2 **SHB 2053** - H COMM AMD

3 By Committee on Appropriations

- 5 Strike everything after the enacting clause and insert the 6 following:
- 7 "Sec. 1. RCW 9.94A.030 and 1992 c 145 s 6 and 1992 c 75 s 1 are 8 each reenacted and amended to read as follows:
- 9 Unless the context clearly requires otherwise, the definitions in 10 this section apply throughout this chapter.
- (1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.
- 18 (2) "Commission" means the sentencing guidelines commission.
- 19 (3) "Community corrections officer" means an employee of the 20 department who is responsible for carrying out specific duties in 21 supervision of sentenced offenders and monitoring of sentence 22 conditions.
- 23 (4) "Community custody" means that portion of an inmate's sentence 24 of confinement in lieu of earned early release time <u>or imposed pursuant</u> 25 <u>to RCW 9.94A.120(7)</u> served in the community subject to controls placed 26 on the inmate's movement and activities by the department of 27 corrections.
- (5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.
- 35 (6) "Community service" means compulsory service, without compensa-36 tion, performed for the benefit of the community by the offender.

- (7) "Community supervision" means a period of time during which a 1 2 convicted offender is subject to crime-related prohibitions and other 3 sentence conditions imposed by a court pursuant to this chapter or RCW 4 46.61.524. For first-time offenders, the supervision may include 5 crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state 6 7 supervision of parolees and probationers, RCW 9.95.270, community 8 supervision is the functional equivalent of probation and should be 9 considered the same as probation by other states.
- 10 (8) "Confinement" means total or partial confinement as defined in this section.
- (9) "Conviction" means an adjudication of guilt pursuant to Titles
 13 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
 14 acceptance of a plea of guilty.
- 15 (10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington 16 17 for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as 18 19 assessed pursuant to RCW 7.68.035, court costs, county or interlocal 20 drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the 21 offender as a result of a felony conviction. 22
 - (11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

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- (12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere.

 The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.
- 35 (b) "Criminal history" shall always include juvenile convictions 36 for sex offenses and shall also include a defendant's other prior 37 convictions in juvenile court if: (i) The conviction was for an 38 offense which is a felony or a serious traffic offense and is criminal 39 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was

- fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.
 - (13) "Day fine" means a fine imposed by the sentencing judge which equals the difference between the offender's net daily income and the reasonable obligations which the offender has for the support of the offender and any dependents.
- 10 (14) "Day reporting" means reporting at least once per day to a
 11 specific location designated by the department of corrections or the
 12 sentencing judge together with the requirement that the offender's
 13 location throughout each day be reported to the department of
 14 corrections.
- 15 (15) "Department" means the department of corrections.

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- (((14))) (16) "Determinate sentence" means a sentence that states 16 17 with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the 18 19 number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender 20 through "earned early release" can reduce the actual period of 21 confinement shall not affect the classification of the sentence as a 22 23 determinate sentence.
- 24 $((\frac{15}{15}))$ (17) "Disposable earnings" means that part of the earnings 25 of an individual remaining after the deduction from those earnings of 26 any amount required by law to be withheld. For the purposes of this 27 definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or 28 29 otherwise, and, notwithstanding any other provision of law making the 30 payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically 31 32 includes periodic payments pursuant to pension or retirement programs, 33 or insurance policies of any type, but does not include payments made 34 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, 35 or Title 74 RCW.
- $((\frac{16}{16}))$ (18) "Drug offense" means:
- 37 (a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

- (b) Any offense defined as a felony under federal law that relates 1 2 to the possession, manufacture, distribution, or transportation of a 3 controlled substance; or
- 4 (c) Any out-of-state conviction for an offense that under the laws 5 of this state would be a felony classified as a drug offense under (a) of this subsection. 6
- 7 (((17))) <u>(19) "Drug or alcohol monitoring" means the obligation to</u> 8 remain free of any nonprescribed controlled substance or of any 9 alcoholic beverage and to submit to periodic testing in a program to 10 monitor that status as directed by the department of corrections, such as drug monitoring under a treatment alternatives to street crime 11 (TASC) or comparable program. 12
- (20) "Education or training" means participation in a formal 13 program of education or training which has state certification. 14
 - (21) "Escape" means:

- 16 (a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough 17 (RCW 72.66.060), willful failure to return from work release (RCW 18 19 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or 20
- (b) Any federal or out-of-state conviction for an offense that 21 under the laws of this state would be a felony classified as an escape 22 under (a) of this subsection. 23
- 24 $((\frac{18}{18}))$ (22) "Felony traffic offense" means:
- 25 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 26 46.61.522), eluding a police officer (RCW 46.61.024), or felony hitand-run injury-accident (RCW 46.52.020(4)); or 27
- (b) Any federal or out-of-state conviction for an offense that 28 under the laws of this state would be a felony classified as a felony 29 30 traffic offense under (a) of this subsection.
- $((\frac{19}{19}))$ (23) "Fines" means the requirement that the offender pay 31 a specific sum of money over a specific period of time to the court. 32
- $((\frac{20}{10}))$ (24)(a) "First-time offender" means any person who is 33 34 convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, 35 delivery, or possession with intent to manufacture or deliver a 36 controlled substance classified in schedule I or II that is a narcotic
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- drug or the selling for profit $((\{of\}))$ of any controlled substance or 38
- 39 counterfeit substance classified in schedule I, RCW 69.50.204, except

leaves and flowering tops of marihuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

 (b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses.

(((21))) <u>(25) "Home detention" means a program of partial</u> confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance or other state of the art electronic monitoring technology. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, assault of a child in the third degree, unlawful imprisonment as defined in RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of a violation of chapter 69.50 or 69.52 RCW, that relates to the possession, manufacture, or delivery of a controlled substance or imitation controlled substance, if the offender fulfills the participation conditions set forth in this subsection and is monitored for drug use by treatment alternatives to street crime (TASC) or a comparable court or agency-referred program.

(a) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender: (i) Successfully completing twenty-one days in a work release program, or having successfully completed a sentence in a work ethic camp, (ii) having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary, (iii) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (iv) having no prior charges of escape, and (v) fulfilling the other conditions of the home detention program.

(b) Participation in a home detention program shall be conditioned upon: (i) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors

- 1 normally in the custody of the offender, (ii) abiding by the rules of
- 2 the home detention program, and (iii) compliance with court-ordered
- 3 <u>legal financial obligations</u>. The home detention program may also be
- 4 made available to offenders whose charges and convictions do not
- 5 otherwise disqualify them if medical or health-related conditions,
- 6 concerns or treatment would be better addressed under the home
- 7 detention program, or where the health and welfare of the offender,
- 8 other inmates, or staff would be jeopardized by the offender's
- 9 incarceration. Participation in the home detention program for medical
- 10 or health-related reasons is conditioned on the offender abiding by the
- 11 rules of the home detention program and complying with court-ordered
- 12 restitution.
- 13 (26) "Inpatient treatment" means participation in a treatment
- 14 program certified by the state which requires the offender to be
- 15 present at least twelve hours per day.
- 16 (27) "Nonviolent offense" means an offense which is not a violent
- 17 offense.
- $((\frac{(22)}{2}))$ <u>(28)</u> "Offender" means a person who has committed a felony
- 19 established by state law and is eighteen years of age or older or is
- 20 less than eighteen years of age but whose case has been transferred by
- 21 the appropriate juvenile court to a criminal court pursuant to RCW
- 22 13.40.110. Throughout this chapter, the terms "offender" and
- 23 "defendant" are used interchangeably.
- $((\frac{23}{2}))$ (29) "Outpatient treatment" means participation in a
- 25 treatment program certified by the state or recommended by the
- 26 <u>department of corrections which does not require the offender to be</u>
- 27 present for more than twelve hours per day.
- 28 (30) "Partial confinement" means confinement for no more than one
- 29 year in a facility or institution operated or utilized under contract
- 30 by the state or any other unit of government, or, if home detention or
- 31 work crew has been ordered by the court, in an approved residence, for
- 32 a substantial portion of each day with the balance of the day spent in
- 33 the community. Partial confinement includes work release, home
- 34 detention, work crew, and a combination of work crew and home detention
- 35 as defined in this section.
- $((\frac{(24)}{24}))$ (31) "Persistent offender" is any person who:
- 37 (a) Is convicted in this state of any felony with a seriousness
- 38 level of X or above, as provided in RCW 9.94A.320, except for the crime
- 39 of aggravated murder in the first degree; and

- (b) Has, before the commission of the offense under (a) of this 1 subsection, been convicted as an offender on at least two separate 2 occasions, whether in this state or elsewhere, of felonies that under 3 4 the laws of this state would have a seriousness level of X or above. Of these two or more previous convictions, at least one conviction must 5 have occurred before the commission of any of the other offenses with 6 7 a seriousness level of X or above for which the offender was previously 8 convicted.
- 9 (32) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.
- $((\frac{(25)}{)})$ (33) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.
- 16 $((\frac{(26)}{)})$ (34) "Serious traffic offense" means:
- (a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or
- (b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.
- 25 $((\frac{(27)}{)})$ "Serious violent offense" is a subcategory of violent 26 offense and means:
- 27 (a) Murder in the first degree, homicide by abuse, murder in the 28 second degree, assault in the first degree, kidnapping in the first 29 degree, or rape in the first degree, assault of a child in the first 30 degree, or an attempt, criminal solicitation, or criminal conspiracy to 31 commit one of these felonies; 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 a serious 34 violent offense under (a) of this subsection.
- (((28))) (36) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.
- 37 $((\frac{(29)}{)})$ <u>(37)</u> "Sex offense" means:
- 38 (a) A felony that is a violation of chapter 9A.44 RCW or RCW 39 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal

- 1 attempt, criminal solicitation, or criminal conspiracy to commit such 2 crimes;
- 3 (b) A felony with a finding of sexual motivation under RCW 4~9.94 A.127; or
- 5 (c) Any federal or out-of-state conviction for an offense that 6 under the laws of this state would be a felony classified as a sex 7 offense under (a) of this subsection.
- 8 $((\frac{30}{30}))$ "Sexual motivation" means that one of the purposes 9 for which the defendant committed the crime was for the purpose of his 10 or her sexual gratification.
- (((31))) <u>(39)</u> "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.
- $((\frac{32}{32}))$ $\underline{(40)}$ "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.
- 18 $((\frac{33}{3}))$ (41) "Violent offense" means:
- 19 (a) Any of the following felonies, as now existing or hereafter 20 amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or 21 criminal conspiracy to commit a class A felony, manslaughter in the 22 23 first degree, manslaughter in the second degree, indecent liberties if 24 committed by forcible compulsion, kidnapping in the second degree, 25 arson in the second degree, assault in the second degree, assault of a 26 child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when 27 proximately caused by the driving of any vehicle by any person while 28 under the influence of intoxicating liquor or any drug as defined by 29 30 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
- 31 (b) Any conviction for a felony offense in effect at any time prior 32 to July 1, 1976, that is comparable to a felony classified as a violent 33 offense in (a) of this subsection; and
- 34 (c) 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 violent 36 offense under (a) or (b) of this subsection.
- $((\frac{34}{}))$ $\underline{(42)}$ "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW

9.94A.135. ((The civic improvement tasks shall be performed on public property or on private property owned or operated by nonprofit entities, except that, for emergency purposes only, work crews may perform snow removal on any private property.)) The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is The civic improvement tasks shall not affect employment performed. opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection $((\frac{(29)}{}))$ (37) of this section are not eligible for the work crew program.

((\(\frac{(35)}{)}\)) (43) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the costs of corrections by requiring offenders to complete a comprehensive array of job and vocational experiences, character-building work ethics training, life management skills development, drug rehabilitation, literacy training, and basic adult education.

(44) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

((\(\frac{36}\)\) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, any drug offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, assault of a child in the third degree, unlawful imprisonment as defined in RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403) if the offender fulfills the participation conditions set forth in this subsection and is monitored for drug use by treatment alternatives to street crime (TASC) or a comparable court or agency-referred program.

(a) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender: (i) Successfully completing twenty one days in a work release program, (ii) having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary, (iii) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (iv) having no prior charges of escape, and (v) fulfilling the other conditions of the home detention program.

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(b) Participation in a home detention program shall be conditioned upon: (i) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender, (ii) abiding by the rules of the home detention program, and (iii) compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.))

- 28 **Sec. 2.** RCW 9.94A.120 and 1992 c 145 s 7, 1992 c 75 s 2, and 1992 c 45 s 5 are each reenacted and amended to read as follows:
- When a person is convicted of a felony, the court shall impose punishment as provided in this section.
- (1) Except as authorized in subsections (2), (4), (5), ((and)) (6), (7), and (9) of this section, the court shall impose a sentence within the sentence range for the offense.
- 35 (2) The court may impose a sentence outside the standard sentence 36 range for that offense if it finds, considering the purpose of this 37 chapter, that there are substantial and compelling reasons justifying 38 an exceptional sentence.

- 1 (3) Whenever a sentence outside the standard range is imposed, the 2 court shall set forth the reasons for its decision in written findings 3 of fact and conclusions of law. A sentence outside the standard range 4 shall be a determinate sentence.
- (4) A persistent offender shall be sentenced to a term of total 5 confinement for the statutory maximum for the offense, but if the 6 7 statutory maximum for the offense is life imprisonment, then to a term 8 of ninety-nine years. An offender convicted of the crime of murder in 9 the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault 10 in the first degree or assault of a child in the first degree where the 11 offender used force or means likely to result in death or intended to 12 kill the victim shall be sentenced to a term of total confinement not 13 less than five years. An offender convicted of the crime of rape in 14 15 the first degree shall be sentenced to a term of total confinement not 16 less than five years, and shall not be eligible for furlough, work 17 release or other authorized leave of absence from the correctional facility during such minimum five-year term except for the purpose of 18 19 commitment to an inpatient treatment facility. The foregoing minimum 20 terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section. 21
 - (5) In sentencing a first-time offender with a sentence range of more than ninety days the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to ((two)) one year((s)) of community supervision, which, in addition to crimerelated prohibitions, may include requirements that the offender perform any one or more of the following:
 - (a) Devote time to a specific employment or occupation;

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- 32 (b) Undergo available outpatient treatment for up to ((two)) one 33 year((s)), or inpatient treatment not to exceed the standard range of 34 confinement for that offense;
- 35 (c) Pursue a prescribed, secular course of study or vocational 36 training;
- 37 (d) Remain within prescribed geographical boundaries and notify the 38 court or the community corrections officer prior to any change in the 39 offender's address or employment;

- 1 (e) Report as directed to the court and a community corrections 2 officer; or
- 3 (f) Pay all court-ordered legal financial obligations as provided 4 in RCW 9.94A.030 and/or perform community service work.
- 5 (6)(a) When sentencing an offender who is not a violent offender or 6 a sex offender and whose presumptive sentence is twelve months or less, the court shall first determine if it is appropriate that such sentence 7 be served primarily or exclusively under one or more of the sentencing 8 options set forth in (c) of this subsection. If the court determines 9 that a period of total confinement is appropriate in order to 10 adequately punish the offender and to serve the best interest of 11 society, the court shall order total confinement for the minimum time 12
- 14 (b) To impose a sentence consisting of sentencing options, the court shall determine the standard range for the offender and then 15 convert that amount of total confinement as is necessary into the 16 sentencing options the court finds appropriate for the offender. 17 Sentencing options that are imposed under this section may be used in 18 19 any combination and may also be combined with total confinement. Conversions of total confinement to sentencing options shall be clearly 20 indicated on the judgment and sentence. 21
- 22 (c) Sentencing options available to a court include:

necessary to carry out the goals of this chapter.

- (i) Approved adult education;
- 24 (ii) Approved vocational-technical training;
- 25 (iii) Community service;
- 26 <u>(iv) Day fines;</u>

- 27 <u>(v) Day reporting;</u>
- 28 (vi) Drug or alcohol monitoring;
- 29 (vii) Home detention;
- 30 <u>(viii) Inpatient treatment;</u>
- 31 (ix) Outpatient treatment;
- 32 (x) Partial confinement;
- 33 (xi) Work crews;
- 34 (xii) Work release; and
- 35 (xiii) Any other nonincarcerative option that is consistent with 36 the purposes of this chapter.
- 37 <u>(d) An offender may also be placed on a term of community</u>
 38 <u>supervision not to exceed one year. At any time after the successful</u>
 39 completion of sentencing options and other conditions imposed, the

- 1 <u>offender or the department may petition the court to terminate</u> 2 community supervision.
- 3 (7)(a) An offender is eligible for the special drug offender 4 sentencing alternative if:
- (i) The offender is convicted of the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug and the violation does not involve a sentence enhancement under RCW 9.94A.310(3);
- 10 <u>(ii) The offender has no prior convictions for a felony in this</u>
 11 state, another state, or the United States;
- (iii) The offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance.
- (b) If the sentencing judge determines that the offender is 16 eligible for this option and that the offender and the community will 17 benefit from the use of the special drug offender sentencing 18 19 alternative, the judge may waive imposition of a sentence within the standard range and impose a sentence that must include a period of 20 total confinement in a state facility for one-half of the midpoint of 21 the standard range. During incarceration in the state facility, the 22 offender must be involved in substance abuse treatment provided by the 23 department. No more than three months of the sentence may be served in 24 a work release status. The court shall also impose one year of 25 community custody that must include crime-related prohibitions, a 26 condition to not use illegal controlled substances, and to submit to 27 urinalysis or other testing to monitor that status. The department may 28 29 require the offender to pay thirty dollars per month while on community 30 custody to offset the cost of monitoring. In addition, the court may impose any of the following conditions: 31
- 32 (i) Devote time to a specific employment or training;
- 33 (ii) Participate in outpatient substance abuse treatment;
- (iii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- 37 (iv) Report as directed to a community corrections officer;
- 38 (v) Pay all court-ordered legal financial obligations;
- 39 (vi) Perform community service work;

1 (vii) Pay a day fine;

2 (viii) Stay out of areas designated by the sentencing judge;

3 (ix) Undergo day supervision.

(c) If the offender violates any of the sentence conditions in (b) of this subsection, the department shall impose sanctions administratively, with notice to the prosecuting attorney and the sentencing court. Upon motion of the court or the prosecuting attorney, a violation hearing shall be held by the court. If the court finds that conditions have been willfully violated, the court may impose confinement consisting of the remaining one-half of the midpoint of the standard range. All total confinement served during the period of community custody shall be credited to the offender, regardless of whether the total confinement is served as a result of the original sentence, as a result of a sanction imposed by the department of corrections, or as a result of a violation found by the court.

(8) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. All or any part of the confinement may be converted to community service, work crew, work release, home detention, day reporting, day fine, or education or training, at the rates provided in RCW 9.94A.380. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

 $((\frac{(7)}{)})$ (9)(a)(i) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

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

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

- (A) Frequency and type of contact between offender and therapist;
- 6 (B) Specific issues to be addressed in the treatment and 7 description of planned treatment modalities;
 - (C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;
 - (D) Anticipated length of treatment; and
- 12 (E) Recommended crime-related prohibitions.

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

- (ii) After receipt of the reports, the court shall consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range. If this sentence is less than eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:
- (A) The court shall place the defendant on community supervision for the length of the suspended sentence or three years, whichever is greater; and
- (B) The court shall order treatment for any period up to three 31 years in duration. The court in its discretion shall order outpatient 32 33 sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such 34 35 treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender 36 37 treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall 38 39 not change providers without court approval after a hearing if the

- 1 prosecutor or community corrections officer object to the change. In
- 2 addition, as conditions of the suspended sentence, the court may impose
- 3 other sentence conditions including up to six months of confinement,
- 4 not to exceed the sentence range of confinement for that offense,
- 5 crime-related prohibitions, and requirements that the offender perform
- 6 any one or more of the following:
- 7 (I) Devote time to a specific employment or occupation;
- 8 (II) Remain within prescribed geographical boundaries and notify
- 9 the court or the community corrections officer prior to any change in
- 10 the offender's address or employment;
- 11 (III) Report as directed to the court and a community corrections
- 12 officer;
- 13 (IV) Pay all court-ordered legal financial obligations as provided
- 14 in RCW 9.94A.030, perform community service work, or any combination
- 15 thereof; or
- 16 (V) Make recoupment to the victim for the cost of any counseling
- 17 required as a result of the offender's crime.
- 18 (iii) The sex offender therapist shall submit quarterly reports on
- 19 the defendant's progress in treatment to the court and the parties.
- 20 The report shall reference the treatment plan and include at a minimum
- 21 the following: Dates of attendance, defendant's compliance with
- 22 requirements, treatment activities, the defendant's relative progress
- 23 in treatment, and any other material as specified by the court at
- 24 sentencing.
- 25 (iv) At the time of sentencing, the court shall set a treatment
- 26 termination hearing for three months prior to the anticipated date for
- 27 completion of treatment. Prior to the treatment termination hearing,
- 28 the treatment professional and community corrections officer shall
- 29 submit written reports to the court and parties regarding the
- 30 defendant's compliance with treatment and monitoring requirements, and
- 31 recommendations regarding termination from treatment, including
- 32 proposed community supervision conditions. Either party may request
- 33 and the court may order another evaluation regarding the advisability
- 34 of termination from treatment. The defendant shall pay the cost of any
- 35 additional evaluation ordered unless the court finds the defendant to
- 36 be indigent in which case the state shall pay the cost. At the
- 37 treatment termination hearing the court may: (A) Modify conditions of
- 38 community supervision, and either (B) terminate treatment, or (C)

extend treatment for up to the remaining period of community 1 2 supervision.

- 3 (v) The court may revoke the suspended sentence at any time during 4 the period of community supervision and order execution of the sentence (A) The defendant violates the conditions of the suspended 5 sentence, or (B) the court finds that the defendant is failing to make 6 7 satisfactory progress in treatment. All confinement time served during 8 the period of community supervision shall be credited to the offender 9 if the suspended sentence is revoked.
- 10 (vi) Except as provided in (a)(vii) of this subsection, after July 1, 1991, examinations and treatment ordered pursuant to this subsection 11 shall only be conducted by sex offender treatment providers certified 12 13 by the department of health pursuant to chapter 18.155 RCW.
- (vii) A sex offender therapist who examines or treats a sex 14 15 offender pursuant to this subsection $((\frac{7}{1}))$ does not have to be 16 certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another 17 state or plans to move to another state for reasons other than 18 19 circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical 20 distance of the offender's home; and (C) the evaluation and treatment 21 plan comply with this subsection $((\frac{7}{1}))$ and the rules adopted by 22 23 the department of health.
 - For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

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29 (b) When an offender is convicted of any felony sex offense 30 committed before July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the 32 offender or the state, order the offender committed for up to thirty 33 days to the custody of the secretary of social and health services for 34 evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health 36 37 services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for 38 39 confinement pending an opportunity to be evaluated at the appropriate

- The court shall review the reports and may order that the 1 2 term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and 3 4 health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program 5 provided at these facilities. The offender shall be transferred to the 6 7 state pending placement in the treatment program. Any offender who has 8 escaped from the treatment program shall be referred back to the 9 sentencing court.
- If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.
- If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:
 - (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- 25 (iii) Report as directed to the court and a community corrections 26 officer;
- 27 (iv) Undergo available outpatient treatment.

- If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.
- 32 After June 30, 1993, this subsection (b) shall cease to have 33 effect.
- 34 (c) When an offender commits any felony sex offense on or after 35 July 1, 1987, and is sentenced to a term of confinement of more than 36 one year but less than six years, the sentencing court may, on its own 37 motion or on the motion of the offender or the state, request the 38 department of corrections to evaluate whether the offender is amenable

1 to treatment and the department may place the offender in a treatment 2 program within a correctional facility operated by the department.

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

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- 14 (iii) Report as directed to the court and a community corrections 15 officer;
- 16 (iv) Undergo available outpatient treatment.

- If the offender violates any of the terms of his <u>or her</u> community supervision, the court may order the offender to serve out the balance of his <u>or her</u> community supervision term in confinement in the custody of the department of corrections.
- Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sex offense committed prior to July 1, 1987. This subsection (c) does not apply to any crime committed after July 1, 1990.
- 25 (d) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an 26 evaluation by the department of corrections to determine whether they 27 are amenable to treatment. If the offender is determined to be 28 29 amenable to treatment, the offender may request placement in a 30 treatment program within a correctional facility operated by the 31 department. Placement in such treatment program is subject to available funds. 32
- ((\(\frac{(8)}{8}\))) (10)(a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, assault of a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly

weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW not sentenced under subsection (6) or (7) of this 2 section, committed on or after July 1, 1988, the court shall in 3 4 addition to the other terms of the sentence, sentence the offender to 5 a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is 6 7 transferred to community custody in lieu of earned early release in 8 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an 9 offender under this subsection to the statutory maximum period of 10 confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may 11 become eligible, in accordance with RCW 9.94A.150 (1) and (2). 12 13 period of community custody actually served shall be credited against the community placement portion of the sentence. 14

- (b) When a court sentences a person to a term of total confinement 15 to the custody of the department of corrections for an offense 16 categorized as a sex offense or serious violent offense committed on or 17 after July 1, 1990, the court shall in addition to other terms of the 18 19 sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 20 9.94A.150 (1) and (2), whichever is longer. The community placement 21 shall begin either upon completion of the term of confinement or at 22 such time as the offender is transferred to community custody in lieu 23 24 of earned early release in accordance with RCW 9.94A.150 (1) and (2). 25 When the court sentences an offender under this subsection to the 26 statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody 27 to which the offender may become eligible, in accordance with RCW 28 9.94A.150 (1) and (2). Any period of community custody actually served 29 30 shall be credited against the community placement portion of the 31 sentence. Unless a condition is waived by the court, the terms of community placement for offenders sentenced pursuant to this section 32 shall include the following conditions: 33
- (i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;
- (ii) The offender shall work at department of corrections-approved education, employment, and/or community service;
- (iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

- 1 (iv) An offender in community custody shall not unlawfully possess 2 controlled substances;
- (v) The offender shall pay supervision fees as determined by the 4 department of corrections; and
- 5 (vi) The residence location and living arrangements are subject to 6 the prior approval of the department of corrections during the period 7 of community placement.
- 8 (c) The court may also order any of the following special 9 conditions:
- 10 (i) The offender shall remain within, or outside of, a specified 11 geographical boundary;
- 12 (ii) The offender shall not have direct or indirect contact with 13 the victim of the crime or a specified class of individuals;
- 14 (iii) The offender shall participate in crime-related treatment or 15 counseling services;
- 16 (iv) The offender shall not consume alcohol; or

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- 17 (v) The offender shall comply with any crime-related prohibitions.
- (d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.
- (((9))) (11) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.
- $((\frac{10}{10}))$ (12) If a sentence imposed includes payment of a legal 28 financial obligation, the sentence shall specify the total amount of 29 30 the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. 31 Restitution to victims shall be paid prior to any other payments of 32 monetary obligations. Any legal financial obligation that is imposed 33 by the court may be collected by the department, which shall deliver 34 35 the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be 36

confinement pursuant to a felony conviction or the date the sentence

supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from

was entered. Independent of the department, the party or entity to 1 2 whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect 3 4 the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other 5 persons acting on their behalf liable under any circumstances for the 6 7 payment of these legal financial obligations. If an order includes 8 restitution as one of the monetary assessments, the county clerk shall 9 make disbursements to victims named in the order.

 $((\frac{11}{11}))$ (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

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 $((\frac{12}{12}))$ (14) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, notifying the community corrections officer of any change in the offender's address or employment, and paying the supervision fee assessment.

 $((\frac{13}{13}))$ (15) All offenders sentenced to terms involving community supervision, community service, or community placement under the supervision of the department of corrections shall not own, use, or possess firearms or ammunition. Offenders who own, use, or are found to be in actual or constructive possession of firearms or ammunition shall be subject to the appropriate violation process and sanctions. "Constructive possession" as used in this subsection means the power and intent to control the firearm or ammunition. "Firearm" as used in this subsection means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

34 (((14))) (16) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender 36 37 is being sentenced.

 $((\frac{15}{15}))$ (17) A departure from the standards in RCW 9.94A.400 (1) 38 39 and (2) governing whether sentences are to be served consecutively or 1 concurrently is an exceptional sentence subject to the limitations in 2 subsections (2) and (3) of this section, and may be appealed by the 3 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

4 ((\(\frac{(16)}{16}\))) (18) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(((17))) (<u>19</u>) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

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(((18))) <u>(20)</u> In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(((19))) <u>(21)</u> All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

26 **Sec. 3.** RCW 9.94A.040 and 1986 c 257 s 18 are each amended to read 27 as follows:

- 28 (1) A sentencing guidelines commission is established as an agency 29 of state government.
- 30 (2) The commission shall, following a public hearing or hearings:
- 31 (a) Devise a series of recommended standard sentence ranges for all 32 felony offenses and a system for determining which range of punishment 33 applies to each offender based on the extent and nature of the 34 offender's criminal history, if any;
- 35 (b) Devise recommended prosecuting standards in respect to charging 36 of offenses and plea agreements; and
- 37 (c) Devise recommended standards to govern whether sentences are to 38 be served consecutively or concurrently.

1 (3) Each of the commission's recommended standard sentence ranges 2 shall include one or more of the following: Total confinement, partial 3 confinement, community supervision, community service, and a fine.

- (4) In devising the standard sentence ranges of total and partial confinement under this section, the commission is subject to the following limitations:
- (a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;
- 12 (b) If the maximum term in the range is greater than one year, the 13 minimum term in the range shall be no less than seventy-five percent of 14 the maximum term in the range; and
- 15 (c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.020.
 - (5) ((In carrying out its duties under subsection (2) of this section, the commission shall give consideration to the existing guidelines adopted by the association of superior court judges and the Washington association of prosecuting attorneys and the experience gained through use of those guidelines.)) The commission shall emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender.
 - (6) ((This)) The commission shall biennially conduct a study to determine the capacity of correctional facilities and programs which are or will be available. ((While the commission need not consider such capacity in arriving at its recommendations,)) The commission shall project whether the implementation of ((its recommendations)) the standard sentence ranges would result in exceeding such capacity. If the commission finds that this result would probably occur, then the commission shall prepare an additional list of standard sentence((s)) ranges which shall be consistent with such capacity.
 - (7) The commission may recommend to the legislature revisions or modifications to the standard sentence ranges and other standards. ((If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity)) The commission shall prepare a report that updates the most recent capacity

- 1 study of correctional facilities and programs, and includes projections
- 2 on whether the implementation of the standard sentence ranges will
- 3 <u>exceed this capacity</u>. This report shall be submitted to the
- 4 legislature by December 1, 1993.
- 5 (8) The sentencing reform act has been in effect since July 1,
- 6 1984, and several modifications to sentences have occurred. The
- 7 sentencing quidelines commission shall reevaluate the proportionality
- 8 and fairness of sentences contained in RCW 9.94A.120, as well as
- 9 practical workability of sentences and ranges. The commission shall
- 10 evaluate the impact of revisions to RCW 9.94A.120 (6) and (7). The
- 11 commission shall submit preliminary findings to the legislature by
- 12 <u>December 1, 1994, and shall submit the final report to the legislature</u>
- 13 by December 1, 1995. The report shall describe the changes in
- 14 sentencing practices related to the use of alternatives to total
- 15 confinement for nonviolent offenders and include the impact of
- 16 <u>sentencing alternatives on state prisons and county jail population,</u>
- 17 the savings in state and local resources, and the impact on recidivism
- 18 rates. The commission shall establish a baseline for evaluating
- 19 recidivism of all felony offenders whether under the jurisdiction of
- 20 the department or counties.
- 21 (9) The commission shall study the existing criminal code and from
- 22 time to time make recommendations to the legislature for modification.
- 23 (((+9))) (10) The commission shall exercise its duties under this
- 24 section in conformity with chapter 34.05 RCW, as now existing or
- 25 hereafter amended.
- 26 **Sec. 4.** RCW 9.94A.190 and 1991 c 181 s 5 are each amended to read
- 27 as follows:
- 28 (1) A sentence that includes a term or terms of confinement
- 29 totaling more than one year shall be served in a facility or
- 30 institution operated, or utilized under contract, by the state. Except
- 31 as provided for in subsection (3) or (4) of this section, a sentence of
- 32 not more than one year of confinement shall be served in a facility
- 33 operated, licensed, or utilized under contract, by the county, or if
- 34 home detention or work crew has been ordered by the court, in the
- 35 residence of either the defendant or a member of the defendant's
- 36 immediate family.
- 37 (2) If a county uses a state partial confinement facility for the
- 38 partial confinement of a person sentenced to confinement for not more

- than one year, the county shall reimburse the state for the use of the 1 facility as provided for in this subsection. The office of financial 2 management shall set the rate of reimbursement based upon the average 3 4 per diem cost per offender in the facility. The office of financial management shall determine to what extent, if any, reimbursement shall 5 be reduced or eliminated because of funds provided by the legislature 6 7 to the department of corrections for the purpose of covering the cost 8 of county use of state partial confinement facilities. The office of 9 financial management shall reestablish reimbursement rates each even-10 numbered year.
- (3) A person who is sentenced for a felony to a term of not more 11 than one year, and who is committed or returned to incarceration in a 12 13 state facility on another felony conviction, either under the indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter 14 15 shall serve all terms of confinement, including a sentence of not more 16 than one year, in a facility or institution operated, or utilized under 17 contract, by the state, consistent with the provisions of RCW 9.94A.400. 18
- (4) For sentences imposed pursuant to RCW 9.94A.120(7) which are over one year before converting all or part of the sentence to authorized sentencing options, notwithstanding any other provision of this section, all such sentences regardless of length shall be served in a facility or institution operated, or utilized under contract, by the state.
- 25 **Sec. 5.** RCW 9.94A.200 and 1989 c 252 s 7 are each amended to read 26 as follows:

- (1) If an offender violates any condition or requirement of a sentence, the court may modify its order of judgment and sentence and impose further punishment in accordance with this section.
- 30 (2) If an offender fails to comply with any of the requirements or 31 conditions of a sentence the following provisions apply:
- 32 (a) The court, upon the motion of the state, or upon its own 33 motion, shall require the offender to show cause why the offender 34 should not be punished for the noncompliance. The court may issue a 35 summons or a warrant of arrest for the offender's appearance;
- 36 (b) The state has the burden of showing noncompliance by a 37 preponderance of the evidence. If the court finds that the violation 38 has occurred, it may order the offender to be confined for a period not

- 1 to exceed sixty days for each violation((, and)). The total amount of
- 2 confinement time the court may order for all violations that occur
- 3 <u>during a term of community supervision shall not exceed the high end of</u>
- 4 the sentence range for the offense. The court may (i) convert a term
- 5 of partial confinement to total confinement, (ii) convert community
- 6 service obligation to total or partial confinement, ((or)) (iii)
- 7 convert monetary obligations, except restitution and the crime victim
- 8 penalty assessment, to community service hours at the rate of the state
- 9 minimum wage as established in RCW 49.46.020 for each hour of community
- 10 service, or (iv) convert to other sentencing alternatives as authorized
- 11 <u>in RCW 9.94A.380</u>. Any time served in confinement awaiting a hearing on
- 12 noncompliance shall be credited against any confinement order by the
- 13 court; and
- 14 (c) If the court finds that the violation was not willful, the
- 15 court may modify its previous order regarding payment of legal
- 16 financial obligations and regarding community service obligations.
- 17 (3) Nothing in this section prohibits the filing of escape charges
- 18 if appropriate.
- 19 **Sec. 6.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are
- 20 each reenacted and amended to read as follows:
- 21 TABLE 2
- 22 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL
- 23 XV Aggravated Murder 1 (RCW 10.95.020)
- 24 XIV Murder 1 (RCW 9A.32.030)
- 25 Homicide by <u>A</u>buse (RCW 9A.32.055)
- 26 XIII Murder 2 (RCW 9A.32.050)
- 27 XII Assault 1 (RCW 9A.36.011)
- 28 Assault of a Child 1 (RCW 9A.36.120)
- 29 XI Rape 1 (RCW 9A.44.040)
- Rape of a Child 1 (RCW 9A.44.073)
- 31 X Kidnapping 1 (RCW 9A.40.020)
- 32 Rape 2 (RCW 9A.44.050)
- Rape of a Child 2 (RCW 9A.44.076)
- Child Molestation 1 (RCW 9A.44.083)

1		Damaging building, etc., by explosion with
2		threat to human being (RCW
3		70.74.280(1))
4		Over 18 and deliver heroin or narcotic
5		from Schedule I or II to someone
6		under 18 (RCW 69.50.406)
7		Leading Organized Crime (RCW
8		9A.82.060(1)(a))
9	IX	Assault of a Child 2 (RCW 9A.36.130)
10		Robbery 1 (RCW 9A.56.200)
11		Manslaughter 1 (RCW 9A.32.060)
12		Explosive devices prohibited (RCW
13		70.74.180)
14		Indecent Liberties (with forcible
15		compulsion) (RCW 9A.44.100(1)(a))
16		Endangering life and property by
17		explosives with threat to human being
18		(RCW 70.74.270)
19		Over 18 and deliver narcotic from Schedule
20		III, IV, or V or a nonnarcotic from
21		Schedule I-V to someone under 18 and
22		3 years junior (RCW 69.50.406)
23		Controlled Substance Homicide (RCW
24		69.50.415)
25		Sexual Exploitation (RCW 9.68A.040)
26		Inciting Criminal Profiteering (RCW
27		9A.82.060(1)(b)
28	VIII	Arson 1 (RCW 9A.48.020)
29		Promoting Prostitution 1 (RCW 9A.88.070)
30		Selling for profit (controlled or
31		counterfeit) any controlled substance
32		(RCW 69.50.410)
33		Manufacture, deliver, or possess with
34		intent to deliver heroin or cocaine
35		(RCW 69.50.401(a)(1)(i))
36		Manufacture, deliver, or possess with
37		intent to deliver methamphetamine
38		(RCW 69.50.401(a)(1)(ii))

1		Vehicular Homicide, by being under the
2		influence of intoxicating liquor or
3		any drug or by the operation of any
4		vehicle in a reckless manner (RCW
5		46.61.520)
6	VII	Burglary 1 (RCW 9A.52.020)
7		Vehicular Homicide, by disregard for the
8		safety of others (RCW 46.61.520)
9		Introducing Contraband 1 (RCW 9A.76.140)
10		Indecent Liberties (without forcible
11		compulsion) (RCW 9A.44.100(1) (b) and
12		(c))
13		Child Molestation 2 (RCW 9A.44.086)
14		Dealing in depictions of minor engaged in
15		sexually explicit conduct (RCW
16		9.68A.050)
17		Sending, bringing into state depictions of
18		minor engaged in sexually explicit
19		conduct (RCW 9.68A.060)
20		Involving a minor in drug dealing (RCW
21		69.50.401(f))
22	VI	Bribery (RCW 9A.68.010)
23		Manslaughter 2 (RCW 9A.32.070)
24		Rape of a Child 3 (RCW 9A.44.079)
25		Intimidating a Juror/Witness (RCW
26		9A.72.110, 9A.72.130)
27		Damaging building, etc., by explosion with
28		no threat to human being (RCW
29		70.74.280(2))
30		Endangering life and property by
31		explosives with no threat to human
32		being (RCW 70.74.270)
33		Incest 1 (RCW 9A.64.020(1))
34		Manufacture, deliver, or possess with
35		intent to deliver narcotics from
36		Schedule I or II (except heroin or
37		cocaine) (RCW 69.50.401(a)(1)(i))

1		Intimidating a Judge (RCW 9A.72.160)
2		Bail Jumping with Murder 1 (RCW
3		9A.76.170(2)(a))
4		Money Laundering, with attempt to conceal
5		or avoid reporting (RCW
6		9A.83.020(1)(b) and (c))
7	V	Criminal Mistreatment 1 (RCW 9A.42.020)
8		Rape 3 (RCW 9A.44.060)
9		Sexual Misconduct with a Minor 1 (RCW
10		9A.44.093)
11		Child Molestation 3 (RCW 9A.44.089)
12		Kidnapping 2 (RCW 9A.40.030)
13		Extortion 1 (RCW 9A.56.120)
14		Incest 2 (RCW 9A.64.020(2))
15		Perjury 1 (RCW 9A.72.020)
16		Extortionate Extension of Credit (RCW
17		9A.82.020)
18		Advancing money or property for
19		extortionate extension of credit (RCW
20		9A.82.030)
21		Extortionate Means to Collect Extensions
22		of Credit (RCW 9A.82.040)
23		Rendering Criminal Assistance 1 (RCW
24		9A.76.070)
25		Bail Jumping with class A Felony (RCW
26		9A.76.170(2)(b))
27		Delivery of imitation controlled substance
28		by person eighteen or over to person
29		under eighteen (RCW 69.52.030(2))
30	IV	Residential Burglary (RCW 9A.52.025)
31		Theft of Livestock 1 (RCW 9A.56.080)
32		Robbery 2 (RCW 9A.56.210)
33		Assault 2 (RCW 9A.36.021)
34		Escape 1 (RCW 9A.76.110)
35		Arson 2 (RCW 9A.48.030)
36		Bribing a Witness/Bribe Received by
37		Witness (RCW 9A.72.090, 9A.72.100)
38		Malicious Harassment (RCW 9A.36.080)

1		Threats to Bomb (RCW 9.61.160)
2		Willful Failure to Return from Furlough
3		(RCW 72.66.060)
4		Hit and Run « Injury Accident (RCW
5		46.52.020(4))
6		Vehicular Assault (RCW 46.61.522)
7		Manufacture, deliver, or possess with
8		intent to deliver narcotics from
9		Schedule III, IV, or V or
10		nonnarcotics from Schedule I-V
11		(except marijuana or
12		methamphetamines) (RCW
13		69.50.401(a)(1) (ii) through (iv))
14		Influencing Outcome of Sporting Event (RCW
15		9A.82.070)
16		Use of Proceeds of Criminal Profiteering
17		(RCW 9A.82.080 (1) and (2))
18		Knowingly Trafficking in Stolen Property
19		(RCW 9A.82.050(2))
20		Money Laundering, Spending (RCW
21		9A.83.020(1)(a))
22	III	Criminal Mistreatment 2 (RCW 9A.42.030)
23		Extortion 2 (RCW 9A.56.130)
24		Unlawful Imprisonment (RCW 9A.40.040)
25		Assault 3 (RCW 9A.36.031)
26		Assault of a Child 3 (RCW 9A.36.140)
27		Custodial Assault (RCW 9A.36.100)
28		Unlawful possession of firearm or pistol by felon (RCW
29		9.41.040)
30		Harassment (RCW 9A.46.020)
31		Promoting Prostitution 2 (RCW 9A.88.080)
32		Willful Failure to Return from Work
33		Release (RCW 72.65.070)
34		Burglary 2 (RCW 9A.52.030)
35		Introducing Contraband 2 (RCW 9A.76.150)
36		Communication with a Minor for Immoral
37		Purposes (RCW 9.68A.090)
38		Patronizing a Juvenile Prostitute (RCW
39		9.68A.100)

1		Escape 2 (RCW 9A.76.120)
2		Perjury 2 (RCW 9A.72.030)
3		Bail Jumping with class B or C Felony (RCW
4		9A.76.170(2)(c))
5		Intimidating a Public Servant (RCW
6		9A.76.180)
7		Tampering with a Witness (RCW 9A.72.120)
8		Manufacture, deliver, or possess with
9		intent to deliver marijuana (RCW
10		69.50.401(a)(1)(ii))
11		Delivery of a material in lieu of a
12		controlled substance (RCW
13		69.50.401(c))
14		Manufacture, distribute, or possess with
15		intent to distribute an imitation
16		controlled substance (RCW
17		69.52.030(1))
18		Recklessly Trafficking in Stolen Property
19		(RCW 9A.82.050(1))
20		Theft of <u>L</u> ivestock 2 (RCW 9A.56.080)
21		Securities Act violation (RCW 21.20.400)
2.2	T T	Maliaiana Miashiaf 1 (DOM 07 40 070)
22	II	Malicious Mischief 1 (RCW 9A.48.070)
23		Possession of Stolen Property 1 (RCW
24		9A.56.150)
25		Theft 1 (RCW 9A.56.030)
26		Motor Vehicle Theft (section 9 of this
27		act)
28		Possession of controlled substance that is
29		either heroin or narcotics from
30		
31		Schedule I or II (RCW 69.50.401(d))
2.0		Possession of phencyclidine (PCP) (RCW
32		Possession of phencyclidine (PCP) (RCW 69.50.401(d))
33		Possession of phencyclidine (PCP) (RCW 69.50.401(d)) Create, deliver, or possess a counterfeit
33 34		Possession of phencyclidine (PCP) (RCW 69.50.401(d)) Create, deliver, or possess a counterfeit controlled substance (RCW
33 34 35		Possession of phencyclidine (PCP) (RCW 69.50.401(d)) Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
33343536		Possession of phencyclidine (PCP) (RCW 69.50.401(d)) Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b)) Computer Trespass 1 (RCW 9A.52.110)
33 34 35 36 37		Possession of phencyclidine (PCP) (RCW 69.50.401(d)) Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b)) Computer Trespass 1 (RCW 9A.52.110) Reckless Endangerment 1 (RCW 9A.36.045)
33343536		Possession of phencyclidine (PCP) (RCW 69.50.401(d)) Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b)) Computer Trespass 1 (RCW 9A.52.110)

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Theft 2 (RCW 9A.56.040)
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 2
               Possession of Stolen Property 2 (RCW
 3
                    9A.56.160)
 4
               Forgery (RCW 9A.60.020)
 5
               Taking Motor Vehicle Without Permission
                     (RCW 9A.56.070)
 6
7
               Vehicle Prowl 1 (RCW 9A.52.095)
8
               Attempting to Elude a Pursuing Police
9
                    Vehicle (RCW 46.61.024)
10
               Malicious Mischief 2 (RCW 9A.48.080)
               Reckless Burning 1 (RCW 9A.48.040)
11
               Unlawful Issuance of Checks or Drafts (RCW
12
13
                    9A.56.060)
14
               Unlawful Use of Food Stamps (RCW 9.91.140
15
                     (2) and (3)
               False Verification for Welfare (RCW
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17
                    74.08.055)
               Forged Prescription (RCW 69.41.020)
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19
               Forged Prescription for a Controlled
20
                    Substance (RCW 69.50.403)
               Possess controlled substance that is a
21
                    narcotic from Schedule III, IV, or V
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                    or non-narcotic from Schedule I-V
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24
                    (except phencyclidine) (RCW
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                    69.50.401(d))
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26 **Sec. 7.** RCW 9.94A.360 and 1992 c 145 s 10 and 1992 c 75 s 4 are 27 each reenacted and amended to read as follows:

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

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

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(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

- (2) Except as provided in subsection (4) of this section, class A 1 and sex prior felony convictions shall always be included in the 2 offender score. Class B prior felony convictions other than sex 3 4 offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential 5 treatment) pursuant to a felony conviction, if any, or entry of 6 7 judgment and sentence, the offender had spent ten consecutive years in 8 the community without being convicted of any felonies. Class C prior 9 felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement 10 (including full-time residential treatment) pursuant to a felony 11 conviction, if any, or entry of judgment and sentence, the offender had 12 13 spent five consecutive years in the community without being convicted of any felonies. Serious traffic convictions shall not be included in 14 15 the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony 16 conviction, if any, or entry of judgment and sentence, the offender 17 spent five years in the community without being convicted of any 18 19 serious traffic or felony traffic offenses. This subsection applies to 20 both adult and juvenile prior convictions.
- 21 (3) Out-of-state convictions for offenses shall be classified 22 according to the comparable offense definitions and sentences provided 23 by Washington law.

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- (4) Always include juvenile convictions for sex offenses. Include other class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include other class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.
- 31 (5) Score prior convictions for felony anticipatory offenses 32 (attempts, criminal solicitations, and criminal conspiracies) the same 33 as if they were convictions for completed offenses.
- 34 (6) In the case of multiple prior convictions, for the purpose of 35 computing the offender score, count all convictions separately, except:
- Prior adult offenses which were found, 36 (a) under RCW 37 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender 38 39 score. The current sentencing court shall determine with respect to

other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses, and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used;

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- (b) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score, except for juvenile prior convictions for violent offenses with separate victims, which shall count as separate offenses; and
- 11 (c) In the case of multiple prior convictions for offenses 12 committed before July 1, 1986, for the purpose of computing the 13 offender score, count all adult convictions served concurrently as one 14 offense, and count all juvenile convictions entered on the same date as 15 one offense. Use the conviction for the offense that yields the 16 highest offender score.
 - (7) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.
- (8) If the present conviction is for a nonviolent offense and not covered by subsection (12) or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.
- (9) If the present conviction is for a violent offense and not covered in subsection (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.
- 30 (10) If the present conviction is for Murder 1 or 2, Assault 1, Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.
- 37 (11) If the present conviction is for Burglary 1, count prior 38 convictions as in subsection (9) of this section; however count two 39 points for each prior adult Burglary 2 or residential burglary

- 1 conviction, and one point for each prior juvenile Burglary 2 or 2 residential burglary conviction.
- 3 (12) If the present conviction is for a felony traffic offense 4 count two points for each adult or juvenile prior conviction for 5 Vehicular Homicide or Vehicular Assault; for each felony offense or 6 serious traffic offense, count one point for each adult and 1/2 point 7 for each juvenile prior conviction.
- 8 (13) If the present conviction is for a drug offense count three 9 points for each adult prior felony drug offense conviction and two 10 points for each juvenile drug offense. All other adult and juvenile 11 felonies are scored as in subsection (9) of this section if the current 12 drug offense is violent, or as in subsection (8) of this section if the 13 current drug offense is nonviolent.
- (14) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, Willful Failure to Return from Work Release, RCW 72.65.070, or Escape from Community Custody, RCW 72.09.310, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.
- 20 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or 21 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and 22 juvenile prior convictions as 1/2 point.
- 23 (16) If the present conviction is for Burglary 2 or residential 24 burglary, count priors as in subsection (8) of this section; however, 25 count two points for each adult and juvenile prior Burglary 1 26 conviction, two points for each adult prior Burglary 2 or residential 27 burglary conviction, and one point for each juvenile prior Burglary 2 28 or residential burglary conviction.
- 29 (17) If the present conviction is for a sex offense, count priors 30 as in subsections (8) through (16) of this section; however count three 31 points for each adult and juvenile prior sex offense conviction.
- 32 (18) If the present conviction is for an offense committed while 33 the offender was under community placement, add one point.
- 34 (19) If the present conviction is for motor vehicle theft, count
 35 two points for each prior adult conviction for motor vehicle theft, and
 36 one point for each juvenile prior conviction for motor vehicle theft.
- 37 **Sec. 8.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are 38 each reenacted and amended to read as follows:

- (1) Alternatives to total confinement are available for offenders 1 with sentences of one year or less. These alternatives include the 2 following sentence conditions that the court may order as substitutes 3 4 for total confinement: $((\frac{1}{1}))$ (a) One day of partial confinement may be substituted for one day of total confinement; $((\frac{2}{2}))$ in 5 addition, for offenders convicted of nonviolent offenses only, eight 6 7 hours of community service may be substituted for one day of total 8 confinement, with a maximum conversion limit of two hundred forty hours 9 or thirty days. Community service hours must be completed within the 10 period of community supervision or a time period specified by the court, which shall not exceed twenty-four months, pursuant to a 11 schedule determined by the department. 12
- For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons in writing on the judgment and sentence form if the alternatives are not used.
- Offenders sentenced under RCW 9.94A.120(6)(a) to a term of one year
 or less may be sentenced to authorized sentencing options as provided
 in RCW 9.94A.120(6)(a).
 - (2) "Authorized sentencing options" means:

- 21 <u>(a) Partial confinement as defined in RCW 9.94A.030 at the rate of</u>
 22 <u>one day of partial confinement for one day of total confinement;</u>
- 23 <u>(b) Community service as defined in RCW 9.94A.030 at the rate of</u> 24 <u>eight hours of community service for one day of total confinement;</u>
- 25 (c) Work crew as defined in RCW 9.94A.030 at the rate of seven 26 hours of work crew for one day of total confinement;
- 27 (d) Work release as defined in RCW 9.94A.030 at the rate of one day of work release for one day of total confinement;
- (e) Home detention as defined in RCW 9.94A.030 at the rate of one day of home detention for one day of total confinement;
- 31 (f) Day reporting as defined in RCW 9.94A.030 at the rate of two 32 days of day reporting for one day of total confinement;
- 33 (g) Drug or alcohol monitoring as defined in RCW 9.94A.030 at the 34 rate of five days of drug or alcohol monitoring for one day of total 35 confinement;
- (h) Inpatient treatment as defined in RCW 9.94A.030 at the rate of one day of inpatient treatment for one day of total confinement;
- (i) Day fine as defined in RCW 9.94A.030 at the rate of one day of day fine for one day of total confinement;

- 1 (j) Education or training as defined in RCW 9.94A.030 at the rate
- 2 of five hours of education or training for one day of total
- 3 confinement; or
- 4 (k) Outpatient treatment as defined in RCW 9.94A.030 at the rate of
- 5 two days of outpatient treatment for one day of total confinement.
- 6 (3) Sentencing alternatives must be completed within the time
- 7 period specified by the court, pursuant to a schedule determined by the
- 8 <u>department</u>.
- 9 (4) Options under subsection (2) of this section may also be
- 10 imposed by the court as sanctions resulting from violations of sentence
- 11 requirements.
- 12 (5) The department shall determine the rules for calculating the
- 13 value of a day fine based on the offender's income and reasonable
- 14 obligations which the offender has for the support of the offender and
- 15 any dependents. These rules shall be developed in consultation with
- 16 the administrator for the courts, the office of financial management,
- 17 and the sentencing guidelines commission.
- 18 <u>NEW SECTION.</u> **Sec. 9.** A new section is added to chapter 9A.56 RCW
- 19 to read as follows:
- 20 (1) A person is guilty of motor vehicle theft if the person commits
- 21 theft of a motor vehicle, regardless of its value.
- 22 (2) Motor vehicle theft is a class B felony.
- 23 **Sec. 10.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to read
- 24 as follows:
- 25 (1) A person is guilty of theft in the second degree if he or she
- 26 commits theft of:
- 27 (a) Property or services which exceed(s) two hundred and fifty
- 28 dollars in value, but does not exceed one thousand five hundred dollars
- 29 in value; or
- 30 (b) A public record, writing, or instrument kept, filed, or
- 31 deposited according to law with or in the keeping of any public office
- 32 or public servant; or
- 33 (c) An access device; or
- 34 (d) ((A motor vehicle, of a value less than one thousand five
- 35 hundred dollars; or
- 36 (e))) A firearm, of a value less than one thousand five hundred
- 37 dollars.

(2) Theft in the second degree is a class C felony.

- 2 **Sec. 11.** RCW 72.09.300 and 1991 c 363 s 148 are each amended to 3 read as follows:
- (1) A county legislative authority ((may)) shall by resolution or 4 ordinance establish a local law and justice council. 5 The county legislative authority shall determine the size and composition of the 6 7 council, which shall include the county sheriff and a representative of 8 the municipal police departments within the county, the county 9 prosecutor and a representative of the municipal prosecutors within the 10 county, a representative of the city legislative authorities within the 11 county, a representative of the county's superior, district, and municipal courts, the county jail administrator, the county clerk, 12 ((the county risk manager, and)) a representative of school districts 13 14 within the county, a representative of social service programs within the county, a representative of juvenile court services, and a 15 16 representative of the secretary of corrections. Officials designated 17 may appoint representatives.
- 18 (2) A combination of counties may establish a local law and justice 19 council by intergovernmental agreement. The agreement shall comply 20 with the requirements of this section.
- (3) The local law and justice council shall develop a local law and 21 justice plan for the county. The council shall design the elements and 22 23 scope of the plan, subject to final approval by the county legislative 24 authority. The ((general intent of the)) plan shall include seeking 25 means to maximize local resources, reduce duplication of services, and 26 share resources between local and state government. The plan ((shall also)) may include a section on jail management. This section may 27 include the following elements: 28
- 29 (a) ((A description of current jail conditions, including whether 30 the jail is overcrowded;
- 31 (b))) A description of potential alternatives to incarceration;
- 32 (((c) A description of current jail resources;
- 33 (d))) (b) A description of the jail population as it presently 34 exists and how it is projected to change in the future;
- 35 $((\frac{(e)}{(e)}))$ <u>(c)</u> A description of projected future resource 36 requirements;
- 37 $((\frac{f}{f}))$ <u>(d)</u> A proposed action plan, which shall include 38 recommendations to maximize $(\frac{f}{f})$ the use of

- 1 intermediate sanctions, ((minimize overcrowding,)) and avoid
 2 duplication of services((, and effectively manage the jail and the
 3 offender population;
- 4 (g) A list of proposed advisory jail standards and methods to effect periodic quality assurance inspections of the jail;
- 6 (h) A proposed plan to collect, synthesize, and disseminate 7 technical information concerning local criminal justice activities, 8 facilities, and procedures;
- 9 (i) A description of existing and potential services for offenders
 10 including employment services, substance abuse treatment, mental health
 11 services, and housing referral services)).
- The plan may include a section in accordance with chapter 9.94A RCW 12 regarding alternatives to incarceration in jail and prison to be 13 submitted to the department for funding. This section shall include: 14 Identification of the target offender population; description of 15 services to be provided; strategies to be employed to use the 16 sentencing alternative service to reduce jail and prison populations; 17 18 and evaluation procedures to determine impact of alternatives in 19 managing jail and prison populations.
- 20 <u>Units of local government may develop and operate an alternative,</u> 21 <u>contract with a for profit, or nonprofit organization to provide the</u> 22 <u>service, or may contract with the department to provide the service.</u>

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- The plan may request up to seventy-five percent of the cost of alternatives to confinement without replacing or supplanting existing funding for current level services provided by either local jurisdictions or the department. Counties shall be responsible for funding at least twenty-five percent of the costs of alternatives to confinement that serve county offenders and may assume fines, fees, and recoveries of cost from offenders who participate in these programs. Counties may provide services to state offenders as part of their match funds.
- The plan may include a section that identifies state policies that
 have resulted in implementation difficulties in the county. The plan
 may also include a section regarding local problems that require state
 policy changes to solve.
- 36 (4) The council may propose other elements of the plan, which shall 37 be subject to review and approval by the county legislative authority, 38 prior to their inclusion into the plan. A copy of the plan shall be 39 shared with the partnership advisory board.

- 1 (5) The county legislative authority may request technical assistance to organize, collect, and analyze data, analyze policies, guide the process, help write the plan, assess outcomes, or otherwise assist in developing or implementing the plan from other units or agencies of state or local government, which shall include the department, the office of financial management, and the Washington association of sheriffs and police chiefs.
 - (6) ((Upon receiving a request for assistance from a county, the department may provide the requested assistance.

- (7) The secretary may adopt rules for the submittal, review, and approval of all requests for assistance made to the department.)) The secretary ((may)) shall also appoint ((an)) a partnership advisory ((committee)) board of local and state government officials to recommend policies and procedures relating to the state and local correctional systems ((and)), to assist and advise the department in providing technical assistance to local governments, to advise regarding funding and/or implementing alternatives to incarceration under chapter 9.94A RCW for local jurisdictions, and to review criminal justice plans for issues which have state-wide implications. committee shall include representatives of the county sheriffs, the police chiefs, the county prosecuting attorneys, the county and city legislative authorities, and the jail administrators. The secretary may contract with other state and local agencies and provide funding in order to provide the assistance requested by counties.
 - (7) The department, in conjunction with the office of financial management, shall establish a pool of funding for grants to counties for offender placement in alternatives to incarceration. This pool of funding shall only be used by the department for alternatives to incarceration and the planning for these alternatives, as requested by counties via local law and justice councils. Alternatives to incarceration provided through this fund may provide services to felons, nontraffic misdemeanant offenders and pretrial offenders. However, a minimum of fifty percent of the funds must serve felons. In addition, alternatives that are multijurisdictional and/or that serve multiple categories of offenders shall receive a higher priority.

State funding for implementation of the proposals approved by the department is subject to the availability of funds appropriated to the department. Moneys distributed under this section shall not be used to

- replace or supplant existing funding for current level services provided by either local jurisdictions or the department.
- (8) The department ((shall establish a base level of state 3 4 correctional services, which shall be determined and distributed in a 5 consistent manner state-wide. The department's contributions to any 6 local government, approved pursuant to this section, shall not operate to reduce this base level of services)), in conjunction with the office 7 8 of financial management, with the advice of the partnership advisory 9 board, shall develop guidelines and criteria in addition to subsection (7) of this section for counties to develop plans for alternative 10 sentence placements that may be implemented by the county or by the 11 department. The partnership advisory board shall establish guidelines 12 for monitoring and evaluating the impact of such alternative programs. 13
- The guidelines and criteria shall be in effect by October 1, 1993, and counties may submit their plans immediately thereafter.
- NEW SECTION. Sec. 12. (1) The Washington council on justice policy is hereby established. The council shall consist of twenty-four members appointed by the governor. Membership shall include:
- 19 (a) One representative of city governments;
- 20 (b) One representative of county governments;
- 21 (c) One representative of sheriffs and police;
- 22 (d) One representative of jail managers;
- 23 (e) One representative of criminal defense attorneys;
- 24 (f) One representative of prosecuting attorneys;
- 25 (g) One representative of the judiciary;
- 26 (h) One representative of juvenile court administrators;
- 27 (i) One representative of community providers for juvenile 28 offenders;
- 29 (j) Two representatives of business;
- 30 (k) Two representatives of labor;
- 31 (1) One representative of higher education;
- 32 (m) One representative of common schools;
- 33 (n) One representative from crime victims' organizations;
- 34 (o) Six legislators, two from each of the majority caucuses in the 35 house of representatives and senate, and one from each of the minority 36 caucuses in the house of representatives and senate; and
- 37 (p) Two citizen representatives, one from eastern Washington and 38 one from western Washington.

- 1 (2) Nonlegislative members may receive reimbursement for travel 2 under RCW 43.03.050 and 43.03.060. Legislative members may be 3 reimbursed under RCW 41.04.300.
- 4 (3) Administrative and staff support of the council shall be 5 determined by the office of the governor.
- (4) The council shall review and evaluate the state's long-range 6 7 strategy regarding criminal justice policies. The scope 8 deliberations shall include, but not be limited to, crime prevention, 9 juvenile and adult criminal justice, substance abuse and treatment, and 10 criminal justice information reporting. The council shall consult with state and local entities involved in the criminal justice system such 11 as the sentencing guidelines commission, the juvenile disposition 12 13 standards board, the office of financial management, the administrator for the courts, the Washington state association of counties, the 14 15 Washington state association of county officials, the association of 16 Washington cities, the public defenders association, and the Washington 17 association of sheriffs and police chiefs, and may consult with other organizations involved with or that have an interest in criminal 18 19 justice programs or services, as required.
- 20 (5) The council shall report to the governor and the legislature by 21 January 15, 1995. The council shall expire July 1, 1995.
- NEW SECTION. **Sec. 13.** A new section is added to chapter 72.02 RCW to read as follows:
- 24 The secretary shall review the classification structure for 25 establishing the custody levels of inmates in state correctional facilities. The review shall take place every three years beginning in 26 27 1993. As part of the review, the secretary shall seek technical assistance from the national institute of corrections. The national 28 29 institute of corrections is encouraged to evaluate and provide written 30 comments regarding the classification structure for the appropriate placement of inmates in state correctional facilities. The secretary 31 shall report on the inmate classification system to the house of 32 33 representatives committee on corrections and the senate committee on 34 law and justice, every third legislative session beginning with the 1997 legislature. 35
- 36 **Sec. 14.** RCW 9.94A.160 and 1984 c 246 s 1 are each amended to read 37 as follows:

((If the governor finds that an emergency exists in that the population of a state residential correctional facility exceeds its reasonable, maximum capacity, then the governor may do any one or more of the following:

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38 39 (1) Call the sentencing guidelines commission into an emergency meeting for the purpose of evaluating the standard ranges and other standards. The commission may adopt any revision or amendment to the standard ranges or other standards that it believes appropriate to deal with the emergency situation. The revision or amendment shall be adopted in conformity with chapter 34.05 RCW and shall take effect on the date prescribed by the commission. The legislature shall approve or modify the commission's revision or amendment at the next legislative session after the revision or amendment takes effect. Failure of the legislature to act shall be deemed as approval of the revision or amendment;

(2) If the emergency occurs prior to July 1, 1988, call the board of prison terms and paroles into an emergency meeting for the purpose of evaluating its guidelines and procedures for release of prisoners under its jurisdiction. The board shall adopt guidelines for the reduction of inmate population to be used in the event the governor calls the board into an emergency meeting under this section. The board shall not, under this subsection, reduce the prison term of an inmate serving a mandatory minimum term under RCW 9.95.040, an inmate confined for treason, an inmate confined for any violent offense as defined by RCW 9.94A.030, or an inmate who has been found to be a sexual psychopath under chapter 71.06 RCW. In establishing these guidelines, the board shall give priority to sentence reductions for inmates confined for nonviolent offenses, inmates who are within six months of a scheduled parole, and inmates with the best records of conduct during confinement. The board shall consider the public safety, the detrimental effect of overcrowding upon inmate rehabilitation, and the best allocation of limited correctional facility resources. Guidelines adopted under this subsection shall be submitted to the senate institutions and house of representatives social and health services committees for their review. This subsection does not require the board to reduce inmate population to or below any certain number. The board may also take any other action authorized by law to modify the terms of prisoners under its jurisdiction;

(3) Call the clemency and pardons board into an emergency meeting for the purpose of recommending whether the governor's commutation or pardon power should be exercised to meet the present emergency.))

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5 6 The sentencing guidelines commission shall ensure that the inmate population of the state's residential correctional facilities does not exceed the reasonable operational capacity.

- 7 (1) When the population of state residential correctional 8 facilities exceeds reasonable operational capacity for sixty or more 9 consecutive days, the governor may declare that an emergency exists.
- 10 (2) Upon certification by the director of financial management that emergency conditions exist, the sentencing guidelines commission shall 11 convene into an emergency meeting for the purpose of adopting 12 sentencing adjustments that will reduce the inmate population to 13 14 reasonable operational capacity. Sentence reductions shall be restricted to nonviolent offenders, shall not exceed four months, and 15 shall be effective at the end of the term of confinement. Sentence 16 reductions shall be applied to offenders who have been previously 17 18 sentenced.
- (3) Sentence adjustments made under subsection (2) of this section shall be adopted in conformity with chapter 34.05 RCW and shall take effect on the date prescribed by the commission. The legislature shall approve or modify the commission's revision or amendment at the next legislative session after the sentencing adjustments take effect. Failure of the legislature to act shall be deemed as approval of the sentencing adjustments.
- 26 **Sec. 15.** RCW 9.92.151 and 1990 c 3 s 201 are each amended to read 27 as follows:

The sentence of a prisoner confined in a county jail facility for 28 29 a felony, gross misdemeanor, or misdemeanor conviction may be reduced by earned release credits in accordance with procedures that shall be 30 developed and promulgated by the correctional agency having 31 jurisdiction. The earned early release time shall be for good behavior 32 33 and good performance as determined by the correctional agency having 34 jurisdiction. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence 35 36 incarceration. The correctional agency shall not credit the offender 37 with earned early release credits in advance of the offender actually 38 earning the credits. In the case of an offender convicted of a serious

- violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence.
- 4 (1) In the case of an offender convicted of a violent offense committed on or after July 1, 1993, or an offender sentenced pursuant to RCW 9.94A.120(7), the aggregate earned early release time may not exceed one-third of the sentence. In no other case may the aggregate earned early release time exceed ((one-third)) forty-five percent of the total sentence. This subsection applies to an offender convicted of an offense before July 1, 1996.
- 11 (2) In the case of an offender convicted of an offense on or after
 12 July 1, 1996, the aggregate earned early release time may not exceed
 13 one-third of the total sentence.
- 14 **Sec. 16.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read 15 as follows:
- No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:
- (1) Except as otherwise provided for in subsection (2) of this 20 section, the term of the sentence of an offender committed to a 21 correctional facility operated by the department, may be reduced by 22 23 earned early release time in accordance with procedures that shall be 24 developed and promulgated by the correctional agency having 25 jurisdiction in which the offender is confined. The earned early release time shall be for good behavior and good performance, as 26 determined by the correctional agency having jurisdiction. 27 correctional agency shall not credit the offender with earned early 28 29 release credits in advance of the offender actually earning the 30 credits. Any program established pursuant to this section shall allow earn offender to early release credits for presentence 31 incarceration. If an offender is transferred from a county jail to the 32 33 department of corrections, the county jail facility shall certify to 34 the department the amount of time spent in custody at the facility and the amount of earned early release time. In the case of an offender 35 36 convicted of a serious violent offense or a sex offense that is a class 37 A felony committed on or after July 1, 1990, the aggregate earned early 38 release time may not exceed fifteen percent of the sentence.

- (a) In the case of an offender convicted of a violent offense committed on or after July 1, 1993, or an offender sentenced pursuant to RCW 9.94A.120(7), the aggregate earned early release time may not exceed one-third of the sentence. In no other case shall the aggregate earned early release time exceed ((one-third)) forty-five percent of the total sentence. This subsection (1)(a) applies to an offender convicted of an offense before July 1, 1996;
- 8 (b) In the case of an offender convicted of an offense on or after
 9 July 1, 1996, the aggregate earned early release time may not exceed
 10 one-third of the total sentence;
- (2) A person convicted of a sex offense or an offense categorized 11 as a serious violent offense, assault in the second degree, assault of 12 13 a child in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an 14 accomplice was armed with a deadly weapon at the time of commission, or 15 any felony offense under chapter 69.50 or 69.52 RCW may become 16 17 eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned early release 18 19 time pursuant to subsection (1) of this section;
- 20 (3) An offender may leave a correctional facility pursuant to an 21 authorized furlough or leave of absence. In addition, offenders may 22 leave a correctional facility when in the custody of a corrections 23 officer or officers;
- 24 (4) The governor, upon recommendation from the clemency and pardons 25 board, may grant an extraordinary release for reasons of serious health 26 problems, senility, advanced age, extraordinary meritorious acts, or 27 other extraordinary circumstances;
- (5) No more than the final six months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community;
 - (6) The governor may pardon any offender;

- 32 (7) The department of corrections may release an offender from 33 confinement any time within ten days before a release date calculated 34 under this section; and
- 35 (8) An offender may leave a correctional facility prior to 36 completion of his sentence if the sentence has been reduced as provided 37 in RCW 9.94A.160.

- 1 **Sec. 17.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read 2 as follows:
- 3 (1) All cities and counties are authorized to establish and 4 maintain farms, camps, and work release programs and facilities, as 5 well as special detention facilities. The facilities shall meet the 6 requirements of chapter 70.48 RCW and any rules adopted thereunder.

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- (2) Farms and camps may be established either inside or outside the territorial limits of a city or county. A sentence of confinement in a city or county jail may include placement in a farm or camp. Unless directed otherwise by court order, the chief law enforcement officer or department of corrections, may transfer the prisoner to a farm or camp. The sentencing court, chief law enforcement officer, or department of corrections may not transfer to a farm or camp a greater number of prisoners than can be furnished with constructive employment and can be reasonably accommodated.
- 16 (3) The city or county may establish a city or county work release 17 program and housing facilities for the prisoners in the program. In 18 such regard, factors such as employment conditions and the condition of 19 jail facilities should be considered. When a work release program is 20 established the following provisions apply:
- 21 (a) A person convicted of a felony and placed in a city or county 22 jail is eligible for the work release program. A person sentenced to 23 a city or county jail is eligible for the work release program. The 24 program may be used as a condition of probation for a criminal offense. 25 Good conduct is a condition of participation in the program.
 - (b) The court may permit a person who is currently, regularly employed to continue his or her employment. The chief law enforcement officer or department of corrections shall make all necessary arrangements if possible. The court may authorize the person to seek suitable employment and may authorize the chief law enforcement officer or department of corrections to make reasonable efforts to find suitable employment for the person. A person participating in the work release program may not work in an establishment where there is a labor dispute.
- 35 (c) The work release prisoner shall be confined in a work release 36 facility or jail unless authorized to be absent from the facility for 37 program-related purposes, unless the court directs otherwise.
- 38 (d) Each work release prisoner's earnings may be collected by the 39 chief law enforcement officer or a designee. The chief law enforcement

officer or a designee may deduct from the earnings moneys for the 1 2 payments for the prisoner's board, personal expenses inside and outside the jail, a share of the administrative expenses of this section, 3 4 court-ordered victim compensation, and court-ordered restitution. Support payments for the prisoner's dependents, if any, shall be made 5 as directed by the court. With the prisoner's consent, the remaining 6 7 funds may be used to pay the prisoner's preexisting debts. Any 8 remaining balance shall be returned to the prisoner.

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- (e) The prisoner's sentence may be reduced by earned early release time in accordance with procedures that shall be developed and promulgated by the work release facility. The earned early release time shall be for good behavior and good performance as determined by the facility. The facility shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence.
- (i) In the case of an offender convicted of a violent offense committed on or after July 1, 1993, or an offender sentenced pursuant to RCW 9.94A.120(7), the aggregate earned early release time may not exceed one-third of the sentence. In no other case may the aggregate earned early release time exceed ((one-third)) forty-five percent of the total sentence. This subsection (3)(e)(i) applies to an offender convicted of an offense before July 1, 1996;
- 26 (ii) In the case of an offender convicted of an offense on or after
 27 July 1, 1996, the aggregate earned early release time may not exceed
 28 one-third of the total sentence.
- (f) If the work release prisoner violates the conditions of custody or employment, the prisoner shall be returned to the sentencing court. The sentencing court may require the prisoner to spend the remainder of the sentence in actual confinement and may cancel any earned reduction of the sentence.
- 34 special detention facility (4) A may be operated 35 noncorrectional agency or by noncorrectional personnel by contract with the governing unit. The employees shall meet the standards of training 36 37 and education established by the criminal justice training commission as authorized by RCW 43.101.080. The special detention facility may 38 39 use combinations of features including, but not limited to, low-

- 1 security or honor prisoner status, work farm, work release, community
- 2 review, prisoner facility maintenance and food preparation, training
- 3 programs, or alcohol or drug rehabilitation programs. Special
- 4 detention facilities may establish a reasonable fee schedule to cover
- 5 the cost of facility housing and programs. The schedule shall be on a
- 6 sliding basis that reflects the person's ability to pay.
- 7 NEW SECTION. Sec. 18. The legislature finds that high crime rates
- 8 and a heightened sense of vulnerability have led to increased public
- 9 pressure on criminal justice officials to increase offender punishment
- 10 and remove the most dangerous criminals from the streets. As a result,
- 11 there is unprecedented growth in the corrections populations and
- 12 overcrowding of prisons and local jails. Skyrocketing costs and high
- 13 rates of recidivism have become issues of major public concern.
- 14 Attention must be directed towards implementing a long-range
- 15 corrections strategy that focuses on inmate responsibility through
- 16 intensive work ethic training.
- 17 The legislature finds that many offenders lack basic life skills
- 18 and have been largely unaffected by traditional correctional
- 19 philosophies and programs. In addition, many first-time offenders who
- 20 enter the prison system learn more about how to be criminals than the
- 21 important qualities, values, and skills needed to successfully adapt to
- 22 a life without crime.
- 23 The legislature finds that opportunities for offenders to improve
- 24 themselves are extremely limited and there has not been adequate
- 25 emphasis on alternatives to total confinement for nonviolent offenders.
- The legislature finds that the explosion of drug crimes since the
- 27 inception of the sentencing reform act and the response of the criminal
- 28 justice system have resulted in a much higher proportion of substance
- 29 abuse-affected offenders in the state's prisons and jails. The needs
- 30 of this population differ from those of other offenders and present a

great challenge to the system. The problems are exacerbated by the

- 32 shortage of drug treatment and counseling programs both in and outside
- 33 of prisons.

- 34 The legislature finds that the concept of a work ethic camp that
- 35 requires the offender to complete an appropriate and balanced
- 36 combination of highly structured and goal-oriented work programs such
- 37 as correctional industries based work camps and/or class I and class II
- 38 work projects, drug rehabilitation, and intensive life management work

1 ethic training, can successfully reduce offender recidivism and lower 2 the overall cost of incarceration.

It is the purpose and intent of sections 18 through 23 of this act to implement a regimented work ethic camp that is designed to directly address the high rate of recidivism, reduce upwardly spiraling prison costs, preserve scarce and high cost prison space for the most dangerous offenders, and provide judges with a tough and sound alternative to traditional incarceration without compromising public safety.

- NEW SECTION. **Sec. 19.** Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 18 through 23 of this act.
- 13 (1) "Department" means the department of corrections.
- 14 (2) "Secretary" means the secretary of corrections.

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- (3) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of postrelease supervision.
- (4) "First-time drug offender" means any person who is convicted of a felony for the first time in violation of chapter 69.50 RCW, or of any offense defined as a felony under federal law that relates to the possession, manufacture, or delivery of a controlled substance, or any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under current statute.
- (5) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.
- 34 (6) "Incarceration program" means the work ethic camp.
- NEW SECTION. Sec. 20. The department of corrections shall sestablish one work ethic camp. The secretary shall locate the incarceration program within an already existing department compound or

facility, or in a facility that is scheduled to come on line within the 1 initial implementation date outlined in this section. The facility 2 3 selected for an incarceration program shall appropriately accommodate 4 the logistical and cost-effective objectives contained in sections 18 through 23 of this act. The department shall be ready to assign 5 inmates to the incarceration program one hundred twenty days after the 6 7 effective date of this act. The department shall establish the work 8 ethic program cycle to last from one hundred twenty to one hundred 9 eighty days. The department shall develop all aspects of the 10 incarceration program including, but not limited to, program standards, conduct standards, educational components including general education 11 development test achievement, offender incentives, drug rehabilitation 12 13 program parameters, individual and team work goals, techniques for improving the offender's self-esteem, citizenship skills for successful 14 15 living in the community, measures to hold the offender accountable for 16 his or her behavior, and the successful completion of the incarceration 17 program granted to the offender based on successful attendance, participation, and performance as defined by the secretary. 18 19 ethic camp shall be designed and implemented so that offenders are 20 continually engaged in meaningful activities and unstructured time is kept to a minimum. In addition, the department is encouraged to 21 explore the integration and overlay of a military style approach to the 22 23 work ethic camp.

24 NEW SECTION. Sec. 21. (1) Offenders shall be recommended for 25 consideration to participate in the incarceration program at the time of their sentencing by the sentencing judge. Upon sentencing an 26 27 offender to work ethic camp, the sentencing judge shall convert the period of work ethic camp confinement at a rate of one day of work 28 29 ethic camp confinement to three days of total standard confinement. 30 Only those offenders who successfully complete their sentence in work ethic camp, as defined by the department, shall be eligible to convert 31 their sentence at this ratio. The court shall, as a component of any 32 33 sentence regarding work ethic camp, also impose a term of community 34 placement. The total time spent in the work ethic program and community placement shall not exceed the initial sentence imposed. 35 36 During the last two weeks prior to release from work ethic camp the department shall provide the offender with comprehensive transition 37 38 training. The court shall send a copy of the offender's sentence to

- 1 the department within five working days of sentencing. The department
- 2 shall arrange to take custody of the offender within its established
- 3 customary time frame after the documents have been provided to the
- 4 department by the court. The department shall then be responsible for
- 5 determining if the offender is eligible for the incarceration program
- 6 based on the following criteria:
- 7 (a) The offender is between the ages of eighteen and twenty-eight 8 years.
- 9 (b) The offender has no known physical or mental impairments that 10 would prevent his or her ability to perform the challenging physical 11 and mental activities associated with this program.
- 12 (c) The offender is a first-time drug offender or an offender who 13 is sentenced for not more than thirty-six months or less than twenty-14 two months.
- 15 (d) The offender has not been convicted of any sex offenses or 16 violent offenses.
- 17 (e) The offender agrees to and signs the terms and conditions of 18 the program designated by the secretary.
- The department shall develop written incarceration program offender eligibility criteria and make the information available to the appropriate sentencing courts.
- (2) The secretary shall prescribe the form and content of the agreement to be signed by the eligible offender before entering the incarceration program.
- 25 (3) The department may place inmates eligible for the work ethic 26 camp incarceration program in program beds that have not been utilized 27 by the court. The secretary shall ensure that court-referred inmates 28 receive priority placement in the program.
- (4) An inmate who fails to complete the incarceration program, who is administratively terminated from the incarceration program, or who otherwise violates any conditions of community placement, as defined by the department, shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and subject to all rules relating to earned early release time.
- 35 (5) An inmate who is sentenced or transferred to the incarceration 36 program shall serve no less than one hundred twenty or more than one 37 hundred eighty days as defined by the department to be considered a 38 successful graduate of the incarceration program. Because of the

1 conversion ratio, earned early release time shall not accrue to 2 offenders sentenced to the work ethic camp.

3 <u>NEW SECTION.</u> **Sec. 22.** The department work ethic program facility shall employ one hundred percent of all inmates. 4 The employment 5 available for shall include meaningful options inmates opportunities that provide the offender with real-world skills that 6 7 help the offender find employment when he or she successfully completes 8 the incarceration program. The department shall include in the 9 incarceration program, without limitation, class I, class II, and class IV correctional programs. No more than thirty-five percent of the 10 total inmate population in the facility shall be employed in class III 11 12 correctional industries programs in the first year and thereafter ten percent less per year until a maximum of ten percent of the inmates are 13 14 working in this employment class. In addition, work options shall also 15 include department-supervised work crews as defined by the department. These work crews shall have the ability to work on public roads 16 conducting litter control, minor emergency repair or other minor tasks 17 18 that do not negatively impact employment opportunities for people with 19 developmental disabilities contracted through the operation of sheltered workshops as defined in RCW 82.04.385, or have a negative 20 impact on the local labor market or local business community as 21 assessed by the department correctional industries advisory board of 22 23 directors. The department shall establish, to the extent possible, 24 programs that will positively impact our natural environment such as, 25 but not limited to, recycling programs and minor environmental cleanup programs. If the department is directed by the legislature to increase 26 the percentage of inmates employed in correctional industries programs, 27 inmates employed through work ethic camps shall not be counted towards 28 29 this total percentage.

Sec. 23. The incarceration program established in 30 NEW SECTION. sections 18 through 23 of this act shall be considered a pilot 31 32 alternative incarceration program and remain in effect until July 1, The department and the office of financial management shall 33 monitor and analyze the effectiveness of the incarceration program and 34 35 complete a final outcome evaluation study by January 15, 1998. Based on the findings of this final outcome evaluation study, the legislature 36 37 may extend the program. The study shall include: The recidivism rates

- 1 of successful program graduates, analysis of the overall program costs,
- 2 the ability to maintain public safety, and any other pertinent data
- 3 established by the department. The department may encourage interested
- 4 universities to participate in studies that will enhance the
- 5 effectiveness of the program.
- 6 The department of corrections shall seek the availability of
- 7 federal funds for the planning, implementation, evaluation, and
- 8 training of staff for work ethic camp programs, substance abuse
- 9 programs, and offender education programs.
- 10 <u>NEW SECTION.</u> **Sec. 24.** Sections 18 through 23 of this act are each
- 11 added to chapter 72.09 RCW.
- 12 <u>NEW SECTION.</u> **Sec. 25.** If any provision of this act or its
- 13 application to any person or circumstance is held invalid, the
- 14 remainder of the act or the application of the provision to other
- 15 persons or circumstances is not affected.
- 16 <u>NEW SECTION.</u> **Sec. 26.** This act is necessary for the immediate
- 17 preservation of the public peace, health, or safety, or support of the
- 18 state government and its existing public institutions, and shall take
- 19 effect July 1, 1993.
- 20 <u>NEW SECTION.</u> **Sec. 27.** The sum of two million dollars, or as much
- 21 thereof as may be necessary, is appropriated for the biennium ending
- 22 July 1, 1995, from the state general fund to the department of
- 23 corrections for the purposes of RCW 72.09.300. Expenditure of each
- 24 three dollars from this appropriation shall be matched by at least one
- 25 dollar from other funding sources available to counties."

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