

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6239

Chapter 339, Laws of 2006

59th Legislature
2006 Regular Session

CONTROLLED SUBSTANCES--METHAMPHETAMINE--IMPACTS

EFFECTIVE DATE: 6/7/06 - Except section 108, which becomes effective 1/1/07.

Passed by the Senate March 7, 2006
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 3, 2006
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 6239** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 30, 2006.

FILED

March 30, 2006 - 2:34 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

1 persons with methamphetamine addiction. Local governments receiving
2 funds under this section may not use the funds to supplant existing
3 funding.

4 (2) Counties receiving funding shall: (a) Provide a financial plan
5 for the expenditure of any potential funds prior to funds being
6 awarded; (b) report annually to the appropriate committees of the
7 legislature regarding the number of clients served, services provided,
8 and a statement of expenditures; and (c) expend no more than ten
9 percent for administrative costs or for information technology.

10 NEW SECTION. Sec. 102. A new section is added to chapter 72.09
11 RCW to read as follows:

12 (1) Through June 30, 2010, it is the intent of the legislature to
13 provide one hundred additional placements for therapeutic drug and
14 alcohol treatment in the state's correctional institutions, above the
15 level of placements provided on January 1, 2006.

16 (2) This section expires June 30, 2010.

17 NEW SECTION. Sec. 103. It is the intent of the legislature to
18 provide assistance for jurisdictions enforcing illegal drug laws that
19 have historically been underserved by federally funded state narcotics
20 task forces and are considered to be major transport areas of narcotics
21 traffickers.

22 NEW SECTION. Sec. 104. (1) Three pilot enforcement areas shall be
23 established for a period of four fiscal years, beginning July 1, 2006,
24 and ending June 30, 2010, with one in the southwestern region of the
25 state, comprising of Pacific, Wahkiakum, Lewis, Grays Harbor, and
26 Cowlitz counties; one in the southeastern region of the state,
27 comprising of Walla Walla, Columbia, Garfield, and Asotin counties; and
28 one in the northeastern part of the state, comprising of Stevens,
29 Ferry, Pend Oreille, and Lincoln counties. The counties comprising a
30 specific pilot area shall coordinate with each other to establish and
31 implement a regional strategy to enforce illegal drug laws.

32 (2) When funded by the legislature, funding is to be divided
33 equally among the three pilot enforcement areas. This funding is
34 intended to provide a minimum of four additional sheriff deputies for
35 each pilot area, two deputy prosecutors who will support the counties

1 that are included in the pilot area, a court clerk, and clerical staff
2 to serve the pilot area. It is the intent of the legislature that
3 those counties that have not previously received significant federal
4 narcotics task force funding shall be allocated funding for at least
5 one additional sheriff's deputy. Counties are encouraged to utilize
6 drug courts and treatment programs, and to share resources that operate
7 in the region through the use of interlocal agreements. The funding
8 appropriated for this purpose must not be used to supplant existing
9 funding and cannot be used for any purpose other than the enforcement
10 of illegal drug laws.

11 The criminal justice training commission shall allocate funds to
12 the Washington association of prosecuting attorneys and the Washington
13 association of sheriffs and police chiefs. The Washington association
14 of prosecuting attorneys is responsible for administration of the
15 funding and programs for the prosecution of crimes and court
16 proceedings. The Washington association of sheriffs and police chiefs
17 shall administer the funds provided for law enforcement.

18 NEW SECTION. **Sec. 105.** The Washington association of sheriffs and
19 police chiefs, the Washington association of prosecuting attorneys, and
20 the Washington association of county officials shall jointly develop
21 measures to determine the efficacy of the programs in the pilot areas.
22 These measures shall include comparison of arrest rates before the
23 implementation of this act and after, reduction of recidivism, and any
24 other factors that are determined to be relevant to evaluation of the
25 programs. The organizations named in this section shall present their
26 findings to the legislature by December 1, 2008.

27 **Sec. 106.** RCW 2.28.170 and 2005 c 504 s 504 are each amended to
28 read as follows:

29 (1) Counties may establish and operate drug courts.

30 (2) For the purposes of this section, "drug court" means a court
31 that has special calendars or dockets designed to achieve a reduction
32 in recidivism and substance abuse among nonviolent, substance abusing
33 felony and nonfelony offenders, whether adult or juvenile, by
34 increasing their likelihood for successful rehabilitation through
35 early, continuous, and intense judicially supervised treatment;

1 mandatory periodic drug testing; and the use of appropriate sanctions
2 and other rehabilitation services.

3 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
4 drug court program must first:

5 (i) Exhaust all federal funding that is available to support the
6 operations of its drug court and associated services; and

7 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
8 for drug court programs with local cash or in-kind resources. Moneys
9 allocated by the state must be used to supplement, not supplant, other
10 federal, state, and local funds for drug court operations and
11 associated services.

12 (b) Any county that establishes a drug court pursuant to this
13 section shall establish minimum requirements for the participation of
14 offenders in the program. The drug court may adopt local requirements
15 that are more stringent than the minimum. The minimum requirements
16 are:

17 (i) The offender would benefit from substance abuse treatment;

18 (ii) The offender has not previously been convicted of a serious
19 violent offense or sex offense as defined in RCW 9.94A.030; and

20 (iii) Without regard to whether proof of any of these elements is
21 required to convict, the offender is not currently charged with or
22 convicted of an offense:

23 (A) That is a sex offense;

24 (B) That is a serious violent offense;

25 (C) During which the defendant used a firearm; or

26 (D) During which the defendant caused substantial or great bodily
27 harm or death to another person.

28 **Sec. 107.** RCW 26.44.020 and 2000 c 162 s 19 are each amended to
29 read as follows:

30 The definitions in this section apply throughout this chapter
31 unless the context clearly requires otherwise.

32 (1) "Court" means the superior court of the state of Washington,
33 juvenile department.

34 (2) "Law enforcement agency" means the police department, the
35 prosecuting attorney, the state patrol, the director of public safety,
36 or the office of the sheriff.

1 (3) "Practitioner of the healing arts" or "practitioner" means a
2 person licensed by this state to practice podiatric medicine and
3 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
4 medicine and surgery, or medicine and surgery or to provide other
5 health services. The term "practitioner" includes a duly accredited
6 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
7 is being furnished Christian Science treatment by a duly accredited
8 Christian Science practitioner will not be considered, for that reason
9 alone, a neglected person for the purposes of this chapter.

10 (4) "Institution" means a private or public hospital or any other
11 facility providing medical diagnosis, treatment or care.

12 (5) "Department" means the state department of social and health
13 services.

14 (6) "Child" or "children" means any person under the age of
15 eighteen years of age.

16 (7) "Professional school personnel" include, but are not limited
17 to, teachers, counselors, administrators, child care facility
18 personnel, and school nurses.

19 (8) "Social service counselor" means anyone engaged in a
20 professional capacity during the regular course of employment in
21 encouraging or promoting the health, welfare, support or education of
22 children, or providing social services to adults or families, including
23 mental health, drug and alcohol treatment, and domestic violence
24 programs, whether in an individual capacity, or as an employee or agent
25 of any public or private organization or institution.

26 (9) "Psychologist" means any person licensed to practice psychology
27 under chapter 18.83 RCW, whether acting in an individual capacity or as
28 an employee or agent of any public or private organization or
29 institution.

30 (10) "Pharmacist" means any registered pharmacist under chapter
31 18.64 RCW, whether acting in an individual capacity or as an employee
32 or agent of any public or private organization or institution.

33 (11) "Clergy" means any regularly licensed or ordained minister,
34 priest, or rabbi of any church or religious denomination, whether
35 acting in an individual capacity or as an employee or agent of any
36 public or private organization or institution.

37 (12) "Abuse or neglect" means the injury, sexual abuse, sexual
38 exploitation, negligent treatment, or maltreatment of a child by any

1 person under circumstances which indicate that the child's health,
2 welfare, and safety is harmed, excluding conduct permitted under RCW
3 9A.16.100. An abused child is a child who has been subjected to child
4 abuse or neglect as defined in this section.

5 (13) "Child protective services section" means the child protective
6 services section of the department.

7 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
8 encouraging a child to engage in prostitution by any person; or (b)
9 allowing, permitting, encouraging, or engaging in the obscene or
10 pornographic photographing, filming, or depicting of a child by any
11 person.

12 (15) "Negligent treatment or maltreatment" means an act or omission
13 that evidences a serious disregard of consequences of such magnitude as
14 to constitute a clear and present danger to the child's health,
15 welfare, and safety, including but not limited to conduct prohibited
16 under RCW 9A.42.100. The fact that siblings share a bedroom is not, in
17 and of itself, negligent treatment or maltreatment.

18 (16) "Child protective services" means those services provided by
19 the department designed to protect children from child abuse and
20 neglect and safeguard such children from future abuse and neglect, and
21 conduct investigations of child abuse and neglect reports.
22 Investigations may be conducted regardless of the location of the
23 alleged abuse or neglect. Child protective services includes referral
24 to services to ameliorate conditions that endanger the welfare of
25 children, the coordination of necessary programs and services relevant
26 to the prevention, intervention, and treatment of child abuse and
27 neglect, and services to children to ensure that each child has a
28 permanent home. In determining whether protective services should be
29 provided, the department shall not decline to provide such services
30 solely because of the child's unwillingness or developmental inability
31 to describe the nature and severity of the abuse or neglect.

32 (17) "Malice" or "maliciously" means an evil intent, wish, or
33 design to vex, annoy, or injure another person. Such malice may be
34 inferred from an act done in willful disregard of the rights of
35 another, or an act wrongfully done without just cause or excuse, or an
36 act or omission of duty betraying a willful disregard of social duty.

37 (18) "Sexually aggressive youth" means a child who is defined in
38 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

1 (19) "Unfounded" means available information indicates that, more
2 likely than not, child abuse or neglect did not occur. No unfounded
3 allegation of child abuse or neglect may be disclosed to a child-
4 placing agency, private adoption agency, or any other provider licensed
5 under chapter 74.15 RCW.

6 **Sec. 108.** RCW 26.44.020 and 2005 c 512 s 5 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Court" means the superior court of the state of Washington,
11 juvenile department.

12 (2) "Law enforcement agency" means the police department, the
13 prosecuting attorney, the state patrol, the director of public safety,
14 or the office of the sheriff.

15 (3) "Practitioner of the healing arts" or "practitioner" means a
16 person licensed by this state to practice podiatric medicine and
17 surgery, optometry, chiropractic, nursing, dentistry, osteopathic
18 medicine and surgery, or medicine and surgery or to provide other
19 health services. The term "practitioner" includes a duly accredited
20 Christian Science practitioner: PROVIDED, HOWEVER, That a person who
21 is being furnished Christian Science treatment by a duly accredited
22 Christian Science practitioner will not be considered, for that reason
23 alone, a neglected person for the purposes of this chapter.

24 (4) "Institution" means a private or public hospital or any other
25 facility providing medical diagnosis, treatment or care.

26 (5) "Department" means the state department of social and health
27 services.

28 (6) "Child" or "children" means any person under the age of
29 eighteen years of age.

30 (7) "Professional school personnel" include, but are not limited
31 to, teachers, counselors, administrators, child care facility
32 personnel, and school nurses.

33 (8) "Social service counselor" means anyone engaged in a
34 professional capacity during the regular course of employment in
35 encouraging or promoting the health, welfare, support or education of
36 children, or providing social services to adults or families, including

1 mental health, drug and alcohol treatment, and domestic violence
2 programs, whether in an individual capacity, or as an employee or agent
3 of any public or private organization or institution.

4 (9) "Psychologist" means any person licensed to practice psychology
5 under chapter 18.83 RCW, whether acting in an individual capacity or as
6 an employee or agent of any public or private organization or
7 institution.

8 (10) "Pharmacist" means any registered pharmacist under chapter
9 18.64 RCW, whether acting in an individual capacity or as an employee
10 or agent of any public or private organization or institution.

11 (11) "Clergy" means any regularly licensed or ordained minister,
12 priest, or rabbi of any church or religious denomination, whether
13 acting in an individual capacity or as an employee or agent of any
14 public or private organization or institution.

15 (12) "Abuse or neglect" means sexual abuse, sexual exploitation, or
16 injury of a child by any person under circumstances which cause harm to
17 the child's health, welfare, or safety, excluding conduct permitted
18 under RCW 9A.16.100; or the negligent treatment or maltreatment of a
19 child by a person responsible for or providing care to the child. An
20 abused child is a child who has been subjected to child abuse or
21 neglect as defined in this section.

22 (13) "Child protective services section" means the child protective
23 services section of the department.

24 (14) "Sexual exploitation" includes: (a) Allowing, permitting, or
25 encouraging a child to engage in prostitution by any person; or (b)
26 allowing, permitting, encouraging, or engaging in the obscene or
27 pornographic photographing, filming, or depicting of a child by any
28 person.

29 (15) "Negligent treatment or maltreatment" means an act or a
30 failure to act, or the cumulative effects of a pattern of conduct,
31 behavior, or inaction, that evidences a serious disregard of
32 consequences of such magnitude as to constitute a clear and present
33 danger to a child's health, welfare, or safety, including but not
34 limited to conduct prohibited under RCW 9A.42.100. When considering
35 whether a clear and present danger exists, evidence of a parent's
36 substance abuse as a contributing factor to negligent treatment or
37 maltreatment shall be given great weight. The fact that siblings share
38 a bedroom is not, in and of itself, negligent treatment or

1 maltreatment. Poverty, homelessness, or exposure to domestic violence
2 as defined in RCW 26.50.010 that is perpetrated against someone other
3 than the child (~~(do-[does])~~) does not constitute negligent treatment or
4 maltreatment in and of (~~(themselves-[itself])~~) itself.

5 (16) "Child protective services" means those services provided by
6 the department designed to protect children from child abuse and
7 neglect and safeguard such children from future abuse and neglect, and
8 conduct investigations of child abuse and neglect reports.
9 Investigations may be conducted regardless of the location of the
10 alleged abuse or neglect. Child protective services includes referral
11 to services to ameliorate conditions that endanger the welfare of
12 children, the coordination of necessary programs and services relevant
13 to the prevention, intervention, and treatment of child abuse and
14 neglect, and services to children to ensure that each child has a
15 permanent home. In determining whether protective services should be
16 provided, the department shall not decline to provide such services
17 solely because of the child's unwillingness or developmental inability
18 to describe the nature and severity of the abuse or neglect.

19 (17) "Malice" or "maliciously" means an evil intent, wish, or
20 design to vex, annoy, or injure another person. Such malice may be
21 inferred from an act done in willful disregard of the rights of
22 another, or an act wrongfully done without just cause or excuse, or an
23 act or omission of duty betraying a willful disregard of social duty.

24 (18) "Sexually aggressive youth" means a child who is defined in
25 RCW 74.13.075(1)(b) as being a sexually aggressive youth.

26 (19) "Unfounded" means available information indicates that, more
27 likely than not, child abuse or neglect did not occur. No unfounded
28 allegation of child abuse or neglect may be disclosed to a child-
29 placing agency, private adoption agency, or any other provider licensed
30 under chapter 74.15 RCW.

31 **Sec. 109.** RCW 74.34.020 and 2003 c 230 s 1 are each amended to
32 read as follows:

33 Unless the context clearly requires otherwise, the definitions in
34 this section apply throughout this chapter.

35 (1) "Abandonment" means action or inaction by a person or entity
36 with a duty of care for a vulnerable adult that leaves the vulnerable

1 person without the means or ability to obtain necessary food, clothing,
2 shelter, or health care.

3 (2) "Abuse" means the willful action or inaction that inflicts
4 injury, unreasonable confinement, intimidation, or punishment on a
5 vulnerable adult. In instances of abuse of a vulnerable adult who is
6 unable to express or demonstrate physical harm, pain, or mental
7 anguish, the abuse is presumed to cause physical harm, pain, or mental
8 anguish. Abuse includes sexual abuse, mental abuse, physical abuse,
9 and exploitation of a vulnerable adult, which have the following
10 meanings:

11 (a) "Sexual abuse" means any form of nonconsensual sexual contact,
12 including but not limited to unwanted or inappropriate touching, rape,
13 sodomy, sexual coercion, sexually explicit photographing, and sexual
14 harassment. Sexual abuse includes any sexual contact between a staff
15 person, who is not also a resident or client, of a facility or a staff
16 person of a program authorized under chapter 71A.12 RCW, and a
17 vulnerable adult living in that facility or receiving service from a
18 program authorized under chapter 71A.12 RCW, whether or not it is
19 consensual.

20 (b) "Physical abuse" means the willful action of inflicting bodily
21 injury or physical mistreatment. Physical abuse includes, but is not
22 limited to, striking with or without an object, slapping, pinching,
23 choking, kicking, shoving, prodding, or the use of chemical restraints
24 or physical restraints unless the restraints are consistent with
25 licensing requirements, and includes restraints that are otherwise
26 being used inappropriately.

27 (c) "Mental abuse" means any willful action or inaction of mental
28 or verbal abuse. Mental abuse includes, but is not limited to,
29 coercion, harassment, inappropriately isolating a vulnerable adult from
30 family, friends, or regular activity, and verbal assault that includes
31 ridiculing, intimidating, yelling, or swearing.

32 (d) "Exploitation" means an act of forcing, compelling, or exerting
33 undue influence over a vulnerable adult causing the vulnerable adult to
34 act in a way that is inconsistent with relevant past behavior, or
35 causing the vulnerable adult to perform services for the benefit of
36 another.

37 (3) "Consent" means express written consent granted after the

1 vulnerable adult or his or her legal representative has been fully
2 informed of the nature of the services to be offered and that the
3 receipt of services is voluntary.

4 (4) "Department" means the department of social and health
5 services.

6 (5) "Facility" means a residence licensed or required to be
7 licensed under chapter 18.20 RCW, boarding homes; chapter 18.51 RCW,
8 nursing homes; chapter 70.128 RCW, adult family homes; chapter 72.36
9 RCW, soldiers' homes; or chapter 71A.20 RCW, residential habilitation
10 centers; or any other facility licensed by the department.

11 (6) "Financial exploitation" means the illegal or improper use of
12 the property, income, resources, or trust funds of the vulnerable adult
13 by any person for any person's profit or advantage.

14 (7) "Individual provider" means a person under contract with the
15 department to provide services in the home under chapter 74.09 or
16 74.39A RCW.

17 (8) "Mandated reporter" is an employee of the department; law
18 enforcement officer; social worker; professional school personnel;
19 individual provider; an employee of a facility; an operator of a
20 facility; an employee of a social service, welfare, mental health,
21 adult day health, adult day care, home health, home care, or hospice
22 agency; county coroner or medical examiner; Christian Science
23 practitioner; or health care provider subject to chapter 18.130 RCW.

24 (9) "Neglect" means (a) a pattern of conduct or inaction by a
25 person or entity with a duty of care that fails to provide the goods
26 and services that maintain physical or mental health of a vulnerable
27 adult, or that fails to avoid or prevent physical or mental harm or
28 pain to a vulnerable adult; or (b) an act or omission that demonstrates
29 a serious disregard of consequences of such a magnitude as to
30 constitute a clear and present danger to the vulnerable adult's health,
31 welfare, or safety, including but not limited to conduct prohibited
32 under RCW 9A.42.100.

33 (10) "Permissive reporter" means any person, employee of a
34 financial institution, attorney, or volunteer in a facility or program
35 providing services for vulnerable adults.

36 (11) "Protective services" means any services provided by the
37 department to a vulnerable adult with the consent of the vulnerable
38 adult, or the legal representative of the vulnerable adult, who has

1 been abandoned, abused, financially exploited, neglected, or in a state
2 of self-neglect. These services may include, but are not limited to
3 case management, social casework, home care, placement, arranging for
4 medical evaluations, psychological evaluations, day care, or referral
5 for legal assistance.

6 (12) "Self-neglect" means the failure of a vulnerable adult, not
7 living in a facility, to provide for himself or herself the goods and
8 services necessary for the vulnerable adult's physical or mental
9 health, and the absence of which impairs or threatens the vulnerable
10 adult's well-being. This definition may include a vulnerable adult who
11 is receiving services through home health, hospice, or a home care
12 agency, or an individual provider when the neglect is not a result of
13 inaction by that agency or individual provider.

14 (13) "Vulnerable adult" includes a person:

15 (a) Sixty years of age or older who has the functional, mental, or
16 physical inability to care for himself or herself; or

17 (b) Found incapacitated under chapter 11.88 RCW; or

18 (c) Who has a developmental disability as defined under RCW
19 71A.10.020; or

20 (d) Admitted to any facility; or

21 (e) Receiving services from home health, hospice, or home care
22 agencies licensed or required to be licensed under chapter 70.127 RCW;
23 or

24 (f) Receiving services from an individual provider.

25 NEW SECTION. **Sec. 110.** The department of community, trade, and
26 economic development shall review federal, state, and local funding
27 sources and funding levels available to local meth action teams through
28 the Washington state methamphetamine initiative to determine whether
29 funding is adequate to accomplish the mission of the meth action teams.
30 The department shall also review the funding levels for drug task
31 forces in the state of Washington to determine whether they may require
32 additional resources to successfully interdict drug trafficking
33 organizations and clandestine labs statewide. The department shall
34 report findings and recommendations to the legislature by November 1,
35 2006.

1 (2) "Contaminated" or "contamination" means polluted by hazardous
2 chemicals so that the property is unfit for human habitation or use due
3 to immediate or long-term hazards. Property that at one time was
4 contaminated but has been satisfactorily decontaminated according to
5 procedures established by the state board of health is not
6 "contaminated."

7 (3) "Department" means the department of health.

8 (4) "Hazardous chemicals" means the following substances (~~used~~
9 ~~in~~) associated with the illegal manufacture of (~~illegal drugs~~)
10 controlled substances: (a) Hazardous substances as defined in RCW
11 70.105D.020(~~, and~~); (b) precursor substances as defined in RCW
12 69.43.010 which the state board of health, in consultation with the
13 state board of pharmacy, has determined present an immediate or long-
14 term health hazard to humans; and (c) the controlled substance or
15 substances being manufactured, as defined in RCW 69.50.101.

16 (~~4~~) (5) "Officer" means a local health officer authorized under
17 chapters 70.05, 70.08, and 70.46 RCW.

18 (~~5~~) (6) "Property" means any real or personal property, (~~site,~~
19 structure, or part of a structure which) or segregable part thereof,
20 that is involved in or affected by the unauthorized manufacture,
21 distribution, or storage of hazardous chemicals. This includes but is
22 not limited to single-family residences, units of multiplexes,
23 condominiums, apartment buildings, boats, motor vehicles, trailers,
24 manufactured housing, (~~or~~) any shop, booth, (~~or~~) garden, or storage
25 shed, and all contents of the items referenced in this subsection.

26 **Sec. 202.** RCW 64.44.020 and 1999 c 292 s 3 are each amended to
27 read as follows:

28 Whenever a law enforcement agency becomes aware that property has
29 been contaminated by hazardous chemicals, that agency shall report the
30 contamination to the local health officer. The local health officer
31 shall (~~post~~) cause a posting of a written warning on the premises
32 within one working day of notification of the contamination and shall
33 inspect the property within fourteen days after receiving the notice of
34 contamination. The warning posting for any property that includes a
35 hotel or motel holding a current license under RCW 70.62.220, shall be
36 limited to inside the room or on the door of the contaminated room and
37 no written warning posting shall be posted in the lobby of the

1 facility. The warning shall inform the potential occupants that
2 hazardous chemicals may exist on, or have been removed from, the
3 premises and that entry is unsafe. If a property owner believes that
4 a tenant has contaminated property that was being leased or rented, and
5 the property is vacated or abandoned, then the property owner shall
6 contact the local health officer about the possible contamination.
7 Local health officers or boards may charge property owners reasonable
8 fees for inspections of suspected contaminated property requested by
9 property owners.

10 A local health officer may enter, inspect, and survey at reasonable
11 times any properties for which there are reasonable grounds to believe
12 that the property has become contaminated. If the property is
13 contaminated, the local health officer shall post a written notice
14 declaring that the officer intends to issue an order prohibiting use of
15 the property as long as the property is contaminated.

16 If access to the property is denied, a local health officer in
17 consultation with law enforcement may seek a warrant for the purpose of
18 conducting administrative inspections. A superior, district, or
19 municipal court within the jurisdiction of the property may, based upon
20 probable cause that the property is contaminated, issue warrants for
21 the purpose of conducting administrative inspections.

22 Local health officers must report all cases of contaminated
23 property to the state department of health. The department may make
24 the list of contaminated properties available to health associations,
25 landlord and realtor organizations, prosecutors, and other interested
26 groups. The department shall promptly update the list of contaminated
27 properties to remove those which have been decontaminated according to
28 provisions of this chapter.

29 The local health officer may determine when the services of an
30 authorized contractor are necessary.

31 **Sec. 203.** RCW 64.44.030 and 1999 c 292 s 4 are each amended to
32 read as follows:

33 (1) If after the inspection of the property, the local health
34 officer finds that it is contaminated, then the ((property shall be
35 found unfit for)) local health officer shall issue an order declaring
36 the property unfit and prohibiting its use. The local health officer
37 shall cause the order to be served ((an order prohibiting use)) either

1 personally or by certified mail, with return receipt requested, upon
2 all occupants and persons having any interest therein as shown upon the
3 records of the auditor's office of the county in which such property is
4 located. The local health officer shall also (~~post~~) cause the order
5 (~~prohibiting use~~) to be posted in a conspicuous place on the
6 property. If the whereabouts of such persons is unknown and the same
7 cannot be ascertained by the local health officer in the exercise of
8 reasonable diligence, and the health officer makes an affidavit to that
9 effect, then the serving of the order upon such persons may be made
10 either by personal service or by mailing a copy of the order by
11 certified mail, postage prepaid, return receipt requested, to each
12 person at the address appearing on the last equalized tax assessment
13 roll of the county where the property is located or at the address
14 known to the county assessor, and the order shall be posted
15 conspicuously at the residence. A copy of the order shall also be
16 mailed, addressed to each person or party having a recorded right,
17 title, estate, lien, or interest in the property. The order shall
18 contain a notice that a hearing before the local health board or
19 officer shall be held upon the request of a person required to be
20 notified of the order under this section. The request for a hearing
21 must be made within ten days of serving the order. The hearing shall
22 then be held within not less than twenty days nor more than thirty days
23 after the serving of the order. The officer shall prohibit use as long
24 as the property is found to be contaminated. A copy of the order shall
25 also be filed with the auditor of the county in which the property is
26 located, where the order pertains to real property, and such filing of
27 the complaint or order shall have the same force and effect as other
28 lis pendens notices provided by law. In any hearing concerning whether
29 property is fit for use, the property owner has the burden of showing
30 that the property is decontaminated or fit for use. The owner or any
31 person having an interest in the property may file an appeal on any
32 order issued by the local health board or officer within thirty days
33 from the date of service of the order with the appeals commission
34 established pursuant to RCW 35.80.030. All proceedings before the
35 appeals commission, including any subsequent appeals to superior court,
36 shall be governed by the procedures established in chapter 35.80 RCW.

37 (2) If the local health officer determines immediate action is
38 necessary to protect public health, safety, or the environment, the

1 officer may issue or cause to be issued an emergency order, and any
2 person to whom such an order is directed shall comply immediately.
3 Emergency orders issued pursuant to this section shall expire no later
4 than seventy-two hours after issuance and shall not impair the health
5 officer from seeking an order under subsection (1) of this section.

6 **Sec. 204.** RCW 64.44.040 and 1999 c 292 s 5 are each amended to
7 read as follows:

8 (1) Upon issuance of an order declaring property unfit and
9 prohibiting its use, the city or county in which the contaminated
10 property is located may take action to prohibit use, occupancy, or
11 removal of such property; condemn, decontaminate, or demolish the
12 property; or ((to)) require that the property be vacated or the
13 contents removed from the property. The city or county may use an
14 authorized contractor if property is demolished, decontaminated, or
15 removed under this section. The city, county, or contractor shall
16 comply with all orders of the health officer during these processes.
17 No city or county may condemn, decontaminate, or demolish property
18 pursuant to this section until all procedures granting the right of
19 notice and the opportunity to appeal in RCW 64.44.030 have been
20 exhausted, but may prohibit use, occupancy, or removal of contaminated
21 property pending appeal of the order.

22 (2)(a) It is unlawful for any person to enter upon any property, or
23 to remove any property, that has been found unfit for use by a local
24 health officer pursuant to RCW 64.44.030.

25 (b) This subsection does not apply to: (i) Health officials, law
26 enforcement officials, or other government agents performing their
27 official duties; (ii) authorized contractors or owners performing
28 decontamination pursuant to authorization by the local health officer;
29 and (iii) any person acting with permission of a local health officer,
30 or of a superior court or hearing examiner following an appeal of a
31 decision of the local health officer.

32 (c) Any person who violates this subsection is guilty of a
33 misdemeanor.

34 (3) No provision of this section may be construed to limit the
35 ability of the local health officer to permit occupants or owners of
36 the property at issue to remove uncontaminated personal property from
37 the premises.

1 **Sec. 205.** RCW 64.44.050 and 1999 c 292 s 6 are each amended to
2 read as follows:

3 (1) An owner of contaminated property who desires to have the
4 property decontaminated, demolished, or disposed of shall use the
5 services of an authorized contractor unless otherwise authorized by the
6 local health officer. The contractor and property owner shall prepare
7 and submit a written work plan for decontamination, demolition, or
8 disposal to the local health officer. The local health officer may
9 charge a reasonable fee for review of the work plan. If the work plan
10 is approved and the decontamination, demolition, or disposal is
11 completed and the property is retested according to the plan and
12 properly documented, then the health officer shall allow reuse of the
13 property. A release for reuse document shall be recorded in the real
14 property records indicating the property has been decontaminated,
15 demolished, or disposed of in accordance with rules of the state
16 department of health. The property owner is responsible for: (a) The
17 costs of any property testing which may be required to demonstrate the
18 presence or absence of hazardous chemicals; and (b) the costs of the
19 property's decontamination, demolition, and disposal expenses, as well
20 as costs incurred by the local health officer resulting from the
21 enforcement of this chapter.

22 (2) The local health officer has thirty days from the issuance of
23 an order declaring a property unfit and prohibiting its use to
24 establish a reasonable timeline for decontamination. The department of
25 health shall establish the factors to be considered by the local health
26 officer in establishing the appropriate amount of time.

27 The local health officer shall notify the property owner of the
28 proposed time frame by United States mail to the last known address.
29 Notice shall be postmarked no later than the thirtieth day from the
30 issuance of the order. The property owner may request a modification
31 of the time frame by submitting a letter identifying the circumstances
32 which justify such an extension to the local health officer within
33 thirty-five days of the date of the postmark on the notification
34 regardless of when received.

35 **Sec. 206.** RCW 64.44.060 and 1999 c 292 s 7 are each amended to
36 read as follows:

37 (1) A contractor, supervisor, or worker may not perform

1 decontamination, demolition, or disposal work unless issued a
2 certificate by the state department of health. The department shall
3 establish performance standards for contractors, supervisors, and
4 workers by rule in accordance with chapter 34.05 RCW, the
5 administrative procedure act. The department shall train and test, or
6 may approve courses to train and test, contractors, supervisors, and
7 ~~((their employees))~~ workers on the essential elements in assessing
8 property used as an illegal ~~((drug))~~ controlled substances
9 manufacturing or storage site to determine hazard reduction measures
10 needed, techniques for adequately reducing contaminants, use of
11 personal protective equipment, methods for proper decontamination,
12 demolition, removal, and disposal of contaminated property, and
13 relevant federal and state regulations. Upon successful completion of
14 the training, and after a background check, the contractor, supervisor,
15 or ~~((employee))~~ worker shall be certified.

16 (2) The department may require the successful completion of annual
17 refresher courses provided or approved by the department for the
18 continued certification of the contractor or employee.

19 (3) The department shall provide for reciprocal certification of
20 any individual trained to engage in decontamination, demolition, or
21 disposal work in another state when the prior training is shown to be
22 substantially similar to the training required by the department. The
23 department may require such individuals to take an examination or
24 refresher course before certification.

25 (4) The department may deny, suspend, ~~((or))~~ revoke, or place
26 restrictions on a certificate for failure to comply with the
27 requirements of this chapter or any rule adopted pursuant to this
28 chapter. A certificate may be denied, suspended, ~~((or))~~ revoked, or
29 have restrictions placed on it on any of the following grounds:

30 (a) Failing to perform decontamination, demolition, or disposal
31 work under the supervision of trained personnel;

32 (b) Failing to perform decontamination, demolition, or disposal
33 work using department of health certified decontamination personnel;

34 (c) Failing to file a work plan;

35 ~~((+e))~~ (d) Failing to perform work pursuant to the work plan;

36 ~~((+d))~~ (e) Failing to perform work that meets the requirements of
37 the department and the requirements of the local health officers;

1 (~~(e)~~ The certificate was obtained by error, misrepresentation, or
2 fraud; or))

3 (f) Failing to properly dispose of contaminated property;

4 (g) Committing fraud or misrepresentation in: (i) Applying for or
5 obtaining a certification, recertification, or reinstatement; (ii)
6 seeking approval of a work plan; and (iii) documenting completion of
7 work to the department or local health officer;

8 (h) Failing the evaluation and inspection of decontamination
9 projects pursuant to section 208 of this act; or

10 (i) If the person has been certified pursuant to RCW 74.20A.320 by
11 the department of social and health services as a person who is not in
12 compliance with a support order or a residential or visitation order.
13 If the person has continued to meet all other requirements for
14 reinstatement during the suspension, reissuance of the license or
15 certificate shall be automatic upon the department's receipt of a
16 release issued by the department of social and health services stating
17 that the person is in compliance with the order.

18 (5) A contractor, supervisor, or worker who violates any provision
19 of this chapter may be assessed a fine not to exceed five hundred
20 dollars for each violation.

21 (6) The department of health shall prescribe fees as provided for
22 in RCW 43.70.250 for: The issuance and renewal of certificates,
23 conducting background checks of applicants, the administration of
24 examinations, and (~~(f)~~) the review of training courses.

25 (7) The decontamination account is hereby established in the state
26 treasury. All fees collected under this chapter shall be deposited in
27 this account. Moneys in the account may only be spent after
28 appropriation for costs incurred by the department in the
29 administration and enforcement of this chapter.

30 **Sec. 207.** RCW 64.44.070 and 1999 c 292 s 8 are each amended to
31 read as follows:

32 (1) The state board of health shall promulgate rules and standards
33 for carrying out the provisions in this chapter in accordance with
34 chapter 34.05 RCW, the administrative procedure act. The local board
35 of health and the local health officer are authorized to exercise such
36 powers as may be necessary to carry out this chapter. The department

1 shall provide technical assistance to local health boards and health
2 officers to carry out their duties under this chapter.

3 (2) The department shall adopt rules for decontamination of a
4 property used as ~~((an illegal drug))~~ a laboratory for the production of
5 controlled substances and methods for the testing of porous and
6 nonporous surfaces, ground water, surface water, soil, and septic tanks
7 for contamination. The rules shall establish decontamination standards
8 for hazardous chemicals, including but not limited to methamphetamine,
9 lead, mercury, and total volatile organic compounds.

10 (3) The department shall adopt rules regarding independent third
11 party sampling including those pertaining to:

12 (a) Verification of possible property contamination due to the
13 illegal manufacture of controlled substances;

14 (b) Verification of satisfactory decontamination of property deemed
15 contaminated and unfit for use;

16 (c) Certification of independent third party samplers;

17 (d) Qualifications and performance standards for independent third
18 party samplers;

19 (e) Administration of background checks for third party sampler
20 applicants; and

21 (f) The denial, suspension, or revocation of independent third
22 party sampler certification.

23 (4) For the purposes of this section, an independent third party
24 sampler is a person who is not an employee, agent, representative,
25 partner, joint venturer, shareholder, or parent or subsidiary company
26 of the authorized contractor, the authorized contractor's company, or
27 the property owner.

28 NEW SECTION. Sec. 208. A new section is added to chapter 64.44
29 RCW to read as follows:

30 The department may evaluate annually a number of the property
31 decontamination projects performed by licensed contractors to determine
32 the adequacy of the decontamination work, using the services of an
33 independent environmental contractor or state or local agency. If a
34 project fails the evaluation and inspection, the contractor is subject
35 to a civil penalty and license suspension, pursuant to RCW 64.44.060
36 (4) and (5); and the contractor is prohibited from performing
37 additional work until deficiencies have been corrected.

1 offender or an accomplice was armed with a firearm as defined in RCW
2 9.41.010 and the offender is being sentenced for one of the crimes
3 listed in this subsection as eligible for any firearm enhancements
4 based on the classification of the completed felony crime. If the
5 offender is being sentenced for more than one offense, the firearm
6 enhancement or enhancements must be added to the total period of
7 confinement for all offenses, regardless of which underlying offense is
8 subject to a firearm enhancement. If the offender or an accomplice was
9 armed with a firearm as defined in RCW 9.41.010 and the offender is
10 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
11 commit one of the crimes listed in this subsection as eligible for any
12 firearm enhancements, the following additional times shall be added to
13 the standard sentence range determined under subsection (2) of this
14 section based on the felony crime of conviction as classified under RCW
15 9A.28.020:

16 (a) Five years for any felony defined under any law as a class A
17 felony or with a statutory maximum sentence of at least twenty years,
18 or both, and not covered under (f) of this subsection;

19 (b) Three years for any felony defined under any law as a class B
20 felony or with a statutory maximum sentence of ten years, or both, and
21 not covered under (f) of this subsection;

22 (c) Eighteen months for any felony defined under any law as a class
23 C felony or with a statutory maximum sentence of five years, or both,
24 and not covered under (f) of this subsection;

25 (d) If the offender is being sentenced for any firearm enhancements
26 under (a), (b), and/or (c) of this subsection and the offender has
27 previously been sentenced for any deadly weapon enhancements after July
28 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
29 (4)(a), (b), and/or (c) of this section, or both, all firearm
30 enhancements under this subsection shall be twice the amount of the
31 enhancement listed;

32 (e) Notwithstanding any other provision of law, all firearm
33 enhancements under this section are mandatory, shall be served in total
34 confinement, and shall run consecutively to all other sentencing
35 provisions, including other firearm or deadly weapon enhancements, for
36 all offenses sentenced under this chapter. However, whether or not a
37 mandatory minimum term has expired, an offender serving a sentence

1 under this subsection may be granted an extraordinary medical placement
2 when authorized under RCW 9.94A.728(4);

3 (f) The firearm enhancements in this section shall apply to all
4 felony crimes except the following: Possession of a machine gun,
5 possessing a stolen firearm, drive-by shooting, theft of a firearm,
6 unlawful possession of a firearm in the first and second degree, and
7 use of a machine gun in a felony;

8 (g) If the standard sentence range under this section exceeds the
9 statutory maximum sentence for the offense, the statutory maximum
10 sentence shall be the presumptive sentence unless the offender is a
11 persistent offender. If the addition of a firearm enhancement
12 increases the sentence so that it would exceed the statutory maximum
13 for the offense, the portion of the sentence representing the
14 enhancement may not be reduced.

15 (4) The following additional times shall be added to the standard
16 sentence range for felony crimes committed after July 23, 1995, if the
17 offender or an accomplice was armed with a deadly weapon other than a
18 firearm as defined in RCW 9.41.010 and the offender is being sentenced
19 for one of the crimes listed in this subsection as eligible for any
20 deadly weapon enhancements based on the classification of the completed
21 felony crime. If the offender is being sentenced for more than one
22 offense, the deadly weapon enhancement or enhancements must be added to
23 the total period of confinement for all offenses, regardless of which
24 underlying offense is subject to a deadly weapon enhancement. If the
25 offender or an accomplice was armed with a deadly weapon other than a
26 firearm as defined in RCW 9.41.010 and the offender is being sentenced
27 for an anticipatory offense under chapter 9A.28 RCW to commit one of
28 the crimes listed in this subsection as eligible for any deadly weapon
29 enhancements, the following additional times shall be added to the
30 standard sentence range determined under subsection (2) of this section
31 based on the felony crime of conviction as classified under RCW
32 9A.28.020:

33 (a) Two years for any felony defined under any law as a class A
34 felony or with a statutory maximum sentence of at least twenty years,
35 or both, and not covered under (f) of this subsection;

36 (b) One year for any felony defined under any law as a class B
37 felony or with a statutory maximum sentence of ten years, or both, and
38 not covered under (f) of this subsection;

1 (c) Six months for any felony defined under any law as a class C
2 felony or with a statutory maximum sentence of five years, or both, and
3 not covered under (f) of this subsection;

4 (d) If the offender is being sentenced under (a), (b), and/or (c)
5 of this subsection for any deadly weapon enhancements and the offender
6 has previously been sentenced for any deadly weapon enhancements after
7 July 23, 1995, under (a), (b), and/or (c) of this subsection or
8 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
9 weapon enhancements under this subsection shall be twice the amount of
10 the enhancement listed;

11 (e) Notwithstanding any other provision of law, all deadly weapon
12 enhancements under this section are mandatory, shall be served in total
13 confinement, and shall run consecutively to all other sentencing
14 provisions, including other firearm or deadly weapon enhancements, for
15 all offenses sentenced under this chapter. However, whether or not a
16 mandatory minimum term has expired, an offender serving a sentence
17 under this subsection may be granted an extraordinary medical placement
18 when authorized under RCW 9.94A.728(4);

19 (f) The deadly weapon enhancements in this section shall apply to
20 all felony crimes except the following: Possession of a machine gun,
21 possessing a stolen firearm, drive-by shooting, theft of a firearm,
22 unlawful possession of a firearm in the first and second degree, and
23 use of a machine gun in a felony;

24 (g) If the standard sentence range under this section exceeds the
25 statutory maximum sentence for the offense, the statutory maximum
26 sentence shall be the presumptive sentence unless the offender is a
27 persistent offender. If the addition of a deadly weapon enhancement
28 increases the sentence so that it would exceed the statutory maximum
29 for the offense, the portion of the sentence representing the
30 enhancement may not be reduced.

31 (5) The following additional times shall be added to the standard
32 sentence range if the offender or an accomplice committed the offense
33 while in a county jail or state correctional facility and the offender
34 is being sentenced for one of the crimes listed in this subsection. If
35 the offender or an accomplice committed one of the crimes listed in
36 this subsection while in a county jail or state correctional facility,
37 and the offender is being sentenced for an anticipatory offense under
38 chapter 9A.28 RCW to commit one of the crimes listed in this

1 subsection, the following additional times shall be added to the
2 standard sentence range determined under subsection (2) of this
3 section:

4 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
5 (a) or (b) or 69.50.410;

6 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
7 (c), (d), or (e);

8 (c) Twelve months for offenses committed under RCW 69.50.4013.

9 For the purposes of this subsection, all of the real property of a
10 state correctional facility or county jail shall be deemed to be part
11 of that facility or county jail.

12 (6) An additional twenty-four months shall be added to the standard
13 sentence range for any ranked offense involving a violation of chapter
14 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
15 9.94A.605. All enhancements under this subsection shall run
16 consecutively to all other sentencing provisions, for all offenses
17 sentenced under this chapter.

18 (7) An additional two years shall be added to the standard sentence
19 range for vehicular homicide committed while under the influence of
20 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
21 prior offense as defined in RCW 46.61.5055.

22 **Sec. 302.** RCW 9.94A.660 and 2005 c 460 s 1 are each amended to
23 read as follows:

24 (1) An offender is eligible for the special drug offender
25 sentencing alternative if:

26 (a) The offender is convicted of a felony that is not a violent
27 offense or sex offense and the violation does not involve a sentence
28 enhancement under RCW 9.94A.533 (3) or (4);

29 (b) The offender has no current or prior convictions for a sex
30 offense at any time or violent offense within ten years before
31 conviction of the current offense, in this state, another state, or the
32 United States;

33 (c) For a violation of the Uniform Controlled Substances Act under
34 chapter 69.50 RCW or a criminal solicitation to commit such a violation
35 under chapter 9A.28 RCW, the offense involved only a small quantity of
36 the 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;

3 (d) The offender has not been found by the United States attorney
4 general to be subject to a deportation detainer or order and does not
5 become subject to a deportation order during the period of the
6 sentence;

7 (e) The standard sentence range for the current offense is greater
8 than one year; and

9 (f) The offender has not received a drug offender sentencing
10 alternative more than once in the prior ten years before the current
11 offense.

12 (2) A motion for a sentence under this section may be made by the
13 court, the offender, or the state. If the sentencing court determines
14 that the offender is eligible for this alternative, the court may order
15 an examination of the offender. The examination shall, at a minimum,
16 address the following issues:

17 (a) Whether the offender suffers from drug addiction;

18 (b) Whether the addiction is such that there is a probability that
19 criminal behavior will occur in the future;

20 (c) Whether effective treatment for the offender's addiction is
21 available from a provider that has been licensed or certified by the
22 division of alcohol and substance abuse of the department of social and
23 health services; and

24 (d) Whether the offender and the community will benefit from the
25 use of the alternative.

26 (3) The examination report must contain:

27 (a) Information on the issues required to be addressed in
28 subsection (2) of this section; and

29 (b) A proposed treatment plan that must, at a minimum, contain:

30 (i) A proposed treatment provider that has been licensed or
31 certified by the division of alcohol and substance abuse of the
32 department of social and health services;

33 (ii) The recommended frequency and length of treatment, including
34 both residential chemical dependency treatment and treatment in the
35 community;

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

1 (iv) Recommended crime-related prohibitions and affirmative
2 conditions.

3 (4) After receipt of the examination report, if the court
4 determines that a sentence under this section is appropriate, the court
5 shall waive imposition of a sentence within the standard sentence range
6 and impose a sentence consisting of either a prison-based alternative
7 under subsection (5) of this section or a residential chemical
8 dependency treatment-based alternative under subsection (6) of this
9 section. The residential chemical dependency treatment-based
10 alternative is only available if the midpoint of the standard range is
11 twenty-four months or less.

12 (5) The prison-based alternative shall include:

13 (a) A period of total confinement in a state facility for one-half
14 of the midpoint of the standard sentence range or twelve months,
15 whichever is greater. During incarceration in the state facility,
16 offenders sentenced under this subsection shall undergo a comprehensive
17 substance abuse assessment and receive, within available resources,
18 treatment services appropriate for the offender. The treatment
19 services shall be designed by the division of alcohol and substance
20 abuse of the department of social and health services, in cooperation
21 with the department of corrections;

22 (b) The remainder of the midpoint of the standard range as a term
23 of community custody which must include appropriate substance abuse
24 treatment in a program that has been approved by the division of
25 alcohol and substance abuse of the department of social and health
26 services. If the department finds that conditions have been willfully
27 violated, the offender may be reclassified to serve the remaining
28 balance of the original sentence. An offender who fails to complete
29 the program or who is administratively terminated from the program
30 shall be reclassified to serve the unexpired term of his or her
31 sentence as ordered by the sentencing court;

32 (c) Crime-related prohibitions including a condition not to use
33 illegal controlled substances;

34 (d) A requirement to submit to urinalysis or other testing to
35 monitor that status; and

36 (e) A term of community custody pursuant to RCW 9.94A.715 to be
37 imposed upon failure to complete or administrative termination from the
38 special drug offender sentencing alternative program.

1 (6) The residential chemical dependency treatment-based alternative
2 shall include:

3 (a) A term of community custody equal to one-half of the midpoint
4 of the standard sentence range or two years, whichever is greater,
5 conditioned on the offender entering and remaining in residential
6 chemical dependency treatment certified under chapter 70.96A RCW for a
7 period set by the court between three and six months. If the court
8 imposes a term of community custody, the department shall, within
9 available resources, make chemical dependency assessment and treatment
10 services available to the offender during the term of community
11 custody. The court shall impose, as conditions of community custody,
12 treatment and other conditions as proposed in the plan under subsection
13 (3)(b) of this section. The department may impose conditions and
14 sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7),
15 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing
16 during the period of residential chemical dependency treatment, and
17 schedule a treatment termination hearing for three months before the
18 expiration of the term of community custody;

19 (b) Before the progress hearing and treatment termination hearing,
20 the treatment provider and the department shall submit written reports
21 to the court and parties regarding the offender's compliance with
22 treatment and monitoring requirements, and recommendations regarding
23 termination from treatment. At the hearing, the court may:

24 (i) Authorize the department to terminate the offender's community
25 custody status on the expiration date determined under (a) of this
26 subsection; or

27 (ii) Continue the hearing to a date before the expiration date of
28 community custody, with or without modifying the conditions of
29 community custody; or

30 (iii) Impose a term of total confinement equal to one-half the
31 midpoint of the standard sentence range, followed by a term of
32 community custody under RCW 9.94A.715;

33 (c) If the court imposes a term of total confinement under (b)(iii)
34 of this subsection, the department shall, within available resources,
35 make chemical dependency assessment and treatment services available to
36 the offender during the terms of total confinement and community
37 custody.

1 (7) If the court imposes a sentence under this section, the court
2 may prohibit the offender from using alcohol or controlled substances
3 and may require that the monitoring for controlled substances be
4 conducted by the department or by a treatment alternatives to street
5 crime program or a comparable court or agency-referred program. The
6 offender may be required to pay thirty dollars per month while on
7 community custody to offset the cost of monitoring. In addition, the
8 court may impose any of the following conditions:

9 (a) Devote time to a specific employment or training;

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

13 (c) Report as directed to a community corrections officer;

14 (d) Pay all court-ordered legal financial obligations;

15 (e) Perform community restitution work;

16 (f) Stay out of areas designated by the sentencing court;

17 (g) Such other conditions as the court may require such as
18 affirmative conditions.

19 (8)(a) The court may bring any offender sentenced under this
20 section back into court at any time on its own initiative to evaluate
21 the offender's progress in treatment or to determine if any violations
22 of the conditions of the sentence have occurred.

23 (b) If the offender is brought back to court, the court may modify
24 the terms of the community custody or impose sanctions under (c) of
25 this subsection.

26 (c) The court may order the offender to serve a term of total
27 confinement within the standard range of the offender's current offense
28 at any time during the period of community custody if the offender
29 violates the conditions of the sentence or if the offender is failing
30 to make satisfactory progress in treatment.

31 (d) An offender ordered to serve a term of total confinement under
32 (c) of this subsection shall receive credit for any time previously
33 served under this section.

34 (9) If an offender sentenced to the prison-based alternative under
35 subsection (5) of this section is found by the United States attorney
36 general to be subject to a deportation order, a hearing shall be held
37 by the department unless waived by the offender, and, if the department
38 finds that the offender is subject to a valid deportation order, the

1 department may administratively terminate the offender from the program
2 and reclassify the offender to serve the remaining balance of the
3 original sentence.

4 (10) An offender sentenced under this section shall be subject to
5 all rules relating to earned release time with respect to any period
6 served in total confinement.

7 (11) Costs of examinations and preparing treatment plans under
8 subsections (2) and (3) of this section may be paid, at the option of
9 the county, from funds provided to the county from the criminal justice
10 treatment account under RCW 70.96A.350.

11 **Sec. 303.** RCW 9.94A.500 and 2000 c 75 s 8 are each amended to read
12 as follows:

13 (1) Before imposing a sentence upon a defendant, the court shall
14 conduct a sentencing hearing. The sentencing hearing shall be held
15 within forty court days following conviction. Upon the motion of
16 either party for good cause shown, or on its own motion, the court may
17 extend the time period for conducting the sentencing hearing.

18 Except in cases where the defendant shall be sentenced to a term of
19 total confinement for life without the possibility of release or, when
20 authorized by RCW 10.95.030 for the crime of aggravated murder in the
21 first degree, sentenced to death, the court may order the department to
22 complete a risk assessment report. If available before sentencing, the
23 report shall be provided to the court.

24 Unless specifically waived by the court, the court shall order the
25 department to complete a chemical dependency screening report before
26 imposing a sentence upon a defendant who has been convicted of a
27 violation of the uniform controlled substances act under chapter 69.50
28 RCW (~~(9A.28)~~), a criminal solicitation to commit such a violation under
29 chapter 9A.28 RCW, or any felony where the court finds that the
30 offender has a chemical dependency that has contributed to his or her
31 offense. In addition, the court shall, at the time of plea or
32 conviction, order the department to complete a presentence report
33 before imposing a sentence upon a defendant who has been convicted of
34 a felony sexual offense. The department of corrections shall give
35 priority to presentence investigations for sexual offenders. If the
36 court determines that the defendant may be a mentally ill person as
37 defined in RCW 71.24.025, although the defendant has not established

1 that at the time of the crime he or she lacked the capacity to commit
2 the crime, was incompetent to commit the crime, or was insane at the
3 time of the crime, the court shall order the department to complete a
4 presentence report before imposing a sentence.

5 The court shall consider the risk assessment report and presentence
6 reports, if any, including any victim impact statement and criminal
7 history, and allow arguments from the prosecutor, the defense counsel,
8 the offender, the victim, the survivor of the victim, or a
9 representative of the victim or survivor, and an investigative law
10 enforcement officer as to the sentence to be imposed.

11 If the court is satisfied by a preponderance of the evidence that
12 the defendant has a criminal history, the court shall specify the
13 convictions it has found to exist. All of this information shall be
14 part of the record. Copies of all risk assessment reports and
15 presentence reports presented to the sentencing court and all written
16 findings of facts and conclusions of law as to sentencing entered by
17 the court shall be sent to the department by the clerk of the court at
18 the conclusion of the sentencing and shall accompany the offender if
19 the offender is committed to the custody of the department. Court
20 clerks shall provide, without charge, certified copies of documents
21 relating to criminal convictions requested by prosecuting attorneys.

22 (2) To prevent wrongful disclosure of information related to mental
23 health services, as defined in RCW 71.05.445 and ~~((71.34.225))~~
24 71.34.345, a court may take only those steps necessary during a
25 sentencing hearing or any hearing in which the department presents
26 information related to mental health services to the court. The steps
27 may be taken on motion of the defendant, the prosecuting attorney, or
28 on the court's own motion. The court may seal the portion of the
29 record relating to information relating to mental health services,
30 exclude the public from the hearing during presentation or discussion
31 of information relating to mental health services, or grant other
32 relief to achieve the result intended by this subsection, but nothing
33 in this subsection shall be construed to prevent the subsequent release
34 of information related to mental health services as authorized by RCW
35 71.05.445, ~~((71.34.225))~~ 71.34.345, or 72.09.585. Any person who
36 otherwise is permitted to attend any hearing pursuant to chapter 7.69
37 or 7.69A RCW shall not be excluded from the hearing solely because the

1 department intends to disclose or discloses information related to
2 mental health services.

3 NEW SECTION. **Sec. 304.** The Washington institute for public policy
4 shall conduct a study of criminal sentencing provisions of neighboring
5 states for all crimes involving methamphetamine. The institute shall
6 report to the legislature on any criminal sentencing increases
7 necessary under Washington law to reduce or remove any incentives
8 methamphetamine traffickers and manufacturers may have to locate in
9 Washington. The report shall be completed by January 1, 2007.

10 NEW SECTION. **Sec. 305.** The Washington institute for public policy
11 shall conduct a study of the drug offender sentencing alternative. The
12 institute shall study recidivism rates for offenders who received
13 substance abuse treatment while in confinement as compared to offenders
14 who received treatment in the community or received no treatment. The
15 institute shall report to the legislature by January 1, 2007.

16 **PART IV**
17 **MISCELLANEOUS**

18 NEW SECTION. **Sec. 401.** Part headings used in this act are no part
19 of the law.

20 NEW SECTION. **Sec. 402.** If specific funding for the purposes of
21 each section of this act, referencing the section by section number and
22 by bill or chapter number, is not provided by June 30, 2006, in the
23 omnibus appropriations act, each section not referenced in the omnibus
24 appropriations act is null and void.

25 NEW SECTION. **Sec. 403.** Section 107 of this act expires January 1,
26 2007.

27 NEW SECTION. **Sec. 404.** Section 108 of this act takes effect
28 January 1, 2007.

Passed by the Senate March 7, 2006.
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