
SUBSTITUTE SENATE BILL 5847

State of Washington

56th Legislature

1999 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Costa, Long, Hargrove, Haugen, McCaslin and Heavey)

Read first time 03/03/1999.

1 AN ACT Relating to sentencing for crimes involving drugs or
2 alcohol; amending RCW 9.94A.030, 9.94A.110, 9.94A.120, and 9.94A.137;
3 reenacting and amending RCW 9.94A.380; adding a new section to chapter
4 9.94A RCW; adding a new section to chapter 10.01 RCW; adding new
5 sections to chapter 2.28 RCW; adding a new section to chapter 70.96A
6 RCW; creating new sections; prescribing penalties; and making an
7 appropriation.

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

9 **Sec. 1.** RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read
10 as follows:

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

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

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

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

6 (4) "Community custody" means that portion of an inmate's sentence
7 of confinement in lieu of earned early release time or imposed pursuant
8 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
9 controls placed on the inmate's movement and activities by the
10 department of corrections.

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

18 (6) "Community service" means compulsory service, without
19 compensation, performed for the benefit of the community by the
20 offender.

21 (7) "Community supervision" means a period of time during which a
22 convicted offender is subject to crime-related prohibitions and other
23 sentence conditions imposed by a court pursuant to this chapter or RCW
24 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
25 may include crime-related prohibitions and other conditions imposed
26 pursuant to RCW 9.94A.120(5). Where the court finds that any offender
27 has a chemical dependency that has contributed to his or her offense,
28 the conditions of supervision may include treatment. For purposes of
29 the interstate compact for out-of-state supervision of parolees and
30 probationers, RCW 9.95.270, community supervision is the functional
31 equivalent of probation and should be considered the same as probation
32 by other states.

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

35 (9) "Conviction" means an adjudication of guilt pursuant to Titles
36 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
37 acceptance of a plea of guilty.

38 (10) "Court-ordered legal financial obligation" means a sum of
39 money that is ordered by a superior court of the state of Washington

1 for legal financial obligations which may include restitution to the
2 victim, statutorily imposed crime victims' compensation fees as
3 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
4 drug funds, court-appointed attorneys' fees, and costs of defense,
5 fines, and any other financial obligation that is assessed to the
6 offender as a result of a felony conviction. Upon conviction for
7 vehicular assault while under the influence of intoxicating liquor or
8 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
9 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
10 legal financial obligations may also include payment to a public agency
11 of the expense of an emergency response to the incident resulting in
12 the conviction, subject to the provisions in RCW 38.52.430.

13 (11) "Crime-related prohibition" means an order of a court
14 prohibiting conduct that directly relates to the circumstances of the
15 crime for which the offender has been convicted, and shall not be
16 construed to mean orders directing an offender affirmatively to
17 participate in rehabilitative programs or to otherwise perform
18 affirmative conduct. However, affirmative acts necessary to monitor
19 compliance with the order of a court may be required by the department.

20 (12) "Criminal history" means the list of a defendant's prior
21 convictions and juvenile adjudications, whether in this state, in
22 federal court, or elsewhere. The history shall include, where known,
23 for each conviction (a) whether the defendant has been placed on
24 probation and the length and terms thereof; and (b) whether the
25 defendant has been incarcerated and the length of incarceration.

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

30 (14) "Day reporting" means a program of enhanced supervision
31 designed to monitor the defendant's daily activities and compliance
32 with sentence conditions, and in which the defendant is required to
33 report daily to a specific location designated by the department or the
34 sentencing judge.

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

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

1 terms of a legal financial obligation. The fact that an offender
2 through "earned early release" can reduce the actual period of
3 confinement shall not affect the classification of the sentence as a
4 determinate sentence.

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

17 (18) "Drug offense" means:

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

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

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

27 (19) "Escape" means:

28 (a) Escape in the first degree (RCW 9A.76.110), escape in the
29 second degree (RCW 9A.76.120), willful failure to return from furlough
30 (RCW 72.66.060), willful failure to return from work release (RCW
31 72.65.070), or willful failure to be available for supervision by the
32 department while in community custody (RCW 72.09.310); or

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

36 (20) "Felony traffic offense" means:

37 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
38 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
39 and-run injury-accident (RCW 46.52.020(4)); or

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

4 (21) "Fines" means the requirement that the offender pay a specific
5 sum of money over a specific period of time to the court.

6 (22) "First-time offender" means any person who is convicted of a
7 felony (a) not classified as a violent offense or a sex offense under
8 this chapter, or (b) that is not the manufacture, delivery, or
9 possession with intent to manufacture or deliver a controlled substance
10 classified in Schedule I or II that is a narcotic drug or flunitrazepam
11 classified in Schedule IV, nor the manufacture, delivery, or possession
12 with intent to deliver methamphetamine, its salts, isomers, and salts
13 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for
14 profit of any controlled substance or counterfeit substance classified
15 in Schedule I, RCW 69.50.204, except leaves and flowering tops of
16 marihuana, who previously has never been convicted of a felony in this
17 state, federal court, or another state, and who has never participated
18 in a program of deferred prosecution for a felony offense.

19 (23) "Most serious offense" means any of the following felonies or
20 a felony attempt to commit any of the following felonies, as now
21 existing or hereafter amended:

22 (a) Any felony defined under any law as a class A felony or
23 criminal solicitation of or criminal conspiracy to commit a class A
24 felony;

25 (b) Assault in the second degree;

26 (c) Assault of a child in the second degree;

27 (d) Child molestation in the second degree;

28 (e) Controlled substance homicide;

29 (f) Extortion in the first degree;

30 (g) Incest when committed against a child under age fourteen;

31 (h) Indecent liberties;

32 (i) Kidnapping in the second degree;

33 (j) Leading organized crime;

34 (k) Manslaughter in the first degree;

35 (l) Manslaughter in the second degree;

36 (m) Promoting prostitution in the first degree;

37 (n) Rape in the third degree;

38 (o) Robbery in the second degree;

39 (p) Sexual exploitation;

1 (q) Vehicular assault;

2 (r) Vehicular homicide, when proximately caused by the driving of
3 any vehicle by any person while under the influence of intoxicating
4 liquor or any drug as defined by RCW 46.61.502, or by the operation of
5 any vehicle in a reckless manner;

6 (s) Any other class B felony offense with a finding of sexual
7 motivation, as "sexual motivation" is defined under this section;

8 (t) Any other felony with a deadly weapon verdict under RCW
9 9.94A.125;

10 (u) Any felony offense in effect at any time prior to December 2,
11 1993, that is comparable to a most serious offense under this
12 subsection, or any federal or out-of-state conviction for an offense
13 that under the laws of this state would be a felony classified as a
14 most serious offense under this subsection;

15 (v)(i) A prior conviction for indecent liberties under RCW
16 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
17 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
18 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
19 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
22 if: (A) The crime was committed against a child under the age of
23 fourteen; or (B) the relationship between the victim and perpetrator is
24 included in the definition of indecent liberties under RCW
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
26 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
27 through July 27, 1997.

28 (24) "Nonviolent offense" means an offense which is not a violent
29 offense.

30 (25) "Offender" means a person who has committed a felony
31 established by state law and is eighteen years of age or older or is
32 less than eighteen years of age but whose case is under superior court
33 jurisdiction under RCW 13.04.030 or has been transferred by the
34 appropriate juvenile court to a criminal court pursuant to RCW
35 13.40.110. Throughout this chapter, the terms "offender" and
36 "defendant" are used interchangeably.

37 (26) "Partial confinement" means confinement for no more than one
38 year in a facility or institution operated or utilized under contract
39 by the state or any other unit of government, or, if home detention or

1 work crew has been ordered by the court, in an approved residence, for
2 a substantial portion of each day with the balance of the day spent in
3 the community. Partial confinement includes work release, home
4 detention, work crew, and a combination of work crew and home detention
5 as defined in this section.

6 (27) "Persistent offender" is an offender who:

7 (a)(i) Has been convicted in this state of any felony considered a
8 most serious offense; and

9 (ii) Has, before the commission of the offense under (a) of this
10 subsection, been convicted as an offender on at least two separate
11 occasions, whether in this state or elsewhere, of felonies that under
12 the laws of this state would be considered most serious offenses and
13 would be included in the offender score under RCW 9.94A.360; provided
14 that of the two or more previous convictions, at least one conviction
15 must have occurred before the commission of any of the other most
16 serious offenses for which the offender was previously convicted; or

17 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
18 of a child in the first degree, child molestation in the first degree,
19 rape in the second degree, rape of a child in the second degree, or
20 indecent liberties by forcible compulsion; (B) murder in the first
21 degree, murder in the second degree, homicide by abuse, kidnapping in
22 the first degree, kidnapping in the second degree, assault in the first
23 degree, assault in the second degree, assault of a child in the first
24 degree, or burglary in the first degree, with a finding of sexual
25 motivation; or (C) an attempt to commit any crime listed in this
26 subsection (27)(b)(i); and

27 (ii) Has, before the commission of the offense under (b)(i) of this
28 subsection, been convicted as an offender on at least one occasion,
29 whether in this state or elsewhere, of an offense listed in (b)(i) of
30 this subsection. A conviction for rape of a child in the first degree
31 constitutes a conviction under subsection (27)(b)(i) only when the
32 offender was sixteen years of age or older when the offender committed
33 the offense. A conviction for rape of a child in the second degree
34 constitutes a conviction under subsection (27)(b)(i) only when the
35 offender was eighteen years of age or older when the offender committed
36 the offense.

37 (28) "Postrelease supervision" is that portion of an offender's
38 community placement that is not community custody.

1 (29) "Restitution" means the requirement that the offender pay a
2 specific sum of money over a specific period of time to the court as
3 payment of damages. The sum may include both public and private costs.
4 The imposition of a restitution order does not preclude civil redress.

5 (30) "Serious traffic offense" means:

6 (a) Driving while under the influence of intoxicating liquor or any
7 drug (RCW 46.61.502), actual physical control while under the influence
8 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
9 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
10 or

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

14 (31) "Serious violent offense" is a subcategory of violent offense
15 and means:

16 (a) Murder in the first degree, homicide by abuse, murder in the
17 second degree, manslaughter in the first degree, assault in the first
18 degree, kidnapping in the first degree, or rape in the first degree,
19 assault of a child in the first degree, or an attempt, criminal
20 solicitation, or criminal conspiracy to commit one of these felonies;
21 or

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

25 (32) "Sentence range" means the sentencing court's discretionary
26 range in imposing a nonappealable sentence.

27 (33) "Sex offense" means:

28 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
29 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
30 criminal attempt, criminal solicitation, or criminal conspiracy to
31 commit such crimes;

32 (b) A felony with a finding of sexual motivation under RCW
33 9.94A.127 or 13.40.135; or

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

37 (34) "Sexual motivation" means that one of the purposes for which
38 the defendant committed the crime was for the purpose of his or her
39 sexual gratification.

1 (35) "Total confinement" means confinement inside the physical
2 boundaries of a facility or institution operated or utilized under
3 contract by the state or any other unit of government for twenty-four
4 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

5 (36) "Transition training" means written and verbal instructions
6 and assistance provided by the department to the offender during the
7 two weeks prior to the offender's successful completion of the work
8 ethic camp program. The transition training shall include instructions
9 in the offender's requirements and obligations during the offender's
10 period of community custody.

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

14 (38) "Violent offense" means:

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

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

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

34 (39) "Work crew" means a program of partial confinement consisting
35 of civic improvement tasks for the benefit of the community of not less
36 than thirty-five hours per week that complies with RCW 9.94A.135. The
37 civic improvement tasks shall have minimal negative impact on existing
38 private industries or the labor force in the county where the service
39 or labor is performed. The civic improvement tasks shall not affect

1 employment opportunities for people with developmental disabilities
2 contracted through sheltered workshops as defined in RCW 82.04.385.
3 Only those offenders sentenced to a facility operated or utilized under
4 contract by a county or the state are eligible to participate on a work
5 crew. Offenders sentenced for a sex offense as defined in subsection
6 (33) of this section are not eligible for the work crew program.

7 (40) "Work ethic camp" means an alternative incarceration program
8 designed to reduce recidivism and lower the cost of corrections by
9 requiring offenders to complete a comprehensive array of real-world job
10 and vocational experiences, character-building work ethics training,
11 life management skills development, substance abuse rehabilitation,
12 counseling, literacy training, and basic adult education.

13 (41) "Work release" means a program of partial confinement
14 available to offenders who are employed or engaged as a student in a
15 regular course of study at school. Participation in work release shall
16 be conditioned upon the offender attending work or school at regularly
17 defined hours and abiding by the rules of the work release facility.

18 (42) "Home detention" means a program of partial confinement
19 available to offenders wherein the offender is confined in a private
20 residence subject to electronic surveillance.

21 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
22 to read as follows:

23 (1) Where the court finds that the offender has a chemical
24 dependency that has contributed to his or her offense, the court may,
25 as a condition of the sentence, order the offender to participate in
26 rehabilitative programs or otherwise to perform affirmative conduct
27 reasonably related to the circumstances of the crime for which the
28 offender has been convicted and reasonably necessary or beneficial to
29 the offender and the community in rehabilitating the offender.

30 (2) This section applies to sentences which include any term other
31 than, or in addition to, a term of total confinement, including
32 suspended sentences.

33 **Sec. 3.** RCW 9.94A.110 and 1998 c 260 s 2 are each amended to read
34 as follows:

35 Before imposing a sentence upon a defendant, the court shall
36 conduct a sentencing hearing. The sentencing hearing shall be held
37 within forty court days following conviction. Upon the motion of

1 either party for good cause shown, or on its own motion, the court may
2 extend the time period for conducting the sentencing hearing.

3 Unless specifically waived by the court, the court shall order the
4 department to complete a chemical dependency screening report before
5 imposing a sentence upon a defendant who has been convicted of a
6 violation of the uniform controlled substances act or a criminal
7 solicitation to commit such a violation under chapter 9A.28 or 69.50
8 RCW or where the court finds that the offender has a chemical
9 dependency that has contributed to his or her offense. In addition,
10 the court shall order the department to complete a presentence report
11 before imposing a sentence upon a defendant who has been convicted of
12 a felony sexual offense. The department of corrections shall give
13 priority to presentence investigations for sexual offenders. If the
14 court determines that the defendant may be a mentally ill person as
15 defined in RCW 71.24.025, although the defendant has not established
16 that at the time of the crime he or she lacked the capacity to commit
17 the crime, was incompetent to commit the crime, or was insane at the
18 time of the crime, the court shall order the department to complete a
19 presentence report before imposing a sentence.

20 The court shall consider the presentence reports, if any, including
21 any victim impact statement and criminal history, and allow arguments
22 from the prosecutor, the defense counsel, the offender, the victim, the
23 survivor of the victim, or a representative of the victim or survivor,
24 and an investigative law enforcement officer as to the sentence to be
25 imposed.

26 If the court is satisfied by a preponderance of the evidence that
27 the defendant has a criminal history, the court shall specify the
28 convictions it has found to exist. All of this information shall be
29 part of the record. Copies of all presentence reports presented to the
30 sentencing court and all written findings of facts and conclusions of
31 law as to sentencing entered by the court shall be sent to the
32 department by the clerk of the court at the conclusion of the
33 sentencing and shall accompany the offender if the offender is
34 committed to the custody of the department. Court clerks shall
35 provide, without charge, certified copies of documents relating to
36 criminal convictions requested by prosecuting attorneys.

37 **Sec. 4.** RCW 9.94A.120 and 1998 c 260 s 3 are each amended to read
38 as follows:

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

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

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

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

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

1 (5) In sentencing a first-time offender the court may waive the
2 imposition of a sentence within the sentence range and impose a
3 sentence which may include up to ninety days of confinement in a
4 facility operated or utilized under contract by the county and a
5 requirement that the offender refrain from committing new offenses.
6 The sentence may also include up to two years of community supervision,
7 which, in addition to crime-related prohibitions, may include
8 requirements that the offender perform any one or more of the
9 following:

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

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

14 (c) Pursue a prescribed, secular course of study or vocational
15 training;

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

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

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

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

25 (i) ~~The offender is convicted of ((the manufacture, delivery, or~~
26 ~~possession with intent to manufacture or deliver a controlled substance~~
27 ~~classified in Schedule I or II that is a narcotic drug or a felony that~~
28 ~~is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,~~
29 ~~criminal solicitation, or criminal conspiracy to commit such crimes,))~~
30 a felony that is not a violent offense or sex offense and the violation
31 does not involve a sentence enhancement under RCW 9.94A.310 (3) or (4);

32 (ii) The offender has no current or prior convictions for a
33 ~~((felony))~~ sex offense or violent offense in this state, another state,
34 or the United States; ~~((and))~~

35 (iii) For a violation of the uniform controlled substances act or
36 a criminal solicitation to commit such a violation under chapter 9A.28
37 or 69.50 RCW, the offense involved only a small quantity of the
38 particular controlled substance as determined by the judge upon

1 consideration of such factors as the weight, purity, packaging, sale
2 price, and street value of the controlled substance; and

3 (iv) The offender has not been found by the United States attorney
4 general to be subject to a deportation detainer or order.

5 (b) If the ~~((midpoint of the))~~ standard range is greater than one
6 year and the sentencing judge determines that the offender is eligible
7 for this option and that the offender and the community will benefit
8 from the use of the special drug offender sentencing alternative, the
9 judge may waive imposition of a sentence within the standard range and
10 impose a sentence that must include a period of total confinement in a
11 state facility for one-half of the midpoint of the standard range.
12 During incarceration in the state facility, offenders sentenced under
13 this subsection shall undergo a comprehensive substance abuse
14 assessment and receive, within available resources, treatment services
15 appropriate for the offender. The treatment services shall be designed
16 by the division of alcohol and substance abuse of the department of
17 social and health services, in cooperation with the department of
18 corrections. ~~((If the midpoint of the standard range is twenty four~~
19 ~~months or less, no more than three months of the sentence may be served~~
20 ~~in a work release status.))~~

21 The court shall also impose ~~((one year of concurrent community~~
22 ~~eustody and community supervision that))~~:

23 (i) The remainder of the midpoint of the standard range as a term
24 of community custody which must include appropriate ((outpatient))
25 substance abuse treatment((~~7~~)) in a program that has been approved by
26 the division of alcohol and substance abuse of the department of social
27 and health services;

28 (ii) Crime-related prohibitions including a condition not to use
29 illegal controlled substances((~~7~~)); and

30 (iii) A requirement to submit to urinalysis or other testing to
31 monitor that status.

32 The court may prohibit the offender from using alcohol or
33 controlled substances and may require that the monitoring for
34 controlled substances be conducted by the department or by a treatment
35 alternatives to street crime program or a comparable court or agency-
36 referred program. The offender may be required to pay thirty dollars
37 per month while on community custody to offset the cost of monitoring.
38 In addition, the court shall impose three or more of the following
39 conditions:

1 ~~((i))~~ (A) Devote time to a specific employment or training;
2 ~~((ii))~~ (B) Remain within prescribed geographical boundaries and
3 notify the court or the community corrections officer before any change
4 in the offender's address or employment;
5 ~~((iii))~~ (C) Report as directed to a community corrections
6 officer;
7 ~~((iv))~~ (D) Pay all court-ordered legal financial obligations;
8 ~~((v))~~ (E) Perform community service work;
9 ~~((vi))~~ (F) Stay out of areas designated by the sentencing judge;
10 (G) Such other conditions as the court may require such as
11 affirmative conditions.

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

29 (d) The department shall determine the rules for calculating the
30 value of a day fine based on the offender's income and reasonable
31 obligations which the offender has for the support of the offender and
32 any dependents. These rules shall be developed in consultation with
33 the administrator for the courts, the office of financial management,
34 and the commission.

35 (e) An offender who fails to complete the special drug offender
36 sentencing alternative program, who is administratively terminated from
37 the program, or who otherwise violates any conditions of supervision as
38 defined by the department, may be reclassified to serve the unexpired

1 term of his or her sentence as ordered by the sentencing judge and
2 shall be subject to all rules relating to earned early release time.

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

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

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

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

- 28 (A) Frequency and type of contact between offender and therapist;
- 29 (B) Specific issues to be addressed in the treatment and
30 description of planned treatment modalities;
- 31 (C) Monitoring plans, including any requirements regarding living
32 conditions, lifestyle requirements, and monitoring by family members
33 and others;
- 34 (D) Anticipated length of treatment; and
- 35 (E) Recommended crime-related prohibitions.

36 The court on its own motion may order, or on a motion by the state
37 shall order, a second examination regarding the offender's amenability
38 to treatment. The evaluator shall be selected by the party making the
39 motion. The defendant shall pay the cost of any second examination

1 ordered unless the court finds the defendant to be indigent in which
2 case the state shall pay the cost.

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

12 (A) The court shall place the defendant on community custody for
13 the length of the suspended sentence or three years, whichever is
14 greater, and require the offender to comply with any conditions imposed
15 by the department of corrections under subsection (14) of this section;

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

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

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

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

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

1 (V) Make recoupment to the victim for the cost of any counseling
2 required as a result of the offender's crime; and

3 (C) Sex offenders sentenced under this special sex offender
4 sentencing alternative are not eligible to accrue any earned early
5 release time while serving a suspended sentence.

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 custody, and either (B) terminate treatment, or (C) extend
27 treatment for up to the remaining period of community custody.

28 (v) If a violation of conditions occurs during community custody,
29 the department shall either impose sanctions as provided for in RCW
30 9.94A.205(2)(a) or refer the violation to the court and recommend
31 revocation of the suspended sentence as provided for in (a)(vi) of this
32 subsection.

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

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

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

14 (ix) For purposes of this subsection (8), "victim" means any person
15 who has sustained emotional, psychological, physical, or financial
16 injury to person or property as a result of the crime charged.
17 "Victim" also means a parent or guardian of a victim who is a minor
18 child unless the parent or guardian is the perpetrator of the offense.

19 (x) If the defendant was less than eighteen years of age when the
20 charge was filed, the state shall pay for the cost of initial
21 evaluation and treatment.

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

29 Except for an offender who has been convicted of a violation of RCW
30 9A.44.040 or 9A.44.050, if the offender completes the treatment program
31 before the expiration of his or her term of confinement, the department
32 of corrections may request the court to convert the balance of
33 confinement to community supervision and to place conditions on the
34 offender including crime-related prohibitions and requirements that the
35 offender perform any one or more of the following:

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

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

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

3 (iv) Undergo available outpatient treatment.

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

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

12 (c) Offenders convicted and sentenced for a sex offense committed
13 prior to July 1, 1987, may, subject to available funds, request an
14 evaluation by the department of corrections to determine whether they
15 are amenable to treatment. If the offender is determined to be
16 amenable to treatment, the offender may request placement in a
17 treatment program within a correctional facility operated by the
18 department. Placement in such treatment program is subject to
19 available funds.

20 (9)(a) When a court sentences a person to a term of total
21 confinement to the custody of the department of corrections for an
22 offense categorized as a sex offense or a serious violent offense
23 committed after July 1, 1988, but before July 1, 1990, assault in the
24 second degree, assault of a child in the second degree, any crime
25 against a person where it is determined in accordance with RCW
26 9.94A.125 that the defendant or an accomplice was armed with a deadly
27 weapon at the time of commission, or any felony offense under chapter
28 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
29 committed on or after July 1, 1988, the court shall in addition to the
30 other terms of the sentence, sentence the offender to a one-year term
31 of community placement beginning either upon completion of the term of
32 confinement or at such time as the offender is transferred to community
33 custody in lieu of earned early release in accordance with RCW
34 9.94A.150 (1) and (2). When the court sentences an offender under this
35 subsection to the statutory maximum period of confinement then the
36 community placement portion of the sentence shall consist entirely of
37 such community custody to which the offender may become eligible, in
38 accordance with RCW 9.94A.150 (1) and (2). Any period of community

1 custody actually served shall be credited against the community
2 placement portion of the sentence.

3 (b) When a court sentences a person to a term of total confinement
4 to the custody of the department of corrections for an offense
5 categorized as a sex offense committed on or after July 1, 1990, but
6 before June 6, 1996, a serious violent offense, vehicular homicide, or
7 vehicular assault, committed on or after July 1, 1990, the court shall
8 in addition to other terms of the sentence, sentence the offender to
9 community placement for two years or up to the period of earned early
10 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
11 longer. The community placement shall begin either upon completion of
12 the term of confinement or at such time as the offender is transferred
13 to community custody in lieu of earned early release in accordance with
14 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
15 this subsection to the statutory maximum period of confinement then the
16 community placement portion of the sentence shall consist entirely of
17 the community custody to which the offender may become eligible, in
18 accordance with RCW 9.94A.150 (1) and (2). Any period of community
19 custody actually served shall be credited against the community
20 placement portion of the sentence. Unless a condition is waived by the
21 court, the terms of community placement for offenders sentenced
22 pursuant to this section shall include the following conditions:

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

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

27 (iii) The offender shall not possess or consume controlled
28 substances except pursuant to lawfully issued prescriptions;

29 (iv) The offender shall pay supervision fees as determined by the
30 department of corrections;

31 (v) The residence location and living arrangements are subject to
32 the prior approval of the department of corrections during the period
33 of community placement; and

34 (vi) The offender shall submit to affirmative acts necessary to
35 monitor compliance with the orders of the court as required by the
36 department.

37 (c) As a part of any sentence imposed under (a) or (b) of this
38 subsection, 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;

8 (v) The offender shall comply with any crime-related prohibitions;
9 or

10 (vi) For an offender convicted of a felony sex offense against a
11 minor victim after June 6, 1996, the offender shall comply with any
12 terms and conditions of community placement imposed by the department
13 of corrections relating to contact between the sex offender and a minor
14 victim or a child of similar age or circumstance as a previous victim.

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

19 (10)(a) When a court sentences a person to the custody of the
20 department of corrections for an offense categorized as a sex offense
21 committed on or after June 6, 1996, the court shall, in addition to
22 other terms of the sentence, sentence the offender to community custody
23 for three years or up to the period of earned early release awarded
24 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
25 community custody shall begin either upon completion of the term of
26 confinement or at such time as the offender is transferred to community
27 custody in lieu of earned early release in accordance with RCW
28 9.94A.150 (1) and (2).

29 (b) Unless a condition is waived by the court, the terms of
30 community custody shall be the same as those provided for in subsection
31 (9)(b) of this section and may include those provided for in subsection
32 (9)(c) of this section. As part of any sentence that includes a term
33 of community custody imposed under this subsection, the court shall
34 also require the offender to comply with any conditions imposed by the
35 department of corrections under subsection (14) of this section.

36 (c) At any time prior to the completion of a sex offender's term of
37 community custody, if the court finds that public safety would be
38 enhanced, the court may impose and enforce an order extending any or
39 all of the conditions imposed pursuant to this section for a period up

1 to the maximum allowable sentence for the crime as it is classified in
2 chapter 9A.20 RCW, regardless of the expiration of the offender's term
3 of community custody. If a violation of a condition extended under
4 this subsection occurs after the expiration of the offender's term of
5 community custody, it shall be deemed a violation of the sentence for
6 the purposes of RCW 9.94A.195 and may be punishable as contempt of
7 court as provided for in RCW 7.21.040.

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

14 (12) If a sentence imposed includes payment of a legal financial
15 obligation, the sentence shall specify the total amount of the legal
16 financial obligation owed, and shall require the offender to pay a
17 specified monthly sum toward that legal financial obligation.
18 Restitution to victims shall be paid prior to any other payments of
19 monetary obligations. Any legal financial obligation that is imposed
20 by the court may be collected by the department, which shall deliver
21 the amount paid to the county clerk for credit. The offender's
22 compliance with payment of legal financial obligations shall be
23 supervised by the department for ten years following the entry of the
24 judgment and sentence or ten years following the offender's release
25 from total confinement. All monetary payments ordered shall be paid no
26 later than ten years after the last date of release from confinement
27 pursuant to a felony conviction or the date the sentence was entered
28 unless the superior court extends the criminal judgment an additional
29 ten years. If the legal financial obligations including crime victims'
30 assessments are not paid during the initial ten-year period, the
31 superior court may extend jurisdiction under the criminal judgment an
32 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and
33 9.94A.145. If jurisdiction under the criminal judgment is extended,
34 the department is not responsible for supervision of the offender
35 during the subsequent period. Independent of the department, the party
36 or entity to whom the legal financial obligation is owed shall have the
37 authority to utilize any other remedies available to the party or
38 entity to collect the legal financial obligation. Nothing in this
39 section makes the department, the state, or any of its employees,

1 agents, or other persons acting on their behalf liable under any
2 circumstances for the payment of these legal financial obligations. If
3 an order includes restitution as one of the monetary assessments, the
4 county clerk shall make disbursements to victims named in the order.

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

9 (14) All offenders sentenced to terms involving community
10 supervision, community service, community placement, or legal financial
11 obligation shall be under the supervision of the department of
12 corrections and shall follow explicitly the instructions and conditions
13 of the department of corrections. The department may require an
14 offender to perform affirmative acts it deems appropriate to monitor
15 compliance with the conditions of the sentence imposed.

16 (a) The instructions shall include, at a minimum, reporting as
17 directed to a community corrections officer, remaining within
18 prescribed geographical boundaries, notifying the community corrections
19 officer of any change in the offender's address or employment, and
20 paying the supervision fee assessment.

21 (b) For offenders sentenced to terms involving community custody
22 for crimes committed on or after June 6, 1996, the department may
23 include, in addition to the instructions in (a) of this subsection, any
24 appropriate conditions of supervision, including but not limited to,
25 prohibiting the offender from having contact with any other specified
26 individuals or specific class of individuals. The conditions
27 authorized under this subsection (14)(b) may be imposed by the
28 department prior to or during an offender's community custody term. If
29 a violation of conditions imposed by the court or the department
30 pursuant to subsection (10) of this section occurs during community
31 custody, it shall be deemed a violation of community placement for the
32 purposes of RCW 9.94A.207 and shall authorize the department to
33 transfer an offender to a more restrictive confinement status as
34 provided in RCW 9.94A.205. At any time prior to the completion of a
35 sex offender's term of community custody, the department may recommend
36 to the court that any or all of the conditions imposed by the court or
37 the department pursuant to subsection (10) of this section be continued
38 beyond the expiration of the offender's term of community custody as
39 authorized in subsection (10)(c) of this section.

1 The department may require offenders to pay for special services
2 rendered on or after July 25, 1993, including electronic monitoring,
3 day reporting, and telephone reporting, dependent upon the offender's
4 ability to pay. The department may pay for these services for
5 offenders who are not able to pay.

6 (15) All offenders sentenced to terms involving community
7 supervision, community service, or community placement under the
8 supervision of the department of corrections shall not own, use, or
9 possess firearms or ammunition. Offenders who own, use, or are found
10 to be in actual or constructive possession of firearms or ammunition
11 shall be subject to the appropriate violation process and sanctions.
12 "Constructive possession" as used in this subsection means the power
13 and intent to control the firearm or ammunition. "Firearm" as used in
14 this subsection means a weapon or device from which a projectile may be
15 fired by an explosive such as gunpowder.

16 (16) The sentencing court shall give the offender credit for all
17 confinement time served before the sentencing if that confinement was
18 solely in regard to the offense for which the offender is being
19 sentenced.

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

25 (18) The court shall order restitution whenever the offender is
26 convicted of a felony that results in injury to any person or damage to
27 or loss of property, whether the offender is sentenced to confinement
28 or placed under community supervision, unless extraordinary
29 circumstances exist that make restitution inappropriate in the court's
30 judgment. The court shall set forth the extraordinary circumstances in
31 the record if it does not order restitution.

32 (19) As a part of any sentence, the court may impose and enforce an
33 order that relates directly to the circumstances of the crime for which
34 the offender has been convicted, prohibiting the offender from having
35 any contact with other specified individuals or a specific class of
36 individuals for a period not to exceed the maximum allowable sentence
37 for the crime, regardless of the expiration of the offender's term of
38 community supervision or community placement.

1 (20) The court may order an offender whose sentence includes
2 community placement or community supervision to undergo a mental status
3 evaluation and to participate in available outpatient mental health
4 treatment, if the court finds that reasonable grounds exist to believe
5 that the offender is a mentally ill person as defined in RCW 71.24.025,
6 and that this condition is likely to have influenced the offense. An
7 order requiring mental status evaluation or treatment must be based on
8 a presentence report and, if applicable, mental status evaluations that
9 have been filed with the court to determine the offender's competency
10 or eligibility for a defense of insanity. The court may order
11 additional evaluations at a later date if deemed appropriate.

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

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

20 **Sec. 5.** RCW 9.94A.137 and 1995 1st sp.s. c 19 s 20 are each
21 amended to read as follows:

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

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

31 (iii) Is not currently subject to a sentence for, or being
32 prosecuted for, a violation of the uniform controlled substances act or
33 a criminal solicitation to commit such a violation under chapter 9A.28
34 or 69.50 RCW.

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

1 (2) If the sentencing judge determines that the offender is
2 eligible for the work ethic camp and is likely to qualify under
3 subsection (3) of this section, the judge shall impose a sentence
4 within the standard range and may recommend that the offender serve the
5 sentence at a work ethic camp. (~~The sentence shall provide that if~~
6 ~~the offender successfully completes the program, the department shall~~
7 ~~convert the period of work ethic camp confinement at the rate of one~~
8 ~~day of work ethic camp confinement to three days of total standard~~
9 ~~confinement.~~) In sentencing an offender to the work ethic camp, the
10 court shall specify: (a) That upon completion of the work ethic camp
11 the offender shall be released on community custody for any remaining
12 time of total confinement; (b) the applicable conditions of supervision
13 on community custody status as required by RCW 9.94A.120(9)(b) and
14 authorized by RCW 9.94A.120(9)(c); and (c) that violation of the
15 conditions may result in a return to total confinement for the balance
16 of the offender's remaining time of confinement.

17 (3) The department shall place the offender in the work ethic camp
18 program, subject to capacity, unless: (a) The department determines
19 that the offender has physical or mental impairments that would prevent
20 participation and completion of the program; (b) the department
21 determines that the offender's custody level prevents placement in the
22 program; (~~or~~) (c) the offender refuses to agree to the terms and
23 conditions of the program; (d) the offender has been found by the
24 United States attorney general to be subject to a deportation detainer
25 or order; or (e) the offender has participated in the work ethic camp
26 program in the past.

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

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

36 **Sec. 6.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
37 each reenacted and amended to read as follows:

1 Alternatives to total confinement are available for offenders with
2 sentences of one year or less. These alternatives include the
3 following sentence conditions that the court may order as substitutes
4 for total confinement:

5 (1) One day of partial confinement may be substituted for one day
6 of total confinement;

7 (2) In addition, for offenders convicted of nonviolent offenses
8 only, eight hours of community service may be substituted for one day
9 of total confinement, with a maximum conversion limit of two hundred
10 forty hours or thirty days. Community service hours must be completed
11 within the period of community supervision or a time period specified
12 by the court, which shall not exceed twenty-four months, pursuant to a
13 schedule determined by the department; and

14 (3) For offenders convicted of nonviolent and nonsex offenses, the
15 court may authorize county jails to convert jail confinement to an
16 available county supervised community option and may require the
17 offender to perform affirmative conduct pursuant to section 2 of this
18 act.

19 For sentences of nonviolent offenders for one year or less, the
20 court shall consider and give priority to available alternatives to
21 total confinement and shall state its reasons in writing on the
22 judgment and sentence form if the alternatives are not used.

23 NEW SECTION. Sec. 7. The legislature recognizes the utility of
24 drug court programs in reducing recidivism and assisting the courts by
25 diverting potential offenders from the normal course of criminal trial
26 proceedings.

27 NEW SECTION. Sec. 8. A new section is added to chapter 10.01 RCW
28 to read as follows:

29 (1) The superior and district courts of Washington may establish
30 drug court programs to accept offenders that have been diverted by the
31 courts from the normal course of prosecution for drug offenses.

32 (2) Pursuant to this section, "drug court" is defined as a program
33 that meets the criteria set forth in section 10 of this act.

34 NEW SECTION. Sec. 9. A new section is added to chapter 2.28 RCW
35 to read as follows:

1 Counties may establish and operate drug courts, as defined in
2 section 10 of this act.

3 NEW SECTION. **Sec. 10.** A new section is added to chapter 2.28 RCW
4 to read as follows:

5 (1) For the purposes of sections 7 through 11 of this act, "drug
6 court" means a court that has special calendars or dockets designed to
7 achieve a reduction in recidivism and substance abuse among nonviolent,
8 substance abusing offenders by increasing their likelihood for
9 successful rehabilitation through early, continuous, and intense
10 judicially supervised treatment, mandatory periodic drug testing, and
11 the use of appropriate sanctions and other rehabilitative services.

12 (2) Any jurisdiction that seeks a state appropriation to fund a
13 drug court program must first:

14 (a) Exhaust all federal funding that is available to support the
15 operations of their drug court and associated services; and

16 (b) Match, on a dollar-for-dollar basis, state moneys allocated for
17 drug court programs with local resources. Moneys allocated by the
18 state must be used to supplement, not supplant, other federal, state,
19 and local funds for drug court operations and associated services.

20 (3) At least eighty percent of funds provided pursuant to this
21 section shall be used for direct services to clients, with not more
22 than ten percent to be used for administration and an outcome
23 evaluation, including measurement of recidivism, according to the
24 definition adopted by the Washington state institute for public policy
25 pursuant to section 59, chapter 338, Laws of 1997.

26 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.96A
27 RCW to read as follows:

28 The department shall contract with counties operating drug courts
29 and counties in the process of implementing new drug courts for the
30 provision of drug and alcohol treatment services.

31 NEW SECTION. **Sec. 12.** The sum of two million dollars, or as much
32 thereof as may be necessary, is appropriated for the biennium ending
33 June 30, 2001, from the general fund to the department of social and
34 health services for the purposes of section 11 of this act.

1 NEW SECTION. **Sec. 13.** The department of corrections must develop
2 criteria for successful completion of the special drug offender
3 sentencing alternative program by December 31, 1999.

4 NEW SECTION. **Sec. 14.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

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