, the court may require
33 the defendant to serve the partial confinement in work release, in a
34 program of home detention, on work crew, or in a combined program of
35 work crew and home detention.

36 (20) All court-ordered legal financial obligations collected by the
37 department and remitted to the county clerk shall be credited and paid
38 where restitution is ordered. Restitution shall be paid prior to any
39 other payments of monetary obligations."

1 **SHB 2545** - S COMM AMD
2 By Committee on Human Services & Corrections

ADOPTED 3/1/96

3
4 On page 1, line 1 of the title, after "notification;" strike the
5 remainder of the title and insert "amending RCW 4.24.550, 70.48.470,
6 72.09.340, and 9.94A.120; and reenacting and amending RCW 9.94A.155."

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