
SENATE BILL 6499

State of Washington 57th Legislature

2002 Regular Session

By Senators Kline, Hargrove, Costa, Long, Regala, Winsley and Kohl-Welles; by request of Department of Corrections

Read first time 01/18/2002. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to supervision of offenders; amending RCW
2 9.94A.545, 9.94A.637, 9.94A.650, 9.94A.690, 9.94A.700, 9.94A.705,
3 9.94A.715, 9.94A.720, 9.94A.750, 9.94A.760, 4.56.100, 72.65.080, and
4 41.06.380; reenacting and amending RCW 9.94A.753; and providing an
5 effective date.

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

7 **Sec. 1.** RCW 9.94A.545 and 2000 c 28 s 13 are each amended to read
8 as follows:

9 (1) On all sentences of confinement for one year or less, the court
10 may impose up to one year of community custody, subject to conditions
11 and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An
12 offender shall be on community custody as of the date of sentencing.
13 However, during the time for which the offender is in total or partial
14 confinement pursuant to the sentence or a violation of the sentence,
15 the period of community custody shall toll.

16 (2) The department may eliminate or terminate any term of community
17 custody imposed by the court under this section, or any term of
18 community supervision imposed by the court under prior law, for an
19 offender who is classified at the lowest risk level pursuant to a risk

1 assessment by the department. No liability may attach to the state,
2 the department, or any department employee based on the determination
3 to classify an offender at the lowest risk level, or to eliminate or
4 terminate a term of community custody or community supervision, in the
5 absence of intentional misconduct.

6 **Sec. 2.** RCW 9.94A.637 and 2000 c 119 s 3 are each amended to read
7 as follows:

8 (1) When an offender has completed the requirements of the sentence
9 while under the custody or supervision of the department, the secretary
10 of the department or the secretary's designee shall notify the
11 sentencing court, which shall discharge the offender and provide the
12 offender with a certificate of discharge. The department has no
13 obligation to provide notice under this section if the offender is no
14 longer under the custody or supervision of the department at the time
15 the offender completes the requirements of the sentence.

16 (2) An offender who is not convicted of a violent offense or a sex
17 offense and is sentenced to a term involving community supervision may
18 be considered for a discharge of sentence by the sentencing court prior
19 to the completion of community supervision, provided that the offender
20 has completed at least one-half of the term of community supervision
21 and has met all other sentence requirements.

22 (3) Except as provided in subsection (4) of this section, the
23 discharge shall have the effect of restoring all civil rights lost by
24 operation of law upon conviction, and the certificate of discharge
25 shall so state. Nothing in this section prohibits the use of an
26 offender's prior record for purposes of determining sentences for later
27 offenses as provided in this chapter. Nothing in this section affects
28 or prevents use of the offender's prior conviction in a later criminal
29 prosecution either as an element of an offense or for impeachment
30 purposes. A certificate of discharge is not based on a finding of
31 rehabilitation.

32 (4) Unless otherwise ordered by the sentencing court, a certificate
33 of discharge shall not terminate the offender's obligation to comply
34 with an order issued under chapter 10.99 RCW that excludes or prohibits
35 the offender from having contact with a specified person or coming
36 within a set distance of any specified location that was contained in
37 the judgment and sentence. An offender who violates such an order
38 after a certificate of discharge has been issued shall be subject to

1 prosecution according to the chapter under which the order was
2 originally issued.

3 (5) Upon release from custody, the offender may apply to the
4 department for counseling and help in adjusting to the community. This
5 voluntary help may be provided for up to one year following the release
6 from custody.

7 **Sec. 3.** RCW 9.94A.650 and 2000 c 28 s 18 are each amended to read
8 as follows:

9 (1) This section applies to offenders who have never been
10 previously convicted of a felony in this state, federal court, or
11 another state, and who have never participated in a program of deferred
12 prosecution for a felony, and who are convicted of a felony that is
13 not:

14 (a) Classified as a violent offense or a sex offense under this
15 chapter;

16 (b) Manufacture, delivery, or possession with intent to manufacture
17 or deliver a controlled substance classified in Schedule I or II that
18 is a narcotic drug or flunitrazepam classified in Schedule IV;

19 (c) Manufacture, delivery, or possession with intent to deliver a
20 methamphetamine, its salts, isomers, and salts of its isomers as
21 defined in RCW 69.50.206(d)(2); or

22 (d) The selling for profit of any controlled substance or
23 counterfeit substance classified in Schedule I, RCW 69.50.204, except
24 leaves and flowering tops of marihuana.

25 (2) In sentencing a first-time offender the court may waive the
26 imposition of a sentence within the standard sentence range and impose
27 a sentence which may include up to ninety days of confinement in a
28 facility operated or utilized under contract by the county and a
29 requirement that the offender refrain from committing new offenses.
30 The sentence may also include a term of community supervision or
31 community custody as specified in subsection (3) of this section,
32 which, in addition to crime-related prohibitions, may include
33 requirements that the offender perform any one or more of the
34 following:

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

36 (b) Undergo available outpatient treatment for up to the period
37 specified in subsection (3) of this section, or inpatient treatment not
38 to exceed the standard range of confinement for that offense;

1 (c) Pursue a prescribed, secular course of study or vocational
2 training;

3 (d) Remain within prescribed geographical boundaries and notify the
4 community corrections officer prior to any change in the offender's
5 address or employment;

6 (e) Report as directed to a community corrections officer; or

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

9 (3) The terms and statuses applicable to sentences under subsection
10 (2) of this section are:

11 (a) For sentences imposed on or after July 25, 1999, for crimes
12 committed before July 1, 2000, up to one year of community supervision.
13 If treatment is ordered, the period of community supervision may
14 include up to the period of treatment, but shall not exceed two years;
15 and

16 (b) For crimes committed on or after July 1, 2000, up to one year
17 of community custody unless treatment is ordered, in which case the
18 period of community custody may include up to the period of treatment,
19 but shall not exceed two years. Any term of community custody imposed
20 under this section is subject to conditions and sanctions as authorized
21 in this section and in RCW 9.94A.715 (2) and (3).

22 (4) The department shall discharge from community supervision any
23 offender sentenced under this section before July 25, 1999, who has
24 served at least one year of community supervision and has completed any
25 treatment ordered by the court.

26 (5) The department may eliminate or terminate any term of community
27 custody or community supervision imposed by the court under this
28 section for an offender who is classified at the lowest risk level
29 pursuant to a risk assessment by the department. No liability may
30 attach to the state, the department, or any department employee based
31 on the determination to classify an offender at the lowest risk level,
32 or to eliminate or terminate a term of community custody or community
33 supervision, in the absence of intentional misconduct.

34 **Sec. 4.** RCW 9.94A.690 and 2000 c 28 s 21 are each amended to read
35 as follows:

36 (1)(a) An offender is eligible to be sentenced to a work ethic camp
37 if the offender:

1 (i) Is sentenced to a term of total confinement of not less than
2 twelve months and one day or more than thirty-six months;

3 (ii) Has no current or prior convictions for any sex offenses or
4 for violent offenses; and

5 (iii) Is not currently subject to a sentence for, or being
6 prosecuted for, a violation of the uniform controlled substances act or
7 a criminal solicitation to commit such a violation under chapter 9A.28
8 or 69.50 RCW.

9 (b) The length of the work ethic camp shall be at least one hundred
10 twenty days and not more than one hundred eighty days.

11 (2) If the sentencing court determines that the offender is
12 eligible for the work ethic camp and is likely to qualify under
13 subsection (3) of this section, the judge shall impose a sentence
14 within the standard sentence range and may recommend that the offender
15 serve the sentence at a work ethic camp. In sentencing an offender to
16 the work ethic camp, the court shall specify: (a) That upon completion
17 of the work ethic camp the offender shall be released on community
18 custody for any remaining time of total confinement; (b) the applicable
19 conditions of supervision on community custody status as required by
20 RCW 9.94A.700(4) and authorized by RCW 9.94A.700(5); and (c) that
21 violation of the conditions may result in a return to total confinement
22 for the balance of the offender's remaining time of confinement.

23 (3) The department shall place the offender in the work ethic camp
24 program, subject to capacity, unless: (a) The department determines
25 that the offender has physical or mental impairments that would prevent
26 participation and completion of the program; (b) the department
27 determines that the offender's custody level prevents placement in the
28 program; (c) the offender refuses to agree to the terms and conditions
29 of the program; (d) the offender has been found by the United States
30 attorney general to be subject to a deportation detainer or order; or
31 (e) the offender has participated in the work ethic camp program in the
32 past.

33 (4) An offender who fails to complete the work ethic camp program,
34 who is administratively terminated from the program, or who otherwise
35 violates any conditions of supervision, as defined by the department,
36 shall be reclassified to serve the unexpired term of his or her
37 sentence as ordered by the sentencing court and shall be subject to all
38 rules relating to earned release time.

1 (5) During the last two weeks prior to release from the work ethic
2 camp program the department shall provide the offender with
3 comprehensive transition training.

4 (6) The department may eliminate or terminate any term of community
5 custody imposed by the court under this section for an offender who is
6 classified at the lowest risk level pursuant to a risk assessment by
7 the department. No liability may attach to the state, the department,
8 or any department employee based on the determination to classify an
9 offender at the lowest risk level, or to eliminate or terminate a term
10 of community custody, in the absence of intentional misconduct.

11 **Sec. 5.** RCW 9.94A.700 and 2000 c 28 s 22 are each amended to read
12 as follows:

13 When a court sentences an offender to a term of total confinement
14 in the custody of the department for any of the offenses specified in
15 this section, the court shall also sentence the offender to a term of
16 community placement as provided in this section.

17 (1) The court shall order a one-year term of community placement
18 for the following:

19 (a) A sex offense or a serious violent offense committed after July
20 1, 1988, but before July 1, 1990; or

21 (b) An offense committed on or after July 1, 1988, but before July
22 25, 1999, that is:

23 (i) Assault in the second degree;

24 (ii) Assault of a child in the second degree;

25 (iii) A crime against persons where it is determined in accordance
26 with RCW 9.94A.602 that the offender or an accomplice was armed with a
27 deadly weapon at the time of commission; or

28 (iv) A felony offense under chapter 69.50 or 69.52 RCW not
29 sentenced under RCW 9.94A.660.

30 (2) The court shall sentence the offender to a term of community
31 placement of two years or up to the period of earned release awarded
32 pursuant to RCW 9.94A.728, whichever is longer, for:

33 (a) An offense categorized as a sex offense committed on or after
34 July 1, 1990, but before June 6, 1996, including those sex offenses
35 also included in other offense categories;

36 (b) A serious violent offense other than a sex offense committed on
37 or after July 1, 1990, but before July 1, 2000; or

1 (c) A vehicular homicide or vehicular assault committed on or after
2 July 1, 1990, but before July 1, 2000.

3 (3) The community placement ordered under this section shall begin
4 either upon completion of the term of confinement or at such time as
5 the offender is transferred to community custody in lieu of earned
6 release. When the court sentences an offender to the statutory maximum
7 sentence then the community placement portion of the sentence shall
8 consist entirely of the community custody to which the offender may
9 become eligible. Any period of community custody actually served shall
10 be credited against the community placement portion of the sentence.

11 (4) Unless a condition is waived by the court, the terms of any
12 community placement imposed under this section shall include the
13 following conditions:

14 (a) The offender shall report to and be available for contact with
15 the assigned community corrections officer as directed;

16 (b) The offender shall work at department-approved education,
17 employment, or community service, or any combination thereof;

18 (c) The offender shall not possess or consume controlled substances
19 except pursuant to lawfully issued prescriptions;

20 (d) The offender shall pay supervision fees as determined by the
21 department; and

22 (e) The residence location and living arrangements shall be subject
23 to the prior approval of the department during the period of community
24 placement.

25 (5) As a part of any terms of community placement imposed under
26 this section, the court may also order one or more of the following
27 special conditions:

28 (a) The offender shall remain within, or outside of, a specified
29 geographical boundary;

30 (b) The offender shall not have direct or indirect contact with the
31 victim of the crime or a specified class of individuals;

32 (c) The offender shall participate in crime-related treatment or
33 counseling services;

34 (d) The offender shall not consume alcohol; or

35 (e) The offender shall comply with any crime-related prohibitions.

36 (6) An offender convicted of a felony sex offense against a minor
37 victim after June 6, 1996, shall comply with any terms and conditions
38 of community placement imposed by the department relating to contact

1 between the sex offender and a minor victim or a child of similar age
2 or circumstance as a previous victim.

3 (7) Prior to or during community placement, upon recommendation of
4 the department, the sentencing court may remove or modify any
5 conditions of community placement so as not to be more restrictive.

6 (8) The department may eliminate or terminate any term of community
7 placement or community custody imposed by the court under this section
8 for an offender who is classified at the lowest risk level pursuant to
9 a risk assessment by the department. No liability may attach to the
10 state, the department, or any department employee based on the
11 determination to classify an offender at the lowest risk level, or to
12 eliminate or terminate a term of community placement or community
13 custody, in the absence of intentional misconduct.

14 **Sec. 6.** RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read
15 as follows:

16 (1) Except for persons sentenced under RCW 9.94A.700(2) or
17 9.94A.710, when a court sentences a person to a term of total
18 confinement to the custody of the department for a violent offense, any
19 crime against persons under RCW 9.94A.411(2), or any felony offense
20 under chapter 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660,
21 committed on or after July 25, 1999, but before July 1, 2000, the court
22 shall in addition to the other terms of the sentence, sentence the
23 offender to a one-year term of community placement beginning either
24 upon completion of the term of confinement or at such time as the
25 offender is transferred to community custody in lieu of earned release
26 in accordance with RCW 9.94A.728 (1) and (2). When the court sentences
27 the offender under this section to the statutory maximum period of
28 confinement, then the community placement portion of the sentence shall
29 consist entirely of such community custody to which the offender may
30 become eligible, in accordance with RCW 9.94A.728 (1) and (2). Any
31 period of community custody actually served shall be credited against
32 the community placement portion of the sentence.

33 (2) The department may eliminate or terminate any term of community
34 placement or community custody imposed by the court under this section
35 for an offender who is classified at the lowest risk level pursuant to
36 a risk assessment by the department. No liability may attach to the
37 state, the department, or any department employee based on the
38 determination to classify an offender at the lowest risk level, or to

1 eliminate or terminate a term of community placement or community
2 custody, in the absence of intentional misconduct.

3 **Sec. 7.** RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each
4 amended to read as follows:

5 (1) When a court sentences a person to the custody of the
6 department for a sex offense not sentenced under RCW 9.94A.712, a
7 violent offense, any crime against persons under RCW 9.94A.411(2), or
8 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
9 after July 1, 2000, the court shall in addition to the other terms of
10 the sentence, sentence the offender to community custody for the
11 community custody range established under RCW 9.94A.850 or up to the
12 period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2),
13 whichever is longer. The community custody shall begin: (a) Upon
14 completion of the term of confinement; (b) at such time as the offender
15 is transferred to community custody in lieu of earned release in
16 accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to
17 offenders sentenced under RCW 9.94A.660, upon failure to complete or
18 administrative termination from the special drug offender sentencing
19 alternative program.

20 (2)(a) Unless a condition is waived by the court, the conditions of
21 community custody shall include those provided for in RCW 9.94A.700(4).
22 The conditions may also include those provided for in RCW 9.94A.700(5).
23 The court may also order the offender to participate in rehabilitative
24 programs or otherwise perform affirmative conduct reasonably related to
25 the circumstances of the offense, the offender's risk of reoffending,
26 or the safety of the community, and the department shall enforce such
27 conditions pursuant to subsection (6) of this section.

28 (b) As part of any sentence that includes a term of community
29 custody imposed under this subsection, the court shall also require the
30 offender to comply with any conditions imposed by the department under
31 RCW 9.94A.720. The department shall assess the offender's risk of
32 reoffense and may establish and modify additional conditions of the
33 offender's community custody based upon the risk to community safety.
34 In addition, the department may require the offender to participate in
35 rehabilitative programs, or otherwise perform affirmative conduct, and
36 to obey all laws.

37 (c) The department may not impose conditions that are contrary to
38 those ordered by the court and may not contravene or decrease court

1 imposed conditions except as authorized under subsection (8) of this
2 section. The department shall notify the offender in writing of any
3 such conditions or modifications. In setting, modifying, and enforcing
4 conditions of community custody, the department shall be deemed to be
5 performing a quasi-judicial function.

6 (3) If an offender violates conditions imposed by the court or the
7 department pursuant to this section during community custody, the
8 department may transfer the offender to a more restrictive confinement
9 status and impose other available sanctions as provided in RCW
10 9.94A.737 and 9.94A.740.

11 (4) Except for terms of community custody under RCW 9.94A.670, the
12 department shall discharge the offender from community custody on a
13 date determined by the department, which the department may modify,
14 based on risk and performance of the offender, within the range or at
15 the end of the period of earned release, whichever is later.

16 (5) At any time prior to the completion or termination of a sex
17 offender's term of community custody, if the court finds that public
18 safety would be enhanced, the court may impose and enforce an order
19 extending any or all of the conditions imposed pursuant to this section
20 for a period up to the maximum allowable sentence for the crime as it
21 is classified in chapter 9A.20 RCW, regardless of the expiration of the
22 offender's term of community custody. If a violation of a condition
23 extended under this subsection occurs after the expiration of the
24 offender's term of community custody, it shall be deemed a violation of
25 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
26 contempt of court as provided for in RCW 7.21.040. If the court
27 extends a condition beyond the expiration of the term of community
28 custody, the department is not responsible for supervision of the
29 offender's compliance with the condition.

30 (6) Within the funds available for community custody, the
31 department shall determine conditions and duration of community custody
32 on the basis of risk to community safety, and shall supervise offenders
33 during community custody on the basis of risk to community safety and
34 conditions imposed by the court. The secretary shall adopt rules to
35 implement the provisions of this subsection.

36 (7) By the close of the next business day after receiving notice of
37 a condition imposed or modified by the department, an offender may
38 request an administrative review under rules adopted by the department.
39 The condition shall remain in effect unless the reviewing officer finds

1 that it is not reasonably related to any of the following: (a) The
2 crime of conviction; (b) the offender's risk of reoffending; or (c) the
3 safety of the community.

4 (8) Except for terms of community custody imposed under RCW
5 9.94A.660 and 9.94A.670 or imposed upon a person convicted of a sex
6 offense, the department may eliminate or terminate any term of
7 community custody imposed by the court under this section for an
8 offender who is classified at the lowest risk level pursuant to a risk
9 assessment by the department. No liability may attach to the state,
10 the department, or any department employee based on the determination
11 to classify an offender at the lowest risk level, or to eliminate or
12 terminate a term of community custody, in the absence of intentional
13 misconduct.

14 **Sec. 8.** RCW 9.94A.720 and 2000 c 28 s 26 are each amended to read
15 as follows:

16 (1)(a) Except as provided in RCW 9.94A.545(2), 9.94A.650(5),
17 9.94A.690(6), 9.94A.700(8), 9.94A.705(2), and 9.94A.715(8), all
18 offenders sentenced to terms involving community supervision,
19 ~~((community service,))~~ community placement, or community custody~~((or~~
20 ~~legal financial obligation))~~ shall be under the supervision of the
21 department and shall follow explicitly the instructions and conditions
22 of the department. The department may require an offender to perform
23 affirmative acts it deems appropriate to monitor compliance with the
24 conditions of the sentence imposed.

25 (b) The instructions shall include, at a minimum, reporting as
26 directed to a community corrections officer, remaining within
27 prescribed geographical boundaries, notifying the community corrections
28 officer of any change in the offender's address or employment, and
29 paying the supervision fee assessment.

30 (c) For offenders sentenced to terms involving community custody
31 for crimes committed on or after June 6, 1996, the department may
32 include, in addition to the instructions in (b) of this subsection, any
33 appropriate conditions of supervision, including but not limited to,
34 prohibiting the offender from having contact with any other specified
35 individuals or specific class of individuals.

36 (d) For offenders sentenced to terms of community custody for
37 crimes committed on or after July 1, 2000, the department may impose
38 conditions as specified in RCW 9.94A.715.

1 The conditions authorized under (c) of this subsection may be
2 imposed by the department prior to or during an offender's community
3 custody term. If a violation of conditions imposed by the court or the
4 department pursuant to RCW 9.94A.710 occurs during community custody,
5 it shall be deemed a violation of community placement for the purposes
6 of RCW 9.94A.740 and shall authorize the department to transfer an
7 offender to a more restrictive confinement status as provided in RCW
8 9.94A.737. At any time prior to the completion of an offender's term
9 of community custody, the department may recommend to the court that
10 any or all of the conditions imposed by the court or the department
11 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
12 expiration of the offender's term of community custody as authorized in
13 RCW 9.94A.715 (3) or (5).

14 The department may require offenders to pay for special services
15 rendered on or after July 25, 1993, including electronic monitoring,
16 day reporting, and telephone reporting, dependent upon the offender's
17 ability to pay. The department may pay for these services for
18 offenders who are not able to pay.

19 (2) No offender sentenced to terms involving community supervision,
20 community service, community custody, or community placement under the
21 supervision of the department may own, use, or possess firearms or
22 ammunition. Offenders who own, use, or are found to be in actual or
23 constructive possession of firearms or ammunition shall be subject to
24 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
25 9.94A.740. "Constructive possession" as used in this subsection means
26 the power and intent to control the firearm or ammunition. "Firearm"
27 as used in this subsection has the same definition as in RCW 9.41.010.

28 **Sec. 9.** RCW 9.94A.750 and 2000 c 28 s 32 are each amended to read
29 as follows:

30 This section applies to offenses committed on or before July 1,
31 1985.

32 (1) If restitution is ordered, the court shall determine the amount
33 of restitution due at the sentencing hearing or within one hundred
34 eighty days. The court may continue the hearing beyond the one hundred
35 eighty days for good cause. The court shall then set a minimum monthly
36 payment that the offender is required to make towards the restitution
37 that is ordered. The court should take into consideration the total
38 amount of the restitution owed, the offender's present, past, and

1 future ability to pay, as well as any assets that the offender may
2 have.

3 (2) During the period of supervision, the community corrections
4 officer may examine the offender to determine if there has been a
5 change in circumstances that warrants an amendment of the monthly
6 payment schedule. The community corrections officer may recommend a
7 change to the schedule of payment and shall inform the court of the
8 recommended change and the reasons for the change. The sentencing
9 court may then reset the monthly minimum payments based on the report
10 from the community corrections officer of the change in circumstances.

11 (3) Except as provided in subsection (6) of this section,
12 restitution ordered by a court pursuant to a criminal conviction shall
13 be based on easily ascertainable damages for injury to or loss of
14 property, actual expenses incurred for treatment for injury to persons,
15 and lost wages resulting from injury. Restitution shall not include
16 reimbursement for damages for mental anguish, pain and suffering, or
17 other intangible losses, but may include the costs of counseling
18 reasonably related to the offense. The amount of restitution shall not
19 exceed double the amount of the offender's gain or the victim's loss
20 from the commission of the offense.

21 (4) For the purposes of this section, the offender shall remain
22 under the court's jurisdiction for a term of ten years following the
23 offender's release from total confinement or ten years subsequent to
24 the entry of the judgment and sentence, whichever period is longer.
25 Prior to the expiration of the initial ten-year period, the superior
26 court may extend jurisdiction under the criminal judgment an additional
27 ten years for payment of restitution. ~~((If jurisdiction under the
28 eriminal judgment is extended, the department is not responsible for
29 supervision of the offender during the subsequent period.))~~ The
30 portion of the sentence concerning restitution may be modified as to
31 amount, terms and conditions during either the initial ten-year period
32 or subsequent ten-year period if the criminal judgment is extended,
33 regardless of the expiration of the offender's term of community
34 supervision and regardless of the statutory maximum sentence for the
35 crime. The court may not reduce the total amount of restitution
36 ordered because the offender may lack the ability to pay the total
37 amount. The offender's compliance with the restitution ~~((shall))~~ may
38 be supervised by the department during any term of community placement,
39 community custody, or community supervision. The department is not

1 responsible for supervision of the offender during any subsequent
2 period of time the offender remains under the court's jurisdiction.

3 (5) Restitution may be ordered whenever the offender is convicted
4 of an offense which results in injury to any person or damage to or
5 loss of property or as provided in subsection (6) of this section. In
6 addition, restitution may be ordered to pay for an injury, loss, or
7 damage if the offender pleads guilty to a lesser offense or fewer
8 offenses and agrees with the prosecutor's recommendation that the
9 offender be required to pay restitution to a victim of an offense or
10 offenses which are not prosecuted pursuant to a plea agreement.

11 (6) Restitution for the crime of rape of a child in the first,
12 second, or third degree, in which the victim becomes pregnant, shall
13 include: (a) All of the victim's medical expenses that are associated
14 with the rape and resulting pregnancy; and (b) child support for any
15 child born as a result of the rape if child support is ordered pursuant
16 to a proceeding in superior court or administrative order for support
17 for that child. The clerk must forward any restitution payments made
18 on behalf of the victim's child to the Washington state child support
19 registry under chapter 26.23 RCW. Identifying information about the
20 victim and child shall not be included in the order. The offender
21 shall receive a credit against any obligation owing under the
22 administrative or superior court order for support of the victim's
23 child. For the purposes of this subsection, the offender shall remain
24 under the court's jurisdiction until the offender has satisfied support
25 obligations under the superior court or administrative order but not
26 longer than a maximum term of twenty-five years following the
27 offender's release from total confinement or twenty-five years
28 subsequent to the entry of the judgment and sentence, whichever period
29 is longer. The court may not reduce the total amount of restitution
30 ordered because the offender may lack the ability to pay the total
31 amount. The department (~~shall~~) may supervise the offender's
32 compliance with the restitution ordered under this subsection during
33 any term of community placement, community custody, or community
34 supervision. The department is not responsible for supervision of the
35 offender during any subsequent period of time the offender remains
36 under the court's jurisdiction.

37 (7) In addition to any sentence that may be imposed, an offender
38 who has been found guilty of an offense involving fraud or other
39 deceptive practice or an organization which has been found guilty of

1 any such offense may be ordered by the sentencing court to give notice
2 of the conviction to the class of persons or to the sector of the
3 public affected by the conviction or financially interested in the
4 subject matter of the offense by mail, by advertising in designated
5 areas or through designated media, or by other appropriate means.

6 (8) This section does not limit civil remedies or defenses
7 available to the victim or offender including support enforcement
8 remedies for support ordered under subsection (6) of this section for
9 a child born as a result of a rape of a child victim. The court shall
10 identify in the judgment and sentence the victim or victims entitled to
11 restitution and what amount is due each victim. The state or victim
12 may enforce the court-ordered restitution in the same manner as a
13 judgment in a civil action. Restitution collected through civil
14 enforcement must be paid through the registry of the court and must be
15 distributed proportionately according to each victim's loss when there
16 is more than one victim.

17 **Sec. 10.** RCW 9.94A.753 and 2000 c 226 s 3 and 2000 c 28 s 33 are
18 each reenacted and amended to read as follows:

19 This section applies to offenses committed after July 1, 1985.

20 (1) When restitution is ordered, the court shall determine the
21 amount of restitution due at the sentencing hearing or within one
22 hundred eighty days except as provided in subsection (7) of this
23 section. The court may continue the hearing beyond the one hundred
24 eighty days for good cause. The court shall then set a minimum monthly
25 payment that the offender is required to make towards the restitution
26 that is ordered. The court should take into consideration the total
27 amount of the restitution owed, the offender's present, past, and
28 future ability to pay, as well as any assets that the offender may
29 have.

30 (2) During the period of supervision, the community corrections
31 officer may examine the offender to determine if there has been a
32 change in circumstances that warrants an amendment of the monthly
33 payment schedule. The community corrections officer may recommend a
34 change to the schedule of payment and shall inform the court of the
35 recommended change and the reasons for the change. The sentencing
36 court may then reset the monthly minimum payments based on the report
37 from the community corrections officer of the change in circumstances.

1 (3) Except as provided in subsection (6) of this section,
2 restitution ordered by a court pursuant to a criminal conviction shall
3 be based on easily ascertainable damages for injury to or loss of
4 property, actual expenses incurred for treatment for injury to persons,
5 and lost wages resulting from injury. Restitution shall not include
6 reimbursement for damages for mental anguish, pain and suffering, or
7 other intangible losses, but may include the costs of counseling
8 reasonably related to the offense. The amount of restitution shall not
9 exceed double the amount of the offender's gain or the victim's loss
10 from the commission of the crime.

11 (4) For the purposes of this section, for an offense committed
12 prior to July 1, 2000, the offender shall remain under the court's
13 jurisdiction for a term of ten years following the offender's release
14 from total confinement or ten years subsequent to the entry of the
15 judgment and sentence, whichever period ends later. Prior to the
16 expiration of the initial ten-year period, the superior court may
17 extend jurisdiction under the criminal judgment an additional ten years
18 for payment of restitution. For an offense committed on or after July
19 1, 2000, the offender shall remain under the court's jurisdiction until
20 the obligation is completely satisfied, regardless of the statutory
21 maximum for the crime. The portion of the sentence concerning
22 restitution may be modified as to amount, terms, and conditions during
23 any period of time the offender remains under the court's jurisdiction,
24 regardless of the expiration of the offender's term of community
25 supervision and regardless of the statutory maximum sentence for the
26 crime. The court may not reduce the total amount of restitution
27 ordered because the offender may lack the ability to pay the total
28 amount. The offender's compliance with the restitution ~~((shall))~~ may
29 be supervised by the department ~~((for ten years following the entry of~~
30 ~~the judgment and sentence or ten years following the offender's release~~
31 ~~from total confinement))~~ during any term of community placement,
32 community custody, or community supervision. The department is not
33 responsible for supervision of the offender during any subsequent
34 period of time the offender remains under the court's jurisdiction.

35 (5) Restitution shall be ordered whenever the offender is convicted
36 of an offense which results in injury to any person or damage to or
37 loss of property or as provided in subsection (6) of this section
38 unless extraordinary circumstances exist which make restitution
39 inappropriate in the court's judgment and the court sets forth such

1 circumstances in the record. In addition, restitution shall be ordered
2 to pay for an injury, loss, or damage if the offender pleads guilty to
3 a lesser offense or fewer offenses and agrees with the prosecutor's
4 recommendation that the offender be required to pay restitution to a
5 victim of an offense or offenses which are not prosecuted pursuant to
6 a plea agreement.

7 (6) Restitution for the crime of rape of a child in the first,
8 second, or third degree, in which the victim becomes pregnant, shall
9 include: (a) All of the victim's medical expenses that are associated
10 with the rape and resulting pregnancy; and (b) child support for any
11 child born as a result of the rape if child support is ordered pursuant
12 to a civil superior court or administrative order for support for that
13 child. The clerk must forward any restitution payments made on behalf
14 of the victim's child to the Washington state child support registry
15 under chapter 26.23 RCW. Identifying information about the victim and
16 child shall not be included in the order. The offender shall receive
17 a credit against any obligation owing under the administrative or
18 superior court order for support of the victim's child. For the
19 purposes of this subsection, the offender shall remain under the
20 court's jurisdiction until the offender has satisfied support
21 obligations under the superior court or administrative order for the
22 period provided in RCW 4.16.020 or a maximum term of twenty-five years
23 following the offender's release from total confinement or twenty-five
24 years subsequent to the entry of the judgment and sentence, whichever
25 period is longer. The court may not reduce the total amount of
26 restitution ordered because the offender may lack the ability to pay
27 the total amount. The department (~~shall~~) may supervise the
28 offender's compliance with the restitution ordered under this
29 subsection during any term of community placement, community custody,
30 or community supervision. The department is not responsible for
31 supervision of the offender during any subsequent period of time the
32 offender remains under the court's jurisdiction.

33 (7) Regardless of the provisions of subsections (1) through (6) of
34 this section, the court shall order restitution in all cases where the
35 victim is entitled to benefits under the crime victims' compensation
36 act, chapter 7.68 RCW. If the court does not order restitution and the
37 victim of the crime has been determined to be entitled to benefits
38 under the crime victims' compensation act, the department of labor and
39 industries, as administrator of the crime victims' compensation

1 program, may petition the court within one year of entry of the
2 judgment and sentence for entry of a restitution order. Upon receipt
3 of a petition from the department of labor and industries, the court
4 shall hold a restitution hearing and shall enter a restitution order.

5 (8) In addition to any sentence that may be imposed, an offender
6 who has been found guilty of an offense involving fraud or other
7 deceptive practice or an organization which has been found guilty of
8 any such offense may be ordered by the sentencing court to give notice
9 of the conviction to the class of persons or to the sector of the
10 public affected by the conviction or financially interested in the
11 subject matter of the offense by mail, by advertising in designated
12 areas or through designated media, or by other appropriate means.

13 (9) This section does not limit civil remedies or defenses
14 available to the victim, survivors of the victim, or offender including
15 support enforcement remedies for support ordered under subsection (6)
16 of this section for a child born as a result of a rape of a child
17 victim. The court shall identify in the judgment and sentence the
18 victim or victims entitled to restitution and what amount is due each
19 victim. The state or victim may enforce the court-ordered restitution
20 in the same manner as a judgment in a civil action. Restitution
21 collected through civil enforcement must be paid through the registry
22 of the court and must be distributed proportionately according to each
23 victim's loss when there is more than one victim.

24 **Sec. 11.** RCW 9.94A.760 and 2001 c 10 s 3 are each amended to read
25 as follows:

26 (1) Whenever a person is convicted of a felony, the court may order
27 the payment of a legal financial obligation as part of the sentence.
28 The court must on either the judgment and sentence or on a subsequent
29 order to pay, designate the total amount of a legal financial
30 obligation and segregate this amount among the separate assessments
31 made for restitution, costs, fines, and other assessments required by
32 law. On the same order, the court is also to set a sum that the
33 offender is required to pay on a monthly basis towards satisfying the
34 legal financial obligation. If the court fails to set the offender
35 monthly payment amount, the department shall set the amount. Upon
36 receipt of an offender's monthly payment, restitution shall be paid
37 prior to any payments of other monetary obligations. After restitution
38 is satisfied, the county clerk shall distribute the payment

1 proportionally among all other fines, costs, and assessments imposed,
2 unless otherwise ordered by the court.

3 (2) If the court determines that the offender, at the time of
4 sentencing, has the means to pay for the cost of incarceration, the
5 court may require the offender to pay for the cost of incarceration at
6 a rate of fifty dollars per day of incarceration. Payment of other
7 court-ordered financial obligations, including all legal financial
8 obligations and costs of supervision shall take precedence over the
9 payment of the cost of incarceration ordered by the court. All funds
10 recovered from offenders for the cost of incarceration in the county
11 jail shall be remitted to the county and the costs of incarceration in
12 a prison shall be remitted to the department.

13 (3) The court may add to the judgment and sentence or subsequent
14 order to pay a statement that a notice of payroll deduction is to be
15 issued immediately. If the court chooses not to order the immediate
16 issuance of a notice of payroll deduction at sentencing, the court
17 shall add to the judgment and sentence or subsequent order to pay a
18 statement that a notice of payroll deduction may be issued or other
19 income-withholding action may be taken, without further notice to the
20 offender if a monthly court-ordered legal financial obligation payment
21 is not paid when due, and an amount equal to or greater than the amount
22 payable for one month is owed.

23 If a judgment and sentence or subsequent order to pay does not
24 include the statement that a notice of payroll deduction may be issued
25 or other income-withholding action may be taken if a monthly legal
26 financial obligation payment is past due, the department may serve a
27 notice on the offender stating such requirements and authorizations.
28 Service shall be by personal service or any form of mail requiring a
29 return receipt.

30 (4) Independent of the department, the party or entity to whom the
31 legal financial obligation is owed shall have the authority to use any
32 other remedies available to the party or entity to collect the legal
33 financial obligation. These remedies include enforcement in the same
34 manner as a judgment in a civil action by the party or entity to whom
35 the legal financial obligation is owed. Restitution collected through
36 civil enforcement must be paid through the registry of the court and
37 must be distributed proportionately according to each victim's loss
38 when there is more than one victim. The judgment and sentence shall
39 identify the party or entity to whom restitution is owed so that the

1 state, party, or entity may enforce the judgment. If restitution is
2 ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of
3 rape of a child or a victim's child born from the rape, the Washington
4 state child support registry shall be identified as the party to whom
5 payments must be made. Restitution obligations arising from the rape
6 of a child in the first, second, or third degree that result in the
7 pregnancy of the victim may be enforced for the time periods provided
8 under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial
9 obligations for an offense committed prior to July 1, 2000, may be
10 enforced at any time during the ten-year period following the
11 offender's release from total confinement or within ten years of entry
12 of the judgment and sentence, whichever period ends later. Prior to
13 the expiration of the initial ten-year period, the superior court may
14 extend the criminal judgment an additional ten years for payment of
15 legal financial obligations including crime victims' assessments. All
16 other legal financial obligations for an offense committed on or after
17 July 1, 2000, may be enforced at any time the offender remains under
18 the court's jurisdiction. For an offense committed on or after July 1,
19 2000, the court shall retain jurisdiction over the offender, for
20 purposes of the offender's compliance with payment of the legal
21 financial obligations, until the obligation is completely satisfied,
22 regardless of the statutory maximum for the crime. The department of
23 corrections (~~shall~~) may supervise the offender's compliance with
24 payment of the legal financial obligations (~~for ten years following~~
25 ~~the entry of the judgment and sentence, or ten years following the~~
26 ~~offender's release from total confinement, whichever period ends~~
27 ~~later~~) during any term of community placement, community custody, or
28 community supervision. The department is not responsible for
29 supervision of the offender during any subsequent period of time the
30 offender remains under the court's jurisdiction.

31 (5) In order to assist the court in setting a monthly sum that the
32 offender must pay during the period of supervision, the offender is
33 required to report to the department for purposes of preparing a
34 recommendation to the court. When reporting, the offender is required,
35 under oath, to respond truthfully and honestly to all questions
36 concerning present, past, and future earning capabilities and the
37 location and nature of all property or financial assets. The offender
38 is further required to bring all documents requested by the department.

1 (6) After completing the investigation, the department shall make
2 a report to the court on the amount of the monthly payment that the
3 offender should be required to make towards a satisfied legal financial
4 obligation.

5 (7) During the period of supervision, the department may make a
6 recommendation to the court that the offender's monthly payment
7 schedule be modified so as to reflect a change in financial
8 circumstances. If the department sets the monthly payment amount, the
9 department may modify the monthly payment amount without the matter
10 being returned to the court. During the period of supervision, the
11 department may require the offender to report to the department for the
12 purposes of reviewing the appropriateness of the collection schedule
13 for the legal financial obligation. During this reporting, the
14 offender is required under oath to respond truthfully and honestly to
15 all questions concerning earning capabilities and the location and
16 nature of all property or financial assets. The offender shall bring
17 all documents requested by the department in order to prepare the
18 collection schedule.

19 (8) After the judgment and sentence or payment order is entered,
20 the department is authorized, for any period of supervision, to collect
21 the legal financial obligation from the offender. Any amount collected
22 by the department shall be remitted daily to the county clerk for the
23 purpose of disbursements. The department is authorized to accept
24 credit cards as payment for a legal financial obligation, and any costs
25 incurred related to accepting credit card payments shall be the
26 responsibility of the offender.

27 (9) The department or any obligee of the legal financial obligation
28 may seek a mandatory wage assignment for the purposes of obtaining
29 satisfaction for the legal financial obligation pursuant to RCW
30 9.94A.7701.

31 (10) The requirement that the offender pay a monthly sum towards a
32 legal financial obligation constitutes a condition or requirement of a
33 sentence and the offender is subject to the penalties for noncompliance
34 as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

35 (11) The county clerk shall provide the department with
36 individualized monthly billings for each offender with an unsatisfied
37 legal financial obligation and shall provide the department with notice
38 of payments by such offenders no less frequently than weekly.

1 (12) The department may arrange for the collection of unpaid legal
2 financial obligations through the county clerk, or through another
3 entity if the clerk does not assume responsibility for collection. The
4 costs for collection services shall be paid by the offender.

5 (13) Nothing in this chapter makes the department, the state, or
6 any of its employees, agents, or other persons acting on their behalf
7 liable under any circumstances for the payment of these legal financial
8 obligations.

9 **Sec. 12.** RCW 4.56.100 and 1997 c 358 s 4 are each amended to read
10 as follows:

11 (1) When any judgment for the payment of money only shall have been
12 paid or satisfied, the clerk of the court in which such judgment was
13 rendered shall note upon the record in the execution docket
14 satisfaction thereof giving the date of such satisfaction upon either
15 the payment to such clerk of the amount of such judgment, costs and
16 interest and any accrued costs by reason of the issuance of any
17 execution, or the filing with such clerk of a satisfaction entitled in
18 such action and identifying the same executed by the judgment creditor
19 or his or her attorney of record in such action or his or her assignee
20 acknowledged as deeds are acknowledged. The clerk has the authority to
21 note the satisfaction of judgments for criminal and juvenile legal
22 financial obligations when the clerk's record indicates payment in full
23 or as directed by the court. Every satisfaction of judgment and every
24 partial satisfaction of judgment which provides for the payment of
25 money shall clearly designate the judgment creditor and his or her
26 attorney if any, the judgment debtor, the amount or type of
27 satisfaction, whether the satisfaction is full or partial, the cause
28 number, and the date of entry of the judgment. A certificate by such
29 clerk of the entry of such satisfaction by him or her may be filed in
30 the office of the clerk of any county in which an abstract of such
31 judgment has been filed. When so satisfied by the clerk or the filing
32 of such certificate the lien of such judgment shall be discharged.

33 (2) The department of social and health services shall file a
34 satisfaction of judgment for welfare fraud conviction if a person does
35 not pay money through the clerk as required under subsection (1) of
36 this section.

1 (~~(3) The department of corrections shall file a satisfaction of~~
2 ~~judgment if a person does not pay money through the clerk's office as~~
3 ~~required under subsection (1) of this section.~~)

4 **Sec. 13.** RCW 72.65.080 and 1982 1st ex.s. c 48 s 18 are each
5 amended to read as follows:

6 The secretary may enter into contracts with ~~((the appropriate~~
7 ~~authorities)) other governmental agencies or private organizations for~~
8 ~~the ((payment of the cost of feeding and lodging and other expenses of~~
9 ~~housing)) management and operation of work release ~~((participants))~~
10 programs. Such contracts may include any other terms and conditions as
11 may be appropriate for the implementation of the work release program.
12 In addition the secretary is authorized to acquire, by lease or
13 contract, appropriate facilities for the housing of work release
14 participants and providing for their subsistence and supervision. Such
15 work release participants placed in leased or contracted facilities
16 shall be required to reimburse the department the per capita cost of
17 subsistence and lodging in accordance with the provisions and in the
18 priority established by RCW 72.65.050(2). The location of such
19 facilities shall be subject to the zoning laws of the city or county in
20 which they may be situated.~~

21 Any work release program in existence on the effective date of this
22 act shall be managed and operated pursuant to a contract with a private
23 organization under this section.

24 **Sec. 14.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to
25 read as follows:

26 Nothing contained in this chapter shall prohibit any department, as
27 defined in RCW 41.06.020, from purchasing services by contract with
28 individuals or business entities if such services were regularly
29 purchased by valid contract by such department prior to April 23, 1979:
30 PROVIDED, That no such contract may be executed or renewed if it would
31 have the effect of terminating classified employees or classified
32 employee positions existing at the time of the execution or renewal of
33 the contract, except as authorized by RCW 72.65.080.

34 NEW SECTION. **Sec. 15.** This act takes effect July 1, 2002. The
35 legislature intends that sections 1 through 11 of this act apply
36 retroactively to sentences imposed and offenders on community custody,

1 community placement, or community supervision before, on, or after July
2 1, 2002.

--- END ---