
ENGROSSED SUBSTITUTE HOUSE BILL 2834

State of Washington

52nd Legislature

1992 Regular Session

By House Committee on Human Services (originally sponsored by Representatives Hargrove, Riley, Leonard, Dellwo, Appelwick and Basich)

Read first time 02/07/92.

1 AN ACT Relating to criminal sentencing; amending RCW 9.94A.150,
2 9.94A.440, 9.95.100, 9.95.0011, 9.95.040, 9.95.110, 9.95.121, 9.95.125,
3 9.96.050, and 9A.20.021; reenacting and amending RCW 9.94A.120; adding
4 a new section to chapter 72.09 RCW; creating new sections; prescribing
5 penalties; providing an effective date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that crowded
8 prisons are clearly one of the most pressing problems facing the
9 criminal justice system today. Even the most conservative estimates
10 indicate that despite our aggressive prison construction plan we will
11 not be able to build enough prison beds to keep pace with expected
12 growth in the prison population over the next ten years. The huge
13 increase in our prison population is not only the result of more
14 individuals committing serious crimes but also because most offenders

1 released from prison will return again. Our corrections system has
2 become a high-cost institution that perpetually recycles inmates
3 without deterring crime. As a result of these conditions, serious
4 concerns have been raised about our current corrections philosophy.
5 Attention must be directed towards implementing a long-range
6 corrections strategy that focuses on inmate responsibility through work
7 training, the development of mature and marketable job skills, and
8 requiring inmates to pay for the cost of their incarceration.

9 The combined cost of housing, maintaining, and supervising inmates
10 in our state corrections facilities is increasing beyond our capability
11 to pay. The legislature recognizes that the responsibility for
12 criminal activity must fall squarely on the criminal. Society should
13 not have to pay the price for crimes twice, once for the criminal act
14 and then again by feeding, clothing, and housing the offender. The
15 corrections system must be the first place where criminal offenders are
16 given the opportunity to be responsible for paying for their criminal
17 activity, not just through the loss of their freedom, but also by
18 working while in prison and contributing an appropriate portion of
19 their wages to the cost of their incarceration. Allowing offenders to
20 become responsible through working in meaningful jobs for real wages
21 can be a beneficial opportunity for corrections. Everyone profits from
22 a successful corrections industry program -- the prison system,
23 taxpayers, the community, families, and the inmate. Most important, an
24 inmate who is drug-free and has mature job skills is significantly more
25 likely not to return to prison.

26 It is the purpose and intent of this act to outline a comprehensive
27 strategy for reducing upwardly spiraling prison costs through an inmate
28 work responsibility program, preserving scarce prison cell space for
29 our most dangerous offenders, and providing judges with alternatives to

1 incarceration, including drug rehabilitation, that must be used without
2 jeopardizing public safety.

3 **Sec. 2.** RCW 9.94A.120 and 1991 c 221 s 2, 1991 c 181 s 3, and 1991
4 c 104 s 3 are each reenacted and amended to read as follows:

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

7 (1) Except as authorized in subsections (2), (4), (5), ~~((and))~~ (7),
8 and (20) of this section, the court shall impose a sentence within the
9 sentence range for the offense.

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

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

18 (4)(a) An offender convicted of the crime of murder in the first
19 degree shall be sentenced to a term of total confinement not less than
20 twenty years.

21 (b) An offender convicted of the crime of assault in the first
22 degree where the offender used force or means likely to result in death
23 or intended to kill the victim shall be sentenced to a term of total
24 confinement not less than five years.

25 (c) An offender convicted of the crime of rape in the first degree
26 shall be sentenced to a term of total confinement not less than five
27 years, and shall not be eligible for furlough, work release or other
28 authorized leave of absence from the correctional facility during such

1 minimum five-year term except for the purpose of commitment to an
2 inpatient treatment facility.

3 (d) An offender shall be sentenced to a minimum term of confinement
4 of not less than fifteen years if the offender (i) while committed to
5 a state correctional facility for murder in the first or second degree,
6 homicide by abuse, assault in the first or second degree, rape in the
7 first or second degree, kidnapping in the first degree, robbery in the
8 first degree, arson in the first degree, or burglary in the first
9 degree; (ii) commits the crime of murder in the second degree, assault
10 in the first or second degree, rape in the first or second degree,
11 arson in the first or second degree, or robbery in the first or second
12 degree. The sentence shall be served consecutive to any term of
13 confinement remaining on the offense or offenses for which the offender
14 was committed to the state institution as provided in RCW 9.94A.400 (2)
15 and (5). An offender who commits murder in the first degree while
16 committed to a state institution for the conviction of one of the
17 offenses listed in (d)(ii) of this subsection shall serve his or her
18 sentence consecutive to any term of confinement remaining on the
19 offense or offenses for which the offender was committed to the state
20 institution. RCW 9A.20.021(1)(b), which provides that the statutory
21 maximum for class B felonies is ten years, does not apply to the crimes
22 identified in (d)(ii) of this subsection when committed in a state
23 correctional facility by an offender who is committed to the state
24 institution for a crime listed in (d)(i) of this subsection. The
25 statutory maximum is a term of life imprisonment.

26 The foregoing minimum terms of total confinement, specified in (a),
27 (b), (c), and (d) of this subsection, are mandatory and shall not be
28 varied or modified as provided in subsection (2) of this section.

29 (5) In sentencing a first-time offender the court may waive the
30 imposition of a sentence within the sentence range and impose a

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

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

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

12 (c) Pursue a prescribed, secular course of study or vocational
13 training;

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

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

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

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

29 (7)(a)(i) When an offender is convicted of a sex offense other than
30 a violation of RCW 9A.44.050 or a sex offense that is also a serious

1 violent offense and has no prior convictions for a sex offense or any
2 other felony sex offenses in this or any other state, the sentencing
3 court, on its own motion or the motion of the state or the defendant,
4 may order an examination to determine whether the defendant is amenable
5 to treatment.

6 The report of the examination shall include at a minimum the
7 following: The defendant's version of the facts and the official
8 version of the facts, the defendant's offense history, an assessment of
9 problems in addition to alleged deviant behaviors, the offender's
10 social and employment situation, and other evaluation measures used.
11 The report shall set forth the sources of the evaluator's information.

12 The examiner shall assess and report regarding the defendant's
13 amenability to treatment and relative risk to the community. A
14 proposed treatment plan shall be provided and shall include, at a
15 minimum:

- 16 (A) Frequency and type of contact between offender and therapist;
- 17 (B) Specific issues to be addressed in the treatment and
18 description of planned treatment modalities;
- 19 (C) Monitoring plans, including any requirements regarding living
20 conditions, lifestyle requirements, and monitoring by family members
21 and others;
- 22 (D) Anticipated length of treatment; and
- 23 (E) Recommended crime-related prohibitions.

24 The court on its own motion may order, or on a motion by the state
25 shall order, a second examination regarding the offender's amenability
26 to treatment. The evaluator shall be selected by the party making the
27 motion. The defendant shall pay the cost of any second examination
28 ordered unless the court finds the defendant to be indigent in which
29 case the state shall pay the cost.

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

10 (A) The court shall place the defendant on community supervision
11 for the length of the suspended sentence or three years, whichever is
12 greater; and

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

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

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

4 (III) Report as directed to the court and a community corrections
5 officer;

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

9 (V) Make recoupment to the victim for the cost of any counseling
10 required as a result of the offender's crime.

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

18 (iv) At the time of sentencing, the court shall set a treatment
19 termination hearing for three months prior to the anticipated date for
20 completion of treatment. Prior to the treatment termination hearing,
21 the treatment professional and community corrections officer shall
22 submit written reports to the court and parties regarding the
23 defendant's compliance with treatment and monitoring requirements, and
24 recommendations regarding termination from treatment, including
25 proposed community supervision conditions. Either party may request
26 and the court may order another evaluation regarding the advisability
27 of termination from treatment. The defendant shall pay the cost of any
28 additional evaluation ordered unless the court finds the defendant to
29 be indigent in which case the state shall pay the cost. At the
30 treatment termination hearing the court may: (A) Modify conditions of

1 community supervision, and either (B) terminate treatment, or (C)
2 extend treatment for up to the remaining period of community
3 supervision.

4 (v) The court may revoke the suspended sentence at any time during
5 the period of community supervision and order execution of the sentence
6 if: (A) The defendant violates the conditions of the suspended
7 sentence, or (B) the court finds that the defendant is failing to make
8 satisfactory progress in treatment. All confinement time served during
9 the period of community supervision shall be credited to the offender
10 if the suspended sentence is revoked.

11 (vi) After July 1, 1991, examinations and treatment ordered
12 pursuant to this subsection shall only be conducted by sex offender
13 treatment providers certified by the department of health pursuant to
14 chapter 18.155 RCW.

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

20 (b) When an offender is convicted of any felony sex offense
21 committed before July 1, 1987, and is sentenced to a term of
22 confinement of more than one year but less than six years, the
23 sentencing court may, on its own motion or on the motion of the
24 offender or the state, order the offender committed for up to thirty
25 days to the custody of the secretary of social and health services for
26 evaluation and report to the court on the offender's amenability to
27 treatment at these facilities. If the secretary of social and health
28 services cannot begin the evaluation within thirty days of the court's
29 order of commitment, the offender shall be transferred to the state for
30 confinement pending an opportunity to be evaluated at the appropriate

1 facility. The court shall review the reports and may order that the
2 term of confinement imposed be served in the sexual offender treatment
3 program at the location determined by the secretary of social and
4 health services or the secretary's designee, only if the report
5 indicates that the offender is amenable to the treatment program
6 provided at these facilities. The offender shall be transferred to the
7 state pending placement in the treatment program. Any offender who has
8 escaped from the treatment program shall be referred back to the
9 sentencing court.

10 If the offender does not comply with the conditions of the
11 treatment program, the secretary of social and health services may
12 refer the matter to the sentencing court. The sentencing court shall
13 commit the offender to the department of corrections to serve the
14 balance of the term of confinement.

15 If the offender successfully completes the treatment program before
16 the expiration of the term of confinement, the court may convert the
17 balance of confinement to community supervision and may place
18 conditions on the offender including crime-related prohibitions and
19 requirements that the offender perform any one or more of the
20 following:

- 21 (i) Devote time to a specific employment or occupation;
- 22 (ii) Remain within prescribed geographical boundaries and notify
23 the court or the community corrections officer prior to any change in
24 the offender's address or employment;
- 25 (iii) Report as directed to the court and a community corrections
26 officer;
- 27 (iv) Undergo available outpatient treatment.

28 If the offender violates any of the terms of community supervision,
29 the court may order the offender to serve out the balance of the

1 community supervision term in confinement in the custody of the
2 department of corrections.

3 After June 30, 1993, this subsection (b) shall cease to have
4 effect.

5 (c) When an offender commits any felony sex offense on or after
6 July 1, 1987, and is sentenced to a term of confinement of more than
7 one year but less than six years, the sentencing court may, on its own
8 motion or on the motion of the offender or the state, request the
9 department of corrections to evaluate whether the offender is amenable
10 to treatment and the department may place the offender in a treatment
11 program within a correctional facility operated by the department.

12 Except for an offender who has been convicted of a violation of RCW
13 9A.44.040 or 9A.44.050, if the offender completes the treatment program
14 before the expiration of his or her term of confinement, the department
15 of corrections may request the court to convert the balance of
16 confinement to community supervision and to place conditions on the
17 offender including crime-related prohibitions and requirements that the
18 offender perform any one or more of the following:

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

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

23 (iii) Report as directed to the court and a community corrections
24 officer;

25 (iv) Undergo available outpatient treatment.

26 If the offender violates any of the terms of his or her community
27 supervision, the court may order the offender to serve out the balance
28 of his community supervision term in confinement in the custody of the
29 department of corrections.

1 Nothing in (c) of this subsection shall confer eligibility for such
2 programs for offenders convicted and sentenced for a sex offense
3 committed prior to July 1, 1987. This subsection (c) does not apply to
4 any crime committed after July 1, 1990.

5 (d) Offenders convicted and sentenced for a sex offense committed
6 prior to July 1, 1987, may, subject to available funds, request an
7 evaluation by the department of corrections to determine whether they
8 are amenable to treatment. If the offender is determined to be
9 amenable to treatment, the offender may request placement in a
10 treatment program within a correctional facility operated by the
11 department. Placement in such treatment program is subject to
12 available funds.

13 (8)(a) When a court sentences a person to a term of total
14 confinement to the custody of the department of corrections for an
15 offense categorized as a sex offense or a serious violent offense
16 committed after July 1, 1988, but before July 1, 1990, assault in the
17 second degree, any crime against a person where it is determined in
18 accordance with RCW 9.94A.125 that the defendant or an accomplice was
19 armed with a deadly weapon at the time of commission, or any felony
20 offense under chapter 69.50 or 69.52 RCW, committed on or after July 1,
21 1988, the court shall in addition to the other terms of the sentence,
22 sentence the offender to a one-year term of community placement
23 beginning either upon completion of the term of confinement or at such
24 time as the offender is transferred to community custody in lieu of
25 earned early release in accordance with RCW 9.94A.150 (1) and (2).
26 When the court sentences an offender under this subsection to the
27 statutory maximum period of confinement then the community placement
28 portion of the sentence shall consist entirely of such community
29 custody to which the offender may become eligible, in accordance with
30 RCW 9.94A.150 (1) and (2). Any period of community custody actually

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

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

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

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

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

28 (iv) An offender in community custody shall not unlawfully possess
29 controlled substances; and

1 (v) The offender shall pay supervision fees as determined by the
2 department of corrections.

3 (c) The court may also order any of the following special
4 conditions:

5 (i) The offender shall remain within, or outside of, a specified
6 geographical boundary;

7 (ii) The offender shall not have direct or indirect contact with
8 the victim of the crime or a specified class of individuals;

9 (iii) The offender shall participate in crime-related treatment or
10 counseling services;

11 (iv) The offender shall not consume alcohol;

12 (v) The residence location and living arrangements of a sex
13 offender shall be subject to the prior approval of the department of
14 corrections; or

15 (vi) The offender shall comply with any crime-related prohibitions.

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

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

26 (10) If a sentence imposed includes payment of a legal financial
27 obligation, the sentence shall specify the total amount of the legal
28 financial obligation owed, and shall require the offender to pay a
29 specified monthly sum toward that legal financial obligation.
30 Restitution to victims shall be paid prior to any other payments of

1 monetary obligations. Any legal financial obligation that is imposed
2 by the court may be collected by the department, which shall deliver
3 the amount paid to the county clerk for credit. The offender's
4 compliance with payment of legal financial obligations shall be
5 supervised by the department. All monetary payments ordered shall be
6 paid no later than ten years after the last date of release from
7 confinement pursuant to a felony conviction or the date the sentence
8 was entered. Independent of the department, the party or entity to
9 whom the legal financial obligation is owed shall have the authority to
10 utilize any other remedies available to the party or entity to collect
11 the legal financial obligation. Nothing in this section makes the
12 department, the state, or any of its employees, agents, or other
13 persons acting on their behalf liable under any circumstances for the
14 payment of these legal financial obligations. If an order includes
15 restitution as one of the monetary assessments, the county clerk shall
16 make disbursements to victims named in the order.

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

21 (12) All offenders sentenced to terms involving community
22 supervision, community service, community placement, or legal financial
23 obligation shall be under the supervision of the secretary of the
24 department of corrections or such person as the secretary may designate
25 and shall follow explicitly the instructions of the secretary including
26 reporting as directed to a community corrections officer, remaining
27 within prescribed geographical boundaries, notifying the community
28 corrections officer of any change in the offender's address or
29 employment, and paying the supervision fee assessment.

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

11 (14) The sentencing court shall give the offender credit for all
12 confinement time served before the sentencing if that confinement was
13 solely in regard to the offense for which the offender is being
14 sentenced.

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

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

27 (17) As a part of any sentence, the court may impose and enforce an
28 order that relates directly to the circumstances of the crime for which
29 the offender has been convicted, prohibiting the offender from having
30 any contact with other specified individuals or a specific class of

1 individuals for a period not to exceed the maximum allowable sentence
2 for the crime, regardless of the expiration of the offender's term of
3 community supervision or community placement.

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

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

12 (20) An offender shall be sentenced to a minimum term of
13 confinement of not less than fifteen years or a determinate term within
14 the standard range, whichever is greater, if the offender (a) while
15 committed to a state correctional facility for murder in the first or
16 second degree, homicide by abuse, assault in the first or second
17 degree, rape in the first or second degree, kidnapping in the first
18 degree, robbery in the first degree, arson in the first degree, or
19 burglary in the first degree; (b) commits the crime of murder in the
20 second degree, assault in the first or second degree, rape in the first
21 or second degree, arson in the first or second degree, or robbery in
22 the first or second degree. The court may impose an exceptional
23 sentence above the mandatory minimum term or the standard range for the
24 offense based on the existence of aggravating factors as provided in
25 RCW 9.94A.390, but may not impose an exceptional sentence below the
26 mandatory minimum or standard range. The term imposed shall be served
27 consecutive to any term of confinement remaining on the offense or
28 offenses for which the offender was committed to the state institution
29 as provided in RCW 9.94A.400 (2) and (5). An offender who commits
30 murder in the first degree while committed to a state institution for

1 the conviction of one of the offenses listed in (b) of this subsection
2 shall serve his or her sentence consecutive to any term of confinement
3 remaining on the offense or offenses for which the offender was
4 committed to the state institution. RCW 9A.20.021(1)(b), which
5 provides that the statutory maximum for class B felonies is ten years,
6 does not apply to the crimes identified in (b) of this subsection when
7 committed in a state correctional facility by an offender who is
8 committed to the state institution for a crime listed in (a) of this
9 subsection. The statutory maximum is a term of life imprisonment.

10 **Sec. 3.** RCW 9.94A.150 and 1990 c 3 s 202 are each amended to read
11 as follows:

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

16 (1) Except as otherwise provided for in subsection (2) of this
17 section, the term of the sentence of an offender committed to a
18 correctional facility operated by the department, may be reduced by
19 earned early release time in accordance with procedures that shall be
20 developed and promulgated by the correctional agency having
21 jurisdiction in which the offender is confined. The earned early
22 release time shall be for good behavior and good performance, as
23 determined by the correctional agency having jurisdiction. The
24 correctional agency shall not credit the offender with earned early
25 release credits in advance of the offender actually earning the
26 credits. Any program established pursuant to this section shall allow
27 an offender to earn early release credits for presentence
28 incarceration. If an offender is transferred from a county jail to the
29 department of corrections, the county jail facility shall certify to

1 the department the amount of time spent in custody at the facility and
2 the amount of earned early release time. In the case of an offender
3 convicted of a serious violent offense or a sex offense that is a class
4 A felony committed on or after July 1, 1990, the aggregate earned early
5 release time may not exceed fifteen percent of the sentence. In no
6 other case shall the aggregate earned early release time exceed
7 one-third of the total sentence;

8 (2) A person convicted of a sex offense or an offense categorized
9 as a serious violent offense, assault in the second degree, any crime
10 against a person where it is determined in accordance with RCW
11 9.94A.125 that the defendant or an accomplice was armed with a deadly
12 weapon at the time of commission, or any felony offense under chapter
13 69.50 or 69.52 RCW may become eligible, in accordance with a program
14 developed by the department, for transfer to community custody status
15 in lieu of earned early release time pursuant to subsection (1) of this
16 section;

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

21 (4) The governor, upon recommendation from the clemency and pardons
22 board, may grant an extraordinary release for reasons of serious health
23 problems, senility, advanced age, extraordinary meritorious acts, or
24 other extraordinary circumstances;

25 (5) No more than the final six months of the sentence may be served
26 in partial confinement designed to aid the offender in finding work and
27 reestablishing him or herself in the community;

28 (6) The governor may pardon any offender;

1 (7) The department of corrections may release an offender from
2 confinement any time within ten days before a release date calculated
3 under this section; and

4 (8) An offender may leave a correctional facility prior to
5 completion of his or her sentence if the sentence has been reduced as
6 provided in RCW 9.94A.160.

7 **Sec. 4.** RCW 9.94A.440 and 1989 c 332 s 2 are each amended to read
8 as follows:

9 (1) Decision not to prosecute.

10 STANDARD: A prosecuting attorney may decline to prosecute, even
11 though technically sufficient evidence to prosecute exists, in
12 situations where prosecution would serve no public purpose, would
13 defeat the underlying purpose of the law in question or would result in
14 decreased respect for the law.

15 GUIDELINE/COMMENTARY:

16 Examples

17 The following are examples of reasons not to prosecute which could
18 satisfy the standard.

19 (a) Contrary to Legislative Intent - It may be proper to decline to
20 charge where the application of criminal sanctions would be clearly
21 contrary to the intent of the legislature in enacting the particular
22 statute.

23 (b) Antiquated Statute - It may be proper to decline to charge
24 where the statute in question is antiquated in that:

25 (i) It has not been enforced for many years; and

26 (ii) Most members of society act as if it were no longer in
27 existence; and

28 (iii) It serves no deterrent or protective purpose in today's
29 society; and

1 (iv) The statute has not been recently reconsidered by the
2 legislature.

3 This reason is not to be construed as the basis for declining cases
4 because the law in question is unpopular or because it is difficult to
5 enforce.

6 (c) De Minimus Violation - It may be proper to decline to charge
7 where the violation of law is only technical or insubstantial and where
8 no public interest or deterrent purpose would be served by prosecution.

9 (d) Confinement on Other Charges - Except for crimes committed by
10 prisoners in state correctional facilities as provided in RCW
11 9.94A.120(20), it may be proper to decline to charge because the
12 accused has been sentenced on another charge to a lengthy period of
13 confinement; and

14 (i) Conviction of the new offense would not merit any additional
15 direct or collateral punishment;

16 (ii) The new offense is either a misdemeanor or a felony which is
17 not particularly aggravated; and

18 (iii) Conviction of the new offense would not serve any significant
19 deterrent purpose.

20 (e) Pending Conviction on Another Charge - It may be proper to
21 decline to charge because the accused is facing a pending prosecution
22 in the same or another county; and

23 (i) Conviction of the new offense would not merit any additional
24 direct or collateral punishment;

25 (ii) Conviction in the pending prosecution is imminent;

26 (iii) The new offense is either a misdemeanor or a felony which is
27 not particularly aggravated; and

28 (iv) Conviction of the new offense would not serve any significant
29 deterrent purpose.

1 (f) High Disproportionate Cost of Prosecution - It may be proper to
2 decline to charge where the cost of locating or transporting, or the
3 burden on, prosecution witnesses is highly disproportionate to the
4 importance of prosecuting the offense in question. This reason should
5 be limited to minor cases and should not be relied upon in serious
6 cases.

7 (g) Improper Motives of Complainant - It may be proper to decline
8 charges because the motives of the complainant are improper and
9 prosecution would serve no public purpose, would defeat the underlying
10 purpose of the law in question or would result in decreased respect for
11 the law.

12 (h) Immunity - It may be proper to decline to charge where immunity
13 is to be given to an accused in order to prosecute another where the
14 accused's information or testimony will reasonably lead to the
15 conviction of others who are responsible for more serious criminal
16 conduct or who represent a greater danger to the public interest.

17 (i) Victim Request - It may be proper to decline to charge because
18 the victim requests that no criminal charges be filed and the case
19 involves the following crimes or situations:

20 (i) Assault cases where the victim has suffered little or no
21 injury;

22 (ii) Crimes against property, not involving violence, where no
23 major loss was suffered;

24 (iii) Where doing so would not jeopardize the safety of society.

25 Care should be taken to insure that the victim's request is freely
26 made and is not the product of threats or pressure by the accused.

27 The presence of these factors may also justify the decision to
28 dismiss a prosecution which has been commenced.

29 Notification

1 The prosecutor is encouraged to notify the victim, when practical,
2 and the law enforcement personnel, of the decision not to prosecute.

3 (2) Decision to prosecute.

4 STANDARD:

5 Crimes against persons will be filed if sufficient admissible
6 evidence exists, which, when considered with the most plausible,
7 reasonably foreseeable defense that could be raised under the evidence,
8 would justify conviction by a reasonable and objective fact-finder.
9 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
10 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
11 9A.64.020 the prosecutor should avoid prefiling agreements or
12 diversions intended to place the accused in a program of treatment or
13 counseling, so that treatment, if determined to be beneficial, can be
14 provided pursuant to RCW 9.94A.120(7).

15 Crimes against property/other crimes will be filed if the
16 admissible evidence is of such convincing force as to make it probable
17 that a reasonable and objective fact-finder would convict after hearing
18 all the admissible evidence and the most plausible defense that could
19 be raised.

20 See table below for the crimes within these categories.

21 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

22 CRIMES AGAINST PERSONS

23 Aggravated Murder

24 1st Degree Murder

25 2nd Degree Murder

26 1st Degree Kidnaping

27 1st Degree Assault

- 1 1st Degree Rape
- 2 1st Degree Robbery
- 3 1st Degree Rape of a Child
- 4 1st Degree Arson
- 5 2nd Degree Kidnaping
- 6 2nd Degree Assault
- 7 2nd Degree Rape
- 8 2nd Degree Robbery
- 9 1st Degree Burglary
- 10 1st Degree Manslaughter
- 11 2nd Degree Manslaughter
- 12 1st Degree Extortion
- 13 Indecent Liberties
- 14 Incest
- 15 2nd Degree Rape of a Child
- 16 Vehicular Homicide
- 17 Vehicular Assault
- 18 3rd Degree Rape
- 19 3rd Degree Rape of a Child
- 20 1st Degree Child Molestation
- 21 2nd Degree Child Molestation
- 22 3rd Degree Child Molestation
- 23 2nd Degree Extortion
- 24 1st Degree Promoting Prostitution
- 25 Intimidating a Juror
- 26 Communication with a Minor
- 27 Intimidating a Witness
- 28 Intimidating a Public Servant
- 29 Bomb Threat (if against person)
- 30 3rd Degree Assault

1 Unlawful Imprisonment
2 Promoting a Suicide Attempt
3 Riot (if against person)

4 CRIMES AGAINST PROPERTY/OTHER CRIMES

5 2nd Degree Arson
6 1st Degree Escape
7 2nd Degree Burglary
8 1st Degree Theft
9 1st Degree Perjury
10 1st Degree Introducing Contraband
11 1st Degree Possession of Stolen Property
12 Bribery
13 Bribing a Witness
14 Bribe received by a Witness
15 Bomb Threat (if against property)
16 1st Degree Malicious Mischief
17 2nd Degree Theft
18 2nd Degree Escape
19 2nd Degree Introducing Contraband
20 2nd Degree Possession of Stolen Property
21 2nd Degree Malicious Mischief
22 1st Degree Reckless Burning
23 Taking a Motor Vehicle without Authorization
24 Forgery
25 2nd Degree Perjury
26 2nd Degree Promoting Prostitution
27 Tampering with a Witness
28 Trading in Public Office

- 1 Trading in Special Influence
- 2 Receiving/Granting Unlawful Compensation
- 3 Bigamy
- 4 Eluding a Pursuing Police Vehicle
- 5 Willful Failure to Return from Furlough
- 6 Riot (if against property)
- 7 Thefts of Livestock

8 ALL OTHER UNCLASSIFIED FELONIES

9 Selection of Charges/Degree of Charge

10 (1) The prosecutor should file charges which adequately describe
11 the nature of defendant's conduct. Other offenses may be charged only
12 if they are necessary to ensure that the charges:

13 (a) Will significantly enhance the strength of the state's case at
14 trial; or

15 (b) Will result in restitution to all victims.

16 (2) The prosecutor should not overcharge to obtain a guilty plea.

17 Overcharging includes:

18 (a) Charging a higher degree;

19 (b) Charging additional counts.

20 This standard is intended to direct prosecutors to charge those
21 crimes which demonstrate the nature and seriousness of a defendant's
22 criminal conduct, but to decline to charge crimes which are not
23 necessary to such an indication. Crimes which do not merge as a matter
24 of law, but which arise from the same course of conduct, do not all
25 have to be charged.

26 GUIDELINES/COMMENTARY:

27 Police Investigation

1 A prosecuting attorney is dependent upon law enforcement agencies
2 to conduct the necessary factual investigation which must precede the
3 decision to prosecute. The prosecuting attorney shall ensure that a
4 thorough factual investigation has been conducted before a decision to
5 prosecute is made. In ordinary circumstances the investigation should
6 include the following:

7 (1) The interviewing of all material witnesses, together with the
8 obtaining of written statements whenever possible;

9 (2) The completion of necessary laboratory tests; and

10 (3) The obtaining, in accordance with constitutional requirements,
11 of the suspect's version of the events.

12 If the initial investigation is incomplete, a prosecuting attorney
13 should insist upon further investigation before a decision to prosecute
14 is made, and specify what the investigation needs to include.

15 Exceptions

16 In certain situations, a prosecuting attorney may authorize filing
17 of a criminal complaint before the investigation is complete if:

18 (1) Probable cause exists to believe the suspect is guilty; and

19 (2) The suspect presents a danger to the community or is likely to
20 flee if not apprehended; or

21 (3) The arrest of the suspect is necessary to complete the
22 investigation of the crime.

23 In the event that the exception to the standard is applied, the
24 prosecuting attorney shall obtain a commitment from the law enforcement
25 agency involved to complete the investigation in a timely manner. If
26 the subsequent investigation does not produce sufficient evidence to
27 meet the normal charging standard, the complaint should be dismissed.

28 Investigation Techniques

29 The prosecutor should be fully advised of the investigatory
30 techniques that were used in the case investigation including:

- 1 (1) Polygraph testing;
- 2 (2) Hypnosis;
- 3 (3) Electronic surveillance;
- 4 (4) Use of informants.

5 Pre-Filing Discussions with Defendant

6 Discussions with the defendant or ~~((his/her))~~ his or her
7 representative regarding the selection or disposition of charges may
8 occur prior to the filing of charges, and potential agreements can be
9 reached.

10 **Sec. 5.** RCW 9.95.100 and 1955 c 133 s 11 are each amended to read
11 as follows:

12 (1) Any convicted person undergoing sentence in the penitentiary or
13 the reformatory, not sooner released under the provisions of this
14 chapter, shall, in accordance with the provisions of law, be discharged
15 from custody on serving the maximum punishment provided by law for the
16 offense of which such person was convicted, or the maximum term fixed
17 by the court where the law does not provide for a maximum term. ((The
18 board shall not, however, until his maximum term expires, release a
19 prisoner, unless in its opinion his rehabilitation has been complete
20 and he is a fit subject for release))

21 (2) When the board reviews the parole eligibility of an offender
22 for all offenders whose minimum terms have been set according to RCW
23 9.95.009(2), the board shall not release the offender unless the board
24 determines that the offender does not present a serious risk to the
25 community on parole.

26 **Sec. 6.** RCW 9.95.0011 and 1989 c 259 s 4 are each amended to read
27 as follows:

1 (1) The indeterminate (~~sentencing~~) sentence review board shall
2 cease to exist on June 30, 1998. Prior to June 30, 1998, the board
3 shall review each inmate convicted of crimes committed before July 1,
4 1984, and prepare a report. This report shall include a recommendation
5 regarding the offender's suitability for parole, appropriate parole
6 conditions, and, for those persons committed under a mandatory life
7 sentence, duration of confinement.

8 (2) The (~~governor, through the office of financial management,~~)
9 board shall recommend to the legislature (~~alternatives for carrying~~
10 ~~out the duties of the board~~) a detailed plan for terminating the
11 indeterminate jurisdiction on all remaining inmates and parolees no
12 later than June 30, 1998. The plan shall consider ex post facto issues
13 and public safety concerns. In developing recommendations, the
14 (~~office of financial management~~) board shall consult with the
15 (~~indeterminate sentence review board~~) office of financial management,
16 the attorney general, Washington association of prosecuting attorneys,
17 Washington defender association, department of corrections, and
18 administrator for the courts. Recommendations shall include a detailed
19 fiscal analysis and recommended formulas and procedures for the
20 reimbursement of costs to local governments if necessary.
21 Recommendations shall be presented to the (~~1997~~) legislature no later
22 than December 1, 1992.

23 **Sec. 7.** RCW 9.95.040 and 1986 c 224 s 9 are each amended to read
24 as follows:

25 The board shall fix the duration of confinement for persons
26 committed by the court before July 1, 1986, for crimes committed before
27 July 1, 1984. Within six months after the admission of the convicted
28 person to the penitentiary, reformatory, or such other state penal
29 institution as may hereafter be established, the board shall fix the

1 duration of his confinement. The term of imprisonment so fixed shall
2 not exceed the maximum provided by law for the offense of which he was
3 convicted or the maximum fixed by the court where the law does not
4 provide for a maximum term.

5 The following limitations are placed on the board or the court for
6 persons committed to prison on or after July 1, 1986, for crimes
7 committed before July 1, 1984, with regard to fixing the duration of
8 confinement in certain cases, notwithstanding any provisions of law
9 specifying a lesser sentence:

10 (1) For a person not previously convicted of a felony but armed
11 with a deadly weapon at the time of the commission of his offense, the
12 duration of confinement shall not be fixed at less than five years.

13 (2) For a person previously convicted of a felony either in this
14 state or elsewhere and who was armed with a deadly weapon at the time
15 of the commission of his offense, the duration of confinement shall not
16 be fixed at less than seven and one-half years.

17 The words "deadly weapon," as used in this section include, but are
18 not limited to, any instrument known as a blackjack, sling shot, billy,
19 sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver,
20 or any other firearm, any knife having a blade longer than three
21 inches, any razor with an unguarded blade, any metal pipe or bar used
22 or intended to be used as a club, any explosive, and any weapon
23 containing poisonous or injurious gas.

24 (3) For a person convicted of being an habitual criminal within the
25 meaning of the statute which provides for mandatory life imprisonment
26 for such habitual criminals, the duration of confinement shall not be
27 fixed at less than fifteen years. ~~((The board shall retain
28 jurisdiction over such convicted person throughout his natural life
29 unless the governor by appropriate executive action orders otherwise.))~~

1 (4) Any person convicted of embezzling funds from any institution
2 of public deposit of which he was an officer or stockholder, the
3 duration of confinement shall be fixed at not less than five years.

4 Except when an inmate of the reformatory, penitentiary, or such
5 other penal institution as may hereafter be established has been
6 convicted of murder in the first or second degree, the board may parole
7 an inmate prior to the expiration of a mandatory minimum term, provided
8 such inmate has demonstrated a meritorious effort in rehabilitation and
9 at least two-thirds of the board members concur in such action:
10 PROVIDED, That any inmate who has a mandatory minimum term and is
11 paroled prior to the expiration of such term according to the
12 provisions of this chapter shall not receive a conditional release from
13 supervision while on parole until after the mandatory minimum term has
14 expired.

15 **Sec. 8.** RCW 9.95.110 and 1955 c 133 s 12 are each amended to read
16 as follows:

17 (1) The board ~~((of prison terms and paroles))~~ may permit a
18 convicted person to leave the buildings and enclosures of the
19 penitentiary or the reformatory on parole, after such convicted person
20 has served the period of confinement fixed for him or her by the board,
21 less time credits for good behavior and diligence in work ~~((: PROVIDED,~~
22 ~~That in no case shall an))~~. No inmate may be credited with more than
23 one-third of his or her sentence as fixed by the board.

24 (2) The board ~~((of prison terms and paroles))~~ may establish rules
25 and regulations under which a convicted person may be allowed to leave
26 the confines of the penitentiary or the reformatory on parole ~~((, and))~~.
27 The board may return such person to the confines of the institution
28 from which he or she was paroled ~~((, at its discretion))~~ according to
29 RCW 9.95.121.

1 (3) On or after the effective date of this section, a person who is
2 released on parole shall be placed on parole for the following periods
3 of time: (a) A person convicted of a sex or serious violent offense
4 shall be on parole for two years from the date of release or up to the
5 period of time earned for good behavior awarded pursuant to RCW
6 9.95.070 and this section, whichever is longer; or (b) offenders
7 released on parole who are convicted of offenses other than sex or
8 serious violent offenses shall be on parole for two years from the date
9 of release. Under either (a) or (b) of this subsection, the parole
10 period shall not exceed the time remaining on the parolee's statutory
11 maximum sentence. Sanctions for violations of parole shall be imposed
12 as provided in RCW 9.95.121 and 9.95.125. Final discharge orders shall
13 be granted as provided in RCW 9.96.050.

14 **Sec. 9.** RCW 9.95.121 and 1981 c 136 s 38 are each amended to read
15 as follows:

16 Within fifteen days from the date of notice to the department of
17 corrections of the arrest and detention of the alleged parole violator,
18 he shall be personally served by a state probation and parole officer
19 with a copy of the factual allegations of the violation of the
20 conditions of parole, and, at the same time shall be advised of his
21 right to an on-site parole revocation hearing and of his rights and
22 privileges as provided in RCW 9.95.120 through 9.95.126. The alleged
23 parole violator, after service of the allegations of violations of the
24 conditions of parole and the advice of rights may waive the on-site
25 parole revocation hearing as provided in RCW 9.95.120, and admit one or
26 more of the alleged violations of the conditions of parole. If the
27 board accepts the waiver it shall either, (1) reinstate the parolee on
28 parole under the same or modified conditions, and if reinstated, may
29 impose sanctions according to an administrative violation grid

1 developed by the board in cooperation with the department of
2 corrections, or (2) revoke the parole of the parolee and enter an order
3 of parole revocation and return to state custody. Revocation of parole
4 and return to state custody shall be reserved as the last alternative
5 to be imposed under the sanction grid. A determination of a new
6 minimum sentence shall be made within thirty days of return to state
7 custody which shall not exceed the maximum sentence as provided by law
8 for the crime of which the parolee was originally convicted or the
9 maximum fixed by the court. The offender shall be released according
10 to the provisions of RCW 9.95.100. Upon release the offender shall be
11 on parole for the period of time provided in RCW 9.95.110.

12 If the waiver made by the parolee is rejected by the board it shall
13 hold an on-site parole revocation hearing under the provisions of RCW
14 9.95.120 through 9.95.126.

15 **Sec. 10.** RCW 9.95.125 and 1969 c 98 s 7 are each amended to read
16 as follows:

17 After the on-site parole revocation hearing has been concluded, the
18 members of the board having heard the matter shall enter their decision
19 of record within ten days, and make findings and conclusions upon the
20 allegations of the violations of the conditions of parole. If the
21 member, or members having heard the matter, should conclude that the
22 allegations of violation of the conditions of parole have not been
23 proven by a preponderance of the evidence, or, those which have been
24 proven by a preponderance of the evidence are not sufficient cause for
25 the revocation of parole, then the parolee shall be reinstated on
26 parole on the same or modified conditions of parole. If the member or
27 members having heard the matter should conclude that the allegations of
28 violation of the conditions of parole have been proven by a
29 preponderance of the evidence and constitute sufficient cause for the

1 revocation of parole, then such member or members shall enter an order
2 of parole revocation and either impose sanctions according to a
3 sanction grid as provided in RCW 9.95.121 or return the parole violator
4 to state custody. Within thirty days of the return of such parole
5 violator to a state correctional institution for convicted felons the
6 board (~~((of prison terms and paroles))~~) shall enter an order determining
7 a new minimum sentence, not exceeding the maximum penalty provided by
8 law for the crime for which the parole violator was originally
9 convicted or the maximum fixed by the court.

10 **Sec. 11.** RCW 9.96.050 and 1980 c 75 s 1 are each amended to read
11 as follows:

12 (1) When a prisoner on parole has performed the obligations of his
13 release for such time as shall satisfy the indeterminate sentence
14 review board (~~((of prison terms and paroles))~~) that his or her final
15 release is not incompatible with the best interests of society and the
16 welfare of the paroled individual, the board may make a final order of
17 discharge and issue a certificate of discharge to the prisoner.

18 (2) The board retains the jurisdiction to issue a certificate of
19 discharge after the expiration of the prisoner's or parolee's maximum
20 statutory sentence(~~(: PROVIDED, That no such order of discharge shall~~
21 ~~be made in any case within a period of less than one year from the date~~
22 ~~on which the board has conditionally discharged the parolee from active~~
23 ~~supervision by a probation and parole officer, except where the~~
24 ~~parolee's maximum statutory sentence expires earlier))~~).

25 (3) The board shall grant a final order of discharge and issue a
26 certificate of discharge to a parolee on parole for an offense other
27 than a sex or serious violent offense who has been on parole for two
28 continuous years, if the parolee is not in violation as of the
29 effective date of this section. The board shall grant a final order of

1 discharge and issue a certificate of discharge to a parolee on parole
2 for a sex or serious violent offense who has been on parole for two
3 continuous years or for the time period earned for good behavior,
4 whichever is longer, if the parolee is not in violation as of the
5 effective date of this section.

6 (4) Such discharge, regardless of when issued, shall have the
7 effect of restoring all civil rights lost by operation of law upon
8 conviction, and the certification of discharge shall so state.

9 (5) The discharge provided for in this section shall be considered
10 as a part of the sentence of the convicted person and shall not in any
11 manner be construed as affecting the powers of the governor to pardon
12 any such person.

13 **Sec. 12.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to
14 read as follows:

15 (1) Felony. No person convicted of a classified felony shall be
16 punished by confinement or fine exceeding the following:

17 (a) For a class A felony, by confinement in a state correctional
18 institution for a term of life imprisonment, or by a fine in an amount
19 fixed by the court of fifty thousand dollars, or by both such
20 confinement and fine;

21 (b) Except as provided in RCW 9.94A.120(4)(d) and (20) for a class
22 B felony, by confinement in a state correctional institution for a term
23 of ten years, or by a fine in an amount fixed by the court of twenty
24 thousand dollars, or by both such confinement and fine;

25 (c) For a class C felony, by confinement in a state correctional
26 institution for five years, or by a fine in an amount fixed by the
27 court of ten thousand dollars, or by both such confinement and fine.

28 (2) Gross Misdemeanor. Every person convicted of a gross
29 misdemeanor defined in Title 9A RCW shall be punished by imprisonment

1 in the county jail for a maximum term fixed by the court of not more
2 than one year, or by a fine in an amount fixed by the court of not more
3 than five thousand dollars, or by both such imprisonment and fine.

4 (3) Misdemeanor. Every person convicted of a misdemeanor defined
5 in Title 9A RCW shall be punished by imprisonment in the county jail
6 for a maximum term fixed by the court of not more than ninety days, or
7 by a fine in an amount fixed by the court of not more than one thousand
8 dollars, or by both such imprisonment and fine.

9 (4) This section applies to only those crimes committed on or after
10 July 1, 1984.

11 NEW SECTION. **Sec. 13.** A new section is added to chapter 72.09 RCW
12 to read as follows:

13 The secretary shall increase inmate participation in class I and
14 class II correctional industries work programs incrementally until a
15 combined total of twenty-five percent of all physically and mentally
16 able and eligible inmates are employed in class I and class II programs
17 by December 30, 1996, and fifty percent by December 30, 1998. All
18 inmates working in correctional industries programs shall deposit at
19 least fifty percent of their gross wages in a department of corrections
20 personal inmate savings account until the account reaches a minimum
21 total of two hundred fifty dollars. Thereafter, all inmates working in
22 class I, class II, class III, and class IV correctional industries
23 programs shall pay fifty percent of their gross wages earned, up to six
24 dollars per hour, toward the cost of incarceration so long as the
25 inmate has retained at least two hundred fifty dollars in a department
26 of corrections personal inmate savings account. The department shall
27 explore other methods of recovering a portion of the share of inmate
28 wages dedicated to the payment of the cost of incarceration, on
29 incentive programs that offer inmates benefits and amenities paid for

1 only from wages earned while working in a correctional industries
2 program. The department shall develop the necessary administrative
3 structure to recover inmates' wages and keep records of the amount
4 inmates pay for the costs of incarceration and amenities. All funds
5 gained from this section shall be deposited in a dedicated fund with
6 the department of corrections and shall be used only for the purpose of
7 enhancing and maintaining the correctional industries program until
8 December 31, 2000, and thereafter all funds shall be deposited in the
9 general fund.

10 NEW SECTION. **Sec. 14.** By January 1, 1993, the secretary of
11 corrections shall submit a report to the chief clerk of the house of
12 representatives and secretary of the senate containing an
13 identification and description of any impediments which the secretary
14 believes might prevent the department from achieving compliance with
15 the inmate work participation percentages specified in section 13 of
16 this act. The secretary also shall include, in the report, alternative
17 ways to remove any identified impediments. The chief clerk and
18 secretary shall distribute the report to the appropriate standing
19 committees.

20 NEW SECTION. **Sec. 15.** (1) Sections 5 through 11 of this act
21 are necessary for the immediate preservation of the public peace,
22 health, or safety, or support of the state government and its existing
23 public institutions, and shall take effect immediately.

24 (2) Sections 1 through 4, 12, and 13 of this act shall take effect
25 June 30, 1992.

26 NEW SECTION. **Sec. 16.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.