

2 SHB 2711 - S COMM AMD

3 By Committee on Human Services & Corrections

4

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

7 NEW SECTION. **Sec. 1.** The legislature intends to meet the  
8 following goals by establishing an illegal alien offender program: (1)  
9 Expediting deportation of illegal alien offenders; (2) reducing daily  
10 costs of incarceration; (3) centralizing the confinement of deportable  
11 illegal aliens in order to better address the needs and issues  
12 regarding deportation issues; (4) making available work programs for  
13 illegal alien offenders but only limited education programs, inasmuch  
14 as the offenders will be deported upon completion of the program  
15 instead of being assimilated back into United States society; (5)  
16 restricting illegal alien offenders' access to privileges; and (6)  
17 maximizing use of nonstate resources for the costs of incarceration.

18 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW  
19 to read as follows:

20 (1) The department shall establish a program for illegal alien  
21 offenders and shall be ready to place offenders in the program not  
22 later than July 1, 1997. For purposes of this section, "illegal alien  
23 offender" means "undocumented criminal alien" as defined in 8 U.S.C.  
24 1252(j)(3).

25 (2) An offender is eligible to be placed in the illegal alien  
26 offender program if the offender:

27 (a) Is the subject of a detainer issued by the United States  
28 immigration and naturalization service;

29 (b) Is not a lawful permanent resident of the United States of  
30 America;

31 (c) Is sentenced to a term of total confinement of not more than  
32 thirty-six months;

33 (d) Has no current or prior convictions for any sex offenses or for  
34 violent offenses other than drug offenses for manufacturing,  
35 possession, delivery, or intent to deliver a controlled substance;

1 (e) Has not previously been placed in the illegal alien offender  
2 program; and

3 (f) Is eighteen years of age or older.

4 (3) The department shall place an eligible offender in the illegal  
5 alien offender program, subject to capacity, unless:

6 (a) The court has specifically prohibited placement in the illegal  
7 alien offender program as a part of the offender's judgment and  
8 sentence;

9 (b) The department determines that the offender has physical or  
10 mental impairments that would prevent participation and completion of  
11 the program;

12 (c) The department determines that the offender's custody level  
13 prevents placement in the program;

14 (d) The offender refuses to agree in writing to the terms and  
15 conditions of the program; or

16 (e) At the time when the detainer has been issued and the  
17 department has determined that the eligibility criteria of subsection  
18 (2) of this section and the placement criteria of this subsection have  
19 been met, the offender has less than one hundred twenty days remaining  
20 before the offender's expected release date.

21 An offender who is placed in the illegal alien offender program  
22 under this subsection is no longer eligible for placement or  
23 participation in any special sentencing alternative imposed or  
24 recommended by the sentencing court, including the work ethic camp  
25 under RCW 9.94A.137 and the drug offender sentencing alternative under  
26 RCW 9.94A.120(6).

27 (4) An offender who is eligible under subsection (2) of this  
28 section but who fails to meet the placement criteria under subsection  
29 (3) of this section or is administratively terminated from the program  
30 under subsection (7) of this section, shall be reclassified to serve  
31 the remaining term of his or her sentence and shall comply with all  
32 other terms and conditions of the sentence, except that an offender  
33 shall not be eligible to re-enter any special sentencing alternative  
34 such as the work ethic camp under RCW 9.94A.137 or the drug offender  
35 sentencing alternative under RCW 9.94A.120(6).

36 An offender eligible under subsection (2) of this section who was  
37 initially recommended for the work ethic camp and later fails to meet  
38 the placement criteria under subsection (3) of this section or is  
39 administratively terminated from the program under subsection (7) of

1 this section shall serve the remaining term of his or her standard  
2 range sentence imposed by the court under RCW 9.94A.137(2).

3 An offender eligible under subsection (2) of this section who was  
4 initially sentenced to the drug offender sentencing alternative and  
5 later fails to meet the placement criteria under subsection (3) of this  
6 section or is administratively terminated from the program under  
7 subsection (7) of this section shall serve the remaining time under a  
8 term of confinement equal to the midpoint of the offender's standard  
9 range sentence as determined under RCW 9.94A.120(6).

10 Eligible offenders who are not placed in the illegal alien offender  
11 program or who are terminated from the program shall be subject to all  
12 rules relating to earned early release time.

13 (5)(a) The length of the illegal alien offender program shall be at  
14 least one hundred twenty days and not more than one hundred eighty  
15 days. Earned early release time shall not accrue to offenders who  
16 successfully complete the program.

17 (b) The program must emphasize inmate work, including such general  
18 labor tasks as grounds clean-up and facility maintenance. Work  
19 performed by the inmates in the illegal alien offender program shall be  
20 paid as a class III correctional industry.

21 (c) The program shall not include education or treatment components  
22 other than those necessary for offenders to understand and follow the  
23 directions and standards of the department.

24 (d) Offenders in the program shall be given only minimal access to  
25 privileges, as defined in this chapter.

26 (6) The program shall be located within an existing department  
27 facility or facilities. The program may be located elsewhere if the  
28 department contracts with a private vendor or with another governmental  
29 entity for the operation of the program, subject to applicable laws and  
30 contract provisions addressing contracting out of the department's  
31 operations.

32 (7) The department may administratively terminate from the illegal  
33 alien offender program any offender who violates the terms or  
34 conditions of the program or who is later found to be ineligible under  
35 the eligibility criteria listed in subsection (2) of this section or  
36 the placement criteria listed in subsection (3) of this section.

37 (8)(a) Upon completion of the illegal alien offender program, an  
38 offender shall be placed on conditional release status and released to  
39 the immigration and naturalization service for deportation.

1 Conditional release shall continue until the expiration of the  
2 statutory maximum sentence provided by law for the crime or crimes for  
3 which the offender was convicted. If the offender has multiple current  
4 convictions, the statutory maximum allowed by law for each crime shall  
5 run concurrently.

6 (b) Upon the conditional release of an offender to the immigration  
7 and naturalization service for deportation, the unserved portion of the  
8 offender's term of confinement shall be tolled. Conditional release  
9 shall not toll an offender's obligations to pay restitution or other  
10 legal financial obligations ordered by the sentencing court.

11 (c) At the time an offender is conditionally released under this  
12 section, the department shall issue a warrant for the offender's arrest  
13 within the state of Washington. The warrant shall remain in effect  
14 until the expiration of the offender's conditional release. An  
15 offender who is apprehended pursuant to a warrant issued under this  
16 section shall be returned to the department. When an offender is  
17 returned to the department under this subsection, the offender shall  
18 serve the tolled portion of his or her term of confinement as if the  
19 offender had been terminated from the illegal alien offender program  
20 under subsection (4) of this section.

21 (9) The department is authorized to take all reasonable actions to  
22 implement this section and shall assist the federal authorities in  
23 prosecuting offenders who illegally re-enter the United States and  
24 enter the state of Washington.

25 (10) If the United States attorney general takes into federal  
26 government custody those illegal alien offenders incarcerated in  
27 Washington state and incarcerates them pursuant to 8 U.S.C.  
28 1252(j)(1)(B), or similar authority, then the department is authorized  
29 to release the offenders to the custody of the federal government and  
30 to cease operation of the illegal alien offender program.

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

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

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

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

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

9 (4) A persistent offender shall be sentenced to a term of total  
10 confinement for life without the possibility of parole or, when  
11 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
12 first degree, sentenced to death, notwithstanding the maximum sentence  
13 under any other law. An offender convicted of the crime of murder in  
14 the first degree shall be sentenced to a term of total confinement not  
15 less than twenty years. An offender convicted of the crime of assault  
16 in 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. The foregoing minimum terms of total confinement  
22 are mandatory and shall not be varied or modified as provided in  
23 subsection (2) of this section. In addition, all offenders subject to  
24 the provisions of this subsection shall not be eligible for community  
25 custody, earned early release time, furlough, home detention, partial  
26 confinement, work crew, work release, or any other form of early  
27 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
28 or any other form of authorized leave of absence from the correctional  
29 facility while not in the direct custody of a corrections officer or  
30 officers during such minimum terms of total confinement except in the  
31 case of an offender in need of emergency medical treatment or for the  
32 purpose of commitment to an inpatient treatment facility in the case of  
33 an offender convicted of the crime of rape in the first degree.

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

1 which, in addition to crime-related prohibitions, may include  
2 requirements that the offender perform any one or more of the  
3 following:

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

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

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

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

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

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

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

19 (i) The offender is convicted of the manufacture, delivery, or  
20 possession with intent to manufacture or deliver a controlled substance  
21 classified in Schedule I or II that is a narcotic drug or a felony that  
22 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
23 criminal solicitation, or criminal conspiracy to commit such crimes,  
24 and the violation does not involve a sentence enhancement under RCW  
25 9.94A.310 (3) or (4);

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

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

32 (b) If the midpoint of the standard range is greater than one year  
33 and the sentencing judge determines that the offender is eligible for  
34 this option and that the offender and the community will benefit from  
35 the use of the special drug offender sentencing alternative, the judge  
36 may waive imposition of a sentence within the standard range and impose  
37 a sentence that must include a period of total confinement in a state  
38 facility for one-half of the midpoint of the standard range. During  
39 incarceration in the state facility, offenders sentenced under this

1 subsection shall undergo a comprehensive substance abuse assessment and  
2 receive, within available resources, treatment services appropriate for  
3 the offender. The treatment services shall be designed by the division  
4 of alcohol and substance abuse of the department of social and health  
5 services, in cooperation with the department of corrections. If the  
6 midpoint of the standard range is twenty-four months or less, no more  
7 than three months of the sentence may be served in a work release  
8 status. The court shall also impose one year of concurrent community  
9 custody and community supervision that must include appropriate  
10 outpatient substance abuse treatment, crime-related prohibitions  
11 including a condition not to use illegal controlled substances, and a  
12 requirement to submit to urinalysis or other testing to monitor that  
13 status. The court may require that the monitoring for controlled  
14 substances be conducted by the department or by a treatment  
15 alternative(~~{s}~~)s to street crime program or a comparable court or  
16 agency-referred program. The offender may be required to pay thirty  
17 dollars per month while on community custody to offset the cost of  
18 monitoring. In addition, the court shall impose three or more of the  
19 following conditions:

- 20 (i) Devote time to a specific employment or training;
- 21 (ii) Remain within prescribed geographical boundaries and notify  
22 the court or the community corrections officer before any change in the  
23 offender's address or employment;
- 24 (iii) Report as directed to a community corrections officer;
- 25 (iv) Pay all court-ordered legal financial obligations;
- 26 (v) Perform community service work;
- 27 (vi) Stay out of areas designated by the sentencing judge.
- 28 (c) If the offender violates any of the sentence conditions in (b)  
29 of this subsection, the department shall impose sanctions  
30 administratively, with notice to the prosecuting attorney and the  
31 sentencing court. Upon motion of the court or the prosecuting  
32 attorney, a violation hearing shall be held by the court. If the court  
33 finds that conditions have been willfully violated, the court may  
34 impose confinement consisting of up to the remaining one-half of the  
35 midpoint of the standard range. All total confinement served during  
36 the period of community custody shall be credited to the offender,  
37 regardless of whether the total confinement is served as a result of  
38 the original sentence, as a result of a sanction imposed by the  
39 department, or as a result of a violation found by the court. The term

1 of community supervision shall be tolled by any period of time served  
2 in total confinement as a result of a violation found by the court.

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

9 (e) An offender who is sentenced under this drug offender  
10 sentencing alternative, and who subsequently is determined to meet the  
11 eligibility criteria for the illegal alien offender program under  
12 section 2(2) of this act, shall not serve the sentence imposed under  
13 the drug offender sentencing alternative but shall instead be  
14 classified as an illegal alien offender under the terms of section 2 of  
15 this act.

16 (7) If a sentence range has not been established for the  
17 defendant's crime, the court shall impose a determinate sentence which  
18 may include not more than one year of confinement, community service  
19 work, a term of community supervision not to exceed one year, and/or  
20 other legal financial obligations. The court may impose a sentence  
21 which provides more than one year of confinement if the court finds,  
22 considering the purpose of this chapter, that there are substantial and  
23 compelling reasons justifying an exceptional sentence.

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

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

37 The examiner shall assess and report regarding the defendant's  
38 amenability to treatment and relative risk to the community. A

1 proposed treatment plan shall be provided and shall include, at a  
2 minimum:

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

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

6 (C) Monitoring plans, including any requirements regarding living  
7 conditions, lifestyle requirements, and monitoring by family members  
8 and others;

9 (D) Anticipated length of treatment; and

10 (E) Recommended crime-related prohibitions.

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

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

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

29 (B) The court shall order treatment for any period up to three  
30 years in duration. The court in its discretion shall order outpatient  
31 sex offender treatment or inpatient sex offender treatment, if  
32 available. A community mental health center may not be used for such  
33 treatment unless it has an appropriate program designed for sex  
34 offender treatment. The offender shall not change sex offender  
35 treatment providers or treatment conditions without first notifying the  
36 prosecutor, the community corrections officer, and the court, and shall  
37 not change providers without court approval after a hearing if the  
38 prosecutor or community corrections officer object to the change. In  
39 addition, as conditions of the suspended sentence, the court may impose

1 other sentence conditions including up to six months of confinement,  
2 not to exceed the sentence range of confinement for that offense,  
3 crime-related prohibitions, and requirements that the offender perform  
4 any one or more of the following:

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

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

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

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

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

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

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

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

8 (vi) Except as provided in (a)(vii) of this subsection, after July  
9 1, 1991, examinations and treatment ordered pursuant to this subsection  
10 shall only be conducted by sex offender treatment providers certified  
11 by the department of health pursuant to chapter 18.155 RCW.

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

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

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

33 Except for an offender who has been convicted of a violation of RCW  
34 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
35 before the expiration of his or her term of confinement, the department  
36 of corrections may request the court to convert the balance of  
37 confinement to community supervision and to place conditions on the  
38 offender including crime-related prohibitions and requirements that the  
39 offender perform any one or more of the following:

- 1 (i) Devote time to a specific employment or occupation;
- 2 (ii) Remain within prescribed geographical boundaries and notify
- 3 the court or the community corrections officer prior to any change in
- 4 the offender's address or employment;
- 5 (iii) Report as directed to the court and a community corrections
- 6 officer;
- 7 (iv) Undergo available outpatient treatment.

8 If the offender violates any of the terms of his or her community

9 supervision, the court may order the offender to serve out the balance

10 of his or her community supervision term in confinement in the custody

11 of the department of corrections.

12 Nothing in this subsection (8)(b) shall confer eligibility for such

13 programs for offenders convicted and sentenced for a sex offense

14 committed prior to July 1, 1987. This subsection (8)(b) does not apply

15 to any crime committed after July 1, 1990.

16 (c) Offenders convicted and sentenced for a sex offense committed

17 prior to July 1, 1987, may, subject to available funds, request an

18 evaluation by the department of corrections to determine whether they

19 are amenable to treatment. If the offender is determined to be

20 amenable to treatment, the offender may request placement in a

21 treatment program within a correctional facility operated by the

22 department. Placement in such treatment program is subject to

23 available funds.

24 (9)(a) When a court sentences a person to a term of total

25 confinement to the custody of the department of corrections for an

26 offense categorized as a sex offense or a serious violent offense

27 committed after July 1, 1988, but before July 1, 1990, assault in the

28 second degree, assault of a child in the second degree, any crime

29 against a person where it is determined in accordance with RCW

30 9.94A.125 that the defendant or an accomplice was armed with a deadly

31 weapon at the time of commission, or any felony offense under chapter

32 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,

33 committed on or after July 1, 1988, the court shall in addition to the

34 other terms of the sentence, sentence the offender to a one-year term

35 of community placement beginning either upon completion of the term of

36 confinement or at such time as the offender is transferred to community

37 custody in lieu of earned early release in accordance with RCW

38 9.94A.150 (1) and (2). When the court sentences an offender under this

39 subsection to the statutory maximum period of confinement then the

1 community placement portion of the sentence shall consist entirely of  
2 such community custody to which the offender may become eligible, in  
3 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
4 custody actually served shall be credited against the community  
5 placement portion of the sentence.

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

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

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

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

31 (iv) An offender in community custody shall not unlawfully possess  
32 controlled substances;

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

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

38 (c) The court may also order any of the following special  
39 conditions:

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

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

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

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

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

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

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

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

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

5 (13) All offenders sentenced to terms involving community  
6 supervision, community service, community placement, or legal financial  
7 obligation shall be under the supervision of the secretary of the  
8 department of corrections or such person as the secretary may designate  
9 and shall follow explicitly the instructions of the secretary including  
10 reporting as directed to a community corrections officer, remaining  
11 within prescribed geographical boundaries, notifying the community  
12 corrections officer of any change in the offender's address or  
13 employment, and paying the supervision fee assessment. The department  
14 may require offenders to pay for special services rendered on or after  
15 July 25, 1993, including electronic monitoring, day reporting, and  
16 telephone reporting, dependent upon the offender's ability to pay. The  
17 department may pay for these services for offenders who are not able to  
18 pay.

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

29 (15) The sentencing court shall give the offender credit for all  
30 confinement time served before the sentencing if that confinement was  
31 solely in regard to the offense for which the offender is being  
32 sentenced.

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

38 (17) The court shall order restitution whenever the offender is  
39 convicted of a felony that results in injury to any person or damage to

1 or loss of property, whether the offender is sentenced to confinement  
2 or placed under community supervision, unless extraordinary  
3 circumstances exist that make restitution inappropriate in the court's  
4 judgment. The court shall set forth the extraordinary circumstances in  
5 the record if it does not order restitution.

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

13 (19) In any sentence of partial confinement, the court may require  
14 the defendant to serve the partial confinement in work release, in a  
15 program of home detention, on work crew, or in a combined program of  
16 work crew and home detention.

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

21 **Sec. 4.** RCW 9.94A.137 and 1995 1st sp.s. c 19 s 20 are each  
22 amended to read as follows:

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

25 (i) Is sentenced to a term of total confinement of not less than  
26 sixteen months or more than thirty-six months; and

27 (ii) Has no current or prior convictions for any sex offenses or  
28 for violent offenses other than drug offenses for manufacturing,  
29 possession, delivery, or intent to deliver a controlled substance.

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

34 (2) If the sentencing judge determines that the offender is  
35 eligible for the work ethic camp and is likely to qualify under  
36 subsection (3) of this section, the judge shall impose a sentence  
37 within the standard range and may recommend that the offender serve the  
38 sentence at a work ethic camp. The sentence shall provide that if the

1 offender successfully completes the program, the department shall  
2 convert the period of work ethic camp confinement at the rate of one  
3 day of work ethic camp confinement to three days of total standard  
4 confinement. In sentencing an offender to the work ethic camp, the  
5 court shall specify: (a) That upon completion of the work ethic camp  
6 the offender shall be released on community custody for any remaining  
7 time of total confinement; (b) the applicable conditions of supervision  
8 on community custody status as required by RCW 9.94A.120(~~(+9)~~) (10)  
9 (b) and authorized by RCW 9.94A.120(~~(+9)~~) (10) (c); and (c) that  
10 violation of the conditions may result in a return to total confinement  
11 for the balance of the offender's remaining time of confinement.

12 (3) The department shall place the offender in the work ethic camp  
13 program, subject to capacity, unless: (a) The department determines  
14 that the offender has physical or mental impairments that would prevent  
15 participation and completion of the program; (b) the department  
16 determines that the offender's custody level prevents placement in the  
17 program; (~~(or)~~) (c) the offender refuses to agree to the terms and  
18 conditions of the program; or (d) the offender meets the eligibility  
19 requirements for the illegal alien offender program under section 2(2)  
20 of this act, in which case the offender shall be governed by section 2  
21 of this act.

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

28 (5) During the last two weeks prior to release from the work ethic  
29 camp program the department shall provide the offender with  
30 comprehensive transition training.

31 NEW SECTION. **Sec. 5.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected."

1 **SHB 2711** - S COMM AMD  
2 By Committee on Human Services & Corrections

3  
4 On page 1, line 1 of the title, after "program;" strike the  
5 remainder of the title and insert "amending RCW 9.94A.120 and  
6 9.94A.137; adding a new section to chapter 72.09 RCW; and creating a  
7 new section."

--- END ---