
SUBSTITUTE HOUSE BILL 3065

State of Washington **58th Legislature** **2004 Regular Session**

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Kagi, O'Brien and Upthegrove)

READ FIRST TIME 02/10/04.

1 AN ACT Relating to partial confinement options for certain drug
2 offenders; amending RCW 9.94A.030 and 9.94A.728; reenacting and
3 amending RCW 9.94A.030; providing an effective date; providing an
4 expiration date; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.030 and 2002 c 175 s 5 and 2002 c 107 s 2 are
7 each reenacted and amended to read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Board" means the indeterminate sentence review board created
11 under chapter 9.95 RCW.

12 (2) "Collect," or any derivative thereof, "collect and remit," or
13 "collect and deliver," when used with reference to the department,
14 means that the department, either directly or through a collection
15 agreement authorized by RCW 9.94A.760, 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 (3) "Commission" means the sentencing guidelines commission.

2 (4) "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 (5) "Community custody" means that portion of an offender's
7 sentence of confinement in lieu of earned release time or imposed
8 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
9 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
10 community subject to controls placed on the offender's movement and
11 activities by the department. For offenders placed on community
12 custody for crimes committed on or after July 1, 2000, the department
13 shall assess the offender's risk of reoffense and may establish and
14 modify conditions of community custody, in addition to those imposed by
15 the court, based upon the risk to community safety.

16 (6) "Community custody range" means the minimum and maximum period
17 of community custody included as part of a sentence under RCW
18 9.94A.715, as established by the commission or the legislature under
19 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

20 (7) "Community placement" means that period during which the
21 offender is subject to the conditions of community custody and/or
22 postrelease supervision, which begins either upon completion of the
23 term of confinement (postrelease supervision) or at such time as the
24 offender is transferred to community custody in lieu of earned release.
25 Community placement may consist of entirely community custody, entirely
26 postrelease supervision, or a combination of the two.

27 (8) "Community restitution" means compulsory service, without
28 compensation, performed for the benefit of the community by the
29 offender.

30 (9) "Community supervision" means a period of time during which a
31 convicted offender is subject to crime-related prohibitions and other
32 sentence conditions imposed by a court pursuant to this chapter or RCW
33 16.52.200(6) or 46.61.524. Where the court finds that any offender has
34 a chemical dependency that has contributed to his or her offense, the
35 conditions of supervision may, subject to available resources, include
36 treatment. For purposes of the interstate compact for out-of-state
37 supervision of parolees and probationers, RCW 9.95.270, community

1 supervision is the functional equivalent of probation and should be
2 considered the same as probation by other states.

3 (10) "Confinement" means total or partial confinement.

4 (11) "Conviction" means an adjudication of guilt pursuant to Titles
5 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
6 acceptance of a plea of guilty.

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

14 (13) "Criminal history" means the list of a defendant's prior
15 convictions and juvenile adjudications, whether in this state, in
16 federal court, or elsewhere.

17 (a) The history shall include, where known, for each conviction (i)
18 whether the defendant has been placed on probation and the length and
19 terms thereof; and (ii) whether the defendant has been incarcerated and
20 the length of incarceration.

21 (b) A conviction may be removed from a defendant's criminal history
22 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
23 a similar out-of-state statute, or if the conviction has been vacated
24 pursuant to a governor's pardon.

25 (c) The determination of a defendant's criminal history is distinct
26 from the determination of an offender score. A prior conviction that
27 was not included in an offender score calculated pursuant to a former
28 version of the sentencing reform act remains part of the defendant's
29 criminal history.

30 (14) "Day fine" means a fine imposed by the sentencing court that
31 equals the difference between the offender's net daily income and the
32 reasonable obligations that the offender has for the support of the
33 offender and any dependents.

34 (15) "Day reporting" means a program of enhanced supervision
35 designed to monitor the offender's daily activities and compliance with
36 sentence conditions, and in which the offender is required to report
37 daily to a specific location designated by the department or the
38 sentencing court.

1 (16) "Department" means the department of corrections.

2 (17) "Determinate sentence" means a sentence that states with
3 exactitude the number of actual years, months, or days of total
4 confinement, of partial confinement, of community supervision, the
5 number of actual hours or days of community restitution work, or
6 dollars or terms of a legal financial obligation. The fact that an
7 offender through earned release can reduce the actual period of
8 confinement shall not affect the classification of the sentence as a
9 determinate sentence.

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

22 (19) "Drug offender sentencing alternative" is a sentencing option
23 available to persons convicted of a felony offense other than a violent
24 offense or a sex offense and who are eligible for the option under RCW
25 9.94A.660.

26 (20) "Drug offense" means:

27 (a) Any felony violation of chapter 69.50 RCW except possession of
28 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
29 controlled substance (RCW 69.50.403);

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

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

36 (21) "Earned release" means earned release from confinement as
37 provided in RCW 9.94A.728.

38 (22) "Escape" means:

1 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
2 first degree (RCW 9A.76.110), escape in the second degree (RCW
3 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
4 willful failure to return from work release (RCW 72.65.070), or willful
5 failure to be available for supervision by the department while in
6 community custody (RCW 72.09.310); or

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

10 (23) "Felony traffic offense" means:

11 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
12 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
13 and-run injury-accident (RCW 46.52.020(4)); or

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

17 (24) "Fine" means a specific sum of money ordered by the sentencing
18 court to be paid by the offender to the court over a specific period of
19 time.

20 (25) "First-time offender" means any person who has no prior
21 convictions for a felony and is eligible for the first-time offender
22 waiver under RCW 9.94A.650.

23 (26) "Home detention" means a program of partial confinement
24 available to offenders wherein the offender is confined in a private
25 residence subject to electronic surveillance.

26 (27) "Legal financial obligation" means a sum of money that is
27 ordered by a superior court of the state of Washington for legal
28 financial obligations which may include restitution to the victim,
29 statutorily imposed crime victims' compensation fees as assessed
30 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
31 court-appointed attorneys' fees, and costs of defense, fines, and any
32 other financial obligation that is assessed to the offender as a result
33 of a felony conviction. Upon conviction for vehicular assault while
34 under the influence of intoxicating liquor or any drug, RCW
35 46.61.522(1)(b), or vehicular homicide while under the influence of
36 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
37 obligations may also include payment to a public agency of the expense

1 of an emergency response to the incident resulting in the conviction,
2 subject to RCW 38.52.430.

3 (28) "Most serious offense" means any of the following felonies or
4 a felony attempt to commit any of the following felonies:

5 (a) Any felony defined under any law as a class A felony or
6 criminal solicitation of or criminal conspiracy to commit a class A
7 felony;

8 (b) Assault in the second degree;

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

10 (d) Child molestation in the second degree;

11 (e) Controlled substance homicide;

12 (f) Extortion in the first degree;

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

14 (h) Indecent liberties;

15 (i) Kidnapping in the second degree;

16 (j) Leading organized crime;

17 (k) Manslaughter in the first degree;

18 (l) Manslaughter in the second degree;

19 (m) Promoting prostitution in the first degree;

20 (n) Rape in the third degree;

21 (o) Robbery in the second degree;

22 (p) Sexual exploitation;

23 (q) Vehicular assault, when caused by the operation or driving of
24 a vehicle by a person while under the influence of intoxicating liquor
25 or any drug or by the operation or driving of a vehicle in a reckless
26 manner;

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

31 (s) Any other class B felony offense with a finding of sexual
32 motivation;

33 (t) Any other felony with a deadly weapon verdict under RCW
34 9.94A.602;

35 (u) Any felony offense in effect at any time prior to December 2,
36 1993, that is comparable to a most serious offense under this
37 subsection, or any federal or out-of-state conviction for an offense

1 that under the laws of this state would be a felony classified as a
2 most serious offense under this subsection;

3 (v)(i) A prior conviction for indecent liberties under RCW
4 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
5 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
6 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
7 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

8 (ii) A prior conviction for indecent liberties under RCW
9 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
10 if: (A) The crime was committed against a child under the age of
11 fourteen; or (B) the relationship between the victim and perpetrator is
12 included in the definition of indecent liberties under RCW
13 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
14 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
15 through July 27, 1997.

16 (29) "Nonviolent offense" means an offense which is not a violent
17 offense.

18 (30) "Offender" means a person who has committed a felony
19 established by state law and is eighteen years of age or older or is
20 less than eighteen years of age but whose case is under superior court
21 jurisdiction under RCW 13.04.030 or has been transferred by the
22 appropriate juvenile court to a criminal court pursuant to RCW
23 13.40.110. Throughout this chapter, the terms "offender" and
24 "defendant" are used interchangeably.

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

33 (32) "Persistent offender" is an offender who:

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

36 (ii) Has, before the commission of the offense under (a) of this
37 subsection, been convicted as an offender on at least two separate
38 occasions, whether in this state or elsewhere, of felonies that under

1 the laws of this state would be considered most serious offenses and
2 would be included in the offender score under RCW 9.94A.525; provided
3 that of the two or more previous convictions, at least one conviction
4 must have occurred before the commission of any of the other most
5 serious offenses for which the offender was previously convicted; or

6 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
7 of a child in the first degree, child molestation in the first degree,
8 rape in the second degree, rape of a child in the second degree, or
9 indecent liberties by forcible compulsion; (B) any of the following
10 offenses with a finding of sexual motivation: Murder in the first
11 degree, murder in the second degree, homicide by abuse, kidnapping in
12 the first degree, kidnapping in the second degree, assault in the first
13 degree, assault in the second degree, assault of a child in the first
14 degree, or burglary in the first degree; or (C) an attempt to commit
15 any crime listed in this subsection (32)(b)(i); and

16 (ii) Has, before the commission of the offense under (b)(i) of this
17 subsection, been convicted as an offender on at least one occasion,
18 whether in this state or elsewhere, of an offense listed in (b)(i) of
19 this subsection or any federal or out-of-state offense or offense under
20 prior Washington law that is comparable to the offenses listed in
21 (b)(i) of this subsection. A conviction for rape of a child in the
22 first degree constitutes a conviction under (b)(i) of this subsection
23 only when the offender was sixteen years of age or older when the
24 offender committed the offense. A conviction for rape of a child in
25 the second degree constitutes a conviction under (b)(i) of this
26 subsection only when the offender was eighteen years of age or older
27 when the offender committed the offense.

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

30 (34) "Restitution" means a specific sum of money ordered by the
31 sentencing court to be paid by the offender to the court over a
32 specified period of time as payment of damages. The sum may include
33 both public and private costs.

34 (35) "Risk assessment" means the application of an objective
35 instrument supported by research and adopted by the department for the
36 purpose of assessing an offender's risk of reoffense, taking into
37 consideration the nature of the harm done by the offender, place and
38 circumstances of the offender related to risk, the offender's

1 relationship to any victim, and any information provided to the
2 department by victims. The results of a risk assessment shall not be
3 based on unconfirmed or unconfirmable allegations.

4 (36) "Serious traffic offense" means:

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

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

13 (37) "Serious violent offense" is a subcategory of violent offense
14 and means:

15 (a)(i) Murder in the first degree;

16 (ii) Homicide by abuse;

17 (iii) Murder in the second degree;

18 (iv) Manslaughter in the first degree;

19 (v) Assault in the first degree;

20 (vi) Kidnapping in the first degree;

21 (vii) Rape in the first degree;

22 (viii) Assault of a child in the first degree; or

23 (ix) An attempt, criminal solicitation, or criminal conspiracy to
24 commit one of these felonies; or

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

28 (38) "Sex offense" means:

29 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
30 RCW 9A.44.130(11);

31 (ii) A violation of RCW 9A.64.020;

32 (iii) A felony that is a violation of chapter 9.68A RCW other than
33 RCW 9.68A.070 or 9.68A.080; or

34 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
35 criminal solicitation, or criminal conspiracy to commit such crimes;

36 (b) Any conviction for a felony offense in effect at any time prior
37 to July 1, 1976, that is comparable to a felony classified as a sex
38 offense in (a) of this subsection;

1 (c) A felony with a finding of sexual motivation under RCW
2 9.94A.835 or 13.40.135; or

3 (d) Any federal or out-of-state conviction for an offense that
4 under the laws of this state would be a felony classified as a sex
5 offense under (a) of this subsection.

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

9 (40) "Standard sentence range" means the sentencing court's
10 discretionary range in imposing a nonappealable sentence.

11 (41) "Statutory maximum sentence" means the maximum length of time
12 for which an offender may be confined as punishment for a crime as
13 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
14 crime, or other statute defining the maximum penalty for a crime.

15 (42) "Total confinement" means confinement inside the physical
16 boundaries of a facility or institution operated or utilized under
17 contract by the state or any other unit of government for twenty-four
18 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

19 (43) "Transition training" means written and verbal instructions
20 and assistance provided by the department to the offender during the
21 two weeks prior to the offender's successful completion of the work
22 ethic camp program. The transition training shall include instructions
23 in the offender's requirements and obligations during the offender's
24 period of community custody.

25 (44) "Victim" means any person who has sustained emotional,
26 psychological, physical, or financial injury to person or property as
27 a direct result of the crime charged.

28 (45) "Violent offense" means:

29 (a) Any of the following felonies:

30 (i) Any felony defined under any law as a class A felony or an
31 attempt to commit a class A felony;

32 (ii) Criminal solicitation of or criminal conspiracy to commit a
33 class A felony;

34 (iii) Manslaughter in the first degree;

35 (iv) Manslaughter in the second degree;

36 (v) Indecent liberties if committed by forcible compulsion;

37 (vi) Kidnapping in the second degree;

38 (vii) Arson in the second degree;

1 (viii) Assault in the second degree;

2 (ix) Assault of a child in the second degree;

3 (x) Extortion in the first degree;

4 (xi) Robbery in the second degree;

5 (xii) Drive-by shooting;

6 (xiii) Vehicular assault, when caused by the operation or driving
7 of a vehicle by a person while under the influence of intoxicating
8 liquor or any drug or by the operation or driving of a vehicle in a
9 reckless manner; and

10 (xiv) Vehicular homicide, when proximately caused by the driving of
11 any vehicle by any person while under the influence of intoxicating
12 liquor or any drug as defined by RCW 46.61.502, or by the operation of
13 any vehicle in a reckless manner;

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

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

20 (46) "Work crew" means a program of partial confinement consisting
21 of civic improvement tasks for the benefit of the community that
22 complies with RCW 9.94A.725.

23 (47) "Work ethic camp" means an alternative incarceration program
24 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
25 the cost of corrections by requiring offenders to complete a
26 comprehensive array of real-world job and vocational experiences,
27 character-building work ethics training, life management skills
28 development, substance abuse rehabilitation, counseling, literacy
29 training, and basic adult education.

30 (48) "Work release" means a program of partial confinement
31 available to offenders who are employed or engaged as a student in a
32 regular course of study at school.

33 **Sec. 2.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read
34 as follows:

35 Unless the context clearly requires otherwise, the definitions in
36 this section apply throughout this chapter.

1 (1) "Board" means the indeterminate sentence review board created
2 under chapter 9.95 RCW.

3 (2) "Collect," or any derivative thereof, "collect and remit," or
4 "collect and deliver," when used with reference to the department,
5 means that the department, either directly or through a collection
6 agreement authorized by RCW 9.94A.760, is responsible for monitoring
7 and enforcing the offender's sentence with regard to the legal
8 financial obligation, receiving payment thereof from the offender, and,
9 consistent with current law, delivering daily the entire payment to the
10 superior court clerk without depositing it in a departmental account.

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

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

16 (5) "Community custody" means that portion of an offender's
17 sentence of confinement in lieu of earned release time or imposed
18 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
19 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
20 community subject to controls placed on the offender's movement and
21 activities by the department. For offenders placed on community
22 custody for crimes committed on or after July 1, 2000, the department
23 shall assess the offender's risk of reoffense and may establish and
24 modify conditions of community custody, in addition to those imposed by
25 the court, based upon the risk to community safety.

26 (6) "Community custody range" means the minimum and maximum period
27 of community custody included as part of a sentence under RCW
28 9.94A.715, as established by the commission or the legislature under
29 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

30 (7) "Community placement" means that period during which the
31 offender is subject to the conditions of community custody and/or
32 postrelease supervision, which begins either upon completion of the
33 term of confinement (postrelease supervision) or at such time as the
34 offender is transferred to community custody in lieu of earned release.
35 Community placement may consist of entirely community custody, entirely
36 postrelease supervision, or a combination of the two.

37 (8) "Community restitution" means compulsory service, without

1 compensation, performed for the benefit of the community by the
2 offender.

3 (9) "Community supervision" means a period of time during which a
4 convicted offender is subject to crime-related prohibitions and other
5 sentence conditions imposed by a court pursuant to this chapter or RCW
6 16.52.200(6) or 46.61.524. Where the court finds that any offender has
7 a chemical dependency that has contributed to his or her offense, the
8 conditions of supervision may, subject to available resources, include
9 treatment. For purposes of the interstate compact for out-of-state
10 supervision of parolees and probationers, RCW 9.95.270, community
11 supervision is the functional equivalent of probation and should be
12 considered the same as probation by other states.

13 (10) "Confinement" means total or partial confinement.

14 (11) "Conviction" means an adjudication of guilt pursuant to Titles
15 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
16 acceptance of a plea of guilty.

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

24 (13) "Criminal history" means the list of a defendant's prior
25 convictions and juvenile adjudications, whether in this state, in
26 federal court, or elsewhere.

27 (a) The history shall include, where known, for each conviction (i)
28 whether the defendant has been placed on probation and the length and
29 terms thereof; and (ii) whether the defendant has been incarcerated and
30 the length of incarceration.

31 (b) A conviction may be removed from a defendant's criminal history
32 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
33 a similar out-of-state statute, or if the conviction has been vacated
34 pursuant to a governor's pardon.

35 (c) The determination of a defendant's criminal history is distinct
36 from the determination of an offender score. A prior conviction that
37 was not included in an offender score calculated pursuant to a former

1 version of the sentencing reform act remains part of the defendant's
2 criminal history.

3 (14) "Day fine" means a fine imposed by the sentencing court that
4 equals the difference between the offender's net daily income and the
5 reasonable obligations that the offender has for the support of the
6 offender and any dependents.

7 (15) "Day reporting" means a program of enhanced supervision
8 designed to monitor the offender's daily activities and compliance with
9 sentence conditions, and in which the offender is required to report
10 daily to a specific location designated by the department or the
11 sentencing court.

12 (16) "Department" means the department of corrections.

13 (17) "Determinate sentence" means a sentence that states with
14 exactitude the number of actual years, months, or days of total
15 confinement, of partial confinement, of community supervision, the
16 number of actual hours or days of community restitution work, or
17 dollars or terms of a legal financial obligation. The fact that an
18 offender through earned release can reduce the actual period of
19 confinement shall not affect the classification of the sentence as a
20 determinate sentence.

21 (18) "Disposable earnings" means that part of the earnings of an
22 offender remaining after the deduction from those earnings of any
23 amount required by law to be withheld. For the purposes of this
24 definition, "earnings" means compensation paid or payable for personal
25 services, whether denominated as wages, salary, commission, bonuses, or
26 otherwise, and, notwithstanding any other provision of law making the
27 payments exempt from garnishment, attachment, or other process to
28 satisfy a court-ordered legal financial obligation, specifically
29 includes periodic payments pursuant to pension or retirement programs,
30 or insurance policies of any type, but does not include payments made
31 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
32 or Title 74 RCW.

33 (19) "Drug offender sentencing alternative" is a sentencing option
34 available to persons convicted of a felony offense other than a violent
35 offense or a sex offense and who are eligible for the option under RCW
36 9.94A.660.

37 (20) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of
2 a controlled substance (RCW 69.50.4013) or forged prescription for a
3 controlled substance (RCW 69.50.403);

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

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

10 (21) "Earned release" means earned release from confinement as
11 provided in RCW 9.94A.728.

12 (22) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
14 first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or willful
17 failure to be available for supervision by the department while in
18 community custody (RCW 72.09.310); or

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

22 (23) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
24 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
25 and-run injury-accident (RCW 46.52.020(4)); or

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

29 (24) "Fine" means a specific sum of money ordered by the sentencing
30 court to be paid by the offender to the court over a specific period of
31 time.

32 (25) "First-time offender" means any person who has no prior
33 convictions for a felony and is eligible for the first-time offender
34 waiver under RCW 9.94A.650.

35 (26) "Home detention" means a program of partial confinement
36 available to offenders wherein the offender is confined in a private
37 residence subject to electronic surveillance.

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

15 (28) "Most serious offense" means any of the following felonies or
16 a felony attempt to commit any of the following felonies:

17 (a) Any felony defined under any law as a class A felony or
18 criminal solicitation of or criminal conspiracy to commit a class A
19 felony;

20 (b) Assault in the second degree;

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

22 (d) Child molestation in the second degree;

23 (e) Controlled substance homicide;

24 (f) Extortion in the first degree;

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

26 (h) Indecent liberties;

27 (i) Kidnapping in the second degree;

28 (j) Leading organized crime;

29 (k) Manslaughter in the first degree;

30 (l) Manslaughter in the second degree;

31 (m) Promoting prostitution in the first degree;

32 (n) Rape in the third degree;

33 (o) Robbery in the second degree;

34 (p) Sexual exploitation;

35 (q) Vehicular assault, when caused by the operation or driving of
36 a vehicle by a person while under the influence of intoxicating liquor
37 or any drug or by the operation or driving of a vehicle in a reckless
38 manner;

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

5 (s) Any other class B felony offense with a finding of sexual
6 motivation;

7 (t) Any other felony with a deadly weapon verdict under RCW
8 9.94A.602;

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

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

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

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

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

36 (31) "Partial confinement" means confinement for no more than one
37 year in a facility or institution operated or utilized under contract
38 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
5 detention, and residential chemical dependency treatment.

6 (32) "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.525; 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) any of the following
21 offenses with a finding of sexual motivation: Murder in the first
22 degree, murder in the second degree, homicide by abuse, kidnapping in
23 the first degree, kidnapping in the second degree, assault in the first
24 degree, assault in the second degree, assault of a child in the first
25 degree, or burglary in the first degree; or (C) an attempt to commit
26 any crime listed in this subsection (32)(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 or any federal or out-of-state offense or offense under
31 prior Washington law that is comparable to the offenses listed in
32 (b)(i) of this subsection. A conviction for rape of a child in the
33 first degree constitutes a conviction under (b)(i) of this subsection
34 only when the offender was sixteen years of age or older when the
35 offender committed the offense. A conviction for rape of a child in
36 the second degree constitutes a conviction under (b)(i) of this
37 subsection only when the offender was eighteen years of age or older
38 when the offender committed the offense.

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

3 (34) "Restitution" means a specific sum of money ordered by the
4 sentencing court to be paid by the offender to the court over a
5 specified period of time as payment of damages. The sum may include
6 both public and private costs.

7 (35) "Risk assessment" means the application of an objective
8 instrument supported by research and adopted by the department for the
9 purpose of assessing an offender's risk of reoffense, taking into
10 consideration the nature of the harm done by the offender, place and
11 circumstances of the offender related to risk, the offender's
12 relationship to any victim, and any information provided to the
13 department by victims. The results of a risk assessment shall not be
14 based on unconfirmed or unconfirmable allegations.

15 (36) "Serious traffic offense" means:

16 (a) Driving while under the influence of intoxicating liquor or any
17 drug (RCW 46.61.502), actual physical control while under the influence
18 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
19 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
20 or

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

24 (37) "Serious violent offense" is a subcategory of violent offense
25 and means:

26 (a)(i) Murder in the first degree;

27 (ii) Homicide by abuse;

28 (iii) Murder in the second degree;

29 (iv) Manslaughter in the first degree;

30 (v) Assault in the first degree;

31 (vi) Kidnapping in the first degree;

32 (vii) Rape in the first degree;

33 (viii) Assault of a child in the first degree; or

34 (ix) An attempt, criminal solicitation, or criminal conspiracy to
35 commit one of these felonies; or

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

1 (38) "Sex offense" means:
2 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
3 RCW 9A.44.130(11);
4 (ii) A violation of RCW 9A.64.020;
5 (iii) A felony that is a violation of chapter 9.68A RCW other than
6 RCW 9.68A.070 or 9.68A.080; or
7 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
8 criminal solicitation, or criminal conspiracy to commit such crimes;
9 (b) Any conviction for a felony offense in effect at any time prior
10 to July 1, 1976, that is comparable to a felony classified as a sex
11 offense in (a) of this subsection;
12 (c) A felony with a finding of sexual motivation under RCW
13 9.94A.835 or 13.40.135; or
14 (d) Any federal or out-of-state conviction for an offense that
15 under the laws of this state would be a felony classified as a sex
16 offense under (a) of this subsection.
17 (39) "Sexual motivation" means that one of the purposes for which
18 the defendant committed the crime was for the purpose of his or her
19 sexual gratification.
20 (40) "Standard sentence range" means the sentencing court's
21 discretionary range in imposing a nonappealable sentence.
22 (41) "Statutory maximum sentence" means the maximum length of time
23 for which an offender may be confined as punishment for a crime as
24 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
25 crime, or other statute defining the maximum penalty for a crime.
26 (42) "Total confinement" means confinement inside the physical
27 boundaries of a facility or institution operated or utilized under
28 contract by the state or any other unit of government for twenty-four
29 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.
30 (43) "Transition training" means written and verbal instructions
31 and assistance provided by the department to the offender during the
32 two weeks prior to the offender's successful completion of the work
33 ethic camp program. The transition training shall include instructions
34 in the offender's requirements and obligations during the offender's
35 period of community custody.
36 (44) "Victim" means any person who has sustained emotional,
37 psychological, physical, or financial injury to person or property as
38 a direct result of the crime charged.

1 (45) "Violent offense" means:
2 (a) Any of the following felonies:
3 (i) Any felony defined under any law as a class A felony or an
4 attempt to commit a class A felony;
5 (ii) Criminal solicitation of or criminal conspiracy to commit a
6 class A felony;
7 (iii) Manslaughter in the first degree;
8 (iv) Manslaughter in the second degree;
9 (v) Indecent liberties if committed by forcible compulsion;
10 (vi) Kidnapping in the second degree;
11 (vii) Arson in the second degree;
12 (viii) Assault in the second degree;
13 (ix) Assault of a child in the second degree;
14 (x) Extortion in the first degree;
15 (xi) Robbery in the second degree;
16 (xii) Drive-by shooting;
17 (xiii) Vehicular assault, when caused by the operation or driving
18 of a vehicle by a person while under the influence of intoxicating
19 liquor or any drug or by the operation or driving of a vehicle in a
20 reckless manner; and
21 (xiv) Vehicular homicide, when proximately caused by the driving of
22 any vehicle by any person while under the influence of intoxicating
23 liquor or any drug as defined by RCW 46.61.502, or by the operation of
24 any vehicle in a reckless manner;
25 (b) Any conviction for a felony offense in effect at any time prior
26 to July 1, 1976, that is comparable to a felony classified as a violent
27 offense in (a) of this subsection; and
28 (c) Any federal or out-of-state conviction for an offense that
29 under the laws of this state would be a felony classified as a violent
30 offense under (a) or (b) of this subsection.
31 (46) "Work crew" means a program of partial confinement consisting
32 of civic improvement tasks for the benefit of the community that
33 complies with RCW 9.94A.725.
34 (47) "Work ethic camp" means an alternative incarceration program
35 as provided in RCW 9.94A.690 designed to reduce recidivism and lower
36 the cost of corrections by requiring offenders to complete a
37 comprehensive array of real-world job and vocational experiences,

1 character-building work ethics training, life management skills
2 development, substance abuse rehabilitation, counseling, literacy
3 training, and basic adult education.

4 (48) "Work release" means a program of partial confinement
5 available to offenders who are employed or engaged as a student in a
6 regular course of study at school.

7 **Sec. 3.** RCW 9.94A.728 and 2003 c 379 s 1 are each amended to read
8 as follows:

9 No person serving a sentence imposed pursuant to this chapter and
10 committed to the custody of the department shall leave the confines of
11 the correctional facility or be released prior to the expiration of the
12 sentence except as follows:

13 (1) Except as otherwise provided for in subsection (2) of this
14 section, the term of the sentence of an offender committed to a
15 correctional facility operated by the department may be reduced by
16 earned release time in accordance with procedures that shall be
17 developed and promulgated by the correctional agency having
18 jurisdiction in which the offender is confined. The earned release
19 time shall be for good behavior and good performance, as determined by
20 the correctional agency having jurisdiction. The correctional agency
21 shall not credit the offender with earned release credits in advance of
22 the offender actually earning the credits. Any program established
23 pursuant to this section shall allow an offender to earn early release
24 credits for presentence incarceration. If an offender is transferred
25 from a county jail to the department, the administrator of a county
26 jail facility shall certify to the department the amount of time spent
27 in custody at the facility and the amount of earned release time. An
28 offender who has been convicted of a felony committed after July 23,
29 1995, that involves any applicable deadly weapon enhancements under RCW
30 9.94A.533 (3) or (4), or both, shall not receive any good time credits
31 or earned release time for that portion of his or her sentence that
32 results from any deadly weapon enhancements.

33 (a) In the case of an offender convicted of a serious violent
34 offense, or a sex offense that is a class A felony, committed on or
35 after July 1, 1990, and before July 1, 2003, the aggregate earned
36 release time may not exceed fifteen percent of the sentence. In the
37 case of an offender convicted of a serious violent offense, or a sex

1 offense that is a class A felony, committed on or after July 1, 2003,
2 the aggregate earned release time may not exceed ten percent of the
3 sentence.

4 (b)(i) In the case of an offender who qualifies under (b)(ii) of
5 this subsection, the aggregate earned release time may not exceed fifty
6 percent of the sentence.

7 (ii) An offender is qualified to earn up to fifty percent of
8 aggregate earned release time under this subsection (1)(b) if he or
9 she:

10 (A) Is classified in one of the two lowest risk categories under
11 (b)(iii) of this subsection;

12 (B) Is not confined pursuant to a sentence for:

- 13 (I) A sex offense;
- 14 (II) A violent offense;
- 15 (III) A crime against persons as defined in RCW 9.94A.411;
- 16 (IV) A felony that is domestic violence as defined in RCW
17 10.99.020;

18 (V) A violation of RCW 9A.52.025 (residential burglary);

19 (VI) A violation of, or an attempt, solicitation, or conspiracy to
20 violate, RCW 69.50.401 by manufacture or delivery or possession with
21 intent to deliver methamphetamine; or

22 (VII) A violation of, or an attempt, solicitation, or conspiracy to
23 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
24 and

25 (C) Has no prior conviction for:

- 26 (I) A sex offense;
- 27 (II) A violent offense;
- 28 (III) A crime against persons as defined in RCW 9.94A.411;
- 29 (IV) A felony that is domestic violence as defined in RCW
30 10.99.020;

31 (V) A violation of RCW 9A.52.025 (residential burglary);

32 (VI) A violation of, or an attempt, solicitation, or conspiracy to
33 violate, RCW 69.50.401 by manufacture or delivery or possession with
34 intent to deliver methamphetamine; or

35 (VII) A violation of, or an attempt, solicitation, or conspiracy to
36 violate, RCW 69.50.406 (delivery of a controlled substance to a minor).

37 (iii) For purposes of determining an offender's eligibility under
38 this subsection (1)(b), the department shall perform a risk assessment

1 of every offender committed to a correctional facility operated by the
2 department who has no current or prior conviction for a sex offense, a
3 violent offense, a crime against persons as defined in RCW 9.94A.411,
4 a felony that is domestic violence as defined in RCW 10.99.020, a
5 violation of RCW 9A.52.025 (residential burglary), a violation of, or
6 an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by
7 manufacture or delivery or possession with intent to deliver
8 methamphetamine, or a violation of, or an attempt, solicitation, or
9 conspiracy to violate, RCW 69.50.406 (delivery of a controlled
10 substance to a minor). The department must classify each assessed
11 offender in one of four risk categories between highest and lowest
12 risk.

13 (iv) The department shall recalculate the earned release time and
14 reschedule the expected release dates for each qualified offender under
15 this subsection (1)(b).

16 (v) This subsection (1)(b) applies retroactively to eligible
17 offenders serving terms of total confinement in a state correctional
18 facility as of July 1, 2003.

19 (vi) This subsection (1)(b) does not apply to offenders convicted
20 after July 1, 2010.

21 (c) In no other case shall the aggregate earned release time exceed
22 one-third of the total sentence;

23 (2)(a) A person convicted of a sex offense or an offense
24 categorized as a serious violent offense, assault in the second degree,
25 vehicular homicide, vehicular assault, assault of a child in the second
26 degree, any crime against persons where it is determined in accordance
27 with RCW 9.94A.602 that the offender or an accomplice was armed with a
28 deadly weapon at the time of commission, or any felony offense under
29 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
30 eligible, in accordance with a program developed by the department, for
31 transfer to community custody status in lieu of earned release time
32 pursuant to subsection (1) of this section;

33 (b) A person convicted of a sex offense, a violent offense, any
34 crime against persons under RCW 9.94A.411(2), or a felony offense under
35 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may
36 become eligible, in accordance with a program developed by the
37 department, for transfer to community custody status in lieu of earned
38 release time pursuant to subsection (1) of this section;

1 (c) The department shall, as a part of its program for release to
2 the community in lieu of earned release, require the offender to
3 propose a release plan that includes an approved residence and living
4 arrangement. All offenders with community placement or community
5 custody terms eligible for release to community custody status in lieu
6 of earned release shall provide an approved residence and living
7 arrangement prior to release to the community;

8 (d) The department may deny transfer to community custody status in
9 lieu of earned release time pursuant to subsection (1) of this section
10 if the department determines an offender's release plan, including
11 proposed residence location and living arrangements, may violate the
12 conditions of the sentence or conditions of supervision, place the
13 offender at risk to violate the conditions of the sentence, place the
14 offender at risk to reoffend, or present a risk to victim safety or
15 community safety. The department's authority under this section is
16 independent of any court-ordered condition of sentence or statutory
17 provision regarding conditions for community custody or community
18 placement;

19 (3) An offender may leave a correctional facility pursuant to an
20 authorized furlough or leave of absence. In addition, offenders may
21 leave a correctional facility when in the custody of a corrections
22 officer or officers;

23 (4)(a) The secretary may authorize an extraordinary medical
24 placement for an offender when all of the following conditions exist:

25 (i) The offender has a medical condition that is serious enough to
26 require costly care or treatment;

27 (ii) The offender poses a low risk to the community because he or
28 she is physically incapacitated due to age or the medical condition;
29 and

30 (iii) Granting the extraordinary medical placement will result in
31 a cost savings to the state.

32 (b) An offender sentenced to death or to life imprisonment without
33 the possibility of release or parole is not eligible for an
34 extraordinary medical placement.

35 (c) The secretary shall require electronic monitoring for all
36 offenders in extraordinary medical placement unless the electronic
37 monitoring equipment interferes with the function of the offender's
38 medical equipment or results in the loss of funding for the offender's

1 medical care. The secretary shall specify who shall provide the
2 monitoring services and the terms under which the monitoring shall be
3 performed.

4 (d) The secretary may revoke an extraordinary medical placement
5 under this subsection at any time;

6 (5) The governor, upon recommendation from the clemency and pardons
7 board, may grant an extraordinary release for reasons of serious health
8 problems, senility, advanced age, extraordinary meritorious acts, or
9 other extraordinary circumstances;

10 (6)(a) Except as provided in (b) of this subsection, no more than
11 the final six months of the sentence may be served in partial
12 confinement designed to aid the offender in finding work and
13 reestablishing himself or herself in the community.

14 (b) For an offender convicted of an offense under chapter 69.50 RCW
15 other than: (i) A violation of, or an attempt, solicitation, or
16 conspiracy to violate RCW 69.50.401 by manufacture, delivery, or
17 possession with intent to deliver methamphetamine; or (ii) a violation
18 of, or an attempt, solicitation, or conspiracy to violate RCW
19 69.50.406, no more than the final twelve months of the sentence may be
20 served in partial confinement designed to provide the offender with
21 substance abuse evaluation and treatment. Partial confinement
22 authorized under this subsection (6)(b) shall be served in residential
23 chemical dependency treatment. The department shall administer a
24 urinalysis test at least once every two weeks on each offender serving
25 a term of partial confinement under this subsection (6)(b);

26 (7) The governor may pardon any offender;

27 (8) The department may release an offender from confinement any
28 time within ten days before a release date calculated under this
29 section; and

30 (9) An offender may leave a correctional facility prior to
31 completion of his or her sentence if the sentence has been reduced as
32 provided in RCW 9.94A.870.

33 Notwithstanding any other provisions of this section, an offender
34 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
35 mandatory minimum sentence of total confinement shall not be released
36 from total confinement before the completion of the listed mandatory
37 minimum sentence for that felony crime of conviction unless allowed

1 under RCW 9.94A.540, however persistent offenders are not eligible for
2 extraordinary medical placement.

3 NEW SECTION. **Sec. 4.** Sections 1 and 3 of this act are necessary
4 for the immediate preservation of the public peace, health, or safety,
5 or support of the state government and its existing public
6 institutions, and take effect immediately.

7 NEW SECTION. **Sec. 5.** Section 1 of this act expires July 1, 2004.

8 NEW SECTION. **Sec. 6.** Section 2 of this act takes effect July 1,
9 2004.

--- END ---