

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2545

Chapter 215, Laws of 1996

54th Legislature
1996 Regular Session

SEX OFFENDERS--NOTIFICATION, RELEASE REQUIREMENTS

EFFECTIVE DATE: 6/6/96

Passed by the House March 4, 1996
Yeas 94 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 1, 1996
Yeas 47 Nays 0

JOEL PRITCHARD
President of the Senate

Approved March 28, 1996

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2545** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

March 28, 1996 - 4:34 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2545

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington

54th Legislature

1996 Regular Session

By House Committee on Corrections (originally sponsored by Representatives Sehlin, Sheahan, Goldsmith, Robertson, L. Thomas, Mulliken, Sheldon, McMahan, Conway, Costa, Patterson, Chopp, Ogden, Hatfield, Hickel, Campbell, Mitchell, Morris, Johnson, Hymes, Thompson, Silver and McMorris)

Read first time 01/26/96.

1 AN ACT Relating to sex offender notification; amending RCW
2 4.24.550, 70.48.470, 72.09.340, and 9.94A.120; and reenacting and
3 amending RCW 9.94A.155.

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

5 **Sec. 1.** RCW 4.24.550 and 1994 c 129 s 2 are each amended to read
6 as follows:

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

10 (2) Local law enforcement agencies and officials who decide to
11 release information pursuant to this section shall make a good faith
12 effort to notify the public and residents at least fourteen days before
13 the sex offender is released. If a change occurs in the release plan,
14 this notification provision will not require an extension of the
15 release date. The department of corrections and the department of
16 social and health services shall provide local law enforcement
17 officials with all relevant information on sex offenders about to be
18 released or placed into the community in a timely manner. When a sex
19 offender under county jurisdiction will be released from jail and will

1 reside in a county other than the county of incarceration, the chief
2 law enforcement officer of the jail, or his or her designee, shall
3 notify the sheriff in the county where the offender will reside of the
4 offender's release as provided in RCW 70.48.470.

5 (3) An elected public official, public employee, or public agency
6 as defined in RCW 4.24.470 is immune from civil liability for damages
7 for any discretionary decision to release relevant and necessary
8 information, unless it is shown that the official, employee, or agency
9 acted with gross negligence or in bad faith. The authorization and
10 immunity in this section applies to information regarding: (a) A
11 person convicted of, or juvenile found to have committed, a sex offense
12 as defined by RCW 9.94A.030; (b) a person found not guilty of a sex
13 offense by reason of insanity under chapter 10.77 RCW; (c) a person
14 found incompetent to stand trial for a sex offense and subsequently
15 committed under chapter 71.05 or 71.34 RCW; (d) a person committed as
16 a sexual psychopath under chapter 71.06 RCW; or (e) a person committed
17 as a sexually violent predator under chapter 71.09 RCW. The immunity
18 provided under this section applies to the release of relevant
19 information to other employees or officials or to the general public.

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

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

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

29 (1) A person having charge of a jail shall notify in writing any
30 confined person who is in the custody of the jail for a conviction of
31 a sexual offense as defined in RCW 9.94A.030 of the registration
32 requirements of RCW 9A.44.130 at the time of the inmate's release from
33 confinement, and shall obtain written acknowledgment of such
34 notification. The person shall also obtain from the inmate the county
35 of the inmate's residence upon release from jail.

36 (2) If an inmate convicted of a sexual offense will reside in a
37 county other than the county of incarceration upon release, the chief
38 law enforcement officer, or his or her designee, shall notify the

1 sheriff of the county where the inmate will reside of the inmate's
2 impending release. Notice shall be provided at least fourteen days
3 prior to the inmate's release, or if the release date is not known at
4 least fourteen days prior to release, notice shall be provided not
5 later than the day after the inmate's release.

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

8 (1) In making all discretionary decisions regarding release plans
9 for and supervision of ((sexually violent)) sex offenders, the
10 department ((of corrections)) shall set priorities and make decisions
11 based on an assessment of public safety risks ((rather than the legal
12 category of the sentences)).

13 (2) The department shall, no later than September 1, 1996,
14 implement a policy governing the department's evaluation and approval
15 of release plans for sex offenders. The policy shall include, at a
16 minimum, a formal process by which victims, witnesses, and other
17 interested people may provide information and comments to the
18 department on potential safety risks to specific individuals or classes
19 of individuals posed by a specific sex offender. The department shall
20 make all reasonable efforts to publicize the availability of this
21 process through currently existing mechanisms and shall seek the
22 assistance of courts, prosecutors, law enforcement, and victims'
23 advocacy groups in doing so. Notice of an offender's proposed
24 residence shall be provided to all people registered to receive notice
25 of an offender's release under RCW 9.94A.155(2), except that in no case
26 may this notification requirement be construed to require an extension
27 of an offender's release date.

28 (3) For any offender convicted of a felony sex offense against a
29 minor victim after the effective date of this act, the department shall
30 not approve a residence location if the proposed residence: (a)
31 Includes a minor victim or child of similar age or circumstance as a
32 previous victim who the department determines may be put at substantial
33 risk of harm by the offender's residence in the household; or (b) is
34 within close proximity of the current residence of a minor victim,
35 unless the whereabouts of the minor victim cannot be determined or
36 unless such a restriction would impede family reunification efforts
37 ordered by the court or directed by the department of social and health
38 services. The department is further authorized to reject a residence

1 location if the proposed residence is within close proximity to
2 schools, child care centers, playgrounds, or other grounds or
3 facilities where children of similar age or circumstance as a previous
4 victim are present who the department determines may be put at
5 substantial risk of harm by the sex offender's residence at that
6 location.

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

11 (a) The relationships between the proposed supervisor, the
12 offender, and the minor; (b) the proposed supervisor's acknowledgment
13 and understanding of the offender's prior criminal conduct, general
14 knowledge of the dynamics of child sexual abuse, and willingness and
15 ability to protect the minor from the potential risks posed by contact
16 with the offender; and (c) recommendations made by the department of
17 social and health services about the best interests of the child.

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

20 (1) At the earliest possible date, and in no event later than
21 thirty days before release except in the event of escape or emergency
22 furloughs as defined in RCW 72.66.010, the department of corrections
23 shall send written notice of parole, release, community placement, work
24 release placement, furlough, or escape about a specific inmate
25 convicted of a violent offense, a sex offense as defined by RCW
26 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060
27 or 9A.46.110, to the following:

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

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

33 The sheriff of the county where the offender was convicted shall be
34 notified if the department does not know where the offender will
35 reside. The department shall notify the state patrol of the release of
36 all sex offenders, and that information shall be placed in the
37 Washington crime information center for dissemination to all law
38 enforcement.

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

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

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

10 (c) Any person specified in writing by the prosecuting attorney;
11 and

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

16 Information regarding victims, next of kin, or witnesses requesting
17 the notice, information regarding any other person specified in writing
18 by the prosecuting attorney to receive the notice, and the notice are
19 confidential and shall not be available to the inmate. Whenever the
20 department of corrections mails notice pursuant to this subsection and
21 the notice is returned as undeliverable, the department shall attempt
22 alternative methods of notification, including a telephone call to the
23 person's last known telephone number.

24 (3) The existence of the notice requirements contained in
25 subsections (1) and (2) of this section shall not require an extension
26 of the release date in the event that the release plan changes after
27 notification.

28 (4) If an inmate convicted of a violent offense, a sex offense as
29 defined by RCW 9.94A.030, or a felony harassment offense as defined by
30 RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the
31 department of corrections shall immediately notify, by the most
32 reasonable and expedient means available, the chief of police of the
33 city and the sheriff of the county in which the inmate resided
34 immediately before the inmate's arrest and conviction. If previously
35 requested, the department shall also notify the witnesses and the
36 victim of the crime for which the inmate was convicted or the victim's
37 next of kin if the crime was a homicide. If the inmate is recaptured,
38 the department shall send notice to the persons designated in this

1 subsection as soon as possible but in no event later than two working
2 days after the department learns of such recapture.

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

6 (6) The department of corrections shall send the notices required
7 by this chapter to the last address provided to the department by the
8 requesting party. The requesting party shall furnish the department
9 with a current address.

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

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

14 (b) A receipt showing that an individual registered in the victim
15 or witness notification program was mailed a notice, at the
16 individual's last known address, upon the release or movement of an
17 inmate.

18 (8) For purposes of this section the following terms have the
19 following meanings:

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

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

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

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

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

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

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

37 (3) Whenever a sentence outside the standard range is imposed, the
38 court shall set forth the reasons for its decision in written findings

1 of fact and conclusions of law. A sentence outside the standard range
2 shall be a determinate sentence.

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

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

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

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

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

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

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

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

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

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

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

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

28 (b) If the midpoint of the standard range is greater than one year
29 and the sentencing judge determines that the offender is eligible for
30 this option and that the offender and the community will benefit from
31 the use of the special drug offender sentencing alternative, the judge
32 may waive imposition of a sentence within the standard range and impose
33 a sentence that must include a period of total confinement in a state
34 facility for one-half of the midpoint of the standard range. During
35 incarceration in the state facility, offenders sentenced under this
36 subsection shall undergo a comprehensive substance abuse assessment and
37 receive, within available resources, treatment services appropriate for
38 the offender. The treatment services shall be designed by the division
39 of alcohol and substance abuse of the department of social and health

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

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

1 obligations which the offender has for the support of the offender and
2 any dependents. These rules shall be developed in consultation with
3 the administrator for the courts, the office of financial management,
4 and the commission.

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

13 (8)(a)(i) When an offender is convicted of a sex offense other than
14 a violation of RCW 9A.44.050 or a sex offense that is also a serious
15 violent offense and has no prior convictions for a sex offense or any
16 other felony sex offenses in this or any other state, the sentencing
17 court, on its own motion or the motion of the state or the defendant,
18 may order an examination to determine whether the defendant is amenable
19 to treatment.

20 The report of the examination shall include at a minimum the
21 following: The defendant's version of the facts and the official
22 version of the facts, the defendant's offense history, an assessment of
23 problems in addition to alleged deviant behaviors, the offender's
24 social and employment situation, and other evaluation measures used.
25 The report shall set forth the sources of the evaluator's information.

26 The examiner shall assess and report regarding the defendant's
27 amenability to treatment and relative risk to the community. A
28 proposed treatment plan shall be provided and shall include, at a
29 minimum:

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

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

33 (C) Monitoring plans, including any requirements regarding living
34 conditions, lifestyle requirements, and monitoring by family members
35 and others;

36 (D) Anticipated length of treatment; and

37 (E) Recommended crime-related prohibitions.

38 The court on its own motion may order, or on a motion by the state
39 shall order, a second examination regarding the offender's amenability

1 to treatment. The evaluator shall be selected by the party making the
2 motion. The defendant shall pay the cost of any second examination
3 ordered unless the court finds the defendant to be indigent in which
4 case the state shall pay the cost.

5 (ii) After receipt of the reports, the court shall consider whether
6 the offender and the community will benefit from use of this special
7 sexual offender sentencing alternative and consider the victim's
8 opinion whether the offender should receive a treatment disposition
9 under this subsection. If the court determines that this special sex
10 offender sentencing alternative is appropriate, the court shall then
11 impose a sentence within the sentence range. If this sentence is less
12 than eight years of confinement, the court may suspend the execution of
13 the sentence and impose the following conditions of suspension:

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

17 (B) The court shall order treatment for any period up to three
18 years in duration. The court in its discretion shall order outpatient
19 sex offender treatment or inpatient sex offender treatment, if
20 available. A community mental health center may not be used for such
21 treatment unless it has an appropriate program designed for sex
22 offender treatment. The offender shall not change sex offender
23 treatment providers or treatment conditions without first notifying the
24 prosecutor, the community corrections officer, and the court, and shall
25 not change providers without court approval after a hearing if the
26 prosecutor or community corrections officer object to the change. In
27 addition, as conditions of the suspended sentence, the court may impose
28 other sentence conditions including up to six months of confinement,
29 not to exceed the sentence range of confinement for that offense,
30 crime-related prohibitions, and requirements that the offender perform
31 any one or more of the following:

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

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

36 (III) Report as directed to the court and a community corrections
37 officer;

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

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

6 (iii) The sex offender therapist shall submit quarterly reports on
7 the defendant's progress in treatment to the court and the parties.
8 The report shall reference the treatment plan and include at a minimum
9 the following: Dates of attendance, defendant's compliance with
10 requirements, treatment activities, the defendant's relative progress
11 in treatment, and any other material as specified by the court at
12 sentencing.

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

29 (v) The court may revoke the suspended sentence at any time during
30 the period of community supervision and order execution of the sentence
31 if: (A) The defendant violates the conditions of the suspended
32 sentence, or (B) the court finds that the defendant is failing to make
33 satisfactory progress in treatment. All confinement time served during
34 the period of community supervision shall be credited to the offender
35 if the suspended sentence is revoked.

36 (vi) Except as provided in (a)(vii) of this subsection, after July
37 1, 1991, examinations and treatment ordered pursuant to this subsection
38 shall only be conducted by sex offender treatment providers certified
39 by the department of health pursuant to chapter 18.155 RCW.

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

10 For purposes of this subsection, "victim" means any person who has
11 sustained emotional, psychological, physical, or financial injury to
12 person or property as a result of the crime charged. "Victim" also
13 means a parent or guardian of a victim who is a minor child unless the
14 parent or guardian is the perpetrator of the offense.

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

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

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

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

33 (iii) Report as directed to the court and a community corrections
34 officer;

35 (iv) Undergo available outpatient treatment.

36 If the offender violates any of the terms of his or her community
37 supervision, the court may order the offender to serve out the balance
38 of his or her community supervision term in confinement in the custody
39 of the department of corrections.

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

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

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

34 (b) When a court sentences a person to a term of total confinement
35 to the custody of the department of corrections for an offense
36 categorized as a sex offense or serious violent offense committed on or
37 after July 1, 1990, the court shall in addition to other terms of the
38 sentence, sentence the offender to community placement for two years or
39 up to the period of earned early release awarded pursuant to RCW

1 9.94A.150 (1) and (2), whichever is longer. The community placement
2 shall begin either upon completion of the term of confinement or at
3 such time as the offender is transferred to community custody in lieu
4 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
5 When the court sentences an offender under this subsection to the
6 statutory maximum period of confinement then the community placement
7 portion of the sentence shall consist entirely of the community custody
8 to which the offender may become eligible, in accordance with RCW
9 9.94A.150 (1) and (2). Any period of community custody actually served
10 shall be credited against the community placement portion of the
11 sentence. Unless a condition is waived by the court, the terms of
12 community placement for offenders sentenced pursuant to this section
13 shall include the following conditions:

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

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

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

20 (iv) An offender in community custody shall not unlawfully possess
21 controlled substances;

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

24 (vi) The residence location and living arrangements are subject to
25 the prior approval of the department of corrections during the period
26 of community placement.

27 (c) As a part of any sentence imposed under (a) or (b) of this
28 subsection, the court may also order any of the following special
29 conditions:

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

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

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

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

37 (v) The offender shall comply with any crime-related prohibitions;

38 or

1 (vi) For an offender convicted of a felony sex offense against a
2 minor victim after the effective date of this act, the offender shall
3 comply with any terms and conditions of community placement imposed by
4 the department of corrections relating to contact between the sex
5 offender and a minor victim or a child of similar age or circumstance
6 as a previous victim.

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

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

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

38 (12) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
39 court may not impose a sentence providing for a term of confinement or

1 community supervision or community placement which exceeds the
2 statutory maximum for the crime as provided in chapter 9A.20 RCW.

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

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

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

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

36 (17) The court shall order restitution whenever the offender is
37 convicted of a felony that results in injury to any person or damage to
38 or loss of property, whether the offender is sentenced to confinement
39 or placed under community supervision, unless extraordinary

1 circumstances exist that make restitution inappropriate in the court's
2 judgment. The court shall set forth the extraordinary circumstances in
3 the record if it does not order restitution.

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

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

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

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