

**HB 3277 - H AMD 684**

By Representatives Ahern, McCune, Orcutt, Serben, Schindler,  
Woods, Roach and Shabro

**SCOPE AND OBJECT 2/1/2006**

1 On page 30, after line 34, insert:

2 "Sec. 8. RCW 9.94A.670 and 2004 c 176 s 4 are each amended to  
3 read as follows:

4 (1) Unless the context clearly requires otherwise, the  
5 definitions in this subsection apply to this section only.

6 (a) "Family member" means a relative by blood, marriage, or  
7 adoption, or a foster parent.

8 (b) "Sex offender treatment provider" or "treatment provider"  
9 means a certified sex offender treatment provider or a certified  
10 affiliate sex offender treatment provider as defined in RCW  
11 18.155.020.

12 (~~(b)~~) (c) "Substantial bodily harm" means bodily injury that  
13 involves a temporary but substantial disfigurement, or that causes  
14 a temporary but substantial loss or impairment of the function of  
15 any body part or organ, or that causes a fracture of any body part  
16 or organ.

17 (~~(c)~~) (d) "Victim" means any person who has sustained  
18 emotional, psychological, physical, or financial injury to person  
19 or property as a result of the crime charged. "Victim" also means  
20 a parent or guardian of a victim who is a minor child unless the  
21 parent or guardian is the perpetrator of the offense.

22 (2) An offender is eligible for the special sex offender  
23 sentencing alternative if:

24 (a) The offender has been convicted of a sex offense other than  
25 a violation of RCW 9A.44.050 or a sex offense that is also a  
26 serious violent offense;

27 (b) The offender has no prior convictions for a sex offense as  
28 defined in RCW 9.94A.030 or any other felony sex offenses in this  
29 or any other state;

1 (c) The offender has no prior adult convictions for a violent  
2 offense that was committed within five years of the date the  
3 current offense was committed;

4 (d) The offense did not result in substantial bodily harm to  
5 the victim;

6 (e) The offender had an established relationship with, or  
7 connection to, the victim such that the sole connection with the  
8 victim was not the commission of the crime; (~~and~~)

9 (f) The offender's standard sentence range for the offense  
10 includes the possibility of confinement for less than eleven years;  
11 and

12 (g) The offender was the immediate victim's family member.

13 (3) If the court finds the offender is eligible for this  
14 alternative, the court, on its own motion or the motion of the  
15 state or the offender, may order an examination to determine  
16 whether the offender is amenable to treatment.

17 (a) The report of the examination shall include at a minimum  
18 the following:

19 (i) The offender's version of the facts and the official  
20 version of the facts;

21 (ii) The offender's offense history;

22 (iii) An assessment of problems in addition to alleged deviant  
23 behaviors;

24 (iv) The offender's social and employment situation; and

25 (v) Other evaluation measures used.

26 The report shall set forth the sources of the examiner's  
27 information.

28 (b) The examiner shall assess and report regarding the  
29 offender's amenability to treatment and relative risk to the  
30 community. A proposed treatment plan shall be provided and shall  
31 include, at a minimum:

32 (i) Frequency and type of contact between offender and  
33 therapist;

34 (ii) Specific issues to be addressed in the treatment and  
35 description of planned treatment modalities;

36 (iii) Monitoring plans, including any requirements regarding  
37 living conditions, lifestyle requirements, and monitoring by family  
38 members and others;

39 (iv) Anticipated length of treatment; and

1 (v) Recommended crime-related prohibitions and affirmative  
2 conditions, which must include, to the extent known, an  
3 identification of specific activities or behaviors that are  
4 precursors to the offender's offense cycle, including, but not  
5 limited to, activities or behaviors such as viewing or listening to  
6 pornography or use of alcohol or controlled substances.

7 (c) The court on its own motion may order, or on a motion by  
8 the state shall order, a second examination regarding the  
9 offender's amenability to treatment. The examiner shall be  
10 selected by the party making the motion. The offender shall pay  
11 the cost of any second examination ordered unless the court finds  
12 the defendant to be indigent in which case the state shall pay the  
13 cost.

14 (4) After receipt of the reports, the court shall consider  
15 whether the offender and the community will benefit from use of  
16 this alternative, consider whether the alternative is too lenient  
17 in light of the extent and circumstances of the offense, consider  
18 whether the offender has victims in addition to the victim of the  
19 offense, consider whether the offender is amenable to treatment,  
20 consider the risk the offender would present to the community, to  
21 the victim, or to persons of similar age and circumstances as the  
22 victim, and consider the victim's opinion whether the offender  
23 should receive a treatment disposition under this section. The  
24 court shall give great weight to the victim's opinion whether the  
25 offender should receive a treatment disposition under this section.  
26 If the sentence imposed is contrary to the victim's opinion, the  
27 court shall enter written findings stating its reasons for imposing  
28 the treatment disposition. The fact that the offender admits to  
29 his or her offense does not, by itself, constitute amenability to  
30 treatment. If the court determines that this alternative is  
31 appropriate, the court shall then impose a sentence or, pursuant to  
32 RCW 9.94A.712, a minimum term of sentence, within the standard  
33 sentence range. If the sentence imposed is less than eleven years  
34 of confinement, the court may suspend the execution of the sentence  
35 and impose the following conditions of suspension:

36 (a) The court shall order the offender to serve a term of  
37 confinement of up to twelve months or the maximum term within the  
38 standard range, whichever is less. The court may order the  
39 offender to serve a term of confinement greater than twelve months

1 or the maximum term within the standard range based on the presence  
2 of an aggravating circumstance listed in \*RCW 9.94A.535(2). In no  
3 case shall the term of confinement exceed the statutory maximum  
4 sentence for the offense. The court may order the offender to  
5 serve all or part of his or her term of confinement in partial  
6 confinement. An offender sentenced to a term of confinement under  
7 this subsection is not eligible for earned release under RCW  
8 9.92.151 or 9.94A.728.

9 (b) The court shall place the offender on community custody for  
10 the length of the suspended sentence, the length of the maximum  
11 term imposed pursuant to RCW 9.94A.712, or three years, whichever  
12 is greater, and require the offender to comply with any conditions  
13 imposed by the department under RCW 9.94A.720.

14 (c) The court shall order treatment for any period up to five  
15 years in duration. The court, in its discretion, shall order  
16 outpatient sex offender treatment or inpatient sex offender  
17 treatment, if available. A community mental health center may not  
18 be used for such treatment unless it has an appropriate program  
19 designed for sex offender treatment. The offender shall not change  
20 sex offender treatment providers or treatment conditions without  
21 first notifying the prosecutor, the community corrections officer,  
22 and the court. If any party or the court objects to a proposed  
23 change, the offender shall not change providers or conditions  
24 without court approval after a hearing.

25 (d) As conditions of the suspended sentence, the court shall  
26 impose specific prohibitions and affirmative conditions relating to  
27 the known precursor activities or behaviors identified in the  
28 proposed treatment plan under subsection (3)(b)(v) of this section  
29 or identified in an annual review under subsection (7)(b) of this  
30 section.

31 (5) As conditions of the suspended sentence, the court may  
32 impose one or more of the following:

33 (a) Crime-related prohibitions;

34 (b) Require the offender to devote time to a specific  
35 employment or occupation;

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

1 (d) Require the offender to report as directed to the court and  
2 a community corrections officer;

3 (e) Require the offender to pay all court-ordered legal  
4 financial obligations as provided in RCW 9.94A.030;

5 (f) Require the offender to perform community restitution work;  
6 or

7 (g) Require the offender to reimburse the victim for the cost  
8 of any counseling required as a result of the offender's crime.

9 (6) At the time of sentencing, the court shall set a treatment  
10 termination hearing for three months prior to the anticipated date  
11 for completion of treatment.

12 (7)(a) The sex offender treatment provider shall submit  
13 quarterly reports on the offender's progress in treatment to the  
14 court and the parties. The report shall reference the treatment  
15 plan and include at a minimum the following: Dates of attendance,  
16 offender's compliance with requirements, treatment activities, the  
17 offender's relative progress in treatment, and any other material  
18 specified by the court at sentencing.

19 (b) The court shall conduct a hearing on the offender's  
20 progress in treatment at least once a year. At least fourteen days  
21 prior to the hearing, notice of the hearing shall be given to the  
22 victim. The victim shall be given the opportunity to make  
23 statements to the court regarding the offender's supervision and  
24 treatment. At the hearing, the court may modify conditions of  
25 community custody including, but not limited to, crime-related  
26 prohibitions and affirmative conditions relating to activities and  
27 behaviors identified as part of, or relating to precursor  
28 activities and behaviors in, the offender's offense cycle or revoke  
29 the suspended sentence.

30 (8) At least fourteen days prior to the treatment termination  
31 hearing, notice of the hearing shall be given to the victim. The  
32 victim shall be given the opportunity to make statements to the  
33 court regarding the offender's supervision and treatment. Prior to  
34 the treatment termination hearing, the treatment provider and  
35 community corrections officer shall submit written reports to the  
36 court and parties regarding the offender's compliance with  
37 treatment and monitoring requirements, and recommendations  
38 regarding termination from treatment, including proposed community  
39 custody conditions. The court may order an evaluation regarding

1 the advisability of termination from treatment by a sex offender  
2 treatment provider who may not be the same person who treated the  
3 offender under subsection (4) of this section or any person who  
4 employs, is employed by, or shares profits with the person who  
5 treated the offender under subsection (4) of this section unless  
6 the court has entered written findings that such evaluation is in  
7 the best interest of the victim and that a successful evaluation of  
8 the offender would otherwise be impractical. The offender shall  
9 pay the cost of the evaluation. At the treatment termination  
10 hearing the court may: (a) Modify conditions of community custody,  
11 and either (b) terminate treatment, or (c) extend treatment in two-  
12 year increments for up to the remaining period of community  
13 custody.

14 (9)(a) If a violation of conditions other than a second  
15 violation of the prohibitions or affirmative conditions relating to  
16 precursor behaviors or activities imposed under subsection (4)(d)  
17 or (7)(b) of this section occurs during community custody, the  
18 department shall either impose sanctions as provided for in RCW  
19 9.94A.737(2)(a) or refer the violation to the court and recommend  
20 revocation of the suspended sentence as provided for in subsections  
21 (6) and (8) of this section.

22 (b) If a second violation of the prohibitions or affirmative  
23 conditions relating to precursor behaviors or activities imposed  
24 under subsection (4)(d) or (7)(b) of this section occurs during  
25 community custody, the department shall refer the violation to the  
26 court and recommend revocation of the suspended sentence as  
27 provided in subsection (10) of this section.

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

36 (11) The offender's sex offender treatment provider may not be  
37 the same person who examined the offender under subsection (3) of  
38 this section or any person who employs, is employed by, or shares  
39 profits with the person who examined the offender under subsection

1 (3) of this section, unless the court has entered written findings  
2 that such treatment is in the best interests of the victim and that  
3 successful treatment of the offender would otherwise be  
4 impractical. Examinations and treatment ordered pursuant to this  
5 subsection shall only be conducted by certified sex offender  
6 treatment providers or certified affiliate sex offender treatment  
7 providers under chapter 18.155 RCW unless the court finds that:

8 (a) The offender has already moved to another state or plans to  
9 move to another state for reasons other than circumventing the  
10 certification requirements; or

11 (b)(i) No certified sex offender treatment providers or  
12 certified affiliate sex offender treatment providers are available  
13 for treatment within a reasonable geographical distance of the  
14 offender's home; and

15 (ii) The evaluation and treatment plan comply with this section  
16 and the rules adopted by the department of health.

17 (12) If the offender is less than eighteen years of age when  
18 the charge is filed, the state shall pay for the cost of initial  
19 evaluation and treatment."

20 Renumber the remaining sections consecutively and correct  
21 internal references accordingly.

22 On page 31, line 3, after "4" strike "and 6" and insert ", 6,  
23 and 8"

24 Correct the title.

**EFFECT:** Requires an offender to be a member of the immediate  
victim's family in order to be eligible for SSOSA.