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**SENATE BILL 6842**

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**State of Washington****60th Legislature****2008 Regular Session****By** Senator Hargrove

Read first time 01/28/08. Referred to Committee on Human Services &amp; Corrections.

1 AN ACT Relating to providing greater clarification and uniformity  
2 in community custody and sentencing law by reorganizing provisions,  
3 simplifying the application of current laws to crimes committed after  
4 the effective date of the offender accountability act through  
5 nonsubstantive amendments, and applying the provisions of current law,  
6 to the extent constitutionally permissible, to crimes committed prior  
7 to the effective date of the offender accountability act; amending RCW  
8 9.94A.737, 9.94A.740, 9.94A.501, 9.94A.505, 9.94A.610, 9.94A.612,  
9 9.94A.625, 9.94A.650, 9.94A.670, 9.94A.690, 9.94A.728, 9.94A.760,  
10 9.94A.775, 9.94A.780, 9.94A.820, 4.24.556, 9.95.017, 9.95.064,  
11 9.95.110, 9.95.123, 9.95.420, 9.95.440, 46.61.524, 72.09.015,  
12 72.09.270, 72.09.345, and 72.09.580; reenacting and amending RCW  
13 9.94A.030, 9.94A.525, 9.94A.660, and 9.94A.712; adding new sections to  
14 chapter 9.94A RCW; adding a new section to chapter 9.95 RCW; adding new  
15 sections to chapter 72.09 RCW; adding a new chapter to Title 9 RCW;  
16 creating new sections; recodifying RCW 9.94A.628, 9.94A.634, 9.94A.700,  
17 9.94A.705, 9.94A.710, 9.94A.610, 9.94A.612, 9.94A.614, 9.94A.616,  
18 9.94A.618, and 9.94A.620; repealing RCW 9.94A.545, 9.94A.713,  
19 9.94A.715, 9.94A.720, 9.94A.800, 9.94A.830, and 79A.60.070; and  
20 providing an effective date.

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

2 NEW SECTION. **Sec. 1.** This act is intended to simplify the  
3 provisions of the sentencing reform act relating to supervision of  
4 offenders. The existing sentencing reform act contains numerous  
5 provisions for supervision of different types of offenders. This  
6 duplication has caused great confusion for judges, lawyers, offenders,  
7 and the department of corrections.

8 The purpose of this act is to simplify the sentencing reform act  
9 and to increase the uniformity of its application. This act is not  
10 intended to either increase or decrease the authority of sentencing  
11 courts or the department, except for provisions instructing the court  
12 to apply the provisions of the current community custody law to  
13 offenders sentenced after July 1, 2009, but who committed their crime  
14 prior to the effective date of this act to the extent that such  
15 application is constitutionally permissible.

16 Offenders who committed their crimes prior to the offender  
17 accountability act will be ordered to a term of community custody  
18 rather than community placement or community supervision. To the  
19 extent constitutionally permissible, the terms of the offender's  
20 supervision will be as provided in current law. With the exception of  
21 this change, the legislature does not intend to make, and no provision  
22 of this act may be construed as making, a substantive change in the  
23 sentencing reform act.

24 **PART I**  
25 **COMMUNITY CUSTODY**

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW  
27 to read as follows:

28 (1) If an offender is sentenced to the custody of the department  
29 for one of the following crimes, the court shall impose a term of  
30 community custody for the community custody range established under RCW  
31 9.94A.850 or up to the period of earned release awarded pursuant to RCW  
32 9.94A.728 (1) and (2), whichever is longer:

33 (a) A sex offense not sentenced under RCW 9.94A.712;

34 (b) A violent offense;

35 (c) A crime against persons under RCW 9.94A.411(2);

1 (d) A felony offender under chapter 69.50 or 69.52 RCW.

2 (2) If an offender is sentenced to a term of confinement of one  
3 year or less for a violation of RCW 9A.44.130(1)(a), the court shall  
4 impose a term of community custody for the community custody range  
5 established under RCW 9.94A.850 or up to the period of earned release  
6 awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer.

7 (3) If an offender is sentenced under the drug offender sentencing  
8 alternative, the court shall impose community custody as provided in  
9 RCW 9.94A.660.

10 (4) If an offender is sentenced under the special sexual offender  
11 sentencing alternative, the court shall impose community custody as  
12 provided in RCW 9.94A.670.

13 (5) If an offender is sentenced to a work ethic camp, the court  
14 shall impose community custody as provided in RCW 9.94A.690.

15 (6) If a sex offender is sentenced as a nonpersistent offender  
16 pursuant to RCW 9.94A.712, the court shall impose community custody as  
17 provided in that section.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW  
19 to read as follows:

20 (1) If an offender is sentenced to a term of confinement for one  
21 year or less for one of the following offenses, the court may impose up  
22 to one year of community custody:

23 (a) A sex offense, other than failure to register under RCW  
24 9A.44.130(1);

25 (b) A violent offense;

26 (c) A crime against a person under RCW 9.94A.411; or

27 (d) A felony violation of chapter 69.50 or 69.52 RCW, or an  
28 attempt, conspiracy, or solicitation to commit such a crime.

29 (2) If an offender is sentenced to a first-time offender waiver,  
30 the court may impose community custody as provided in RCW 9.94A.650.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A RCW  
32 to read as follows:

33 When a court sentences a person to a term of community custody, the  
34 court shall impose conditions of community custody as provided in this  
35 section.

1 (1) **Mandatory conditions.** As part of any term of community  
2 custody, the court shall:

3 (a) Prohibit the offender from owning, using, or having actual or  
4 constructive possession of firearms or ammunition. As used in this  
5 section, "constructive possession" means the power and intent to  
6 control the firearm or ammunition. "Firearm" has the same definition  
7 as in RCW 9.41.010;

8 (b) Require the offender to inform the department of court-ordered  
9 treatment upon request by the department;

10 (c) Require the offender to comply with any conditions imposed by  
11 the department under section 5 of this act;

12 (d) If the offender was sentenced under RCW 9.94A.712 for an  
13 offense listed in RCW 9.94A.712(1)(a), and the victim of the offense  
14 was under eighteen years of age at the time of the offense, prohibit  
15 the offender from residing in a community protection zone.

16 (2) **Waivable conditions.** Unless waived by the court, as part of  
17 any term of community custody, the court shall order an offender to:

18 (a) Report to and be available for contact with the assigned  
19 community corrections officer as directed;

20 (b) Work at department-approved education, employment, or community  
21 restitution, or any combination thereof;

22 (c) Refrain from possessing or consuming controlled substances  
23 except pursuant to lawfully issued prescriptions;

24 (d) Pay supervision fees as determined by the department; and

25 (e) Obtain prior approval of the department for the offender's  
26 residence location and living arrangements.

27 (3) **Discretionary conditions.** As part of any term of community  
28 custody, the court may order an offender to:

29 (a) Remain within, or outside of, a specified geographical  
30 boundary;

31 (b) Refrain from direct or indirect contact with the victim of the  
32 crime or a specified class of individuals;

33 (c) Participate in crime-related treatment or counseling services;

34 (d) Participate in rehabilitative programs or otherwise perform  
35 affirmative conduct reasonably related to the circumstances of the  
36 offense, the offender's risk of reoffending, or the safety of the  
37 community;

38 (e) Refrain from consuming alcohol; or

1 (f) Comply with any crime-related prohibitions.

2 (4) **Special conditions.**

3 (a) In sentencing an offender convicted of a crime of domestic  
4 violence, as defined in RCW 10.99.020, if the offender has a minor  
5 child, or if the victim of the offense for which the offender was  
6 convicted has a minor child, the court may order the offender to  
7 participate in a domestic violence perpetrator program approved under  
8 RCW 26.50.150.

9 (b)(i) In sentencing an offender convicted of an alcohol or drug  
10 related traffic offense, the court shall require the offender to  
11 complete a diagnostic evaluation by an alcohol or drug dependency  
12 agency approved by the department of social and health services or a  
13 qualified probation department, defined under RCW 46.61.516, that has  
14 been approved by the department of social and health services. This  
15 report shall be forwarded to the department of licensing. If the  
16 offender is found to have an alcohol or drug problem that requires  
17 treatment, the offender shall complete treatment in a program approved  
18 by the department of social and health services under chapter 70.96A  
19 RCW. If the offender is found not to have an alcohol or drug problem  
20 that requires treatment, the offender shall complete a course in an  
21 information school approved by the department of social and health  
22 services under chapter 70.96A RCW. The offender shall pay all costs  
23 for any evaluation, education, or treatment required by this section,  
24 unless the offender is eligible for an existing program offered or  
25 approved by the department of social and health services.

26 (ii) For purposes of this section, "alcohol or drug related traffic  
27 offense" means the following: Driving while under the influence as  
28 defined by RCW 46.61.502, actual physical control while under the  
29 influence as defined by RCW 46.61.504, vehicular homicide as defined by  
30 RCW 46.61.520(1)(a), vehicular assault as defined by RCW  
31 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050,  
32 or assault by watercraft as defined by RCW 79A.60.060.

33 (iii) This subsection (4)(b) does not require the department of  
34 social and health services to add new treatment or assessment  
35 facilities nor affect its use of existing programs and facilities  
36 authorized by law.

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 9.94A RCW  
2 to read as follows:

3        (1) Every person who is sentenced to a period of community custody  
4 shall report to and be placed under the supervision of the department,  
5 subject to RCW 9.94A.501.

6        (2)(a) The department shall assess the offender's risk of reoffense  
7 and may establish and modify additional conditions of community custody  
8 based upon the risk to community safety.

9        (b) Within the funds available for community custody, the  
10 department shall determine conditions and duration of community custody  
11 on the basis of risk to community safety, and shall supervise offenders  
12 during community custody on the basis of risk to community safety and  
13 conditions imposed by the court. The secretary shall adopt rules to  
14 implement the provisions of this subsection (2)(b).

15        (3) If the offender is supervised by the department, the department  
16 shall at a minimum instruct the offender to:

17        (a) Report as directed to a community corrections officer;

18        (b) Remain within prescribed geographical boundaries;

19        (c) Notify the community corrections officer of any change in the  
20 offender's address or employment;

21        (d) Pay the supervision fee assessment; and

22        (e) Disclose the fact of supervision to any mental health or  
23 chemical dependency treatment provider, as required by RCW 9.94A.722.

24        (4) The department may require the offender to participate in  
25 rehabilitative programs, or otherwise perform affirmative conduct, and  
26 to obey all laws.

27        (5) If the offender was sentenced pursuant to a conviction for a  
28 sex offense, the department may impose electronic monitoring. Within  
29 the resources made available by the department for this purpose, the  
30 department shall carry out any electronic monitoring using the most  
31 appropriate technology given the individual circumstances of the  
32 offender. As used in this section, "electronic monitoring" means the  
33 monitoring of an offender using an electronic offender tracking system  
34 including, but not limited to, a system using radio frequency or active  
35 or passive global positioning system technology.

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

1 (7)(a) The department shall notify the offender in writing of any  
2 additional conditions or modifications.

3 (b) By the close of the next business day after receiving notice of  
4 a condition imposed or modified by the department, an offender may  
5 request an administrative review under rules adopted by the department.  
6 The condition shall remain in effect unless the reviewing officer finds  
7 that it is not reasonably related to the crime of conviction, the  
8 offender's risk of reoffending, or the safety of the community.

9 (8)(a) When a sex offender has been sentenced pursuant to RCW  
10 9.94A.712, the board shall exercise the authority and perform the  
11 duties that would otherwise be exercised by the department pursuant to  
12 this section.

13 (b) The department shall assess the offender's risk of recidivism  
14 and shall recommend to the board any additional or modified conditions  
15 based upon the risk to community safety. The board must consider and  
16 may impose department-recommended conditions.

17 (c) If the department finds that an emergency exists requiring the  
18 immediate imposition of additional conditions in order to prevent the  
19 offender from committing a crime, the department may impose such  
20 conditions. The department may not impose conditions that are contrary  
21 to those set by the board or the court and may not contravene or  
22 decrease court-imposed or board-imposed conditions. Conditions imposed  
23 under this subsection shall take effect immediately after notice to the  
24 offender by personal service, but shall not remain in effect longer  
25 than seven working days unless approved by the board.

26 (9) In setting, modifying, and enforcing conditions of community  
27 custody, the department shall be deemed to be performing a  
28 quasi-judicial function.

29 NEW SECTION. **Sec. 6.** A new section is added to chapter 9.94A RCW  
30 to read as follows:

31 (1) Community custody shall begin: (a) Upon completion of the term  
32 of confinement; (b) at such time as the offender is transferred to  
33 community custody in lieu of earned release in accordance with RCW  
34 9.94A.728 (1) or (2); or (c) at the time of sentencing if no term of  
35 confinement is ordered.

36 (2) When an offender is sentenced to community custody, the

1 offender is subject to the conditions of community custody as of the  
2 date of sentencing, unless otherwise ordered by the court.

3 (3) When an offender is sentenced to a community custody range  
4 pursuant to section 2 (1) or (2) of this act, the department shall  
5 discharge the offender from community custody on a date determined by  
6 the department, which the department may modify, based on risk and  
7 performance of the offender, within the range or at the end of the  
8 period of earned release, whichever is later.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 9.94A RCW  
10 to read as follows:

11 (1) When an offender is under community custody, the community  
12 corrections officer may obtain information from the offender's mental  
13 health treatment provider on the offender's status with respect to  
14 evaluation, application for services, registration for services, and  
15 compliance with the supervision plan, without the offender's consent,  
16 as described under RCW 71.05.630.

17 (2) An offender under community custody who is civilly detained  
18 under chapter 71.05 RCW, and subsequently discharged or conditionally  
19 released to the community, shall be under the supervision of the  
20 department for the duration of his or her period of community custody.  
21 During any period of inpatient mental health treatment that falls  
22 within the period of community custody, the inpatient treatment  
23 provider and the supervising community corrections officer shall notify  
24 each other about the offender's discharge, release, and legal status,  
25 and shall share other relevant information.

26 NEW SECTION. **Sec. 8.** A new section is added to chapter 9.94A RCW  
27 to read as follows:

28 (1) At any time prior to the completion or termination of a sex  
29 offender's term of community custody, if the court finds that public  
30 safety would be enhanced, the court may impose and enforce an order  
31 extending any or all of the conditions of community custody for a  
32 period up to the maximum allowable sentence for the crime as it is  
33 classified in chapter 9A.20 RCW, regardless of the expiration of the  
34 offender's term of community custody.

35 (2) If a violation of a condition extended under this section  
36 occurs after the expiration of the offender's term of community



1 custody, it shall be deemed a violation of the sentence for the  
2 purposes of RCW 9.94A.631 and may be punishable as contempt of court as  
3 provided for in RCW 7.21.040.

4 (3) If the court extends a condition beyond the expiration of the  
5 term of community custody, the department is not responsible for  
6 supervision of the offender's compliance with the condition.

7 **PART II**  
8 **SANCTIONS FOR SENTENCE VIOLATIONS**

9 NEW SECTION. **Sec. 9.** A new section is added to chapter 9.94A RCW  
10 to read as follows:

11 (1)(a) An offender who violates any condition or requirement of a  
12 sentence may be sanctioned with up to sixty days' confinement for each  
13 violation.

14 (b) In lieu of confinement, an offender may be sanctioned with work  
15 release, home detention with electronic monitoring, work crew,  
16 community restitution, inpatient treatment, daily reporting, curfew,  
17 educational or counseling sessions, supervision enhanced through  
18 electronic monitoring, or any other sanctions available in the  
19 community.

20 (2) If an offender was under community custody pursuant to one of  
21 the following statutes, the offender may be sanctioned as follows:

22 (a) If the offender was transferred to community custody in lieu of  
23 earned early release in accordance with RCW 9.94A.728(2), the offender  
24 may be transferred to a more restrictive confinement status to serve up  
25 to the remaining portion of the sentence, less credit for any period  
26 actually spent in community custody or in detention awaiting  
27 disposition of an alleged violation.

28 (b) If the offender was sentenced under the drug offender  
29 sentencing alternative set out in RCW 9.94A.660, the offender may be  
30 sanctioned in accordance with that section.

31 (c) If the offender was sentenced under the special sexual offender  
32 sentencing alternative set out in RCW 9.94A.670, the suspended sentence  
33 may be revoked and the offender committed to serve the original  
34 sentence of confinement.

35 (d) If the offender was sentenced to a work ethic camp pursuant to

1 RCW 9.94A.690, the offender may be reclassified to serve the unexpired  
2 term of his or her sentence in total confinement.

3 (e) If a sex offender was sentenced pursuant to RCW 9.94A.712, the  
4 offender may be transferred to a more restrictive confinement status to  
5 serve up to the remaining portion of the sentence, less credit for any  
6 period actually spent in community custody or in detention awaiting  
7 disposition of an alleged violation.

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 9.94A RCW  
9 to read as follows:

10 (1) If an offender has not completed his or her maximum term of  
11 total confinement and is subject to a third violation hearing pursuant  
12 to RCW 9.94A.737 for any violation of community custody and is found to  
13 have committed the violation, the department shall return the offender  
14 to total confinement in a state correctional facility to serve up to  
15 the remaining portion of his or her sentence, unless it is determined  
16 that returning the offender to a state correctional facility would  
17 substantially interfere with the offender's ability to maintain  
18 necessary community supports or to participate in necessary treatment  
19 or programming and would substantially increase the offender's  
20 likelihood of reoffending.

21 (2) The department shall work with the Washington association of  
22 sheriffs and police chiefs to establish and operate an electronic  
23 monitoring program for low-risk offenders who violate the terms of  
24 their community custody.

25 (3) Local governments, their subdivisions and employees, the  
26 department and its employees, and the Washington association of  
27 sheriffs and police chiefs and its employees are immune from civil  
28 liability for damages arising from incidents involving low-risk  
29 offenders who are placed on electronic monitoring unless it is shown  
30 that an employee acted with gross negligence or bad faith.

31 NEW SECTION. **Sec. 11.** A new section is added to chapter 9.94A RCW  
32 to read as follows:

33 (1) If a sanction of confinement is imposed by the court, the  
34 following applies:

35 (a) If the sanction was imposed pursuant to section 9(1) of this  
36 act, the sanction shall be served in a county facility.

1 (b) If the sanction was imposed pursuant to section 9(2) of this  
2 act, the sanction shall be served in a state facility.

3 (2) If a sanction of confinement is imposed by the department, and  
4 if the offender is an inmate as defined by RCW 72.09.015, no more than  
5 eight days of the sanction, including any credit for time served, may  
6 be served in a county facility. The balance of the sanction shall be  
7 served in a state facility. In computing the eight-day period,  
8 weekends and holidays shall be excluded.

9 (3) If a sanction of confinement is imposed by the board, it shall  
10 be served in a state facility.

11 (4) As used in this section, "county facility" means a facility  
12 operated, licensed, or utilized under contract by the county, and  
13 "state facility" means a facility operated, licensed, or utilized under  
14 contract by the state.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 9.94A RCW  
16 to read as follows:

17 The procedure for imposing sanctions for violations of sentence  
18 conditions or requirements is as follows:

19 (1) If the offender was sentenced under the drug offender  
20 sentencing alternative, any sanctions shall be imposed by the  
21 department or the court pursuant to RCW 9.94A.660.

22 (2) If the offender was sentenced under the special sexual offender  
23 sentencing alternative, any sanctions shall be imposed by the  
24 department or the court pursuant to RCW 9.94A.670.

25 (3) If a sex offender was sentenced pursuant to RCW 9.94A.712, any  
26 sanctions shall be imposed by the board pursuant to RCW 9.95.435.

27 (4) In any other case, if the offender is being supervised by the  
28 department, any sanctions shall be imposed by the department pursuant  
29 to RCW 9.94A.737.

30 (5) If the offender is not being supervised by the department, any  
31 sanctions shall be imposed by the court pursuant to section 13 of this  
32 act.

33 NEW SECTION. **Sec. 13.** A new section is added to chapter 9.94A RCW  
34 to read as follows:

35 (1) If an offender violates any condition or requirement of a

1 sentence, and the offender is not being supervised by the department,  
2 the court may modify its order of judgment and sentence and impose  
3 further punishment in accordance with this section.

4 (2) If an offender fails to comply with any of the conditions or  
5 requirements of a sentence the following provisions apply:

6 (a) The court, upon the motion of the state, or upon its own  
7 motion, shall require the offender to show cause why the offender  
8 should not be punished for the noncompliance. The court may issue a  
9 summons or a warrant of arrest for the offender's appearance;

10 (b) The state has the burden of showing noncompliance by a  
11 preponderance of the evidence;

12 (c) If the court finds that a violation has been proved, it may  
13 impose the sanctions specified in section 9(1) of this act.  
14 Alternatively, the court may:

15 (i) Convert a term of partial confinement to total confinement;

16 (ii) Convert community restitution obligation to total or partial  
17 confinement; or

18 (iii) Convert monetary obligations, except restitution and the  
19 crime victim penalty assessment, to community restitution hours at the  
20 rate of the state minimum wage as established in RCW 49.46.020 for each  
21 hour of community restitution;

22 (d) If the court finds that the violation was not willful, the  
23 court may modify its previous order regarding payment of legal  
24 financial obligations and regarding community restitution obligations;  
25 and

26 (e) If the violation involves a failure to undergo or comply with  
27 a mental health status evaluation and/or outpatient mental health  
28 treatment, the court shall seek a recommendation from the treatment  
29 provider or proposed treatment provider. Enforcement of orders  
30 concerning outpatient mental health treatment must reflect the  
31 availability of treatment and must pursue the least restrictive means  
32 of promoting participation in treatment. If the offender's failure to  
33 receive care essential for health and safety presents a risk of serious  
34 physical harm or probable harmful consequences, the civil detention and  
35 commitment procedures of chapter 71.05 RCW shall be considered in  
36 preference to incarceration in a local or state correctional facility.

37 (3) Any time served in confinement awaiting a hearing on

1 noncompliance shall be credited against any confinement ordered by the  
2 court.

3 (4) Nothing in this section prohibits the filing of escape charges  
4 if appropriate.

5 **Sec. 14.** RCW 9.94A.737 and 2007 c 483 s 305 are each amended to  
6 read as follows:

7 (1) ~~((If an offender violates any condition or requirement of  
8 community custody, the department may transfer the offender to a more  
9 restrictive confinement status to serve up to the remaining portion of  
10 the sentence, less credit for any period actually spent in community  
11 custody or in detention awaiting disposition of an alleged violation  
12 and subject to the limitations of subsection (3) of this section.~~

13 ~~(2) If an offender has not completed his or her maximum term of  
14 total confinement and is subject to a third violation hearing for any  
15 violation of community custody and is found to have committed the  
16 violation, the department shall return the offender to total  
17 confinement in a state correctional facility to serve up to the  
18 remaining portion of his or her sentence, unless it is determined that  
19 returning the offender to a state correctional facility would  
20 substantially interfere with the offender's ability to maintain  
21 necessary community supports or to participate in necessary treatment  
22 or programming and would substantially increase the offender's  
23 likelihood of reoffending.~~

24 ~~(3)(a) For a sex offender sentenced to a term of community custody  
25 under RCW 9.94A.670 who violates any condition of community custody,  
26 the department may impose a sanction of up to sixty days' confinement  
27 in a local correctional facility for each violation. If the department  
28 imposes a sanction, the department shall submit within seventy two  
29 hours a report to the court and the prosecuting attorney outlining the  
30 violation or violations and the sanctions imposed.~~

31 ~~(b) For a sex offender sentenced to a term of community custody  
32 under RCW 9.94A.710 who violates any condition of community custody  
33 after having completed his or her maximum term of total confinement,  
34 including time served on community custody in lieu of earned release,  
35 the department may impose a sanction of up to sixty days in a local  
36 correctional facility for each violation.~~

1       ~~(c) For an offender sentenced to a term of community custody under~~  
2 ~~RCW 9.94A.505(2)(b), 9.94A.650, or 9.94A.715, or under RCW 9.94A.545,~~  
3 ~~for a crime committed on or after July 1, 2000, who violates any~~  
4 ~~condition of community custody after having completed his or her~~  
5 ~~maximum term of total confinement, including time served on community~~  
6 ~~custody in lieu of earned release, the department may impose a sanction~~  
7 ~~of up to sixty days in total confinement for each violation. The~~  
8 ~~department may impose sanctions such as work release, home detention~~  
9 ~~with electronic monitoring, work crew, community restitution, inpatient~~  
10 ~~treatment, daily reporting, curfew, educational or counseling sessions,~~  
11 ~~supervision enhanced through electronic monitoring, or any other~~  
12 ~~sanctions available in the community.~~

13       ~~(d) For an offender sentenced to a term of community placement~~  
14 ~~under RCW 9.94A.705 who violates any condition of community placement~~  
15 ~~after having completed his or her maximum term of total confinement,~~  
16 ~~including time served on community custody in lieu of earned release,~~  
17 ~~the department may impose a sanction of up to sixty days in total~~  
18 ~~confinement for each violation. The department may impose sanctions~~  
19 ~~such as work release, home detention with electronic monitoring, work~~  
20 ~~crew, community restitution, inpatient treatment, daily reporting,~~  
21 ~~curfew, educational or counseling sessions, supervision enhanced~~  
22 ~~through electronic monitoring, or any other sanctions available in the~~  
23 ~~community.~~

24       ~~(4) If an offender has been arrested for a new felony offense while~~  
25 ~~under community supervision, community custody, or community placement,~~  
26 ~~the department shall hold the offender in total confinement until a~~  
27 ~~hearing before the department as provided in this section or until the~~  
28 ~~offender has been formally charged for the new felony offense,~~  
29 ~~whichever is earlier. Nothing in this subsection shall be construed as~~  
30 ~~to permit the department to hold an offender past his or her maximum~~  
31 ~~term of total confinement if the offender has not completed the maximum~~  
32 ~~term of total confinement or to permit the department to hold an~~  
33 ~~offender past the offender's term of community supervision, community~~  
34 ~~custody, or community placement.~~

35       ~~(5) The department shall be financially responsible for any portion~~  
36 ~~of the sanctions authorized by this section that are served in a local~~  
37 ~~correctional facility as the result of action by the department.~~

1       ~~(6)~~) If an offender is accused of violating any condition or  
2 requirement of community custody, he or she is entitled to a hearing  
3 before the department prior to the imposition of sanctions. The  
4 hearing shall be considered as offender disciplinary proceedings and  
5 shall not be subject to chapter 34.05 RCW. The department shall  
6 develop hearing procedures and a structure of graduated sanctions.

7       ~~((7))~~ (2) The hearing procedures required under subsection  
8 ~~((6))~~ (1) of this section shall be developed by rule and include the  
9 following:

10       (a) Hearing officers shall report through a chain of command  
11 separate from that of community corrections officers;

12       (b) The department shall provide the offender with written notice  
13 of the violation, the evidence relied upon, and the reasons the  
14 particular sanction was imposed. The notice shall include a statement  
15 of the rights specified in this subsection, and the offender's right to  
16 file a personal restraint petition under court rules after the final  
17 decision of the department;

18       (c) The hearing shall be held unless waived by the offender, and  
19 shall be electronically recorded. For offenders not in total  
20 confinement, the hearing shall be held within fifteen working days, but  
21 not less than twenty-four hours, after notice of the violation. For  
22 offenders in total confinement, the hearing shall be held within five  
23 working days, but not less than twenty-four hours, after notice of the  
24 violation;

25       (d) The offender shall have the right to: (i) Be present at the  
26 hearing; (ii) have the assistance of a person qualified to assist the  
27 offender in the hearing, appointed by the hearing officer if the  
28 offender has a language or communications barrier; (iii) testify or  
29 remain silent; (iv) call witnesses and present documentary evidence;  
30 and (v) question witnesses who appear and testify; and

31       (e) The sanction shall take effect if affirmed by the hearing  
32 officer. Within seven days after the hearing officer's decision, the  
33 offender may appeal the decision to a panel of three reviewing officers  
34 designated by the secretary or by the secretary's designee. The  
35 sanction shall be reversed or modified if a majority of the panel finds  
36 that the sanction was not reasonably related to any of the following:  
37 (i) The crime of conviction; (ii) the violation committed; (iii) the  
38 offender's risk of reoffending; or (iv) the safety of the community.

1        ~~((8))~~ (3) For purposes of this section, no finding of a violation  
2 of conditions may be based on unconfirmed or unconfirmable allegations.

3        ~~((9) The department shall work with the Washington association of  
4 sheriffs and police chiefs to establish and operate an electronic  
5 monitoring program for low risk offenders who violate the terms of  
6 their community custody. Between January 1, 2006, and December 31,  
7 2006, the department shall endeavor to place at least one hundred low-  
8 risk community custody violators on the electronic monitoring program  
9 per day if there are at least that many low risk offenders who qualify  
10 for the electronic monitoring program.~~

11        ~~(10) Local governments, their subdivisions and employees, the  
12 department and its employees, and the Washington association of  
13 sheriffs and police chiefs and its employees shall be immune from civil  
14 liability for damages arising from incidents involving low risk  
15 offenders who are placed on electronic monitoring unless it is shown  
16 that an employee acted with gross negligence or bad faith.)~~

17        NEW SECTION.    **Sec. 15.** (1) The secretary may issue warrants for  
18 the arrest of any offender who violates a condition of community  
19 custody. The arrest warrants shall authorize any law enforcement or  
20 peace officer or community corrections officer of this state or any  
21 other state where such offender may be located, to arrest the offender  
22 and place him or her in total confinement pending disposition of the  
23 alleged violation.

24        (2) A community corrections officer, if he or she has reasonable  
25 cause to believe an offender has violated a condition of community  
26 custody, may suspend the person's community custody status and arrest  
27 or cause the arrest and detention in total confinement of the offender,  
28 pending the determination of the secretary as to whether the violation  
29 has occurred. The community corrections officer shall report to the  
30 secretary all facts and circumstances and the reasons for the action of  
31 suspending community custody status.

32        (3) If an offender has been arrested for a new felony offense while  
33 under community custody the department shall hold the offender in total  
34 confinement until a hearing before the department as provided in this  
35 section or until the offender has been formally charged for the new  
36 felony offense, whichever is earlier. Nothing in this subsection shall  
37 be construed as to permit the department to hold an offender past his



1 or her maximum term of total confinement if the offender has not  
2 completed the maximum term of total confinement or to permit the  
3 department to hold an offender past the offender's term of community  
4 custody.

5 (4) A violation of a condition of community custody shall be deemed  
6 a violation of the sentence for purposes of RCW 9.94A.631. The  
7 authority granted to community corrections officers under this section  
8 shall be in addition to that set forth in RCW 9.94A.631.

9 **Sec. 16.** RCW 9.94A.740 and 1999 c 196 s 9 are each amended to read  
10 as follows:

11 ~~(1) ((The secretary may issue warrants for the arrest of any  
12 offender who violates a condition of community placement or community  
13 custody. The arrest warrants shall authorize any law enforcement or  
14 peace officer or community corrections officer of this state or any  
15 other state where such offender may be located, to arrest the offender  
16 and place him or her in total confinement pending disposition of the  
17 alleged violation.))~~ When an offender is arrested pursuant to section  
18 15 of this act, the department shall compensate the local jurisdiction  
19 at the office of financial management's adjudicated rate, in accordance  
20 with RCW 70.48.440. ((A community corrections officer, if he or she  
21 has reasonable cause to believe an offender in community placement or  
22 community custody has violated a condition of community placement or  
23 community custody, may suspend the person's community placement or  
24 community custody status and arrest or cause the arrest and detention  
25 in total confinement of the offender, pending the determination of the  
26 secretary as to whether the violation has occurred. The community  
27 corrections officer shall report to the secretary all facts and  
28 circumstances and the reasons for the action of suspending community  
29 placement or community custody status. A violation of a condition of  
30 community placement or community custody shall be deemed a violation of  
31 the sentence for purposes of RCW 9.94A.631. The authority granted to  
32 community corrections officers under this section shall be in addition  
33 to that set forth in RCW 9.94A.631.)))

34 (2) Inmates, as defined in RCW 72.09.015, who have been transferred  
35 to community custody and who are detained in a local correctional  
36 facility are the financial responsibility of the department of  
37 corrections, except as provided in subsection (3) of this section.

1 (~~The community custody inmate shall be removed from the local~~  
2 ~~correctional facility, except as provided in subsection (3) of this~~  
3 ~~section, not later than eight days, excluding weekends and holidays,~~  
4 ~~following admittance to the local correctional facility and~~  
5 ~~notification that the inmate is available for movement to a state~~  
6 ~~correctional institution.))~~

7 (3) (~~The department may negotiate with local correctional~~  
8 ~~authorities for an additional period of detention; however, sex~~  
9 ~~offenders sanctioned for community custody violations under RCW~~  
10 ~~9.94A.737(2) to a term of confinement shall remain in the local~~  
11 ~~correctional facility for the complete term of the sanction.)) For  
12 confinement sanctions imposed by the department under RCW  
13 ~~((9.94A.737(2)(a)))~~ 9.94A.670, the local correctional facility shall be  
14 financially responsible. (~~For confinement sanctions imposed under RCW~~  
15 ~~9.94A.737(2)(b), the department of corrections shall be financially~~  
16 ~~responsible for that portion of the sanction served during the time in~~  
17 ~~which the sex offender is on community custody in lieu of earned~~  
18 ~~release, and the local correctional facility shall be financially~~  
19 ~~responsible for that portion of the sanction served by the sex offender~~  
20 ~~after the time in which the sex offender is on community custody in~~  
21 ~~lieu of earned release.))~~~~

22 (4) The department, in consultation with the Washington association  
23 of sheriffs and police chiefs and those counties in which the sheriff  
24 does not operate a correctional facility, shall establish a methodology  
25 for determining the department's local correctional facilities bed  
26 utilization rate, for each county in calendar year 1998, for offenders  
27 being held for violations of conditions of community custody(~~(~~  
28 ~~community placement, or community supervision))~~. (~~For confinement~~  
29 ~~sanctions imposed under RCW 9.94A.737(2) (c) or (d))~~)

30 (5) Except as provided in subsections (1) through (3) of this  
31 section, the local correctional facility shall continue to be  
32 financially responsible to the extent of the calendar year 1998 bed  
33 utilization rate for confinement sanctions imposed by the department  
34 pursuant to RCW 9.94A.737. If the department's use of bed space in  
35 local correctional facilities of any county for such confinement  
36 sanctions (~~imposed on offenders sentenced to a term of community~~  
37 ~~custody under RCW 9.94A.737(2) (c) or (d))~~) exceeds the 1998 bed  
38 utilization rate for the county, the department shall compensate the

1 county for the excess use at the per diem rate equal to the lowest rate  
2 charged by the county under its contract with a municipal government  
3 during the year in which the use occurs.

4 **PART III**

5 **TERMINOLOGY CHANGES AND TECHNICAL AMENDMENTS--CHAPTER 9.94A RCW**

6 **Sec. 17.** RCW 9.94A.030 and 2006 c 139 s 5, 2006 c 124 s 1, 2006 c  
7 122 s 7, 2006 c 73 s 5, and 2005 c 436 s 1 are each reenacted and  
8 amended to read as follows:

9 Unless the context clearly requires otherwise, the definitions in  
10 this section apply throughout this chapter.

11 (1) "Board" means the indeterminate sentence review board created  
12 under chapter 9.95 RCW.

13 (2) "Collect," or any derivative thereof, "collect and remit," or  
14 "collect and deliver," when used with reference to the department,  
15 means that the department, either directly or through a collection  
16 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
17 and enforcing the offender's sentence with regard to the legal  
18 financial obligation, receiving payment thereof from the offender, and,  
19 consistent with current law, delivering daily the entire payment to the  
20 superior court clerk without depositing it in a departmental account.

21 (3) "Commission" means the sentencing guidelines commission.

22 (4) "Community corrections officer" means an employee of the  
23 department who is responsible for carrying out specific duties in  
24 supervision of sentenced offenders and monitoring of sentence  
25 conditions.

26 (5) "Community custody" means that portion of an offender's  
27 sentence of confinement in lieu of earned release time or imposed  
28 (~~pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,~~  
29 ~~9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545,~~) as part of a  
30 sentence and served in the community subject to controls placed on the  
31 offender's movement and activities by the department. (~~For offenders~~  
32 ~~placed on community custody for crimes committed on or after July 1,~~  
33 ~~2000, the department shall assess the offender's risk of reoffense and~~  
34 ~~may establish and modify conditions of community custody, in addition~~  
35 ~~to those imposed by the court, based upon the risk to community~~  
36 ~~safety.~~)

1 (6) "Community custody range" means the minimum and maximum period  
2 of community custody included as part of a sentence under RCW  
3 9.94A.715, as established by the commission or the legislature under  
4 RCW 9.94A.850 (~~for crimes committed on or after July 1, 2000~~).

5 (~~7~~) (~~"Community placement" means that period during which the~~  
6 ~~offender is subject to the conditions of community custody and/or~~  
7 ~~postrelease supervision, which begins either upon completion of the~~  
8 ~~term of confinement (postrelease supervision) or at such time as the~~  
9 ~~offender is transferred to community custody in lieu of earned release.~~  
10 ~~Community placement may consist of entirely community custody, entirely~~  
11 ~~postrelease supervision, or a combination of the two.~~

12 (~~8~~) "Community protection zone" means the area within eight  
13 hundred eighty feet of the facilities and grounds of a public or  
14 private school.

15 (~~9~~) (8) "Community restitution" means compulsory service,  
16 without compensation, performed for the benefit of the community by the  
17 offender.

18 (~~10~~) "~~Community supervision" means a period of time during which~~  
19 ~~a convicted offender is subject to crime-related prohibitions and other~~  
20 ~~sentence conditions imposed by a court pursuant to this chapter or RCW~~  
21 ~~16.52.200(6) or 46.61.524. Where the court finds that any offender has~~  
22 ~~a chemical dependency that has contributed to his or her offense, the~~  
23 ~~conditions of supervision may, subject to available resources, include~~  
24 ~~treatment. For purposes of the interstate compact for out-of-state~~  
25 ~~supervision of parolees and probationers, RCW 9.95.270, community~~  
26 ~~supervision is the functional equivalent of probation and should be~~  
27 ~~considered the same as probation by other states.~~

28 (~~11~~) (9) "Confinement" means total or partial confinement.

29 (~~12~~) (10) "Conviction" means an adjudication of guilt pursuant  
30 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of  
31 guilty, and acceptance of a plea of guilty.

32 (~~13~~) (11) "Crime-related prohibition" means an order of a court  
33 prohibiting conduct that directly relates to the circumstances of the  
34 crime for which the offender has been convicted, and shall not be  
35 construed to mean orders directing an offender affirmatively to  
36 participate in rehabilitative programs or to otherwise perform  
37 affirmative conduct. However, affirmative acts necessary to monitor  
38 compliance with the order of a court may be required by the department.

1       (~~(14)~~) (12) "Criminal history" means the list of a defendant's  
2 prior convictions and juvenile adjudications, whether in this state, in  
3 federal court, or elsewhere.

4       (a) The history shall include, where known, for each conviction (i)  
5 whether the defendant has been placed on probation and the length and  
6 terms thereof; and (ii) whether the defendant has been incarcerated and  
7 the length of incarceration.

8       (b) A conviction may be removed from a defendant's criminal history  
9 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or  
10 a similar out-of-state statute, or if the conviction has been vacated  
11 pursuant to a governor's pardon.

12       (c) The determination of a defendant's criminal history is distinct  
13 from the determination of an offender score. A prior conviction that  
14 was not included in an offender score calculated pursuant to a former  
15 version of the sentencing reform act remains part of the defendant's  
16 criminal history.

17       (~~(15)~~) (13) "Day fine" means a fine imposed by the sentencing  
18 court that equals the difference between the offender's net daily  
19 income and the reasonable obligations that the offender has for the  
20 support of the offender and any dependents.

21       (~~(16)~~) (14) "Day reporting" means a program of enhanced  
22 supervision designed to monitor the offender's daily activities and  
23 compliance with sentence conditions, and in which the offender is  
24 required to report daily to a specific location designated by the  
25 department or the sentencing court.

26       (~~(17)~~) (15) "Department" means the department of corrections.

27       (~~(18)~~) (16) "Determinate sentence" means a sentence that states  
28 with exactitude the number of actual years, months, or days of total  
29 confinement, of partial confinement, of community (~~supervision~~)  
30 custody, the number of actual hours or days of community restitution  
31 work, or dollars or terms of a legal financial obligation. The fact  
32 that an offender through earned release can reduce the actual period of  
33 confinement shall not affect the classification of the sentence as a  
34 determinate sentence.

35       (~~(19)~~) (17) "Disposable earnings" means that part of the earnings  
36 of an offender remaining after the deduction from those earnings of any  
37 amount required by law to be withheld. For the purposes of this  
38 definition, "earnings" means compensation paid or payable for personal

1 services, whether denominated as wages, salary, commission, bonuses, or  
2 otherwise, and, notwithstanding any other provision of law making the  
3 payments exempt from garnishment, attachment, or other process to  
4 satisfy a court-ordered legal financial obligation, specifically  
5 includes periodic payments pursuant to pension or retirement programs,  
6 or insurance policies of any type, but does not include payments made  
7 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
8 or Title 74 RCW.

9 ~~((+20+))~~ (18) "Drug offender sentencing alternative" is a  
10 sentencing option available to persons convicted of a felony offense  
11 other than a violent offense or a sex offense and who are eligible for  
12 the option under RCW 9.94A.660.

13 ~~((+21+))~~ (19) "Drug offense" means:

14 (a) Any felony violation of chapter 69.50 RCW except possession of  
15 a controlled substance (RCW 69.50.4013) or forged prescription for a  
16 controlled substance (RCW 69.50.403);

17 (b) Any offense defined as a felony under federal law that relates  
18 to the possession, manufacture, distribution, or transportation of a  
19 controlled substance; or

20 (c) Any out-of-state conviction for an offense that under the laws  
21 of this state would be a felony classified as a drug offense under (a)  
22 of this subsection.

23 ~~((+22+))~~ (20) "Earned release" means earned release from  
24 confinement as provided in RCW 9.94A.728.

25 ~~((+23+))~~ (21) "Escape" means:

26 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
27 first degree (RCW 9A.76.110), escape in the second degree (RCW  
28 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
29 willful failure to return from work release (RCW 72.65.070), or willful  
30 failure to be available for supervision by the department while in  
31 community custody (RCW 72.09.310); or

32 (b) Any federal or out-of-state conviction for an offense that  
33 under the laws of this state would be a felony classified as an escape  
34 under (a) of this subsection.

35 ~~((+24+))~~ (22) "Felony traffic offense" means:

36 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
37 46.61.522), eluding a police officer (RCW 46.61.024), felony hit-and-  
38 run injury-accident (RCW 46.52.020(4)), felony driving while under the

1 influence of intoxicating liquor or any drug (RCW 46.61.502(6)), or  
2 felony physical control of a vehicle while under the influence of  
3 intoxicating liquor or any drug (RCW 46.61.504(6)); or

4 (b) Any federal or out-of-state conviction for an offense that  
5 under the laws of this state would be a felony classified as a felony  
6 traffic offense under (a) of this subsection.

7 ~~((+25+))~~ (23) "Fine" means a specific sum of money ordered by the  
8 sentencing court to be paid by the offender to the court over a  
9 specific period of time.

10 ~~((+26+))~~ (24) "First-time offender" means any person who has no  
11 prior convictions for a felony and is eligible for the first-time  
12 offender waiver under RCW 9.94A.650.

13 ~~((+27+))~~ (25) "Home detention" means a program of partial  
14 confinement available to offenders wherein the offender is confined in  
15 a private residence subject to electronic surveillance.

16 ~~((+28+))~~ (26) "Legal financial obligation" means a sum of money  
17 that is ordered by a superior court of the state of Washington for  
18 legal financial obligations which may include restitution to the  
19 victim, statutorily imposed crime victims' compensation fees as  
20 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
21 drug funds, court-appointed attorneys' fees, and costs of defense,  
22 fines, and any other financial obligation that is assessed to the  
23 offender as a result of a felony conviction. Upon conviction for  
24 vehicular assault while under the influence of intoxicating liquor or  
25 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
26 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
27 legal financial obligations may also include payment to a public agency  
28 of the expense of an emergency response to the incident resulting in  
29 the conviction, subject to RCW 38.52.430.

30 ~~((+29+))~~ (27) "Most serious offense" means any of the following  
31 felonies or a felony attempt to commit any of the following felonies:

32 (a) Any felony defined under any law as a class A felony or  
33 criminal solicitation of or criminal conspiracy to commit a class A  
34 felony;

35 (b) Assault in the second degree;

36 (c) Assault of a child in the second degree;

37 (d) Child molestation in the second degree;

38 (e) Controlled substance homicide;

- 1 (f) Extortion in the first degree;
- 2 (g) Incest when committed against a child under age fourteen;
- 3 (h) Indecent liberties;
- 4 (i) Kidnapping in the second degree;
- 5 (j) Leading organized crime;
- 6 (k) Manslaughter in the first degree;
- 7 (l) Manslaughter in the second degree;
- 8 (m) Promoting prostitution in the first degree;
- 9 (n) Rape in the third degree;
- 10 (o) Robbery in the second degree;
- 11 (p) Sexual exploitation;
- 12 (q) Vehicular assault, when caused by the operation or driving of
- 13 a vehicle by a person while under the influence of intoxicating liquor
- 14 or any drug or by the operation or driving of a vehicle in a reckless
- 15 manner;
- 16 (r) Vehicular homicide, when proximately caused by the driving of
- 17 any vehicle by any person while under the influence of intoxicating
- 18 liquor or any drug as defined by RCW 46.61.502, or by the operation of
- 19 any vehicle in a reckless manner;
- 20 (s) Any other class B felony offense with a finding of sexual
- 21 motivation;
- 22 (t) Any other felony with a deadly weapon verdict under RCW
- 23 9.94A.602;
- 24 (u) Any felony offense in effect at any time prior to December 2,
- 25 1993, that is comparable to a most serious offense under this
- 26 subsection, or any federal or out-of-state conviction for an offense
- 27 that under the laws of this state would be a felony classified as a
- 28 most serious offense under this subsection;
- 29 (v)(i) A prior conviction for indecent liberties under RCW
- 30 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
- 31 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
- 32 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
- 33 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;
- 34 (ii) A prior conviction for indecent liberties under RCW
- 35 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
- 36 if: (A) The crime was committed against a child under the age of
- 37 fourteen; or (B) the relationship between the victim and perpetrator is
- 38 included in the definition of indecent liberties under RCW



1 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
2 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
3 through July 27, 1997.

4 ~~((+30+))~~ (28) "Nonviolent offense" means an offense which is not a  
5 violent offense.

6 ~~((+31+))~~ (29) "Offender" means a person who has committed a felony  
7 established by state law and is eighteen years of age or older or is  
8 less than eighteen years of age but whose case is under superior court  
9 jurisdiction under RCW 13.04.030 or has been transferred by the  
10 appropriate juvenile court to a criminal court pursuant to RCW  
11 13.40.110. Throughout this chapter, the terms "offender" and  
12 "defendant" are used interchangeably.

13 ~~((+32+))~~ (30) "Partial confinement" means confinement for no more  
14 than one year in a facility or institution operated or utilized under  
15 contract by the state or any other unit of government, or, if home  
16 detention or work crew has been ordered by the court, in an approved  
17 residence, for a substantial portion of each day with the balance of  
18 the day spent in the community. Partial confinement includes work  
19 release, home detention, work crew, and a combination of work crew and  
20 home detention.

21 ~~((+33+))~~ (31) "Persistent offender" is an offender who:

22 (a)(i) Has been convicted in this state of any felony considered a  
23 most serious offense; and

24 (ii) Has, before the commission of the offense under (a) of this  
25 subsection, been convicted as an offender on at least two separate  
26 occasions, whether in this state or elsewhere, of felonies that under  
27 the laws of this state would be considered most serious offenses and  
28 would be included in the offender score under RCW 9.94A.525; provided  
29 that of the two or more previous convictions, at least one conviction  
30 must have occurred before the commission of any of the other most  
31 serious offenses for which the offender was previously convicted; or

32 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
33 of a child in the first degree, child molestation in the first degree,  
34 rape in the second degree, rape of a child in the second degree, or  
35 indecent liberties by forcible compulsion; (B) any of the following  
36 offenses with a finding of sexual motivation: Murder in the first  
37 degree, murder in the second degree, homicide by abuse, kidnapping in  
38 the first degree, kidnapping in the second degree, assault in the first

1 degree, assault in the second degree, assault of a child in the first  
2 degree, assault of a child in the second degree, or burglary in the  
3 first degree; or (C) an attempt to commit any crime listed in this  
4 subsection (~~(+33+)~~) (31)(b)(i); and

5 (ii) Has, before the commission of the offense under (b)(i) of this  
6 subsection, been convicted as an offender on at least one occasion,  
7 whether in this state or elsewhere, of an offense listed in (b)(i) of  
8 this subsection or any federal or out-of-state offense or offense under  
9 prior Washington law that is comparable to the offenses listed in  
10 (b)(i) of this subsection. A conviction for rape of a child in the  
11 first degree constitutes a conviction under (b)(i) of this subsection  
12 only when the offender was sixteen years of age or older when the  
13 offender committed the offense. A conviction for rape of a child in  
14 the second degree constitutes a conviction under (b)(i) of this  
15 subsection only when the offender was eighteen years of age or older  
16 when the offender committed the offense.

17 (~~(+34)~~) "~~Postrelease supervision~~" is that portion of an offender's  
18 ~~community placement that is not community custody.~~

19 ~~(+35+)~~) (32) "Predatory" means: (a) The perpetrator of the crime  
20 was a stranger to the victim, as defined in this section; (b) the  
21 perpetrator established or promoted a relationship with the victim  
22 prior to the offense and the victimization of the victim was a  
23 significant reason the perpetrator established or promoted the  
24 relationship; or (c) the perpetrator was: (i) A teacher, counselor,  
25 volunteer, or other person in authority in any public or private school  
26 and the victim was a student of the school under his or her authority  
27 or supervision. For purposes of this subsection, "school" does not  
28 include home-based instruction as defined in RCW 28A.225.010; (ii) a  
29 coach, trainer, volunteer, or other person in authority in any  
30 recreational activity and the victim was a participant in the activity  
31 under his or her authority or supervision; or (iii) a pastor, elder,  
32 volunteer, or other person in authority in any church or religious  
33 organization, and the victim was a member or participant of the  
34 organization under his or her authority.

35 (~~(+36+)~~) (33) "Private school" means a school regulated under  
36 chapter 28A.195 or 28A.205 RCW.

37 (~~(+37+)~~) (34) "Public school" has the same meaning as in RCW  
38 28A.150.010.

1       (~~(38)~~) (35) "Restitution" means a specific sum of money ordered  
2 by the sentencing court to be paid by the offender to the court over a  
3 specified period of time as payment of damages. The sum may include  
4 both public and private costs.

5       (~~(39)~~) (36) "Risk assessment" means the application of an  
6 objective instrument supported by research and adopted by the  
7 department for the purpose of assessing an offender's risk of  
8 reoffense, taking into consideration the nature of the harm done by the  
9 offender, place and circumstances of the offender related to risk, the  
10 offender's relationship to any victim, and any information provided to  
11 the department by victims. The results of a risk assessment shall not  
12 be based on unconfirmed or unconfirmable allegations.

13       (~~(40)~~) (37) "Serious traffic offense" means:

14       (a) Nonfelony driving while under the influence of intoxicating  
15 liquor or any drug (RCW 46.61.502), nonfelony actual physical control  
16 while under the influence of intoxicating liquor or any drug (RCW  
17 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an  
18 attended vehicle (RCW 46.52.020(5)); or

19       (b) Any federal, out-of-state, county, or municipal conviction for  
20 an offense that under the laws of this state would be classified as a  
21 serious traffic offense under (a) of this subsection.

22       (~~(41)~~) (38) "Serious violent offense" is a subcategory of violent  
23 offense and means:

- 24       (a)(i) Murder in the first degree;
- 25       (ii) Homicide by abuse;
- 26       (iii) Murder in the second degree;
- 27       (iv) Manslaughter in the first degree;
- 28       (v) Assault in the first degree;
- 29       (vi) Kidnapping in the first degree;
- 30       (vii) Rape in the first degree;
- 31       (viii) Assault of a child in the first degree; or
- 32       (ix) An attempt, criminal solicitation, or criminal conspiracy to  
33 commit one of these felonies; or

34       (b) Any federal or out-of-state conviction for an offense that  
35 under the laws of this state would be a felony classified as a serious  
36 violent offense under (a) of this subsection.

37       (~~(42)~~) (39) "Sex offense" means:

1 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
2 RCW 9A.44.130(~~(11)~~) (12);

3 (ii) A violation of RCW 9A.64.020;

4 (iii) A felony that is a violation of chapter 9.68A RCW other than  
5 RCW 9.68A.080; or

6 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
7 criminal solicitation, or criminal conspiracy to commit such crimes;

8 (b) Any conviction for a felony offense in effect at any time prior  
9 to July 1, 1976, that is comparable to a felony classified as a sex  
10 offense in (a) of this subsection;

11 (c) A felony with a finding of sexual motivation under RCW  
12 9.94A.835 or 13.40.135; or

13 (d) Any federal or out-of-state conviction for an offense that  
14 under the laws of this state would be a felony classified as a sex  
15 offense under (a) of this subsection.

16 (~~(43)~~) (40) "Sexual motivation" means that one of the purposes  
17 for which the defendant committed the crime was for the purpose of his  
18 or her sexual gratification.

19 (~~(44)~~) (41) "Standard sentence range" means the sentencing  
20 court's discretionary range in imposing a nonappealable sentence.

21 (~~(45)~~) (42) "Statutory maximum sentence" means the maximum length  
22 of time for which an offender may be confined as punishment for a crime  
23 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
24 the crime, or other statute defining the maximum penalty for a crime.

25 (~~(46)~~) (43) "Stranger" means that the victim did not know the  
26 offender twenty-four hours before the offense.

27 (~~(47)~~) (44) "Total confinement" means confinement inside the  
28 physical boundaries of a facility or institution operated or utilized  
29 under contract by the state or any other unit of government for twenty-  
30 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

31 (~~(48)~~) (45) "Transition training" means written and verbal  
32 instructions and assistance provided by the department to the offender  
33 during the two weeks prior to the offender's successful completion of  
34 the work ethic camp program. The transition training shall include  
35 instructions in the offender's requirements and obligations during the  
36 offender's period of community custody.

37 (~~(49)~~) (46) "Victim" means any person who has sustained

1 emotional, psychological, physical, or financial injury to person or  
2 property as a direct result of the crime charged.

3 ~~((+50+))~~ (47) "Violent offense" means:

4 (a) Any of the following felonies:

5 (i) Any felony defined under any law as a class A felony or an  
6 attempt to commit a class A felony;

7 (ii) Criminal solicitation of or criminal conspiracy to commit a  
8 class A felony;

9 (iii) Manslaughter in the first degree;

10 (iv) Manslaughter in the second degree;

11 (v) Indecent liberties if committed by forcible compulsion;

12 (vi) Kidnapping in the second degree;

13 (vii) Arson in the second degree;

14 (viii) Assault in the second degree;

15 (ix) Assault of a child in the second degree;

16 (x) Extortion in the first degree;

17 (xi) Robbery in the second degree;

18 (xii) Drive-by shooting;

19 (xiii) Vehicular assault, when caused by the operation or driving  
20 of a vehicle by a person while under the influence of intoxicating  
21 liquor or any drug or by the operation or driving of a vehicle in a  
22 reckless manner; and

23 (xiv) Vehicular homicide, when proximately caused by the driving of  
24 any vehicle by any person while under the influence of intoxicating  
25 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
26 any vehicle in a reckless manner;

27 (b) Any conviction for a felony offense in effect at any time prior  
28 to July 1, 1976, that is comparable to a felony classified as a violent  
29 offense in (a) of this subsection; and

30 (c) Any federal or out-of-state conviction for an offense that  
31 under the laws of this state would be a felony classified as a violent  
32 offense under (a) or (b) of this subsection.

33 ~~((+51+))~~ (48) "Work crew" means a program of partial confinement  
34 consisting of civic improvement tasks for the benefit of the community  
35 that complies with RCW 9.94A.725.

36 ~~((+52+))~~ (49) "Work ethic camp" means an alternative incarceration  
37 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
38 lower the cost of corrections by requiring offenders to complete a

1 comprehensive array of real-world job and vocational experiences,  
2 character-building work ethics training, life management skills  
3 development, substance abuse rehabilitation, counseling, literacy  
4 training, and basic adult education.

5 ((+53+)) (50) "Work release" means a program of partial confinement  
6 available to offenders who are employed or engaged as a student in a  
7 regular course of study at school.

8 **Sec. 18.** RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read  
9 as follows:

10 (1) When the department performs a risk assessment pursuant to RCW  
11 9.94A.500, or to determine a person's conditions of supervision, the  
12 risk assessment shall classify the offender or a probationer sentenced  
13 in superior court into one of at least four risk categories.

14 (2) The department shall supervise every offender sentenced to a  
15 term of community custody(~~(, community placement, or community~~  
16 ~~supervision)) and every misdemeanor and gross misdemeanor probationer~~  
17 ordered by a superior court to probation under the supervision of the  
18 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

19 (a) Whose risk assessment places that offender or probationer in  
20 one of the two highest risk categories; or

21 (b) Regardless of the offender's or probationer's risk category if:

22 (i) The offender's or probationer's current conviction is for:

23 (A) A sex offense;

24 (B) A violent offense;

25 (C) A crime against persons as defined in RCW 9.94A.411;

26 (D) A felony that is domestic violence as defined in RCW 10.99.020;

27 (E) A violation of RCW 9A.52.025 (residential burglary);

28 (F) A violation of, or an attempt, solicitation, or conspiracy to  
29 violate, RCW 69.50.401 by manufacture or delivery or possession with  
30 intent to deliver methamphetamine; or

31 (G) A violation of, or an attempt, solicitation, or conspiracy to  
32 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

33 (ii) The offender or probationer has a prior conviction for:

34 (A) A sex offense;

35 (B) A violent offense;

36 (C) A crime against persons as defined in RCW 9.94A.411;

37 (D) A felony that is domestic violence as defined in RCW 10.99.020;

- 1 (E) A violation of RCW 9A.52.025 (residential burglary);
- 2 (F) A violation of, or an attempt, solicitation, or conspiracy to  
3 violate, RCW 69.50.401 by manufacture or delivery or possession with  
4 intent to deliver methamphetamine; or
- 5 (G) A violation of, or an attempt, solicitation, or conspiracy to  
6 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
- 7 (iii) The conditions of the offender's community custody(~~(, community placement, or community supervision)~~) or the probationer's  
8 supervision include chemical dependency treatment;
- 9 (iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670;  
10 or  
11 (v) The offender is subject to supervision pursuant to RCW  
12 9.94A.745.
- 13 (3) The department is not authorized to, and may not, supervise any  
14 offender sentenced to a term of community custody(~~(, community placement, or community supervision)~~) or any probationer unless the  
15 offender or probationer is one for whom supervision is required under  
16 subsection (2) of this section.
- 17 (4) This section expires July 1, 2010.

20 **Sec. 19.** RCW 9.94A.505 and 2006 c 73 s 6 are each amended to read  
21 as follows:

- 22 (1) When a person is convicted of a felony, the court shall impose  
23 punishment as provided in this chapter.
- 24 (2)(a) The court shall impose a sentence as provided in the  
25 following sections and as applicable in the case:
- 26 (i) Unless another term of confinement applies, (~~the court shall~~  
27 ~~impose~~) a sentence within the standard sentence range established in  
28 RCW 9.94A.510 or 9.94A.517;
- 29 (ii) (~~RCW 9.94A.700 and 9.94A.705, relating to community~~  
30 ~~placement~~) Sections 2 and 3 of this act, relating to community  
31 custody;
- 32 (iii) (~~RCW 9.94A.710 and 9.94A.715, relating to community custody~~;
- 33 ~~(iv) RCW 9.94A.545, relating to community custody for offenders~~  
34 ~~whose term of confinement is one year or less~~;
- 35 ~~(v)~~) RCW 9.94A.570, relating to persistent offenders;
- 36 ~~(vi)~~) (iv) RCW 9.94A.540, relating to mandatory minimum terms;

1        ~~((vii))~~ (v) RCW 9.94A.650, relating to the first-time offender  
2 waiver;

3        ~~((viii))~~ (vi) RCW 9.94A.660, relating to the drug offender  
4 sentencing alternative;

5        ~~((ix))~~ (vii) RCW 9.94A.670, relating to the special sex offender  
6 sentencing alternative;

7        ~~((x))~~ (viii) RCW 9.94A.712, relating to certain sex offenses;

8        ~~((xi))~~ (ix) RCW 9.94A.535, relating to exceptional sentences;

9        ~~((xii))~~ (x) RCW 9.94A.589, relating to consecutive and concurrent  
10 sentences;

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

15        (b) If a standard sentence range has not been established for the  
16 offender's crime, the court shall impose a determinate sentence which  
17 may include not more than one year of confinement; community  
18 restitution work; ~~((until July 1, 2000,))~~ a term of community  
19 ~~((supervision))~~ custody not to exceed one year ~~((and on and after July~~  
20 ~~1, 2000, a term of community custody not to exceed one year, subject to~~  
21 ~~conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3))~~);  
22 and/or other legal financial obligations. The court may impose a  
23 sentence which provides more than one year of confinement if the court  
24 finds reasons justifying an exceptional sentence as provided in RCW  
25 9.94A.535.

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

32        (4) If a sentence imposed includes payment of a legal financial  
33 obligation, it shall be imposed as provided in RCW 9.94A.750,  
34 9.94A.753, 9.94A.760, and 43.43.7541.

35        (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
36 court may not impose a sentence providing for a term of confinement or  
37 ~~((community supervision, community placement, or))~~ community custody



1 ((which)) that exceeds the statutory maximum for the crime as provided  
2 in chapter 9A.20 RCW.

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

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

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

12 ~~((The court may order an offender whose sentence includes  
13 community placement or community supervision to undergo a mental status  
14 evaluation and to participate in available outpatient mental health  
15 treatment, if the court finds that reasonable grounds exist to believe  
16 that the offender is a mentally ill person as defined in RCW 71.24.025,  
17 and that this condition is likely to have influenced the offense. An  
18 order requiring mental status evaluation or treatment must be based on  
19 a presentence report and, if applicable, mental status evaluations that  
20 have been filed with the court to determine the offender's competency  
21 or eligibility for a defense of insanity. The court may order  
22 additional evaluations at a later date if deemed appropriate.~~

23 ~~(10))~~ In any sentence of partial confinement, the court may  
24 require the offender to serve the partial confinement in work release,  
25 in a program of home detention, on work crew, or in a combined program  
26 of work crew and home detention.

27 ~~((11) In sentencing an offender convicted of a crime of domestic  
28 violence, as defined in RCW 10.99.020, if the offender has a minor  
29 child, or if the victim of the offense for which the offender was  
30 convicted has a minor child, the court may, as part of any term of  
31 community supervision, community placement, or community custody, order  
32 the offender to participate in a domestic violence perpetrator program  
33 approved under RCW 26.50.150.))~~

34 **Sec. 20.** RCW 9.94A.525 and 2007 c 199 s 8 and 2007 c 116 s 1 are  
35 each reenacted and amended to read as follows:

36 The offender score is measured on the horizontal axis of the  
37 sentencing grid. The offender score rules are as follows:

1 The offender score is the sum of points accrued under this section  
2 rounded down to the nearest whole number.

3 (1) A prior conviction is a conviction which exists before the date  
4 of sentencing for the offense for which the offender score is being  
5 computed. Convictions entered or sentenced on the same date as the  
6 conviction for which the offender score is being computed shall be  
7 deemed "other current offenses" within the meaning of RCW 9.94A.589.

8 (2)(a) Class A and sex prior felony convictions shall always be  
9 included in the offender score.

10 (b) Class B prior felony convictions other than sex offenses shall  
11 not be included in the offender score, if since the last date of  
12 release from confinement (including full-time residential treatment)  
13 pursuant to a felony conviction, if any, or entry of judgment and  
14 sentence, the offender had spent ten consecutive years in the community  
15 without committing any crime that subsequently results in a conviction.

16 (c) Except as provided in (e) of this subsection, class C prior  
17 felony convictions other than sex offenses shall not be included in the  
18 offender score if, since the last date of release from confinement  
19 (including full-time residential treatment) pursuant to a felony  
20 conviction, if any, or entry of judgment and sentence, the offender had  
21 spent five consecutive years in the community without committing any  
22 crime that subsequently results in a conviction.

23 (d) Except as provided in (e) of this subsection, serious traffic  
24 convictions shall not be included in the offender score if, since the  
25 last date of release from confinement (including full-time residential  
26 treatment) pursuant to a felony conviction, if any, or entry of  
27 judgment and sentence, the offender spent five years in the community  
28 without committing any crime that subsequently results in a conviction.

29 (e) If the present conviction is felony driving while under the  
30 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or  
31 felony physical control of a vehicle while under the influence of  
32 intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions  
33 of felony driving while under the influence of intoxicating liquor or  
34 any drug, felony physical control of a vehicle while under the  
35 influence of intoxicating liquor or any drug, and serious traffic  
36 offenses shall be included in the offender score if: (i) The prior  
37 convictions were committed within five years since the last date of  
38 release from confinement (including full-time residential treatment) or

1 entry of judgment and sentence; or (ii) the prior convictions would be  
2 considered "prior offenses within ten years" as defined in RCW  
3 46.61.5055.

4 (f) This subsection applies to both adult and juvenile prior  
5 convictions.

6 (3) Out-of-state convictions for offenses shall be classified  
7 according to the comparable offense definitions and sentences provided  
8 by Washington law. Federal convictions for offenses shall be  
9 classified according to the comparable offense definitions and  
10 sentences provided by Washington law. If there is no clearly  
11 comparable offense under Washington law or the offense is one that is  
12 usually considered subject to exclusive federal jurisdiction, the  
13 offense shall be scored as a class C felony equivalent if it was a  
14 felony under the relevant federal statute.

15 (4) Score prior convictions for felony anticipatory offenses  
16 (attempts, criminal solicitations, and criminal conspiracies) the same  
17 as if they were convictions for completed offenses.

18 (5)(a) In the case of multiple prior convictions, for the purpose  
19 of computing the offender score, count all convictions separately,  
20 except:

21 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to  
22 encompass the same criminal conduct, shall be counted as one offense,  
23 the offense that yields the highest offender score. The current  
24 sentencing court shall determine with respect to other prior adult  
25 offenses for which sentences were served concurrently or prior juvenile  
26 offenses for which sentences were served consecutively, whether those  
27 offenses shall be counted as one offense or as separate offenses using  
28 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and  
29 if the court finds that they shall be counted as one offense, then the  
30 offense that yields the highest offender score shall be used. The  
31 current sentencing court may presume that such other prior offenses  
32 were not the same criminal conduct from sentences imposed on separate  
33 dates, or in separate counties or jurisdictions, or in separate  
34 complaints, indictments, or informations;

35 (ii) In the case of multiple prior convictions for offenses  
36 committed before July 1, 1986, for the purpose of computing the  
37 offender score, count all adult convictions served concurrently as one

1 offense, and count all juvenile convictions entered on the same date as  
2 one offense. Use the conviction for the offense that yields the  
3 highest offender score.

4 (b) As used in this subsection (5), "served concurrently" means  
5 that: (i) The latter sentence was imposed with specific reference to  
6 the former; (ii) the concurrent relationship of the sentences was  
7 judicially imposed; and (iii) the concurrent timing of the sentences  
8 was not the result of a probation or parole revocation on the former  
9 offense.

10 (6) If the present conviction is one of the anticipatory offenses  
11 of criminal attempt, solicitation, or conspiracy, count each prior  
12 conviction as if the present conviction were for a completed offense.  
13 When these convictions are used as criminal history, score them the  
14 same as a completed crime.

15 (7) If the present conviction is for a nonviolent offense and not  
16 covered by subsection (11), (12), or (13) of this section, count one  
17 point for each adult prior felony conviction and one point for each  
18 juvenile prior violent felony conviction and 1/2 point for each  
19 juvenile prior nonviolent felony conviction.

20 (8) If the present conviction is for a violent offense and not  
21 covered in subsection (9), (10), (11), (12), or (13) of this section,  
22 count two points for each prior adult and juvenile violent felony  
23 conviction, one point for each prior adult nonviolent felony  
24 conviction, and 1/2 point for each prior juvenile nonviolent felony  
25 conviction.

26 (9) If the present conviction is for a serious violent offense,  
27 count three points for prior adult and juvenile convictions for crimes  
28 in this category, two points for each prior adult and juvenile violent  
29 conviction (not already counted), one point for each prior adult  
30 nonviolent felony conviction, and 1/2 point for each prior juvenile  
31 nonviolent felony conviction.

32 (10) If the present conviction is for Burglary 1, count prior  
33 convictions as in subsection (8) of this section; however count two  
34 points for each prior adult Burglary 2 or residential burglary  
35 conviction, and one point for each prior juvenile Burglary 2 or  
36 residential burglary conviction.

37 (11) If the present conviction is for a felony traffic offense  
38 count two points for each adult or juvenile prior conviction for

1 Vehicular Homicide or Vehicular Assault; for each felony offense count  
2 one point for each adult and 1/2 point for each juvenile prior  
3 conviction; for each serious traffic offense, other than those used for  
4 an enhancement pursuant to RCW 46.61.520(2), count one point for each  
5 adult and 1/2 point for each juvenile prior conviction; count one point  
6 for each adult and 1/2 point for each juvenile prior conviction for  
7 operation of a vessel while under the influence of intoxicating liquor  
8 or any drug.

9 (12) If the present conviction is for homicide by watercraft or  
10 assault by watercraft count two points for each adult or juvenile prior  
11 conviction for homicide by watercraft or assault by watercraft; for  
12 each felony offense count one point for each adult and 1/2 point for  
13 each juvenile prior conviction; count one point for each adult and 1/2  
14 point for each juvenile prior conviction for driving under the  
15 influence of intoxicating liquor or any drug, actual physical control  
16 of a motor vehicle while under the influence of intoxicating liquor or  
17 any drug, or operation of a vessel while under the influence of  
18 intoxicating liquor or any drug.

19 (13) If the present conviction is for manufacture of  
20 methamphetamine count three points for each adult prior manufacture of  
21 methamphetamine conviction and two points for each juvenile manufacture  
22 of methamphetamine offense. If the present conviction is for a drug  
23 offense and the offender has a criminal history that includes a sex  
24 offense or serious violent offense, count three points for each adult  
25 prior felony drug offense conviction and two points for each juvenile  
26 drug offense. All other adult and juvenile felonies are scored as in  
27 subsection (8) of this section if the current drug offense is violent,  
28 or as in subsection (7) of this section if the current drug offense is  
29 nonviolent.

30 (14) If the present conviction is for Escape from Community  
31 Custody, RCW 72.09.310, count only prior escape convictions in the  
32 offender score. Count adult prior escape convictions as one point and  
33 juvenile prior escape convictions as 1/2 point.

34 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
35 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
36 juvenile prior convictions as 1/2 point.

37 (16) If the present conviction is for Burglary 2 or residential  
38 burglary, count priors as in subsection (7) of this section; however,

1 count two points for each adult and juvenile prior Burglary 1  
2 conviction, two points for each adult prior Burglary 2 or residential  
3 burglary conviction, and one point for each juvenile prior Burglary 2  
4 or residential burglary conviction.

5 (17) If the present conviction is for a sex offense, count priors  
6 as in subsections (7) through (11) and (13) through (16) of this  
7 section; however count three points for each adult and juvenile prior  
8 sex offense conviction.

9 (18) If the present conviction is for failure to register as a sex  
10 offender under RCW 9A.44.130(~~(+10)~~), count priors as in subsections  
11 (7) through (11) and (13) through (16) of this section; however count  
12 three points for each adult and juvenile prior sex offense conviction,  
13 excluding prior convictions for failure to register as a sex offender  
14 under RCW 9A.44.130(~~(+10)~~), which shall count as one point.

15 (19) If the present conviction is for an offense committed while  
16 the offender was under community (~~(placement)~~) custody, add one point.  
17 For purposes of this section, community custody includes community  
18 placement or postrelease supervision, as defined in chapter 9.-- RCW  
19 (the new chapter created in section 51 of this act).

20 (20) If the present conviction is for Theft of a Motor Vehicle,  
21 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without  
22 Permission 1, or Taking a Motor Vehicle Without Permission 2, count  
23 priors as in subsections (7) through (18) of this section; however  
24 count one point for prior convictions of Vehicle Prowling 2, and three  
25 points for each adult and juvenile prior Theft 1 (of a motor vehicle),  
26 Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a  
27 motor vehicle), Possession of Stolen Property 2 (of a motor vehicle),  
28 Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a  
29 Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without  
30 Permission 2 conviction.

31 (21) The fact that a prior conviction was not included in an  
32 offender's offender score or criminal history at a previous sentencing  
33 shall have no bearing on whether it is included in the criminal history  
34 or offender score for the current offense. Accordingly, prior  
35 convictions that were not counted in the offender score or included in  
36 criminal history under repealed or previous versions of the sentencing  
37 reform act shall be included in criminal history and shall count in the

1 offender score if the current version of the sentencing reform act  
2 requires including or counting those convictions.

3 **Sec. 21.** RCW 9.94A.610 and 2003 c 53 s 61 are each amended to read  
4 as follows:

5 (1) At the earliest possible date, and in no event later than ten  
6 days before release except in the event of escape or emergency  
7 furloughs as defined in RCW 72.66.010, the department of corrections  
8 shall send written notice of parole, community (~~placement~~) custody,  
9 work release placement, furlough, or escape about a specific inmate  
10 convicted of a serious drug offense to the following if such notice has  
11 been requested in writing about a specific inmate convicted of a  
12 serious drug offense:

13 (a) Any witnesses who testified against the inmate in any court  
14 proceedings involving the serious drug offense; and

15 (b) Any person specified in writing by the prosecuting attorney.  
16 Information regarding witnesses requesting the notice, information  
17 regarding any other person specified in writing by the prosecuting  
18 attorney to receive the notice, and the notice are confidential and  
19 shall not be available to the inmate.

20 (2) If an inmate convicted of a serious drug offense escapes from  
21 a correctional facility, the department of corrections shall  
22 immediately notify, by the most reasonable and expedient means  
23 available, the chief of police of the city and the sheriff of the  
24 county in which the inmate resided immediately before the inmate's  
25 arrest and conviction. If previously requested, the department shall  
26 also notify the witnesses who are entitled to notice under this  
27 section. If the inmate is recaptured, the department shall send notice  
28 to the persons designated in this subsection as soon as possible but in  
29 no event later than two working days after the department learns of  
30 such recapture.

31 (3) If any witness is under the age of sixteen, the notice required  
32 by this section shall be sent to the parents or legal guardian of the  
33 child.

34 (4) The department of corrections shall send the notices required  
35 by this section to the last address provided to the department by the  
36 requesting party. The requesting party shall furnish the department  
37 with a current address.

1 (5) For purposes of this section, "serious drug offense" means an  
2 offense under RCW 69.50.401(2) (a) or (b) or 69.50.4011(2) (a) or (b).

3 **Sec. 22.** RCW 9.94A.612 and 1996 c 215 s 4 are each amended to read  
4 as follows:

5 (1) At the earliest possible date, and in no event later than  
6 thirty days before release except in the event of escape or emergency  
7 furloughs as defined in RCW 72.66.010, the department of corrections  
8 shall send written notice of parole, release, community (~~placement~~)  
9 custody, work release placement, furlough, or escape about a specific  
10 inmate convicted of a violent offense, a sex offense as defined by RCW  
11 9.94A.030, or a felony harassment offense as defined by RCW 9A.46.060  
12 or 9A.46.110, to the following:

13 (a) The chief of police of the city, if any, in which the inmate  
14 will reside or in which placement will be made in a work release  
15 program; and

16 (b) The sheriff of the county in which the inmate will reside or in  
17 which placement will be made in a work release program.

18 The sheriff of the county where the offender was convicted shall be  
19 notified if the department does not know where the offender will  
20 reside. The department shall notify the state patrol of the release of  
21 all sex offenders, and that information shall be placed in the  
22 Washington crime information center for dissemination to all law  
23 enforcement.

24 (2) The same notice as required by subsection (1) of this section  
25 shall be sent to the following if such notice has been requested in  
26 writing about a specific inmate convicted of a violent offense, a sex  
27 offense as defined by RCW 9.94A.030, or a felony harassment offense as  
28 defined by RCW 9A.46.060 or 9A.46.110:

29 (a) The victim of the crime for which the inmate was convicted or  
30 the victim's next of kin if the crime was a homicide;

31 (b) Any witnesses who testified against the inmate in any court  
32 proceedings involving the violent offense;

33 (c) Any person specified in writing by the prosecuting attorney;  
34 and

35 (d) Any person who requests such notice about a specific inmate  
36 convicted of a sex offense as defined by RCW 9.94A.030 from the



1 department of corrections at least sixty days prior to the expected  
2 release date of the offender.

3 Information regarding victims, next of kin, or witnesses requesting  
4 the notice, information regarding any other person specified in writing  
5 by the prosecuting attorney to receive the notice, and the notice are  
6 confidential and shall not be available to the inmate. Whenever the  
7 department of corrections mails notice pursuant to this subsection and  
8 the notice is returned as undeliverable, the department shall attempt  
9 alternative methods of notification, including a telephone call to the  
10 person's last known telephone number.

11 (3) The existence of the notice requirements contained in  
12 subsections (1) and (2) of this section shall not require an extension  
13 of the release date in the event that the release plan changes after  
14 notification.

15 (4) If an inmate convicted of a violent offense, a sex offense as  
16 defined by RCW 9.94A.030, or a felony harassment offense as defined by  
17 RCW 9A.46.060 or 9A.46.110, escapes from a correctional facility, the  
18 department of corrections shall immediately notify, by the most  
19 reasonable and expedient means available, the chief of police of the  
20 city and the sheriff of the county in which the inmate resided  
21 immediately before the inmate's arrest and conviction. If previously  
22 requested, the department shall also notify the witnesses and the  
23 victim of the crime for which the inmate was convicted or the victim's  
24 next of kin if the crime was a homicide. If the inmate is recaptured,  
25 the department shall send notice to the persons designated in this  
26 subsection as soon as possible but in no event later than two working  
27 days after the department learns of such recapture.

28 (5) If the victim, the victim's next of kin, or any witness is  
29 under the age of sixteen, the notice required by this section shall be  
30 sent to the parents or legal guardian of the child.

31 (6) The department of corrections shall send the notices required  
32 by this chapter to the last address provided to the department by the  
33 requesting party. The requesting party shall furnish the department  
34 with a current address.

35 (7) The department of corrections shall keep, for a minimum of two  
36 years following the release of an inmate, the following:

37 (a) A document signed by an individual as proof that that person is  
38 registered in the victim or witness notification program; and

1 (b) A receipt showing that an individual registered in the victim  
2 or witness notification program was mailed a notice, at the  
3 individual's last known address, upon the release or movement of an  
4 inmate.

5 (8) For purposes of this section the following terms have the  
6 following meanings:

7 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

8 (b) "Next of kin" means a person's spouse, parents, siblings and  
9 children.

10 (9) Nothing in this section shall impose any liability upon a chief  
11 of police of a city or sheriff of a county for failing to request in  
12 writing a notice as provided in subsection (1) of this section.

13 **Sec. 23.** RCW 9.94A.625 and 2000 c 226 s 5 are each amended to read  
14 as follows:

15 (1) A term of confinement ordered in a sentence pursuant to this  
16 chapter shall be tolled by any period of time during which the offender  
17 has absented himself or herself from confinement without the prior  
18 approval of the entity in whose custody the offender has been placed.  
19 A term of partial confinement shall be tolled during any period of time  
20 spent in total confinement pursuant to a new conviction or pursuant to  
21 sanctions for violation of sentence conditions on a separate felony  
22 conviction.

23 (2) Any term of community custody(~~(, community placement, or~~  
24 ~~community supervision)) shall be tolled by any period of time during~~  
25 which the offender has absented himself or herself from supervision  
26 without prior approval of the entity under whose supervision the  
27 offender has been placed.

28 (3) Any period of community custody(~~(, community placement, or~~  
29 ~~community supervision)) shall be tolled during any period of time the~~  
30 offender is in confinement for any reason. However, if an offender is  
31 detained pursuant to RCW 9.94A.740 or 9.94A.631 and is later found not  
32 to have violated a condition or requirement of community custody(~~(,~~  
33 ~~community placement, or community supervision)), time spent in~~  
34 confinement due to such detention shall not toll the period of  
35 community custody(~~(, community placement, or community supervision)).~~

36 (4) For terms of confinement or community custody(~~(, community~~

1 ~~placement, or community supervision~~)), the date for the tolling of the  
2 sentence shall be established by the entity responsible for the  
3 confinement or supervision.

4 **Sec. 24.** RCW 9.94A.650 and 2006 c 73 s 9 are each amended to read  
5 as follows:

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

11 (a) Classified as a violent offense or a sex offense under this  
12 chapter;

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

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

19 (d) The selling for profit of any controlled substance or  
20 counterfeit substance classified in Schedule I, RCW 69.50.204, except  
21 leaves and flowering tops of marihuana; or

22 (e) Felony driving while under the influence of intoxicating liquor  
23 or any drug or felony physical control of a vehicle while under the  
24 influence of intoxicating liquor or any drug.

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~~

1 ~~specified in subsection (3) of this section, or inpatient treatment not~~  
2 ~~to exceed the standard range of confinement for that offense;~~

3 ~~(c) Pursue a prescribed, secular course of study or vocational~~  
4 ~~training;~~

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

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

9 ~~(f) Pay all court-ordered legal financial obligations as provided~~  
10 ~~in RCW 9.94A.030 and/or perform community restitution work.)~~

11 ~~(3) ((The terms and statuses applicable to sentences under~~  
12 ~~subsection (2) of this section are:~~

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

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

25 ~~(4) ((The department shall discharge from community supervision any~~  
26 ~~offender sentenced under this section before July 25, 1999, who has~~  
27 ~~served at least one year of community supervision and has completed any~~  
28 ~~treatment ordered by the court.)) As a condition of community custody,~~  
29 ~~in addition to any conditions authorized in section 4 of this act, the~~  
30 ~~court may order the offender to pay all court-ordered legal financial~~  
31 ~~obligations and/or perform community restitution work.~~

32 **Sec. 25.** RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are  
33 each reenacted and amended to read as follows:

34 (1) An offender is eligible for the special drug offender  
35 sentencing alternative if:

36 (a) The offender is convicted of a felony that is not a violent

1 offense or sex offense and the violation does not involve a sentence  
2 enhancement under RCW 9.94A.533 (3) or (4);

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

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

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

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

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

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

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

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

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

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

1 (d) Whether the offender and the community will benefit from the  
2 use of the alternative.

3 (3) The examination report must contain:

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

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

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

10 (ii) The recommended frequency and length of treatment, including  
11 both residential chemical dependency treatment and treatment in the  
12 community;

13 (iii) A proposed monitoring plan, including any requirements  
14 regarding living conditions, lifestyle requirements, and monitoring by  
15 family members and others; and

16 (iv) Recommended crime-related prohibitions and affirmative  
17 conditions.

18 (4) After receipt of the examination report, if the court  
19 determines that a sentence under this section is appropriate, the court  
20 shall waive imposition of a sentence within the standard sentence range  
21 and impose a sentence consisting of either a prison-based alternative  
22 under subsection (5) of this section or a residential chemical  
23 dependency treatment-based alternative under subsection (6) of this  
24 section. The residential chemical dependency treatment-based  
25 alternative is only available if the midpoint of the standard range is  
26 twenty-four months or less.

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

28 (a) A period of total confinement in a state facility for one-half  
29 of the midpoint of the standard sentence range or twelve months,  
30 whichever is greater. During incarceration in the state facility,  
31 offenders sentenced under this subsection shall undergo a comprehensive  
32 substance abuse assessment and receive, within available resources,  
33 treatment services appropriate for the offender. The treatment  
34 services shall be designed by the division of alcohol and substance  
35 abuse of the department of social and health services, in cooperation  
36 with the department of corrections;

37 (b) The remainder of the midpoint of the standard range as a term  
38 of community custody which must include appropriate substance abuse

1 treatment in a program that has been approved by the division of  
2 alcohol and substance abuse of the department of social and health  
3 services. If the department finds that conditions of community custody  
4 have been willfully violated, the offender may be reclassified to serve  
5 the remaining balance of the original sentence. An offender who fails  
6 to complete the program or who is administratively terminated from the  
7 program shall be reclassified to serve the unexpired term of his or her  
8 sentence as ordered by the sentencing court;

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

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

13 (e) A term of community custody pursuant to ~~((RCW 9.94A.715))~~  
14 section 2 of this act to be imposed upon failure to complete or  
15 administrative termination from the special drug offender sentencing  
16 alternative program.

17 (6) The residential chemical dependency treatment-based alternative  
18 shall include:

19 (a) A term of community custody equal to one-half of the midpoint  
20 of the standard sentence range or two years, whichever is greater,  
21 conditioned on the offender entering and remaining in residential  
22 chemical dependency treatment certified under chapter 70.96A RCW for a  
23 period set by the court between three and six months. If the court  
24 imposes a term of community custody, the department shall, within  
25 available resources, make chemical dependency assessment and treatment  
26 services available to the offender during the term of community  
27 custody. The court shall impose, as conditions of community custody,  
28 treatment and other conditions as proposed in the plan under subsection  
29 (3)(b) of this section. ~~((The department may impose conditions and  
30 sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7),  
31 9.94A.737, and 9.94A.740.))~~ The court shall schedule a progress  
32 hearing during the period of residential chemical dependency treatment,  
33 and schedule a treatment termination hearing for three months before  
34 the expiration of the term of community custody;

35 (b) Before the progress hearing and treatment termination hearing,  
36 the treatment provider and the department shall submit written reports  
37 to the court and parties regarding the offender's compliance with

1 treatment and monitoring requirements, and recommendations regarding  
2 termination from treatment. At the hearing, the court may:

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

6 (ii) Continue the hearing to a date before the expiration date of  
7 community custody, with or without modifying the conditions of  
8 community custody; or

9 (iii) Impose a term of total confinement equal to one-half the  
10 midpoint of the standard sentence range, followed by a term of  
11 community custody under ~~((RCW 9.94A.715))~~ section 2 of this act;

12 (c) If the court imposes a term of total confinement under (b)(iii)  
13 of this subsection, the department shall, within available resources,  
14 make chemical dependency assessment and treatment services available to  
15 the offender during the terms of total confinement and community  
16 custody.

17 ~~(7) ((If the court imposes a sentence under this section, the court  
18 may prohibit the offender from using alcohol or controlled substances  
19 and may require that the monitoring for controlled substances be  
20 conducted by the department or by a treatment alternatives to street  
21 crime program or a comparable court or agency referred program.))~~ The  
22 offender may be required to pay thirty dollars per month while on  
23 community custody to offset the cost of monitoring for alcohol or  
24 controlled substances. ~~((In addition,))~~

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

26 ~~(a) ((Devote time to a specific employment or training;~~

27 ~~(b) Remain within prescribed geographical boundaries and notify the  
28 court or the community corrections officer before any change in the  
29 offender's address or employment;~~

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

31 ~~(d))~~ Pay all court-ordered legal financial obligations; or

32 ~~((e))~~ (b) Perform community restitution work(~~(;~~

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

34 ~~(g) Such other conditions as the court may require such as  
35 affirmative conditions)).~~

36 ~~((8))~~ (9)(a) The court may bring any offender sentenced under  
37 this section back into court at any time on its own initiative to



1 evaluate the offender's progress in treatment or to determine if any  
2 violations of the conditions of the sentence have occurred.

3 (b) If the offender is brought back to court, the court may modify  
4 the ~~((terms))~~ conditions of the community custody or impose sanctions  
5 under (c) of this subsection.

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

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

14 ~~((+9))~~ (e) In serving the term of community custody required by  
15 section 2 of this act, the offender shall receive no credit for time  
16 served in community custody prior to termination of the offender's  
17 participation in the program.

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

26 ~~((+10))~~ (11) An offender sentenced under this section shall be  
27 subject to all rules relating to earned release time with respect to  
28 any period served in total confinement.

29 ~~((+11))~~ (12) Costs of examinations and preparing treatment plans  
30 under subsections (2) and (3) of this section may be paid, at the  
31 option of the county, from funds provided to the county from the  
32 criminal justice treatment account under RCW 70.96A.350.

33 **Sec. 26.** RCW 9.94A.670 and 2006 c 133 s 1 are each amended to read  
34 as follows:

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

1 (a) "Sex offender treatment provider" or "treatment provider" means  
2 a certified sex offender treatment provider or a certified affiliate  
3 sex offender treatment provider as defined in RCW 18.155.020.

4 (b) "Substantial bodily harm" means bodily injury that involves a  
5 temporary but substantial disfigurement, or that causes a temporary but  
6 substantial loss or impairment of the function of any body part or  
7 organ, or that causes a fracture of any body part or organ.

8 (c) "Victim" means any person who has sustained emotional,  
9 psychological, physical, or financial injury to person or property as  
10 a result of the crime charged. "Victim" also means a parent or  
11 guardian of a victim who is a minor child unless the parent or guardian  
12 is the perpetrator of the offense.

13 (2) An offender is eligible for the special sex offender sentencing  
14 alternative if:

15 (a) The offender has been convicted of a sex offense other than a  
16 violation of RCW 9A.44.050 or a sex offense that is also a serious  
17 violent offense. If the conviction results from a guilty plea, the  
18 offender must, as part of his or her plea of guilty, voluntarily and  
19 affirmatively admit he or she committed all of the elements of the  
20 crime to which the offender is pleading guilty. This alternative is  
21 not available to offenders who plead guilty to the offense charged  
22 under *North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d  
23 162 (1970) and *State v. Newton*, 87 Wash.2d 363, 552 P.2d 682 (1976);

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

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

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

32 (e) The offender had an established relationship with, or  
33 connection to, the victim such that the sole connection with the victim  
34 was not the commission of the crime; and

35 (f) The offender's standard sentence range for the offense includes  
36 the possibility of confinement for less than eleven years.

37 (3) If the court finds the offender is eligible for this

1 alternative, the court, on its own motion or the motion of the state or  
2 the offender, may order an examination to determine whether the  
3 offender is amenable to treatment.

4 (a) The report of the examination shall include at a minimum the  
5 following:

6 (i) The offender's version of the facts and the official version of  
7 the facts;

8 (ii) The offender's offense history;

9 (iii) An assessment of problems in addition to alleged deviant  
10 behaviors;

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

12 (v) Other evaluation measures used.

13 The report shall set forth the sources of the examiner's  
14 information.

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

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

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

22 (iii) Monitoring plans, including any requirements regarding living  
23 conditions, lifestyle requirements, and monitoring by family members  
24 and others;

25 (iv) Anticipated length of treatment; and

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

32 (c) The court on its own motion may order, or on a motion by the  
33 state shall order, a second examination regarding the offender's  
34 amenability to treatment. The examiner shall be selected by the party  
35 making the motion. The offender shall pay the cost of any second  
36 examination ordered unless the court finds the defendant to be indigent  
37 in which case the state shall pay the cost.

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

23 (5) As conditions of the suspended sentence, the court must impose  
24 the following:

25 (a) (~~((The court shall order the offender to serve))~~) A term of  
26 confinement of up to twelve months or the maximum term within the  
27 standard range, whichever is less. The court may order the offender to  
28 serve a term of confinement greater than twelve months or the maximum  
29 term within the standard range based on the presence of an aggravating  
30 circumstance listed in RCW 9.94A.535(3). In no case shall the term of  
31 confinement exceed the statutory maximum sentence for the offense. The  
32 court may order the offender to serve all or part of his or her term of  
33 confinement in partial confinement. An offender sentenced to a term of  
34 confinement under this subsection is not eligible for earned release  
35 under RCW 9.92.151 or 9.94A.728.

36 (b) (~~((The court shall place the offender on))~~) A term of community  
37 custody (~~((for))~~) equal to the length of the suspended sentence, the  
38 length of the maximum term imposed pursuant to RCW 9.94A.712, or three

1 years, whichever is greater, and require the offender to comply with  
2 any conditions imposed by the department under ~~((RCW 9.94A.720))~~  
3 section 4 of this act.

4 (c) ~~((The court shall order))~~ Treatment for any period up to five  
5 years in duration. The court, in its discretion, shall order  
6 outpatient sex offender treatment or inpatient sex offender treatment,  
7 if available. A community mental health center may not be used for  
8 such treatment unless it has an appropriate program designed for sex  
9 offender treatment. The offender shall not change sex offender  
10 treatment providers or treatment conditions without first notifying the  
11 prosecutor, the community corrections officer, and the court. If any  
12 party or the court objects to a proposed change, the offender shall not  
13 change providers or conditions without court approval after a hearing.

14 (d) ~~((As conditions of the suspended sentence, the court shall  
15 impose))~~ Specific prohibitions and affirmative conditions relating to  
16 the known precursor activities or behaviors identified in the proposed  
17 treatment plan under subsection (3)(b)(v) of this section or identified  
18 in an annual review under subsection ~~((+7))~~(b) of this section.

19 ~~((+5))~~ (6) As conditions of the suspended sentence, the court may  
20 impose one or more of the following:

21 (a) Crime-related prohibitions;

22 (b) Require the offender to devote time to a specific employment or  
23 occupation;

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

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

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

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

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

34 ~~((+6))~~ (7) At the time of sentencing, the court shall set a  
35 treatment termination hearing for three months prior to the anticipated  
36 date for completion of treatment.

37 ~~((+7))~~ (8)(a) The sex offender treatment provider shall submit  
38 quarterly reports on the offender's progress in treatment to the court

1 and the parties. The report shall reference the treatment plan and  
2 include at a minimum the following: Dates of attendance, offender's  
3 compliance with requirements, treatment activities, the offender's  
4 relative progress in treatment, and any other material specified by the  
5 court at sentencing.

6 (b) The court shall conduct a hearing on the offender's progress in  
7 treatment at least once a year. At least fourteen days prior to the  
8 hearing, notice of the hearing shall be given to the victim. The  
9 victim shall be given the opportunity to make statements to the court  
10 regarding the offender's supervision and treatment. At the hearing,  
11 the court may modify conditions of community custody including, but not  
12 limited to, crime-related prohibitions and affirmative conditions  
13 relating to activities and behaviors identified as part of, or relating  
14 to precursor activities and behaviors in, the offender's offense cycle  
15 or revoke the suspended sentence.

16 ~~((+8))~~ (9) At least fourteen days prior to the treatment  
17 termination hearing, notice of the hearing shall be given to the  
18 victim. The victim shall be given the opportunity to make statements  
19 to the court regarding the offender's supervision and treatment. Prior  
20 to the treatment termination hearing, the treatment provider and  
21 community corrections officer shall submit written reports to the court  
22 and parties regarding the offender's compliance with treatment and  
23 monitoring requirements, and recommendations regarding termination from  
24 treatment, including proposed community custody conditions. The court  
25 may order an evaluation regarding the advisability of termination from  
26 treatment by a sex offender treatment provider who may not be the same  
27 person who treated the offender under subsection (4) of this section or  
28 any person who employs, is employed by, or shares profits with the  
29 person who treated the offender under subsection (4) of this section  
30 unless the court has entered written findings that such evaluation is  
31 in the best interest of the victim and that a successful evaluation of  
32 the offender would otherwise be impractical. The offender shall pay  
33 the cost of the evaluation. At the treatment termination hearing the  
34 court may: (a) Modify conditions of community custody, and either (b)  
35 terminate treatment, or (c) extend treatment in two-year increments for  
36 up to the remaining period of community custody.

37 ~~((+9))~~ (10)(a) If a violation of conditions other than a second  
38 violation of the prohibitions or affirmative conditions relating to

1 precursor behaviors or activities imposed under subsection (4)(d) or  
2 (~~(7)~~) (8)(b) of this section occurs during community custody, the  
3 department shall either impose sanctions as provided for in (~~RCW~~  
4 ~~9.94A.737(2)(a)~~) section 9(1) of this act or refer the violation to  
5 the court and recommend revocation of the suspended sentence as  
6 provided for in subsections (~~(6)~~) (7) and (~~(8)~~) (9) of this  
7 section.

8 (b) If a second violation of the prohibitions or affirmative  
9 conditions relating to precursor behaviors or activities imposed under  
10 subsection (4)(d) or (~~(7)~~) (8)(b) of this section occurs during  
11 community custody, the department shall refer the violation to the  
12 court and recommend revocation of the suspended sentence as provided in  
13 subsection (~~(10)~~) (11) of this section.

14 (~~(10)~~) (11) The court may revoke the suspended sentence at any  
15 time during the period of community custody and order execution of the  
16 sentence if: (a) The offender violates the conditions of the suspended  
17 sentence, or (b) the court finds that the offender is failing to make  
18 satisfactory progress in treatment. All confinement time served during  
19 the period of community custody shall be credited to the offender if  
20 the suspended sentence is revoked.

21 (~~(11)~~) (12) If the offender violates a requirement of the  
22 sentence that is not a condition of the suspended sentence pursuant to  
23 subsection (4) or (5) of this section, the department may impose  
24 sanctions pursuant to section 9(1) of this act.

25 (13) The offender's sex offender treatment provider may not be the  
26 same person who examined the offender under subsection (3) of this  
27 section or any person who employs, is employed by, or shares profits  
28 with the person who examined the offender under subsection (3) of this  
29 section, unless the court has entered written findings that such  
30 treatment is in the best interests of the victim and that successful  
31 treatment of the offender would otherwise be impractical. Examinations  
32 and treatment ordered pursuant to this subsection shall only be  
33 conducted by certified sex offender treatment providers or certified  
34 affiliate sex offender treatment providers under chapter 18.155 RCW  
35 unless the court finds that:

36 (a) The offender has already moved to another state or plans to  
37 move to another state for reasons other than circumventing the  
38 certification requirements; or

1 (b)(i) No certified sex offender treatment providers or certified  
2 affiliate sex offender treatment providers are available for treatment  
3 within a reasonable geographical distance of the offender's home; and

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

6 ~~((+12+))~~ (14) If the offender is less than eighteen years of age  
7 when the charge is filed, the state shall pay for the cost of initial  
8 evaluation and treatment.

9 **Sec. 27.** RCW 9.94A.690 and 2006 c 73 s 11 are each amended to read  
10 as follows:

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

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

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

17 (iii) Is not currently subject to a sentence for, or being  
18 prosecuted for, a violation of felony driving while under the influence  
19 of intoxicating liquor or any drug (RCW 46.61.502(6)), a violation of  
20 physical control of a vehicle while under the influence of intoxicating  
21 liquor or any drug (RCW 46.61.504(6)), a violation of the uniform  
22 controlled substances act, or a criminal solicitation to commit such a  
23 violation under chapter 9A.28 or 69.50 RCW.

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

26 (2) If the sentencing court determines that the offender is  
27 eligible for the work ethic camp and is likely to qualify under  
28 subsection (3) of this section, the judge shall impose a sentence  
29 within the standard sentence range and may recommend that the offender  
30 serve the sentence at a work ethic camp. In sentencing an offender to  
31 the work ethic camp, the court shall specify: (a) That upon completion  
32 of the work ethic camp the offender shall be released on community  
33 custody for any remaining time of total confinement; (b) the applicable  
34 conditions of ~~((supervision-on))~~ community custody ~~((status))~~ as  
35 ~~((required by RCW 9.94A.700(4) and))~~ authorized by ~~((RCW 9.94A.700(5))~~  
36 section 4 of this act; and (c) that violation of the conditions may



1 result in a return to total confinement for the balance of the  
2 offender's remaining time of confinement.

3 (3) The department shall place the offender in the work ethic camp  
4 program, subject to capacity, unless: (a) The department determines  
5 that the offender has physical or mental impairments that would prevent  
6 participation and completion of the program; (b) the department  
7 determines that the offender's custody level prevents placement in the  
8 program; (c) the offender refuses to agree to the terms and conditions  
9 of the program; (d) the offender has been found by the United States  
10 attorney general to be subject to a deportation detainer or order; or  
11 (e) the offender has participated in the work ethic camp program in the  
12 past.

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

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

22 **Sec. 28.** RCW 9.94A.712 and 2006 c 124 s 3, 2006 c 122 s 5, and  
23 2005 c 436 s 2 are each reenacted and amended to read as follows:

24 (1) An offender who is not a persistent offender shall be sentenced  
25 under this section if the offender:

26 (a) Is convicted of:  
27 (i) Rape in the first degree, rape in the second degree, rape of a  
28 child in the first degree, child molestation in the first degree, rape  
29 of a child in the second degree, or indecent liberties by forcible  
30 compulsion;

31 (ii) Any of the following offenses with a finding of sexual  
32 motivation: Murder in the first degree, murder in the second degree,  
33 homicide by abuse, kidnapping in the first degree, kidnapping in the  
34 second degree, assault in the first degree, assault in the second  
35 degree, assault of a child in the first degree, assault of a child in  
36 the second degree, or burglary in the first degree; or

1 (iii) An attempt to commit any crime listed in this subsection  
2 (1)(a);  
3 (~~committed on or after September 1, 2001;~~) or

4 (b) Has a prior conviction for an offense listed in RCW  
5 9.94A.030(~~(+33)~~) (31)(b), and is convicted of any sex offense (~~which~~  
6 ~~was committed after September 1, 2001.~~

7 ~~For purposes of this subsection (1)(b),~~) other than failure to  
8 register (~~is not a sex offense~~)).

9 (2) An offender convicted of rape of a child in the first or second  
10 degree or child molestation in the first degree who was seventeen years  
11 of age or younger at the time of the offense shall not be sentenced  
12 under this section.

13 (3)(a) Upon a finding that the offender is subject to sentencing  
14 under this section, the court shall impose a sentence to a maximum term  
15 and a minimum term.

16 (b) The maximum term shall consist of the statutory maximum  
17 sentence for the offense.

18 (c)(i) Except as provided in (c)(ii) of this subsection, the  
19 minimum term shall be either within the standard sentence range for the  
20 offense, or outside the standard sentence range pursuant to RCW  
21 9.94A.535, if the offender is otherwise eligible for such a sentence.

22 (ii) If the offense that caused the offender to be sentenced under  
23 this section was rape of a child in the first degree, rape of a child  
24 in the second degree, or child molestation in the first degree, and  
25 there has been a finding that the offense was predatory under RCW  
26 9.94A.836, the minimum term shall be either the maximum of the standard  
27 sentence range for the offense or twenty-five years, whichever is  
28 greater. If the offense that caused the offender to be sentenced under  
29 this section was rape in the first degree, rape in the second degree,  
30 indecent liberties by forcible compulsion, or kidnapping in the first  
31 degree with sexual motivation, and there has been a finding that the  
32 victim was under the age of fifteen at the time of the offense under  
33 RCW 9.94A.837, the minimum term shall be either the maximum of the  
34 standard sentence range for the offense or twenty-five years, whichever  
35 is greater. If the offense that caused the offender to be sentenced  
36 under this section is rape in the first degree, rape in the second  
37 degree with forcible compulsion, indecent liberties with forcible  
38 compulsion, or kidnapping in the first degree with sexual motivation,

1 and there has been a finding under RCW 9.94A.838 that the victim was,  
2 at the time of the offense, developmentally disabled, mentally  
3 disordered, or a frail elder or vulnerable adult, the minimum sentence  
4 shall be either the maximum of the standard sentence range for the  
5 offense or twenty-five years, whichever is greater.

6 (d) The minimum terms in (c)(ii) of this subsection do not apply to  
7 a juvenile tried as an adult pursuant to RCW 13.04.030(1)(e) (i) or  
8 (v). The minimum term for such a juvenile shall be imposed under  
9 (c)(i) of this subsection.

10 (4) A person sentenced under subsection (3) of this section shall  
11 serve the sentence in a facility or institution operated, or utilized  
12 under contract, by the state.

13 (5) When a court sentences a person to the custody of the  
14 department under this section, the court shall, in addition to the  
15 other terms of the sentence, sentence the offender to community custody  
16 under the supervision of the department and the authority of the board  
17 for any period of time the person is released from total confinement  
18 before the expiration of the maximum sentence.

19 ~~(6)(a)((i) Unless a condition is waived by the court, the~~  
20 ~~conditions of community custody shall include those provided for in RCW~~  
21 ~~9.94A.700(4). The conditions may also include those provided for in~~  
22 ~~RCW 9.94A.700(5). The court may also order the offender to participate~~  
23 ~~in rehabilitative programs or otherwise perform affirmative conduct~~  
24 ~~reasonably related to the circumstances of the offense, the offender's~~  
25 ~~risk of reoffending, or the safety of the community, and the department~~  
26 ~~and the board shall enforce such conditions pursuant to RCW 9.94A.713,~~  
27 ~~9.95.425, and 9.95.430.~~

28 ~~(ii) If the offense that caused the offender to be sentenced under~~  
29 ~~this section was an offense listed in subsection (1)(a) of this section~~  
30 ~~and the victim of the offense was under eighteen years of age at the~~  
31 ~~time of the offense, the court shall, as a condition of community~~  
32 ~~custody, prohibit the offender from residing in a community protection~~  
33 ~~zone.~~

34 ~~(b))~~ As part of any sentence under this section, the court shall  
35 also require the offender to comply with any conditions imposed by the  
36 board under RCW ~~((9.94A.713 and))~~ 9.95.420 through 9.95.435.

37 (b) An offender released by the board under RCW 9.95.420 is subject  
38 to the supervision of the department until the expiration of the

1 maximum term of the sentence. The department shall monitor the  
2 offender's compliance with conditions of community custody imposed by  
3 the court, department, or board, and promptly report any violations to  
4 the board. Any violation of conditions of community custody  
5 established or modified by the board are subject to the provisions of  
6 RCW 9.95.425 through 9.95.440.

7 **Sec. 29.** RCW 9.94A.728 and 2007 c 483 s 304 are each amended to  
8 read as follows:

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

13 (1) Except as otherwise provided for in subsection (2) of this  
14 section, the term of the sentence of an offender committed to a  
15 correctional facility operated by the department may be reduced by  
16 earned release time in accordance with procedures that shall be  
17 developed and promulgated by the correctional agency having  
18 jurisdiction in which the offender is confined. The earned release  
19 time shall be for good behavior and good performance, as determined by  
20 the correctional agency having jurisdiction. The correctional agency  
21 shall not credit the offender with earned release credits in advance of  
22 the offender actually earning the credits. Any program established  
23 pursuant to this section shall allow an offender to earn early release  
24 credits for presentence incarceration. If an offender is transferred  
25 from a county jail to the department, the administrator of a county  
26 jail facility shall certify to the department the amount of time spent  
27 in custody at the facility and the amount of earned release time. An  
28 offender who has been convicted of a felony committed after July 23,  
29 1995, that involves any applicable deadly weapon enhancements under RCW  
30 9.94A.533 (3) or (4), or both, shall not receive any good time credits  
31 or earned release time for that portion of his or her sentence that  
32 results from any deadly weapon enhancements.

33 (a) In the case of an offender convicted of a serious violent  
34 offense, or a sex offense that is a class A felony, committed on or  
35 after July 1, 1990, and before July 1, 2003, the aggregate earned  
36 release time may not exceed fifteen percent of the sentence. In the  
37 case of an offender convicted of a serious violent offense, or a sex

1 offense that is a class A felony, committed on or after July 1, 2003,  
2 the aggregate earned release time may not exceed ten percent of the  
3 sentence.

4 (b)(i) In the case of an offender who qualifies under (b)(ii) of  
5 this subsection, the aggregate earned release time may not exceed fifty  
6 percent of the sentence.

7 (ii) An offender is qualified to earn up to fifty percent of  
8 aggregate earned release time under this subsection (1)(b) if he or  
9 she:

10 (A) Is classified in one of the two lowest risk categories under  
11 (b)(iii) of this subsection;

12 (B) Is not confined pursuant to a sentence for:

13 (I) A sex offense;

14 (II) A violent offense;

15 (III) A crime against persons as defined in RCW 9.94A.411;

16 (IV) A felony that is domestic violence as defined in RCW  
17 10.99.020;

18 (V) A violation of RCW 9A.52.025 (residential burglary);

19 (VI) A violation of, or an attempt, solicitation, or conspiracy to  
20 violate, RCW 69.50.401 by manufacture or delivery or possession with  
21 intent to deliver methamphetamine; or

22 (VII) A violation of, or an attempt, solicitation, or conspiracy to  
23 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

24 (C) Has no prior conviction for:

25 (I) A sex offense;

26 (II) A violent offense;

27 (III) A crime against persons as defined in RCW 9.94A.411;

28 (IV) A felony that is domestic violence as defined in RCW  
29 10.99.020;

30 (V) A violation of RCW 9A.52.025 (residential burglary);

31 (VI) A violation of, or an attempt, solicitation, or conspiracy to  
32 violate, RCW 69.50.401 by manufacture or delivery or possession with  
33 intent to deliver methamphetamine; or

34 (VII) A violation of, or an attempt, solicitation, or conspiracy to  
35 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

36 (D) Participates in programming or activities as directed by the  
37 offender's individual reentry plan as provided under RCW 72.09.270 to

1 the extent that such programming or activities are made available by  
2 the department; and

3 (E) Has not committed a new felony after July 22, 2007, while under  
4 (~~community supervision, community placement, or~~) community custody.

5 (iii) For purposes of determining an offender's eligibility under  
6 this subsection (1)(b), the department shall perform a risk assessment  
7 of every offender committed to a correctional facility operated by the  
8 department who has no current or prior conviction for a sex offense, a  
9 violent offense, a crime against persons as defined in RCW 9.94A.411,  
10 a felony that is domestic violence as defined in RCW 10.99.020, a  
11 violation of RCW 9A.52.025 (residential burglary), a violation of, or  
12 an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by  
13 manufacture or delivery or possession with intent to deliver  
14 methamphetamine, or a violation of, or an attempt, solicitation, or  
15 conspiracy to violate, RCW 69.50.406 (delivery of a controlled  
16 substance to a minor). The department must classify each assessed  
17 offender in one of four risk categories between highest and lowest  
18 risk.

19 (iv) The department shall recalculate the earned release time and  
20 reschedule the expected release dates for each qualified offender under  
21 this subsection (1)(b).

22 (v) This subsection (1)(b) applies retroactively to eligible  
23 offenders serving terms of total confinement in a state correctional  
24 facility as of July 1, 2003.

25 (vi) This subsection (1)(b) does not apply to offenders convicted  
26 after July 1, 2010.

27 (c) In no other case shall the aggregate earned release time exceed  
28 one-third of the total sentence;

29 (2)(a) (~~A person convicted of a sex offense or an offense  
30 categorized as a serious violent offense, assault in the second degree,  
31 vehicular homicide, vehicular assault, assault of a child in the second  
32 degree, any crime against persons where it is determined in accordance  
33 with RCW 9.94A.602 that the offender or an accomplice was armed with a  
34 deadly weapon at the time of commission, or any felony offense under  
35 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become  
36 eligible, in accordance with a program developed by the department, for  
37 transfer to community custody status in lieu of earned release time  
38 pursuant to subsection (1) of this section;~~

1       ~~(b)~~) A person convicted of a sex offense, a violent offense, any  
2 crime against persons under RCW 9.94A.411(2), or a felony offense under  
3 chapter 69.50 or 69.52 RCW, (~~committed on or after July 1, 2000,~~) may  
4 become eligible, in accordance with a program developed by the  
5 department, for transfer to community custody (~~status~~) in lieu of  
6 earned release time pursuant to subsection (1) of this section;

7       ~~(c)~~) (b) The department shall, as a part of its program for  
8 release to the community in lieu of earned release, require the  
9 offender to propose a release plan that includes an approved residence  
10 and living arrangement. All offenders with (~~community placement or~~)  
11 community custody terms eligible for release to community custody  
12 (~~status~~) in lieu of earned release shall provide an approved  
13 residence and living arrangement prior to release to the community;

14       ~~(d)~~) (c) The department may deny transfer to community custody  
15 (~~status~~) in lieu of earned release time pursuant to subsection (1) of  
16 this section if the department determines an offender's release plan,  
17 including proposed residence location and living arrangements, may  
18 violate the conditions of the sentence or conditions of supervision,  
19 place the offender at risk to violate the conditions of the sentence,  
20 place the offender at risk to reoffend, or present a risk to victim  
21 safety or community safety. The department's authority under this  
22 section is independent of any court-ordered condition of sentence or  
23 statutory provision regarding conditions for community custody (~~or~~  
24 ~~community placement~~));

25       ~~(e)~~) (d) If the department denies transfer to community custody  
26 (~~status~~) in lieu of earned early release pursuant to ~~(d)~~) (c) of  
27 this subsection, the department may transfer an offender to partial  
28 confinement in lieu of earned early release up to three months. The  
29 three months in partial confinement is in addition to that portion of  
30 the offender's term of confinement that may be served in partial  
31 confinement as provided in this section;

32       ~~(f)~~) (e) An offender serving a term of confinement imposed under  
33 RCW 9.94A.670~~(4)~~) (5)(a) is not eligible for earned release credits  
34 under this section;

35       (3) An offender may leave a correctional facility pursuant to an  
36 authorized furlough or leave of absence. In addition, offenders may  
37 leave a correctional facility when in the custody of a corrections  
38 officer or officers;

1 (4)(a) The secretary may authorize an extraordinary medical  
2 placement for an offender when all of the following conditions exist:

3 (i) The offender has a medical condition that is serious enough to  
4 require costly care or treatment;

5 (ii) The offender poses a low risk to the community because he or  
6 she is physically incapacitated due to age or the medical condition;  
7 and

8 (iii) Granting the extraordinary medical placement will result in  
9 a cost savings to the state.

10 (b) An offender sentenced to death or to life imprisonment without  
11 the possibility of release or parole is not eligible for an  
12 extraordinary medical placement.

13 (c) The secretary shall require electronic monitoring for all  
14 offenders in extraordinary medical placement unless the electronic  
15 monitoring equipment interferes with the function of the offender's  
16 medical equipment or results in the loss of funding for the offender's  
17 medical care. The secretary shall specify who shall provide the  
18 monitoring services and the terms under which the monitoring shall be  
19 performed.

20 (d) The secretary may revoke an extraordinary medical placement  
21 under this subsection at any time;

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

26 (6) No more than the final six months of the offender's term of  
27 confinement may be served in partial confinement designed to aid the  
28 offender in finding work and reestablishing himself or herself in the  
29 community. This is in addition to that period of earned early release  
30 time that may be exchanged for partial confinement pursuant to  
31 subsection (2)((~~e~~)) (d) of this section;

32 (7) The governor may pardon any offender;

33 (8) The department may release an offender from confinement any  
34 time within ten days before a release date calculated under this  
35 section; (~~and~~)

36 (9) An offender may leave a correctional facility prior to  
37 completion of his or her sentence if the sentence has been reduced as  
38 provided in RCW 9.94A.870(~~(-)~~); and



1        (10) Notwithstanding any other provisions of this section, an  
2 offender sentenced for a felony crime listed in RCW 9.94A.540 as  
3 subject to a mandatory minimum sentence of total confinement shall not  
4 be released from total confinement before the completion of the listed  
5 mandatory minimum sentence for that felony crime of conviction unless  
6 allowed under RCW 9.94A.540, however persistent offenders are not  
7 eligible for extraordinary medical placement.

8        **Sec. 30.** RCW 9.94A.760 and 2005 c 263 s 1 are each amended to read  
9 as follows:

10        (1) Whenever a person is convicted in superior court, the court may  
11 order the payment of a legal financial obligation as part of the  
12 sentence. The court must on either the judgment and sentence or on a  
13 subsequent order to pay, designate the total amount of a legal  
14 financial obligation and segregate this amount among the separate  
15 assessments made for restitution, costs, fines, and other assessments  
16 required by law. On the same order, the court is also to set a sum  
17 that the offender is required to pay on a monthly basis towards  
18 satisfying the legal financial obligation. If the court fails to set  
19 the offender monthly payment amount, the department shall set the  
20 amount if the department has active supervision of the offender,  
21 otherwise the county clerk shall set the amount. Upon receipt of an  
22 offender's monthly payment, restitution shall be paid prior to any  
23 payments of other monetary obligations. After restitution is  
24 satisfied, the county clerk shall distribute the payment proportionally  
25 among all other fines, costs, and assessments imposed, unless otherwise  
26 ordered by the court.

27        (2) If the court determines that the offender, at the time of  
28 sentencing, has the means to pay for the cost of incarceration, the  
29 court may require the offender to pay for the cost of incarceration at  
30 a rate of fifty dollars per day of incarceration, if incarcerated in a  
31 prison, or the court may require the offender to pay the actual cost of  
32 incarceration per day of incarceration, if incarcerated in a county  
33 jail. In no case may the court require the offender to pay more than  
34 one hundred dollars per day for the cost of incarceration. Payment of  
35 other court-ordered financial obligations, including all legal  
36 financial obligations and costs of supervision shall take precedence  
37 over the payment of the cost of incarceration ordered by the court.

1 All funds recovered from offenders for the cost of incarceration in the  
2 county jail shall be remitted to the county and the costs of  
3 incarceration in a prison shall be remitted to the department.

4 (3) The court may add to the judgment and sentence or subsequent  
5 order to pay a statement that a notice of payroll deduction is to be  
6 issued immediately. If the court chooses not to order the immediate  
7 issuance of a notice of payroll deduction at sentencing, the court  
8 shall add to the judgment and sentence or subsequent order to pay a  
9 statement that a notice of payroll deduction may be issued or other  
10 income-withholding action may be taken, without further notice to the  
11 offender if a monthly court-ordered legal financial obligation payment  
12 is not paid when due, and an amount equal to or greater than the amount  
13 payable for one month is owed.

14 If a judgment and sentence or subsequent order to pay does not  
15 include the statement that a notice of payroll deduction may be issued  
16 or other income-withholding action may be taken if a monthly legal  
17 financial obligation payment is past due, the department or the county  
18 clerk may serve a notice on the offender stating such requirements and  
19 authorizations. Service shall be by personal service or any form of  
20 mail requiring a return receipt.

21 (4) Independent of the department or the county clerk, the party or  
22 entity to whom the legal financial obligation is owed shall have the  
23 authority to use any other remedies available to the party or entity to  
24 collect the legal financial obligation. These remedies include  
25 enforcement in the same manner as a judgment in a civil action by the  
26 party or entity to whom the legal financial obligation is owed.  
27 Restitution collected through civil enforcement must be paid through  
28 the registry of the court and must be distributed proportionately  
29 according to each victim's loss when there is more than one victim.  
30 The judgment and sentence shall identify the party or entity to whom  
31 restitution is owed so that the state, party, or entity may enforce the  
32 judgment. If restitution is ordered pursuant to RCW 9.94A.750(6) or  
33 9.94A.753(6) to a victim of rape of a child or a victim's child born  
34 from the rape, the Washington state child support registry shall be  
35 identified as the party to whom payments must be made. Restitution  
36 obligations arising from the rape of a child in the first, second, or  
37 third degree that result in the pregnancy of the victim may be enforced  
38 for the time periods provided under RCW 9.94A.750(6) and 9.94A.753(6).

1 All other legal financial obligations for an offense committed prior to  
2 July 1, 2000, may be enforced at any time during the ten-year period  
3 following the offender's release from total confinement or within ten  
4 years of entry of the judgment and sentence, whichever period ends  
5 later. Prior to the expiration of the initial ten-year period, the  
6 superior court may extend the criminal judgment an additional ten years  
7 for payment of legal financial obligations including crime victims'  
8 assessments. All other legal financial obligations for an offense  
9 committed on or after July 1, 2000, may be enforced at any time the  
10 offender remains under the court's jurisdiction. For an offense  
11 committed on or after July 1, 2000, the court shall retain jurisdiction  
12 over the offender, for purposes of the offender's compliance with  
13 payment of the legal financial obligations, until the obligation is  
14 completely satisfied, regardless of the statutory maximum for the  
15 crime. The department may only supervise the offender's compliance  
16 with payment of the legal financial obligations during any period in  
17 which the department is authorized to supervise the offender in the  
18 community under RCW 9.94A.728, 9.94A.501, or in which the offender is  
19 confined in a state correctional institution or a correctional facility  
20 pursuant to a transfer agreement with the department, and the  
21 department shall supervise the offender's compliance during any such  
22 period. The department is not responsible for supervision of the  
23 offender during any subsequent period of time the offender remains  
24 under the court's jurisdiction. The county clerk is authorized to  
25 collect unpaid legal financial obligations at any time the offender  
26 remains under the jurisdiction of the court for purposes of his or her  
27 legal financial obligations.

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

36 (6) After completing the investigation, the department shall make  
37 a report to the court on the amount of the monthly payment that the

1 offender should be required to make towards a satisfied legal financial  
2 obligation.

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

17 (b) Subsequent to any period of supervision, or if the department  
18 is not authorized to supervise the offender in the community, the  
19 county clerk may make a recommendation to the court that the offender's  
20 monthly payment schedule be modified so as to reflect a change in  
21 financial circumstances. If the county clerk sets the monthly payment  
22 amount, or if the department set the monthly payment amount and the  
23 department has subsequently turned the collection of the legal  
24 financial obligation over to the county clerk, the clerk may modify the  
25 monthly payment amount without the matter being returned to the court.  
26 During the period of repayment, the county clerk may require the  
27 offender to report to the clerk for the purpose of reviewing the  
28 appropriateness of the collection schedule for the legal financial  
29 obligation. During this reporting, the offender is required under oath  
30 to respond truthfully and honestly to all questions concerning earning  
31 capabilities and the location and nature of all property or financial  
32 assets. The offender shall bring all documents requested by the county  
33 clerk in order to prepare the collection schedule.

34 (8) After the judgment and sentence or payment order is entered,  
35 the department is authorized, for any period of supervision, to collect  
36 the legal financial obligation from the offender. Subsequent to any  
37 period of supervision or, if the department is not authorized to  
38 supervise the offender in the community, the county clerk is authorized

1 to collect unpaid legal financial obligations from the offender. Any  
2 amount collected by the department shall be remitted daily to the  
3 county clerk for the purpose of disbursements. The department and the  
4 county clerks are authorized, but not required, to accept credit cards  
5 as payment for a legal financial obligation, and any costs incurred  
6 related to accepting credit card payments shall be the responsibility  
7 of the offender.

8 (9) The department or any obligee of the legal financial obligation  
9 may seek a mandatory wage assignment for the purposes of obtaining  
10 satisfaction for the legal financial obligation pursuant to RCW  
11 9.94A.7701. Any party obtaining a wage assignment shall notify the  
12 county clerk. The county clerks shall notify the department, or the  
13 administrative office of the courts, whichever is providing the monthly  
14 billing for the offender.

15 (10) The requirement that the offender pay a monthly sum towards a  
16 legal financial obligation constitutes a condition or requirement of a  
17 sentence and the offender is subject to the penalties for noncompliance  
18 as provided in RCW 9.94A.634 (as recodified by this act), 9.94A.737, or  
19 9.94A.740.

20 (11)(a) Until January 1, 2004, the department shall mail  
21 individualized monthly billings to the address known by the department  
22 for each offender with an unsatisfied legal financial obligation.

23 (b) Beginning January 1, 2004, the administrative office of the  
24 courts shall mail individualized monthly billings to the address known  
25 by the office for each offender with an unsatisfied legal financial  
26 obligation.

27 (c) The billing shall direct payments, other than outstanding cost  
28 of supervision assessments under RCW 9.94A.780, parole assessments  
29 under RCW 72.04A.120, and cost of probation assessments under RCW  
30 9.95.214, to the county clerk, and cost of supervision, parole, or  
31 probation assessments to the department.

32 (d) The county clerk shall provide the administrative office of the  
33 courts with notice of payments by such offenders no less frequently  
34 than weekly.

35 (e) The county clerks, the administrative office of the courts, and  
36 the department shall maintain agreements to implement this subsection.

37 (12) The department shall arrange for the collection of unpaid  
38 legal financial obligations during any period of supervision in the

1 community through the county clerk. The department shall either  
2 collect unpaid legal financial obligations or arrange for collections  
3 through another entity if the clerk does not assume responsibility or  
4 is unable to continue to assume responsibility for collection pursuant  
5 to subsection (4) of this section. The costs for collection services  
6 shall be paid by the offender.

7 (13) The county clerk may access the records of the employment  
8 security department for the purposes of verifying employment or income,  
9 seeking any assignment of wages, or performing other duties necessary  
10 to the collection of an offender's legal financial obligations.

11 (14) Nothing in this chapter makes the department, the state, the  
12 counties, or any state or county employees, agents, or other persons  
13 acting on their behalf liable under any circumstances for the payment  
14 of these legal financial obligations or for the acts of any offender  
15 who is no longer, or was not, subject to supervision by the department  
16 for a term of community custody, (~~community placement, or community~~  
17 ~~supervision,~~) and who remains under the jurisdiction of the court for  
18 payment of legal financial obligations.

19 **Sec. 31.** RCW 9.94A.775 and 2003 c 379 s 17 are each amended to  
20 read as follows:

21 If an offender with an unsatisfied legal financial obligation is  
22 not subject to supervision by the department for a term of (~~community~~  
23 ~~placement,~~) community custody, (~~or community supervision,~~) or has  
24 not completed payment of all legal financial obligations included in  
25 the sentence at the expiration of his or her term of (~~community~~  
26 ~~placement,~~) community custody, (~~or community supervision,~~) the  
27 department shall notify the administrative office of the courts of the  
28 termination of the offender's supervision and provide information to  
29 the administrative office of the courts to enable the county clerk to  
30 monitor payment of the remaining obligations. The county clerk is  
31 authorized to monitor payment after such notification. The secretary  
32 of corrections and the administrator for the courts shall enter into an  
33 interagency agreement to facilitate the electronic transfer of  
34 information about offenders, unpaid obligations, and payees to carry  
35 out the purposes of this section.

1       **Sec. 32.** RCW 9.94A.780 and 2003 c 379 s 18 are each amended to  
2 read as follows:

3       (1) Whenever a punishment imposed under this chapter requires  
4 supervision services to be provided, the offender shall pay to the  
5 department of corrections the monthly assessment, prescribed under  
6 subsection (2) of this section, which shall be for the duration of the  
7 terms of supervision and which shall be considered as payment or part  
8 payment of the cost of providing supervision to the offender. The  
9 department may exempt or defer a person from the payment of all or any  
10 part of the assessment based upon any of the following factors:

11       (a) The offender has diligently attempted but has been unable to  
12 obtain employment that provides the offender sufficient income to make  
13 such payments.

14       (b) The offender is a student in a school, college, university, or  
15 a course of vocational or technical training designed to fit the  
16 student for gainful employment.

17       (c) The offender has an employment handicap, as determined by an  
18 examination acceptable to or ordered by the department.

19       (d) The offender's age prevents him or her from obtaining  
20 employment.

21       (e) The offender is responsible for the support of dependents and  
22 the payment of the assessment constitutes an undue hardship on the  
23 offender.

24       (f) Other extenuating circumstances as determined by the  
25 department.

26       (2) The department of corrections shall adopt a rule prescribing  
27 the amount of the assessment. The department may, if it finds it  
28 appropriate, prescribe a schedule of assessments that shall vary in  
29 accordance with the intensity or cost of the supervision. The  
30 department may not prescribe any assessment that is less than ten  
31 dollars nor more than fifty dollars.

32       (3) All amounts required to be paid under this section shall be  
33 collected by the department of corrections and deposited by the  
34 department in the dedicated fund established pursuant to RCW 72.11.040.

35       (4) This section shall not apply to probation services provided  
36 under an interstate compact pursuant to chapter 9.95 RCW or to  
37 probation services provided for persons placed on probation prior to  
38 June 10, 1982.

1 (5) If a county clerk assumes responsibility for collection of  
2 unpaid legal financial obligations under RCW 9.94A.760, or under any  
3 agreement with the department under that section, whether before or  
4 after the completion of any period of (~~community placement,~~)  
5 community custody, (~~or community supervision,~~) the clerk may impose  
6 a monthly or annual assessment for the cost of collections. The amount  
7 of the assessment shall not exceed the actual cost of collections. The  
8 county clerk may exempt or defer payment of all or part of the  
9 assessment based upon any of the factors listed in subsection (1) of  
10 this section. The offender shall pay the assessment under this  
11 subsection to the county clerk who shall apply it to the cost of  
12 collecting legal financial obligations under RCW 9.94A.760.

13 **Sec. 33.** RCW 9.94A.820 and 2004 c 38 s 10 are each amended to read  
14 as follows:

15 (1) Sex offender examinations and treatment ordered as a special  
16 condition of (~~community placement or~~) community custody under this  
17 chapter shall be conducted only by certified sex offender treatment  
18 providers or certified affiliate sex offender treatment providers under  
19 chapter 18.155 RCW unless the court or the department finds that: (a)  
20 The offender has already moved to another state or plans to move to  
21 another state for reasons other than circumventing the certification  
22 requirements; (b) the treatment provider is employed by the department;  
23 or (c)(i) no certified sex offender treatment providers or certified  
24 affiliate sex offender treatment providers are available to provide  
25 treatment within a reasonable geographic distance of the offender's  
26 home, as determined in rules adopted by the secretary; and (ii) the  
27 evaluation and treatment plan comply with the rules adopted by the  
28 department of health. A treatment provider selected by an offender  
29 under (c) of this subsection, who is not certified by the department of  
30 health shall consult with a certified sex offender treatment provider  
31 during the offender's period of treatment to ensure compliance with the  
32 rules adopted by the department of health. The frequency and content  
33 of the consultation shall be based on the recommendation of the  
34 certified sex offender treatment provider.

35 (2) A sex offender's failure to participate in treatment required  
36 as a condition of (~~community placement or~~) community custody is a



1 violation that will not be excused on the basis that no treatment  
2 provider was located within a reasonable geographic distance of the  
3 offender's home.

4 **PART IV**

5 **TERMINOLOGY CHANGES AND TECHNICAL AMENDMENTS--OTHER CHAPTERS**

6 **Sec. 34.** RCW 4.24.556 and 2004 c 38 s 1 are each amended to read  
7 as follows:

8 (1) A certified sex offender treatment provider, or a certified  
9 affiliate sex offender treatment provider who has completed at least  
10 fifty percent of the required hours under the supervision of a  
11 certified sex offender treatment provider, acting in the course of his  
12 or her duties, providing treatment to a person who has been released to  
13 a less restrictive alternative under chapter 71.09 RCW or to a level  
14 III sex offender on community custody as a court (~~(or)~~), department, or  
15 board ordered condition of sentence is not negligent because he or she  
16 treats a high risk offender; sex offenders are known to have a risk of  
17 reoffense. The treatment provider is not liable for civil damages  
18 resulting from the reoffense of a client unless the treatment  
19 provider's acts or omissions constituted gross negligence or willful or  
20 wanton misconduct. This limited liability provision does not eliminate  
21 the treatment provider's duty to warn of and protect from a client's  
22 threatened violent behavior if the client communicates a serious threat  
23 of physical violence against a reasonably ascertainable victim or  
24 victims. In addition to any other requirements to report violations,  
25 the sex offender treatment provider is obligated to report an  
26 offender's expressions of intent to harm or other predatory behavior,  
27 whether or not there is an ascertainable victim, in progress reports  
28 and other established processes that enable courts and supervising  
29 entities to assess and address the progress and appropriateness of  
30 treatment. This limited liability provision applies only to the  
31 conduct of certified sex offender treatment providers, and certified  
32 affiliate sex offender treatment providers who have completed at least  
33 fifty percent of the required hours under the supervision of a  
34 certified sex offender treatment provider, and not the conduct of the  
35 state.

1 (2) Sex offender treatment providers who provide services to the  
2 department of corrections by identifying risk factors and notifying the  
3 department of risks for the subset of high risk offenders who are not  
4 amenable to treatment and who are under court order for treatment or  
5 supervision are practicing within the scope of their profession.

6 **Sec. 35.** RCW 9.95.017 and 2003 c 218 s 2 are each amended to read  
7 as follows:

8 (1) The board shall cause to be prepared criteria for duration of  
9 confinement, release on parole, and length of parole for persons  
10 committed to prison for crimes committed before July 1, 1984.

11 The proposed criteria should take into consideration RCW  
12 9.95.009(2). Before submission to the governor, the board shall  
13 solicit comments and review on their proposed criteria for parole  
14 release.

15 (2) Persons committed to the department of corrections and who are  
16 under the authority of the board for crimes committed on or after  
17 September 1, 2001, are subject to the provisions for duration of  
18 confinement, release to community custody, and length of community  
19 custody established in RCW 9.94A.712, (~~(9.94A.713)~~) section 4 of this  
20 act, 72.09.335, and 9.95.420 through 9.95.440.

21 **Sec. 36.** RCW 9.95.064 and 2001 2nd sp.s. c 12 s 326 are each  
22 amended to read as follows:

23 (1) In order to minimize the trauma to the victim, the court may  
24 attach conditions on release of an offender under RCW 9.95.062,  
25 convicted of a crime committed before July 1, 1984, regarding the  
26 whereabouts of the defendant, contact with the victim, or other  
27 conditions.

28 (2) Offenders released under RCW 9.95.420 are subject to crime-  
29 related prohibitions and affirmative conditions established by the  
30 court, the department of corrections, or the board pursuant to RCW  
31 (~~(9.94A.715 and)~~) 9.94A.712, (~~(9.94A.713)~~) section 4 of this act,  
32 72.09.335, and 9.95.420 through 9.95.440.

33 **Sec. 37.** RCW 9.95.110 and 2003 c 218 s 7 are each amended to read  
34 as follows:

35 (1) The board may permit an offender convicted of a crime committed

1 before July 1, 1984, to leave the buildings and enclosures of a state  
2 correctional institution on parole, after such convicted person has  
3 served the period of confinement fixed for him or her by the board,  
4 less time credits for good behavior and diligence in work: PROVIDED,  
5 That in no case shall an inmate be credited with more than one-third of  
6 his or her sentence as fixed by the board.

7 The board may establish rules and regulations under which an  
8 offender may be allowed to leave the confines of a state correctional  
9 institution on parole, and may return such person to the confines of  
10 the institution from which he or she was paroled, at its discretion.

11 (2) The board may permit an offender convicted of a crime committed  
12 on or after September 1, 2001, and sentenced under RCW 9.94A.712, to  
13 leave a state correctional institution on community custody according  
14 to the provisions of RCW 9.94A.712, (~~(9.94A.713)~~) section 4 of this  
15 act, 72.09.335, and 9.95.420 through 9.95.440. The person may be  
16 returned to the institution following a violation of his or her  
17 conditions of release to community custody pursuant to the hearing  
18 provisions of RCW 9.95.435.

19 **Sec. 38.** RCW 9.95.123 and 2001 2nd sp.s. c 12 s 336 are each  
20 amended to read as follows:

21 In conducting on-site parole hearings or community custody  
22 revocation (~~((hearings or community custody))~~) or violations hearings,  
23 the board shall have the authority to administer oaths and  
24 affirmations, examine witnesses, receive evidence, and issue subpoenas  
25 for the compulsory attendance of witnesses and the production of  
26 evidence for presentation at such hearings. Subpoenas issued by the  
27 board shall be effective throughout the state. Witnesses in attendance  
28 at any on-site parole or community custody revocation hearing shall be  
29 paid the same fees and allowances, in the same manner and under the  
30 same conditions as provided for witnesses in the courts of the state in  
31 accordance with chapter 2.40 RCW. If any person fails or refuses to  
32 obey a subpoena issued by the board, or obeys the subpoena but refuses  
33 to testify concerning any matter under examination at the hearing, the  
34 board may petition the superior court of the county where the hearing  
35 is being conducted for enforcement of the subpoena: PROVIDED, That an  
36 offer to pay statutory fees and mileage has been made to the witness at  
37 the time of the service of the subpoena. The petition shall be

1 accompanied by a copy of the subpoena and proof of service, and shall  
2 set forth in what specific manner the subpoena has not been complied  
3 with, and shall ask an order of the court to compel the witness to  
4 appear and testify before the board. The court, upon such petition,  
5 shall enter an order directing the witness to appear before the court  
6 at a time and place to be fixed in such order and then and there to  
7 show cause why he or she has not responded to the subpoena or has  
8 refused to testify. A copy of the order shall be served upon the  
9 witness. If it appears to the court that the subpoena was properly  
10 issued and that the particular questions which the witness refuses to  
11 answer are reasonable and relevant, the court shall enter an order that  
12 the witness appear at the time and place fixed in the order and testify  
13 or produce the required papers, and on failing to obey the order, the  
14 witness shall be dealt with as for contempt of court.

15 **Sec. 39.** RCW 9.95.420 and 2007 c 363 s 2 are each amended to read  
16 as follows:

17 (1)(a) Except as provided in (c) of this subsection, before the  
18 expiration of the minimum term, as part of the end of sentence review  
19 process under RCW 72.09.340, 72.09.345, and where appropriate,  
20 72.09.370, the department shall conduct, and the offender shall  
21 participate in, an examination of the offender, incorporating  
22 methodologies that are recognized by experts in the prediction of  
23 sexual dangerousness, and including a prediction of the probability  
24 that the offender will engage in sex offenses if released.

25 (b) The board may contract for an additional, independent  
26 examination, subject to the standards in this section.

27 (c) If at the time the sentence is imposed by the superior court  
28 the offender's minimum term has expired or will expire within one  
29 hundred twenty days of the sentencing hearing, the department shall  
30 conduct, within ninety days of the offender's arrival at a department  
31 of corrections facility, and the offender shall participate in, an  
32 examination of the offender, incorporating methodologies that are  
33 recognized by experts in the prediction of sexual dangerousness, and  
34 including a prediction of the probability that the offender will engage  
35 in sex offenses if released.

36 (2) The board shall impose the conditions and instructions provided  
37 for in ((RCW 9.94A.720)) section 4 of this act. The board shall

1 consider the department's recommendations and may impose conditions in  
2 addition to those recommended by the department. The board may impose  
3 or modify conditions of community custody following notice to the  
4 offender.

5 (3)(a) Except as provided in (b) of this subsection, no later than  
6 ninety days before expiration of the minimum term, but after the board  
7 receives the results from the end of sentence review process and the  
8 recommendations for additional or modified conditions of community  
9 custody from the department, the board shall conduct a hearing to  
10 determine whether it is more likely than not that the offender will  
11 engage in sex offenses if released on conditions to be set by the  
12 board. The board may consider an offender's failure to participate in  
13 an evaluation under subsection (1) of this section in determining  
14 whether to release the offender. The board shall order the offender  
15 released, under such affirmative and other conditions as the board  
16 determines appropriate, unless the board determines by a preponderance  
17 of the evidence that, despite such conditions, it is more likely than  
18 not that the offender will commit sex offenses if released. If the  
19 board does not order the offender released, the board shall establish  
20 a new minimum term as provided in RCW 9.95.011.

21 (b) If at the time the offender's minimum term has expired or will  
22 expire within one hundred twenty days of the offender's arrival at a  
23 department of correction's facility, then no later than one hundred  
24 twenty days after the offender's arrival at a department of corrections  
25 facility, but after the board receives the results from the end of  
26 sentence review process and the recommendations for additional or  
27 modified conditions of community custody from the department, the board  
28 shall conduct a hearing to determine whether it is more likely than not  
29 that the offender will engage in sex offenses if released on conditions  
30 to be set by the board. The board may consider an offender's failure  
31 to participate in an evaluation under subsection (1) of this section in  
32 determining whether to release the offender. The board shall order the  
33 offender released, under such affirmative and other conditions as the  
34 board determines appropriate, unless the board determines by a  
35 preponderance of the evidence that, despite such conditions, it is more  
36 likely than not that the offender will commit sex offenses if released.  
37 If the board does not order the offender released, the board shall  
38 establish a new minimum term as provided in RCW 9.95.011.

1 (4) In a hearing conducted under subsection (3) of this section,  
2 the board shall provide opportunities for the victims of any crimes for  
3 which the offender has been convicted to present oral, video, written,  
4 or in-person testimony to the board. The procedures for victim input  
5 shall be developed by rule. To facilitate victim involvement, county  
6 prosecutor's offices shall ensure that any victim impact statements and  
7 known contact information for victims of record are forwarded as part  
8 of the judgment and sentence.

9 **Sec. 40.** RCW 9.95.440 and 2003 c 218 s 6 are each amended to read  
10 as follows:

11 In the event the board suspends the release status of an offender  
12 released under RCW 9.95.420 by reason of an alleged violation of a  
13 condition of release, or pending disposition of a new criminal charge,  
14 the board may nullify the suspension order and reinstate release under  
15 previous conditions or any new conditions the board determines  
16 advisable under ~~((RCW 9.94A.713(5)))~~ section 4 of this act. Before the  
17 board may nullify a suspension order and reinstate release, it shall  
18 determine that the best interests of society and the offender shall be  
19 served by such reinstatement rather than return to confinement.

20 **Sec. 41.** RCW 46.61.524 and 2006 c 73 s 16 are each amended to read  
21 as follows:

22 ~~((1) A person convicted under RCW 46.61.502(6), 46.61.504(6),  
23 46.61.520(1)(a), or 46.61.522(1)(b) shall, as a condition of community  
24 custody imposed under RCW 9.94A.545 or community placement imposed  
25 under RCW 9.94A.660, complete a diagnostic evaluation by an alcohol or  
26 drug dependency agency approved by the department of social and health  
27 services or a qualified probation department, as defined under RCW  
28 46.61.516 that has been approved by the department of social and health  
29 services. This report shall be forwarded to the department of  
30 licensing. If the person is found to have an alcohol or drug problem  
31 that requires treatment, the person shall complete treatment in a  
32 program approved by the department of social and health services under  
33 chapter 70.96A RCW. If the person is found not to have an alcohol or  
34 drug problem that requires treatment, he or she shall complete a course  
35 in an information school approved by the department of social and  
36 health services under chapter 70.96A RCW. The convicted person shall~~

1 ~~pay all costs for any evaluation, education, or treatment required by~~  
2 ~~this section, unless the person is eligible for an existing program~~  
3 ~~offered or approved by the department of social and health services.~~  
4 ~~Nothing in chapter 348, Laws of 1991 requires the addition of new~~  
5 ~~treatment or assessment facilities nor affects the department of social~~  
6 ~~and health services use of existing programs and facilities authorized~~  
7 ~~by law.~~

8 (2)) As provided for under RCW 46.20.285, the department shall  
9 revoke the license, permit to drive, or a nonresident privilege of a  
10 person convicted of vehicular homicide under RCW 46.61.520 or vehicular  
11 assault under RCW 46.61.522. The department shall determine the  
12 eligibility of a person convicted of vehicular homicide under RCW  
13 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to  
14 receive a license based upon the report provided by the designated  
15 alcoholism treatment facility or probation department designated  
16 pursuant to section 4(4)(b) of this act, and shall deny reinstatement  
17 until satisfactory progress in an approved program has been established  
18 and the person is otherwise qualified.

19 **Sec. 42.** RCW 72.09.015 and 2007 c 483 s 202 are each amended to  
20 read as follows:

21 The definitions in this section apply throughout this chapter.

22 (1) "Adult basic education" means education or instruction designed  
23 to achieve general competence of skills in reading, writing, and oral  
24 communication, including English as a second language and preparation  
25 and testing services for obtaining a high school diploma or a general  
26 equivalency diploma.

27 (2) "Base level of correctional services" means the minimum level  
28 of field services the department of corrections is required by statute  
29 to provide for the supervision and monitoring of offenders.

30 (3) "Community custody" has the same meaning as that provided in  
31 RCW 9.94A.030 and also includes community placement and community  
32 supervision as defined in section 47 of this act.

33 (4) "Contraband" means any object or communication the secretary  
34 determines shall not be allowed to be: (a) Brought into; (b) possessed  
35 while on the grounds of; or (c) sent from any institution under the  
36 control of the secretary.

37 ((4)) (5) "County" means a county or combination of counties.

1           ((+5+)) (6) "Department" means the department of corrections.

2           ((+6+)) (7) "Earned early release" means earned release as  
3 authorized by RCW 9.94A.728.

4           ((+7+)) (8) "Evidence-based" means a program or practice that has  
5 had multiple-site random controlled trials across heterogeneous  
6 populations demonstrating that the program or practice is effective in  
7 reducing recidivism for the population.

8           ((+8+)) (9) "Extended family visit" means an authorized visit  
9 between an inmate and a member of his or her immediate family that  
10 occurs in a private visiting unit located at the correctional facility  
11 where the inmate is confined.

12           ((+9+)) (10) "Good conduct" means compliance with department rules  
13 and policies.

14           ((+10+)) (11) "Good performance" means successful completion of a  
15 program required by the department, including an education, work, or  
16 other program.

17           ((+11+)) (12) "Immediate family" means the inmate's children,  
18 stepchildren, grandchildren, great grandchildren, parents, stepparents,  
19 grandparents, great grandparents, siblings, and a person legally  
20 married to an inmate. "Immediate family" does not include an inmate  
21 adopted by another inmate or the immediate family of the adopted or  
22 adopting inmate.

23           ((+12+)) (13) "Indigent inmate," "indigent," and "indigency" mean  
24 an inmate who has less than a ten-dollar balance of disposable income  
25 in his or her institutional account on the day a request is made to  
26 utilize funds and during the thirty days previous to the request.

27           ((+13+)) (14) "Individual reentry plan" means the plan to prepare  
28 an offender for release into the community. It should be developed  
29 collaboratively between the department and the offender and based on an  
30 assessment of the offender using a standardized and comprehensive tool  
31 to identify the (~~offenders' [offender's]~~) offender's risks and needs.  
32 The individual reentry plan describes actions that should occur to  
33 prepare individual offenders for release from prison or jail, specifies  
34 the supervision and services they will experience in the community, and  
35 describes an offender's eventual discharge to aftercare upon successful  
36 completion of supervision. An individual reentry plan is updated  
37 throughout the period of an offender's incarceration and supervision to  
38 be relevant to the offender's current needs and risks.



1        ~~((14))~~ (15) "Inmate" means a person committed to the custody of  
2 the department, including but not limited to persons residing in a  
3 correctional institution or facility and persons released from such  
4 facility on furlough, work release, or community custody, and persons  
5 received from another state, state agency, county, or federal  
6 jurisdiction.

7        ~~((15))~~ (16) "Privilege" means any goods or services, education or  
8 work programs, or earned early release days, the receipt of which are  
9 directly linked to an inmate's (a) good conduct; and (b) good  
10 performance. Privileges do not include any goods or services the  
11 department is required to provide under the state or federal  
12 Constitution or under state or federal law.

13        ~~((16))~~ (17) "Promising practice" means a practice that presents,  
14 based on preliminary information, potential for becoming a  
15 research-based or consensus-based practice.

16        ~~((17))~~ (18) "Research-based" means a program or practice that has  
17 some research demonstrating effectiveness, but that does not yet meet  
18 the standard of evidence-based practices.

19        ~~((18))~~ (19) "Secretary" means the secretary of corrections or his  
20 or her designee.

21        ~~((19))~~ (20) "Significant expansion" includes any expansion into  
22 a new product line or service to the class I business that results from  
23 an increase in benefits provided by the department, including a  
24 decrease in labor costs, rent, or utility rates (for water, sewer,  
25 electricity, and disposal), an increase in work program space, tax  
26 advantages, or other overhead costs.

27        ~~((20))~~ (21) "Superintendent" means the superintendent of a  
28 correctional facility under the jurisdiction of the Washington state  
29 department of corrections, or his or her designee.

30        ~~((21))~~ (22) "Unfair competition" means any net competitive  
31 advantage that a business may acquire as a result of a correctional  
32 industries contract, including labor costs, rent, tax advantages,  
33 utility rates (water, sewer, electricity, and disposal), and other  
34 overhead costs. To determine net competitive advantage, the  
35 correctional industries board shall review and quantify any expenses  
36 unique to operating a for-profit business inside a prison.

37        ~~((22))~~ (23) "Vocational training" or "vocational education" means  
38 "vocational education" as defined in RCW 72.62.020.

1           (~~(23)~~) (24) "Washington business" means an in-state manufacturer  
2 or service provider subject to chapter 82.04 RCW existing on June 10,  
3 2004.

4           (~~(24)~~) (25) "Work programs" means all classes of correctional  
5 industries jobs authorized under RCW 72.09.100.

6           **Sec. 43.** RCW 72.09.270 and 2007 c 483 s 203 are each amended to  
7 read as follows:

8           (1) The department of corrections shall develop an individual  
9 reentry plan as defined in RCW 72.09.015 for every offender who is  
10 committed to the jurisdiction of the department except:

11           (a) Offenders who are sentenced to life without the possibility of  
12 release or sentenced to death under chapter 10.95 RCW; and

13           (b) Offenders who are subject to the provisions of 8 U.S.C. Sec.  
14 1227.

15           (2) The individual reentry plan may be one document, or may be a  
16 series of individual plans that combine to meet the requirements of  
17 this section.

18           (3) In developing individual reentry plans, the department shall  
19 assess all offenders using standardized and comprehensive tools to  
20 identify the criminogenic risks, programmatic needs, and educational  
21 and vocational skill levels for each offender. The assessment tool  
22 should take into account demographic biases, such as culture, age, and  
23 gender, as well as the needs of the offender, including any learning  
24 disabilities, substance abuse or mental health issues, and social or  
25 behavior deficits.

26           (4)(a) The initial assessment shall be conducted as early as  
27 sentencing, but, whenever possible, no later than forty-five days of  
28 being sentenced to the jurisdiction of the department of corrections.

29           (b) The offender's individual reentry plan shall be developed as  
30 soon as possible after the initial assessment is conducted, but,  
31 whenever possible, no later than sixty days after completion of the  
32 assessment, and shall be periodically reviewed and updated as  
33 appropriate.

34           (5) The individual reentry plan shall, at a minimum, include:

35           (a) A plan to maintain contact with the inmate's children and  
36 family, if appropriate. The plan should determine whether parenting

1 classes, or other services, are appropriate to facilitate successful  
2 reunification with the offender's children and family;

3 (b) An individualized portfolio for each offender that includes the  
4 offender's education achievements, certifications, employment, work  
5 experience, skills, and any training received prior to and during  
6 incarceration; and

7 (c) A plan for the offender during the period of incarceration  
8 through reentry into the community that addresses the needs of the  
9 offender including education, employment, substance abuse treatment,  
10 mental health treatment, family reunification, and other areas which  
11 are needed to facilitate a successful reintegration into the community.

12 (6)(a) Prior to discharge of any offender, the department shall:

13 (i) Evaluate the offender's needs and, to the extent possible,  
14 connect the offender with existing services and resources that meet  
15 those needs; and

16 (ii) Connect the offender with a community justice center and/or  
17 community transition coordination network in the area in which the  
18 offender will be residing once released from the correctional system if  
19 one exists.

20 (b) If the department recommends partial confinement in an  
21 offender's individual reentry plan, the department shall maximize the  
22 period of partial confinement for the offender as allowed pursuant to  
23 RCW 9.94A.728 to facilitate the offender's transition to the community.

24 (7) The department shall establish mechanisms for sharing  
25 information from individual reentry plans to those persons involved  
26 with the offender's treatment, programming, and reentry, when deemed  
27 appropriate. When feasible, this information shall be shared  
28 electronically.

29 (8)(a) In determining the county of discharge for an offender  
30 released to community custody (~~(or community placement)~~), the  
31 department may not approve a residence location that is not in the  
32 offender's county of origin unless it is determined by the department  
33 that the offender's return to his or her county of origin would be  
34 inappropriate considering any court-ordered condition of the offender's  
35 sentence, victim safety concerns, negative influences on the offender  
36 in the community, or the location of family or other sponsoring persons  
37 or organizations that will support the offender.

1 (b) If the offender is not returned to his or her county of origin,  
2 the department shall provide the law and justice council of the county  
3 in which the offender is placed with a written explanation.

4 (c) For purposes of this section, the offender's county of origin  
5 means the county of the offender's first felony conviction in  
6 Washington.

7 (9) Nothing in this section creates a vested right in programming,  
8 education, or other services.

9 **Sec. 44.** RCW 72.09.345 and 1997 c 364 s 4 are each amended to read  
10 as follows:

11 (1) In addition to any other information required to be released  
12 under this chapter, the department is authorized, pursuant to RCW  
13 4.24.550, to release relevant information that is necessary to protect  
14 the public concerning offenders convicted of sex offenses.

15 (2) In order for public agencies to have the information necessary  
16 to notify the public as authorized in RCW 4.24.550, the secretary shall  
17 establish and administer an end-of-sentence review committee for the  
18 purposes of assigning risk levels, reviewing available release plans,  
19 and making appropriate referrals for sex offenders. The committee  
20 shall assess, on a case-by-case basis, the public risk posed by sex  
21 offenders who are: (a) Preparing for their release from confinement  
22 for sex offenses committed on or after July 1, 1984; and (b) accepted  
23 from another state under a reciprocal agreement under the interstate  
24 compact authorized in chapter 72.74 RCW.

25 (3) Notwithstanding any other provision of law, the committee shall  
26 have access to all relevant records and information in the possession  
27 of public agencies relating to the offenders under review, including  
28 police reports; prosecutors' statements of probable cause; presentence  
29 investigations and reports; complete judgments and sentences; current  
30 classification referrals; criminal history summaries; violation and  
31 disciplinary reports; all psychological evaluations and psychiatric  
32 hospital reports; sex offender treatment program reports; and juvenile  
33 records. Records and information obtained under this subsection shall  
34 not be disclosed outside the committee unless otherwise authorized by  
35 law.

36 (4) The committee shall review each sex offender under its  
37 authority before the offender's release from confinement or start of

1 the offender's term of (~~community placement or~~) community custody in  
2 order to: (a) Classify the offender into a risk level for the purposes  
3 of public notification under RCW 4.24.550; (b) where available, review  
4 the offender's proposed release plan in accordance with the  
5 requirements of RCW 72.09.340; and (c) make appropriate referrals.

6 (5) The committee shall classify as risk level I those sex  
7 offenders whose risk assessments indicate a low risk of reoffense  
8 within the community at large. The committee shall classify as risk  
9 level II those offenders whose risk assessments indicate a moderate  
10 risk of reoffense within the community at large. The committee shall  
11 classify as risk level III those offenders whose risk assessments  
12 indicate a high risk of reoffense within the community at large.

13 (6) The committee shall issue to appropriate law enforcement  
14 agencies, for their use in making public notifications under RCW  
15 4.24.550, narrative notices regarding the pending release of sex  
16 offenders from the department's facilities. The narrative notices  
17 shall, at a minimum, describe the identity and criminal history  
18 behavior of the offender and shall include the department's risk level  
19 classification for the offender. For sex offenders classified as  
20 either risk level II or III, the narrative notices shall also include  
21 the reasons underlying the classification.

22 **Sec. 45.** RCW 72.09.580 and 1999 c 196 s 12 are each amended to  
23 read as follows:

24 Except as specifically prohibited by other law, and for purposes of  
25 determining, modifying, or monitoring compliance with conditions of  
26 community custody(~~(, community placement, or community supervision as~~  
27 ~~authorized under RCW 9.94A.505 and 9.94A.545)), the department:~~

28 (1) Shall have access to all relevant records and information in  
29 the possession of public agencies relating to offenders, including  
30 police reports, prosecutors' statements of probable cause, complete  
31 criminal history information, psychological evaluations and psychiatric  
32 hospital reports, sex offender treatment program reports, and juvenile  
33 records; and

34 (2) May require periodic reports from providers of treatment or  
35 other services required by the court or the department, including  
36 progress reports, evaluations and assessments, and reports of  
37 violations of conditions imposed by the court or the department.

1 PART V

2 RECODIFICATION OF OBSOLETE PROVISIONS.

3 NEW SECTION. Sec. 46. (1) This chapter codifies sentencing  
4 provisions that may be applicable to sentences for crimes committed  
5 prior to July 1, 2000.

6 (2) This chapter supplements chapter 9.94A RCW and should be read  
7 in conjunction with that chapter.

8 NEW SECTION. Sec. 47. In addition to the definitions set out in  
9 RCW 9.94A.030, the following definitions apply for purposes of this  
10 chapter:

11 (1) "Community placement" means that period during which the  
12 offender is subject to the conditions of community custody and/or  
13 postrelease supervision, which begins either upon completion of the  
14 term of confinement (postrelease supervision) or at such time as the  
15 offender is transferred to community custody in lieu of earned release.  
16 Community placement may consist of entirely community custody, entirely  
17 postrelease supervision, or a combination of the two.

18 (2) "Community supervision" means a period of time during which a  
19 convicted offender is subject to crime-related prohibitions and other  
20 sentence conditions imposed by a court pursuant to this chapter or RCW  
21 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
22 a chemical dependency that has contributed to his or her offense, the  
23 conditions of supervision may, subject to available resources, include  
24 treatment. For purposes of the interstate compact for out-of-state  
25 supervision of parolees and probationers, RCW 9.95.270, community  
26 supervision is the functional equivalent of probation and should be  
27 considered the same as probation by other states.

28 (3) "Postrelease supervision" is that portion of an offender's  
29 community placement that is not community custody.

30 NEW SECTION. Sec. 48. A new section is added to chapter 9.95 RCW  
31 to read as follows:

32 For purposes of the interstate compact for out-of-state supervision  
33 of parolees and probationers, RCW 9.95.270, community supervision as  
34 defined in section 47 of this act is the functional equivalent of  
35 parole or probation and should be considered the same as parole or  
36 probation by other states.

1         NEW SECTION.   **Sec. 49.**   A person convicted of a sex offense or an  
2         offense categorized as a serious violent offense, assault in the second  
3         degree, vehicular homicide, vehicular assault, assault of a child in  
4         the second degree, any crime against persons where it is determined in  
5         accordance with RCW 9.94A.602 that the offender or an accomplice was  
6         armed with a deadly weapon at the time of commission, or any felony  
7         offense under chapter 69.50 or 69.52 RCW, committed before July 1,  
8         2000, may become eligible, in accordance with a program developed by  
9         the department, for transfer to community custody status in lieu of  
10        earned release time pursuant to RCW 9.94A.728(1).

11   **PART VI**  
12   **EFFECTIVE DATES AND TRANSITIONAL PROVISIONS**

13         NEW SECTION.   **Sec. 50.**   (1) This act applies to all sentences  
14         imposed or reimposed on or after August 1, 2009, for any crime  
15         committed on or after the effective date of this section.

16         (2) This act also applies to all sentences imposed or reimposed on  
17         or after August 1, 2009, for crimes committed prior to the effective  
18         date of this section, to the extent that such application is  
19         constitutionally permissible.

20         (3) To the extent that application of this act is not  
21         constitutionally permissible with respect to any offender, the sentence  
22         for such offender shall be governed by the law as it existed before the  
23         effective date of this section, or on such prior date as may be  
24         constitutionally required, notwithstanding any amendment or repeal of  
25         provisions of such law.

26         (4) If application of any portion of this act is not  
27         constitutionally permissible with respect to any offender, the judgment  
28         and sentence shall specify the particular sentencing provisions that  
29         will not apply to such offender. Whenever practical, the judgment and  
30         sentence shall use the terminology set out in this act.

31         (5) The sentencing guidelines commission shall prepare a summary of  
32         the circumstances under which application of this act is not  
33         constitutionally permissible.         The summary should include  
34         recommendations of conditions that could be included in judgments and  
35         sentences in order to prevent unconstitutional application of the act.

1 This summary shall be incorporated into the *Adult Sentencing Guidelines*  
2 *Manual*.

3 (6) This act shall not affect the enforcement of any sentence that  
4 was imposed prior to August 1, 2009, unless the offender is resentenced  
5 after that date.

6 NEW SECTION. **Sec. 51.** (1) The following sections are recodified  
7 as part of a new chapter in Title 9 RCW: RCW 9.94A.628, 9.94A.634,  
8 9.94A.700, 9.94A.705, and 9.94A.710.

9 (2) RCW 9.94A.610 (as amended by this act), 9.94A.612 (as amended  
10 by this act), 9.94A.614, 9.94A.616, 9.94A.618, and 9.94A.620 are each  
11 recodified as sections in chapter 72.09 RCW.

12 (3) Sections 46 through 48 of this act are added to the new chapter  
13 created in subsection (1) of this section.

14 (4) The code reviser is authorized to improve the organization of  
15 chapter 9.94A RCW by renumbering existing sections and adding  
16 subchapter headings.

17 (5) The code reviser shall correct any cross-references to sections  
18 affected by this section in other sections of the code.

19 NEW SECTION. **Sec. 52.** The following acts or parts of acts are  
20 each repealed:

21 (1) RCW 9.94A.545 (Community custody) and 2006 c 128 s 4, 2003 c  
22 379 s 8, 2000 c 28 s 13, 1999 c 196 s 10, 1988 c 143 s 23, & 1984 c 209  
23 s 22;

24 (2) RCW 9.94A.713 (Nonpersistent offenders--Conditions) and 2006 c  
25 130 s 1 & 2001 2nd sp.s. c 12 s 304;

26 (3) RCW 9.94A.715 (Community custody for specified offenders--  
27 Conditions) and 2006 c 130 s 2, 2006 c 128 s 5, 2003 c 379 s 6, 2001  
28 2nd sp.s. c 12 s 302, 2001 c 10 s 5, & 2000 c 28 s 25;

29 (4) RCW 9.94A.720 (Supervision of offenders) and 2003 c 379 s 7,  
30 2002 c 175 s 14, & 2000 c 28 s 26;

31 (5) RCW 9.94A.800 (Sex offender treatment in correctional facility)  
32 and 2000 c 28 s 34;

33 (6) RCW 9.94A.830 (Legislative finding and intent--Commitment of  
34 felony sexual offenders after July 1, 1987) and 1987 c 402 s 2 & 1986  
35 c 301 s 1; and



1 (7) RCW 79A.60.070 (Conviction under RCW 79A.60.050 or 79A.60.060--  
2 Community supervision or community placement--Conditions) and 2000 c 11  
3 s 96 & 1998 c 219 s 3.

4 NEW SECTION. **Sec. 53.** The repealers in section 52 of this act  
5 shall not affect the validity of any sentence that was imposed prior to  
6 the effective date of this section or the authority of the department  
7 of corrections to supervise any offender pursuant to such sentence.

8 NEW SECTION. **Sec. 54.** The code reviser shall report to the 2009  
9 legislature on any amendments necessary to accomplish the purposes of  
10 this act.

11 NEW SECTION. **Sec. 55.** Part headings used in this act are not any  
12 part of the law.

13 NEW SECTION. **Sec. 56.** This act takes effect August 1, 2009.

--- END ---