

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1791**

61st Legislature  
2009 Regular Session

Passed by the House April 18, 2009  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate April 14, 2009  
Yeas 47 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1791** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1791**

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AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

**State of Washington                      61st Legislature                      2009 Regular Session**

**By** House Human Services (originally sponsored by Representatives Dickerson, O'Brien, Hurst, Green, Dammeier, Morrell, Orwall, Walsh, and Wood; by request of Department of Corrections)

READ FIRST TIME 02/19/09.

1            AN ACT Relating to clarifying certain community custody and drug  
2 offender sentencing alternative sentencing provisions; amending RCW  
3 9.94A.505 and 9.94A.660; reenacting and amending RCW 9.94A.660; adding  
4 new sections to chapter 9.94A RCW; providing an effective date;  
5 providing an expiration date; and declaring an emergency.

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

7            **Sec. 1.** RCW 9.94A.505 and 2009 c 28 s 6 are each amended to read  
8 as follows:

9            (1) When a person is convicted of a felony, the court shall impose  
10 punishment as provided in this chapter.

11            (2)(a) The court shall impose a sentence as provided in the  
12 following sections and as applicable in the case:

13            (i) Unless another term of confinement applies, a sentence within  
14 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

15            (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

16            (iii) RCW 9.94A.570, relating to persistent offenders;

17            (iv) RCW 9.94A.540, relating to mandatory minimum terms;

18            (v) RCW 9.94A.650, relating to the first-time offender waiver;

1 (vi) RCW 9.94A.660, relating to the drug offender sentencing  
2 alternative;

3 (vii) RCW 9.94A.670, relating to the special sex offender  
4 sentencing alternative;

5 (viii) RCW 9.94A.507, relating to certain sex offenses;

6 (ix) RCW 9.94A.535, relating to exceptional sentences;

7 (x) RCW 9.94A.589, relating to consecutive and concurrent  
8 sentences;

9 (xi) RCW 9.94A.603, relating to felony driving while under the  
10 influence of intoxicating liquor or any drug and felony physical  
11 control of a vehicle while under the influence of intoxicating liquor  
12 or any drug.

13 (b) If a standard sentence range has not been established for the  
14 offender's crime, the court shall impose a determinate sentence which  
15 may include not more than one year of confinement; community  
16 restitution work; a term of community custody under RCW 9.94A.702 not  
17 to exceed one year; and/or other legal financial obligations. The  
18 court may impose a sentence which provides more than one year of  
19 confinement and a community custody term under RCW 9.94A.701 if the  
20 court finds reasons justifying an exceptional sentence as provided in  
21 RCW 9.94A.535.

22 (3) If the court imposes a sentence requiring confinement of thirty  
23 days or less, the court may, in its discretion, specify that the  
24 sentence be served on consecutive or intermittent days. A sentence  
25 requiring more than thirty days of confinement shall be served on  
26 consecutive days. Local jail administrators may schedule court-ordered  
27 intermittent sentences as space permits.

28 (4) If a sentence imposed includes payment of a legal financial  
29 obligation, it shall be imposed as provided in RCW 9.94A.750,  
30 9.94A.753, 9.94A.760, and 43.43.7541.

31 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
32 court may not impose a sentence providing for a term of confinement or  
33 community custody that exceeds the statutory maximum for the crime as  
34 provided in chapter 9A.20 RCW.

35 (6) The sentencing court shall give the offender credit for all  
36 confinement time served before the sentencing if that confinement was  
37 solely in regard to the offense for which the offender is being  
38 sentenced.

1 (7) The court shall order restitution as provided in RCW 9.94A.750  
2 and 9.94A.753.

3 (8) As a part of any sentence, the court may impose and enforce  
4 crime-related prohibitions and affirmative conditions as provided in  
5 this chapter.

6 (9) In any sentence of partial confinement, the court may require  
7 the offender to serve the partial confinement in work release, in a  
8 program of home detention, on work crew, or in a combined program of  
9 work crew and home detention.

10 **Sec. 2.** RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are  
11 each reenacted and amended to read as follows:

12 (1) An offender is eligible for the special drug offender  
13 sentencing alternative if:

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

17 (b) The offender is convicted of a felony that is not a felony  
18 driving while under the influence of intoxicating liquor or any drug  
19 under RCW 46.61.502(6) or felony physical control of a vehicle while  
20 under the influence of intoxicating liquor or any drug under RCW  
21 46.61.504(6);

22 (c) The offender has no current or prior convictions for a sex  
23 offense at any time or violent offense within ten years before  
24 conviction of the current offense, in this state, another state, or the  
25 United States;

26 (d) For a violation of the Uniform Controlled Substances Act under  
27 chapter 69.50 RCW or a criminal solicitation to commit such a violation  
28 under chapter 9A.28 RCW, the offense involved only a small quantity of  
29 the particular controlled substance as determined by the judge upon  
30 consideration of such factors as the weight, purity, packaging, sale  
31 price, and street value of the controlled substance;

32 (e) The offender has not been found by the United States attorney  
33 general to be subject to a deportation detainer or order and does not  
34 become subject to a deportation order during the period of the  
35 sentence;

36 (f) The end of the standard sentence range for the current offense  
37 is greater than one year; and

1 (g) The offender has not received a drug offender sentencing  
2 alternative more than once in the prior ten years before the current  
3 offense.

4 (2) A motion for a sentence under this section may be made by the  
5 court, the offender, or the state. ~~((If the sentencing court  
6 determines that the offender is eligible for this alternative, the  
7 court may order an examination of the offender. The examination shall,  
8 at a minimum, address the following issues:~~

9 ~~(a) Whether the offender suffers from drug addiction;~~

10 ~~(b) Whether the addiction is such that there is a probability that  
11 criminal behavior will occur in the future;~~

12 ~~(c) Whether effective treatment for the offender's addiction is  
13 available from a provider that has been licensed or certified by the  
14 division of alcohol and substance abuse of the department of social and  
15 health services; and~~

16 ~~(d) Whether the offender and the community will benefit from the  
17 use of the alternative.~~

18 ~~(3) The examination report must contain:~~

19 ~~(a) Information on the issues required to be addressed in  
20 subsection (2) of this section; and~~

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

22 ~~(i) A proposed treatment provider that has been licensed or  
23 certified by the division of alcohol and substance abuse of the  
24 department of social and health services;~~

25 ~~(ii) The recommended frequency and length of treatment, including  
26 both residential chemical dependency treatment and treatment in the  
27 community;~~

28 ~~(iii) A proposed monitoring plan, including any requirements  
29 regarding living conditions, lifestyle requirements, and monitoring by  
30 family members and others; and~~

31 ~~(iv) Recommended crime-related prohibitions and affirmative  
32 conditions.~~

33 ~~(4) After receipt of the examination report,)) (3) If the  
34 sentencing court determines that the offender is eligible for this  
35 alternative and that a sentence under this section is appropriate, the  
36 court shall waive imposition of a sentence within the standard sentence  
37 range and impose a sentence consisting of either a prison-based  
38 alternative under subsection ~~((+5)) (4)~~ of this section or a~~

1 residential chemical dependency treatment-based alternative under  
2 subsection ~~((+6+))~~ (5) of this section. If the court is considering  
3 the residential chemical dependency treatment-based alternative under  
4 subsection (5) of this section, then the court may order an examination  
5 of the offender as described in subsection (5) of this section. To  
6 assist the court in making its determination, the court may order the  
7 department to complete either or both a risk assessment report and a  
8 chemical dependency screening report as provided in RCW 9.94A.500. The  
9 residential chemical dependency treatment-based alternative is only  
10 available if the midpoint of the standard range is twenty-four months  
11 or less.

12 ~~((+5+))~~ (4) 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))~~ One-half the midpoint of the standard  
23 range as a term of community custody which must include appropriate  
24 substance abuse treatment in a program that has been approved by the  
25 division of alcohol and substance abuse of the department of social and  
26 health services. If the department finds that conditions have been  
27 willfully violated, the offender may be reclassified to serve the  
28 remaining balance of the original sentence. An offender who fails to  
29 complete the program or who is administratively terminated from the  
30 program 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))~~ (5)(a) If the court is considering imposing a sentence  
2 under the residential chemical dependency treatment-based alternative  
3 in this subsection, then the court may order an examination of the  
4 offender by the department. The examination shall, at a minimum,  
5 address the following issues:

6        (i) Whether the offender suffers from drug addiction;

7        (ii) Whether the addiction is such that there is a probability that  
8 criminal behavior will occur in the future;

9        (iii) Whether effective treatment for the offender's addiction is  
10 available from a provider that has been licensed or certified by the  
11 division of alcohol and substance abuse of the department of social and  
12 health services; and

13        (iv) Whether the offender and the community will benefit from the  
14 use of the alternative.

15        (b) The examination report must also contain:

16        (i) A proposed monitoring plan, including any requirements  
17 regarding living conditions, lifestyle requirements, and monitoring by  
18 family members and others; and

19        (ii) Recommended crime-related prohibitions and affirmative  
20 conditions.

21        (c) The residential chemical dependency treatment-based alternative  
22 shall include:

23        ~~((a))~~ (i) A term of community custody equal to one-half of the  
24 midpoint of the standard sentence range or two years, whichever is  
25 greater, conditioned on the offender entering and remaining in  
26 residential chemical dependency treatment certified under chapter  
27 70.96A RCW for a period set by the court between three and six months.  
28 If the court imposes a term of community custody, the department shall,  
29 within available resources, make chemical dependency assessment and  
30 treatment services available to the offender during the term of  
31 community custody. The court shall impose, as conditions of community  
32 custody, treatment and other conditions as proposed in the plan under

33 ~~(subsection (3))~~ (b) of this ~~(section)~~ subsection. The department  
34 may impose conditions and sanctions as authorized in RCW 9.94A.715 (2),  
35 (3), (6), and (7), 9.94A.737, and 9.94A.740. If the court imposes a  
36 sentence under this subsection, then the treatment provider will be  
37 required to send the treatment plan to the court within thirty days of  
38 the offender's arrival to the residential chemical dependency treatment

1 program. The court shall schedule a progress hearing during the period  
2 of residential chemical dependency treatment, and schedule a treatment  
3 termination hearing for three months before the expiration of the term  
4 of community custody;

5 ~~((b))~~ (ii) Before the progress hearing and treatment termination  
6 hearing, the treatment provider and the department shall submit written  
7 reports to the court and parties regarding the offender's compliance  
8 with treatment and monitoring requirements, and recommendations  
9 regarding termination from treatment. At the hearing, the court may:

10 ~~((i))~~ (A) Authorize the department to terminate the offender's  
11 community custody status on the expiration date determined under ~~((a)~~  
12 ~~of this))~~ subsection (5)(c)(i) of this section; or

13 ~~((ii))~~ (B) Continue the hearing to a date before the expiration  
14 date of community custody, with or without modifying the conditions of  
15 community custody; or

16 ~~((iii))~~ (C) Impose a term of total confinement equal to one-half  
17 the midpoint of the standard sentence range, followed by a term of  
18 community custody under RCW 9.94A.715;

19 ~~((e))~~ (iii) If the court imposes a term of total confinement  
20 under ~~((b)(iii))~~ (c)(ii) of this subsection, the department shall,  
21 within available resources, make chemical dependency assessment and  
22 treatment services available to the offender during the terms of total  
23 confinement and community custody.

24 ~~((7))~~ (6) If the court imposes a sentence under this section, the  
25 court may prohibit the offender from using alcohol or controlled  
26 substances and may require that the monitoring for controlled  
27 substances be conducted by the department or by a treatment  
28 alternatives to street crime program or a comparable court or agency-  
29 referred program. The offender may be required to pay thirty dollars  
30 per month while on community custody to offset the cost of monitoring.  
31 In addition, the court may impose any of the following conditions:

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

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

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

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

38 (e) Perform community restitution work;

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

2 (g) Such other conditions as the court may require such as  
3 affirmative conditions.

4 ~~((+8))~~ (7)(a) The court may bring any offender sentenced under  
5 this section back into court at any time on its own initiative to  
6 evaluate the offender's progress in treatment or to determine if any  
7 violations of the conditions of the sentence have occurred.

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

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

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

19 ~~((+9))~~ (8) If an offender sentenced to the prison-based  
20 alternative under subsection ~~((+5))~~ (4) of this section is found by  
21 the United States attorney general to be subject to a deportation  
22 order, a hearing shall be held by the department unless waived by the  
23 offender, and, if the department finds that the offender is subject to  
24 a valid deportation order, the department may administratively  
25 terminate the offender from the program and reclassify the offender to  
26 serve the remaining balance of the original sentence.

27 ~~((+10))~~ (9) An offender sentenced under this section shall be  
28 subject to all rules relating to earned release time with respect to  
29 any period served in total confinement.

30 ~~((+11))~~ (10) Costs of examinations and preparing treatment plans  
31 under ~~((subsections (2) and (3) of))~~ this section may be paid, at the  
32 option of the county, from funds provided to the county from the  
33 criminal justice treatment account under RCW 70.96A.350.

34 **Sec. 3.** RCW 9.94A.660 and 2008 c 231 s 30 are each amended to read  
35 as follows:

36 (1) An offender is eligible for the special drug offender  
37 sentencing alternative if:

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

4 (b) The offender is convicted of a felony that is not a felony  
5 driving while under the influence of intoxicating liquor or any drug  
6 under RCW 46.61.502(6) or felony physical control of a vehicle while  
7 under the influence of intoxicating liquor or any drug under RCW  
8 46.61.504(6);

9 (c) The offender has no current or prior convictions for a sex  
10 offense at any time or violent offense within ten years before  
11 conviction of the current offense, in this state, another state, or the  
12 United States;

13 (d) For a violation of the Uniform Controlled Substances Act under  
14 chapter 69.50 RCW or a criminal solicitation to commit such a violation  
15 under chapter 9A.28 RCW, the offense involved only a small quantity of  
16 the particular controlled substance as determined by the judge upon  
17 consideration of such factors as the weight, purity, packaging, sale  
18 price, and street value of the controlled substance;

19 (e) The offender has not been found by the United States attorney  
20 general to be subject to a deportation detainer or order and does not  
21 become subject to a deportation order during the period of the  
22 sentence;

23 (f) The end of the standard sentence range for the current offense  
24 is greater than one year; and

25 (g) The offender has not received a drug offender sentencing  
26 alternative more than once in the prior ten years before the current  
27 offense.

28 (2) A motion for a (~~sentence under this section~~) special drug  
29 offender sentencing alternative may be made by the court, the offender,  
30 or the state.

31 (3) If the sentencing court determines that the offender is  
32 eligible for (~~this~~) an alternative sentence under this section and  
33 that the alternative sentence is appropriate, the court shall waive  
34 imposition of a sentence within the standard sentence range and impose  
35 a sentence consisting of either a prison-based alternative under  
36 section 4 of this act or a residential chemical dependency treatment-  
37 based alternative under section 5 of this act. The residential

1 chemical dependency treatment-based alternative is only available if  
2 the midpoint of the standard range is twenty-four months or less.

3 (4) To assist the court in making its determination, the court may  
4 order the department to complete either or both a risk assessment  
5 report and a chemical dependency screening report as provided in RCW  
6 9.94A.500.

7 (5)(a) If the court is considering imposing a sentence under the  
8 residential chemical dependency treatment-based alternative, the court  
9 may order an examination of the offender by the department. The  
10 examination shall, at a minimum, address the following issues:

11 ~~((a))~~ (i) Whether the offender suffers from drug addiction;

12 ~~((b))~~ (ii) Whether the addiction is such that there is a  
13 probability that criminal behavior will occur in the future;

14 ~~((c))~~ (iii) Whether effective treatment for the offender's  
15 addiction is available from a provider that has been licensed or  
16 certified by the division of alcohol and substance abuse of the  
17 department of social and health services; and

18 ~~((d))~~ (iv) Whether the offender and the community will benefit  
19 from the use of the alternative.

20 ~~((3))~~ (b) The examination report must contain:

21 ~~((a) Information on the issues required to be addressed in~~  
22 ~~subsection (2) of this section; and~~

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

24 ~~(i) A proposed treatment provider that has been licensed or~~  
25 ~~certified by the division of alcohol and substance abuse of the~~  
26 ~~department of social and health services;~~

27 ~~(ii) The recommended frequency and length of treatment, including~~  
28 ~~both residential chemical dependency treatment and treatment in the~~  
29 ~~community;~~

30 ~~(iii))~~ (i) A proposed monitoring plan, including any requirements  
31 regarding living conditions, lifestyle requirements, and monitoring by  
32 family members and others; and

33 ~~((iv))~~ (ii) Recommended crime-related prohibitions and  
34 affirmative conditions.

35 ~~((4) After receipt of the examination report, if the court~~  
36 ~~determines that a sentence under this section is appropriate, the court~~  
37 ~~shall waive imposition of a sentence within the standard sentence range~~  
38 ~~and impose a sentence consisting of either a prison-based alternative~~

1 under subsection (5) of this section or a residential chemical  
2 dependency treatment-based alternative under subsection (6) of this  
3 section. The residential chemical dependency treatment-based  
4 alternative is only available if the midpoint of the standard range is  
5 twenty-four months or less.

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

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

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

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

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

30 (e) A term of community custody pursuant to RCW 9.94A.701 to be  
31 imposed upon failure to complete or administrative termination from the  
32 special drug offender sentencing alternative program.

33 (6) The residential chemical dependency treatment-based alternative  
34 shall include:

35 (a) A term of community custody equal to one-half of the midpoint  
36 of the standard sentence range or two years, whichever is greater,  
37 conditioned on the offender entering and remaining in residential  
38 chemical dependency treatment certified under chapter 70.96A RCW for a

1 period set by the court between three and six months. If the court  
2 imposes a term of community custody, the department shall, within  
3 available resources, make chemical dependency assessment and treatment  
4 services available to the offender during the term of community  
5 custody. The court shall impose, as conditions of community custody,  
6 treatment and other conditions as proposed in the plan under subsection  
7 (3)(b) of this section. The court shall schedule a progress hearing  
8 during the period of residential chemical dependency treatment, and  
9 schedule a treatment termination hearing for three months before the  
10 expiration of the term of community custody;

11 (b) Before the progress hearing and treatment termination hearing,  
12 the treatment provider and the department shall submit written reports  
13 to the court and parties regarding the offender's compliance with  
14 treatment and monitoring requirements, and recommendations regarding  
15 termination from treatment. At the hearing, the court may:

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

19 (ii) Continue the hearing to a date before the expiration date of  
20 community custody, with or without modifying the conditions of  
21 community custody; or

22 (iii) Impose a term of total confinement equal to one half the  
23 midpoint of the standard sentence range, followed by a term of  
24 community custody under RCW 9.94A.701;

25 (c) If the court imposes a term of total confinement under (b)(iii)  
26 of this subsection, the department shall, within available resources,  
27 make chemical dependency assessment and treatment services available to  
28 the offender during the terms of total confinement and community  
29 custody.

30 ~~(7) The))~~ (6) When a court imposes a sentence of community custody  
31 under this section:

32 (a) The court may impose conditions as provided in RCW 9.94A.703  
33 and may impose other affirmative conditions as the court considers  
34 appropriate. In addition, an offender may be required to pay thirty  
35 dollars per month while on community custody to offset the cost of  
36 monitoring for alcohol or controlled substances.

37 ~~((8) The court may impose any of the following conditions:~~

38 ~~(a) Pay all court-ordered legal financial obligations; or~~

1 ~~(b) Perform community restitution work.~~

2 ~~(9)(a))~~ (b) The department may impose conditions and sanctions as  
3 authorized in RCW 9.94A.704 and RCW 9.94A.737.

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

8 (b) If the offender is brought back to court, the court may modify  
9 the conditions of the community custody or impose sanctions under (c)  
10 of this subsection.

11 (c) The court may order the offender to serve a term of total  
12 confinement within the standard range of the offender's current offense  
13 at any time during the period of community custody if the offender  
14 violates the conditions or requirements of the sentence or if the  
15 offender is failing to make satisfactory progress in treatment.

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

19 ~~((10))~~ (8) In serving a term of community custody imposed upon  
20 failure to complete, or administrative termination from, the special  
21 drug offender sentencing alternative program, the offender shall  
22 receive no credit for time served in community custody prior to  
23 termination of the offender's participation in the program.

24 ~~((11) If an offender sentenced to the prison-based alternative~~  
25 ~~under subsection (5) of this section is found by the United States~~  
26 ~~attorney general to be subject to a deportation order, a hearing shall~~  
27 ~~be held by the department unless waived by the offender, and, if the~~  
28 ~~department finds that the offender is subject to a valid deportation~~  
29 ~~order, the department may administratively terminate the offender from~~  
30 ~~the program and reclassify the offender to serve the remaining balance~~  
31 ~~of the original sentence.~~

32 ~~(12))~~ (9) An offender sentenced under this section shall be  
33 subject to all rules relating to earned release time with respect to  
34 any period served in total confinement.

35 ~~((13))~~ (10) Costs of examinations and preparing treatment plans  
36 under ~~((subsections (2) and (3) of this section))~~ a special drug  
37 offender sentencing alternative may be paid, at the option of the

1 county, from funds provided to the county from the criminal justice  
2 treatment account under RCW 70.96A.350.

3 NEW SECTION. **Sec. 4.** (1) A sentence for a prison-based special  
4 drug offender sentencing alternative shall include:

5 (a) A period of total confinement in a state facility for one-half  
6 the midpoint of the standard sentence range or twelve months, whichever  
7 is greater;

8 (b) One-half the midpoint of the standard sentence range as a term  
9 of community custody, which must include appropriate substance abuse  
10 treatment in a program that has been approved by the division of  
11 alcohol and substance abuse of the department of social and health  
12 services;

13 (c) Crime-related prohibitions, including a condition not to use  
14 illegal controlled substances;

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

17 (e) A term of community custody pursuant to RCW 9.94A.701 to be  
18 imposed upon the failure to complete or administrative termination from  
19 the special drug offender sentencing alternative program.

20 (2) During incarceration in the state facility, offenders sentenced  
21 under this section shall undergo a comprehensive substance abuse  
22 assessment and receive, within available resources, treatment services  
23 appropriate for the offender. The treatment services shall be designed  
24 by the division of alcohol and substance abuse of the department of  
25 social and health services, in cooperation with the department of  
26 corrections.

27 (3) If the department finds that conditions of community custody  
28 have been willfully violated, the offender may be reclassified to serve  
29 the remaining balance of the original sentence. An offender who fails  
30 to complete the program or who is administratively terminated from the  
31 program shall be reclassified to serve the unexpired term of his or her  
32 sentence as ordered by the sentencing court.

33 (4) If an offender sentenced to the prison-based alternative under  
34 this section is found by the United States attorney general to be  
35 subject to a deportation order, a hearing shall be held by the  
36 department unless waived by the offender, and, if the department finds  
37 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 NEW SECTION. **Sec. 5.** (1) A sentence for a residential chemical  
5 dependency treatment-based alternative shall include a term of  
6 community custody equal to one-half the midpoint of the standard  
7 sentence range or two years, whichever is greater, conditioned on the  
8 offender entering and remaining in residential chemical dependency  
9 treatment certified under chapter 70.96A RCW for a period set by the  
10 court between three and six months.

11 (2)(a) The court shall impose, as conditions of community custody,  
12 treatment and other conditions as proposed in the examination report  
13 completed pursuant to RCW 9.94A.660.

14 (b) If the court imposes a term of community custody, the  
15 department shall, within available resources, make chemical dependency  
16 assessment and treatment services available to the offender during the  
17 term of community custody.

18 (3)(a) If the court imposes a sentence under this section, the  
19 treatment provider must send the treatment plan to the court within  
20 thirty days of the offender's arrival to the residential chemical  
21 dependency treatment program.

22 (b) Upon receipt of the plan, the court shall schedule a progress  
23 hearing during the period of residential chemical dependency treatment,  
24 and schedule a treatment termination hearing for three months before  
25 the expiration of the term of community custody;

26 (c) Before the progress hearing and treatment termination hearing,  
27 the treatment provider and the department shall submit written reports  
28 to the court and parties regarding the offender's compliance with  
29 treatment and monitoring requirements, and recommendations regarding  
30 termination from treatment.

31 (4) At a progress hearing or treatment termination hearing, the  
32 court may:

33 (a) Authorize the department to terminate the offender's community  
34 custody status on the expiration date determined under subsection (1)  
35 of this section;

36 (b) Continue the hearing to a date before the expiration date of

1 community custody, with or without modifying the conditions of  
2 community custody; or

3 (c) Impose a term of total confinement equal to one-half the  
4 midpoint of the standard sentence range, followed by a term of  
5 community custody under RCW 9.94A.701.

6 (5) If the court imposes a term of total confinement, the  
7 department shall, within available resources, make chemical dependency  
8 assessment and treatment services available to the offender during the  
9 term of total confinement and subsequent term of community custody.

10 NEW SECTION. **Sec. 6.** Sections 4 and 5 of this act are each added  
11 to chapter 9.94A RCW.

12 NEW SECTION. **Sec. 7.** Section 2 of this act is necessary for the  
13 immediate preservation of the public peace, health, or safety, or  
14 support of the state government and its existing public institutions,  
15 and takes effect immediately.

16 NEW SECTION. **Sec. 8.** Sections 1 and 3 through 5 of this act take  
17 effect August 1, 2009.

18 NEW SECTION. **Sec. 9.** Section 2 of this act expires August 1,  
19 2009.

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