

2 2SSB 5451 - S AMD - 000768

3 By Senators Hargrove, A. Smith and Rinehart

4 ADOPTED 4/14/93

5 Strike everything after the enacting clause and insert the
6 following:

7 "NEW SECTION. **Sec. 1.** The legislature finds that crowded prisons
8 are clearly one of the most pressing problems facing the criminal
9 justice system today. Even the most conservative estimates indicate
10 that despite our aggressive prison construction plan we will not be
11 able to build enough prison beds to keep pace with expected growth in
12 the prison population over the next ten years. The huge increase in
13 our prison population is not only the result of more individuals
14 committing serious crimes but also because most offenders released from
15 prison will return again. Our corrections system has become a high-
16 cost institution that perpetually recycles inmates without deterring
17 crime. As a result of these conditions, serious concerns have been
18 raised about our current corrections philosophy. Attention must be
19 directed towards implementing a long-range corrections strategy that
20 focuses on inmate responsibility through work training, the development
21 of mature and marketable job skills, and requiring inmates to pay for
22 the cost of their incarceration.

23 The combined cost of housing, maintaining, and supervising inmates
24 in our state corrections facilities is increasing beyond our capability
25 to pay. The legislature recognizes that the responsibility for
26 criminal activity must fall squarely on the criminal. Society should
27 not have to pay the price for crimes twice, once for the criminal act
28 and then again by feeding, clothing, and housing the offender. The
29 corrections system must be the first place where criminal offenders are
30 given the opportunity to be responsible for paying for their criminal
31 activity, not just through the loss of their freedom, but also by
32 working while in prison and contributing an appropriate portion of
33 their wages to the cost of their incarceration. Allowing offenders to
34 become responsible through working in meaningful jobs for real wages
35 can be a beneficial opportunity for corrections. Everyone profits from
36 a successful corrections industry program -- the prison system,

1 taxpayers, the community, families, and the inmate. Most important, an
2 inmate who is drug-free and has mature job skills is significantly more
3 likely not to return to prison.

4 It is the purpose and intent of this act to outline a comprehensive
5 strategy for reducing upwardly spiraling prison costs through an inmate
6 work responsibility program, preserving scarce prison cell space for
7 our most dangerous offenders, and providing judges with alternatives to
8 incarceration, including drug rehabilitation, that must be used without
9 jeopardizing public safety.

10 **Sec. 2.** RCW 9.94A.030 and 1992 c 145 s 6 and 1992 c 75 s 1 are
11 each reenacted and amended to read as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) "Collect," or any derivative thereof, "collect and remit," or
15 "collect and deliver," when used with reference to the department of
16 corrections, means that the department is responsible for monitoring
17 and enforcing the offender's sentence with regard to the legal
18 financial obligation, receiving payment thereof from the offender, and,
19 consistent with current law, delivering daily the entire payment to the
20 superior court clerk without depositing it in a departmental account.

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

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

26 (4) "Community custody" means that portion of an inmate's sentence
27 of confinement in lieu of earned early release time or imposed under
28 RCW 9.94A.120(7) served in the community subject to controls placed on
29 the inmate's movement and activities by the department of corrections.

30 (5) "Community placement" means that period during which the
31 offender is subject to the conditions of community custody and/or
32 postrelease supervision, which begins either upon completion of the
33 term of confinement (postrelease supervision) or at such time as the
34 offender is transferred to community custody in lieu of earned early
35 release. Community placement may consist of entirely community
36 custody, entirely postrelease supervision, or a combination of the two.

37 (6) "Community service" means compulsory service, without compensa-
38 tion, performed for the benefit of the community by the offender.

1 (7) "Community supervision" means a period of time during which a
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
6 9.94A.120(5). For purposes of the interstate compact for out-of-state
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
11 this section.

12 (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
16 money that is ordered by a superior court of the state of Washington
17 for legal financial obligations which may include restitution to the
18 victim, statutorily imposed crime victims' compensation fees as
19 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
20 drug funds, court-appointed attorneys' fees, and costs of defense,
21 fines, and any other financial obligation that is assessed to the
22 offender as a result of a felony conviction.

23 (11) "Crime-related prohibition" means an order of a court
24 prohibiting conduct that directly relates to the circumstances of the
25 crime for which the offender has been convicted, and shall not be
26 construed to mean orders directing an offender affirmatively to
27 participate in rehabilitative programs or to otherwise perform
28 affirmative conduct.

29 (12)(a) "Criminal history" means the list of a defendant's prior
30 convictions, whether in this state, in federal court, or elsewhere.
31 The history shall include, where known, for each conviction (i) whether
32 the defendant has been placed on probation and the length and terms
33 thereof; and (ii) whether the defendant has been incarcerated and the
34 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

1 fifteen years of age or older at the time the offense was committed;
2 and (iii) with respect to prior juvenile class B and C felonies or
3 serious traffic offenses, the defendant was less than twenty-three
4 years of age at the time the offense for which he or she is being
5 sentenced was committed.

6 (13) "Day fine" means a fine imposed by the sentencing judge that
7 equals the difference between the offender's net daily income and the
8 reasonable obligations that the offender has for the support of the
9 offender and any dependents.

10 (14) "Day reporting" means reporting at least once per day to a
11 specific location designated by the department or the sentencing judge
12 together with the requirement that the offender's location throughout
13 each day be reported to the department.

14 (15) "Department" means the department of corrections.

15 (~~(14)~~) (16) "Determinate sentence" means a sentence that states
16 with exactitude the number of actual years, months, or days of total
17 confinement, of partial confinement, of community supervision, the
18 number of actual hours or days of community service work, or dollars or
19 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 determinate sentence.

23 (~~(15)~~) (17) "Disposable earnings" means that part of the earnings
24 of an individual remaining after the deduction from those earnings of
25 any amount required by law to be withheld. For the purposes of this
26 definition, "earnings" means compensation paid or payable for personal
27 services, whether denominated as wages, salary, commission, bonuses, or
28 otherwise, and, notwithstanding any other provision of law making the
29 payments exempt from garnishment, attachment, or other process to
30 satisfy a court-ordered legal financial obligation, specifically
31 includes periodic payments pursuant to pension or retirement programs,
32 or insurance policies of any type, but does not include payments made
33 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
34 or Title 74 RCW.

35 (~~(16)~~) (18) "Drug offense" means:

36 (a) Any felony violation of chapter 69.50 RCW except possession of
37 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
38 controlled substance (RCW 69.50.403);

1 (b) Any offense defined as a felony under federal law that relates
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)
6 of this subsection.

7 (~~(17)~~) (19) "Escape" means:

8 (a) Escape in the first degree (RCW 9A.76.110), escape in the
9 second degree (RCW 9A.76.120), willful failure to return from furlough
10 (RCW 72.66.060), willful failure to return from work release (RCW
11 72.65.070), or willful failure to be available for supervision by the
12 department while in community custody (RCW 72.09.310); or

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

16 (~~(18)~~) (20) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
18 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
19 and-run injury-accident (RCW 46.52.020(4)); 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 a felony
22 traffic offense under (a) of this subsection.

23 (~~(19)~~) (21) "Fines" means the requirement that the offender pay
24 a specific sum of money over a specific period of time to the court.

25 (~~(20)~~) (22)(a) "First-time offender" means any person who is
26 convicted of a felony (i) not classified as a violent offense or a sex
27 offense under this chapter, or (ii) that is not the manufacture,
28 delivery, or possession with intent to manufacture or deliver a
29 controlled substance classified in schedule I or II that is a narcotic
30 drug or the selling for profit (~~(to f)~~) of any controlled substance or
31 counterfeit substance classified in schedule I, RCW 69.50.204, except
32 leaves and flowering tops of marijuana, and except as provided in (b)
33 of this subsection, who previously has never been convicted of a felony
34 in this state, federal court, or another state, and who has never
35 participated in a program of deferred prosecution for a felony offense.

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

1 (~~(21)~~) (23) "Home detention" means a program of partial
2 confinement available to offenders in which the offender is confined in
3 a private residence subject to electronic surveillance. Home detention
4 may not be imposed for offenders convicted of a violent offense, a sex
5 offense, a drug offense, reckless burning in the first or second degree
6 as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree
7 as defined in RCW 9A.36.031, assault of a child in the third degree,
8 unlawful imprisonment as defined in RCW 9A.40.040, or harassment as
9 defined in RCW 9A.46.020. Home detention may be imposed for offenders
10 convicted of possession of a controlled substance (RCW 69.50.401(d)) or
11 forged prescription for a controlled substance (RCW 69.50.403) if the
12 offender fulfills the participation conditions set forth in this
13 subsection and is monitored for drug use by treatment alternatives to
14 street crime (TASC) or a comparable court or agency-referred program.

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

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

1 rules of the home detention program and complying with court-ordered
2 restitution.

3 (24) "Inpatient treatment" means participation in a treatment
4 program certified by the state that requires the offender to be in
5 residence at the facility.

6 (25) "Nonviolent offense" means an offense which is not a violent
7 offense.

8 ~~((+22+))~~ (26) "Offender" means a person who has committed a felony
9 established by state law and is eighteen years of age or older or is
10 less than eighteen years of age but whose case has been transferred by
11 the appropriate juvenile court to a criminal court pursuant to RCW
12 13.40.110. Throughout this chapter, the terms "offender" and
13 "defendant" are used interchangeably.

14 ~~((+23+))~~ (27) "Outpatient treatment" means participation in a
15 treatment program certified by the state or recommended by the
16 department that does not require the offender to be present for more
17 than twelve hours per day.

18 (28) "Partial confinement" means confinement for no more than one
19 year in a facility or institution operated or utilized under contract
20 by the state or any other unit of government, or, if home detention or
21 work crew has been ordered by the court, in an approved residence, for
22 a substantial portion of each day with the balance of the day spent in
23 the community. Partial confinement includes work release, home
24 detention, work crew, and a combination of work crew and home detention
25 as defined in this section.

26 ~~((+24+))~~ (29) "Postrelease supervision" is that portion of an
27 offender's community placement that is not community custody.

28 ~~((+25+))~~ (30) "Restitution" means the requirement that the offender
29 pay a specific sum of money over a specific period of time to the court
30 as payment of damages. The sum may include both public and private
31 costs. The imposition of a restitution order does not preclude civil
32 redress.

33 ~~((+26+))~~ (31) "Serious traffic offense" means:

34 (a) Driving while under the influence of intoxicating liquor or any
35 drug (RCW 46.61.502), actual physical control while under the influence
36 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
37 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
38 or

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

4 (~~(+27+)~~) (32) "Serious violent offense" is a subcategory of violent
5 offense and means:

6 (a) Murder in the first degree, homicide by abuse, murder in the
7 second degree, assault in the first degree, kidnapping in the first
8 degree, or rape in the first degree, assault of a child in the first
9 degree, or an attempt, criminal solicitation, or criminal conspiracy to
10 commit one of these felonies; or

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

14 (~~(+28+)~~) (33) "Sentence range" means the sentencing court's
15 discretionary range in imposing a nonappealable sentence.

16 (~~(+29+)~~) (34) "Sex offense" means:

17 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
18 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
19 attempt, criminal solicitation, or criminal conspiracy to commit such
20 crimes;

21 (b) A felony with a finding of sexual motivation under RCW
22 9.94A.127; or

23 (c) Any federal or out-of-state conviction for an offense that
24 under the laws of this state would be a felony classified as a sex
25 offense under (a) of this subsection.

26 (~~(+30+)~~) (35) "Sexual motivation" means that one of the purposes
27 for which the defendant committed the crime was for the purpose of his
28 or her sexual gratification.

29 (~~(+31+)~~) (36) "Total confinement" means confinement inside the
30 physical boundaries of a facility or institution operated or utilized
31 under contract by the state or any other unit of government for twenty-
32 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

33 (~~(+32+)~~) (37) "Victim" means any person who has sustained
34 emotional, psychological, physical, or financial injury to person or
35 property as a direct result of the crime charged.

36 (~~(+33+)~~) (38) "Violent offense" means:

37 (a) Any of the following felonies, as now existing or hereafter
38 amended: Any felony defined under any law as a class A felony or an
39 attempt to commit a class A felony, criminal solicitation of or

1 criminal conspiracy to commit a class A felony, manslaughter in the
2 first degree, manslaughter in the second degree, indecent liberties if
3 committed by forcible compulsion, kidnapping in the second degree,
4 arson in the second degree, assault in the second degree, assault of a
5 child in the second degree, extortion in the first degree, robbery in
6 the second degree, vehicular assault, and vehicular homicide, when
7 proximately caused by the driving of any vehicle by any person while
8 under the influence of intoxicating liquor or any drug as defined by
9 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

16 (~~((34))~~) (39) "Work crew" means a program of partial confinement
17 consisting of civic improvement tasks for the benefit of the community
18 of not less than thirty-five hours per week that complies with RCW
19 9.94A.135. The civic improvement tasks shall be performed on public
20 property or on private property owned or operated by nonprofit
21 entities, except that, for emergency purposes only, work crews may
22 perform snow removal on any private property. The civic improvement
23 tasks shall have minimal negative impact on existing private industries
24 or the labor force in the county where the service or labor is
25 performed. The civic improvement tasks shall not affect employment
26 opportunities for people with developmental disabilities contracted
27 through sheltered workshops as defined in RCW 82.04.385. Only those
28 offenders sentenced to a facility operated or utilized under contract
29 by a county are eligible to participate on a work crew. Offenders
30 sentenced for a sex offense as defined in subsection (~~((29))~~) (34) of
31 this section are not eligible for the work crew program.

32 (~~((35))~~) (40) "Work release" means a program of partial confinement
33 available to offenders who are employed or engaged as a student in a
34 regular course of study at school. Participation in work release shall
35 be conditioned upon the offender attending work or school at regularly
36 defined hours and abiding by the rules of the work release facility.

37 (~~((36))~~) "~~Home detention~~" means a program of partial confinement
38 available to offenders wherein the offender is confined in a private
39 residence subject to electronic surveillance. ~~Home detention may not~~

1 be imposed for offenders convicted of a violent offense, any sex
2 offense, any drug offense, reckless burning in the first or second
3 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third
4 degree as defined in RCW 9A.36.031, assault of a child in the third
5 degree, unlawful imprisonment as defined in RCW 9A.40.040, or
6 harassment as defined in RCW 9A.46.020. Home detention may be imposed
7 for offenders convicted of possession of a controlled substance (RCW
8 69.50.401(d)) or forged prescription for a controlled substance (RCW
9 69.50.403) if the offender fulfills the participation conditions set
10 forth in this subsection and is monitored for drug use by treatment
11 alternatives to street crime (TASC) or a comparable court or agency-
12 referred program.

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

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

1 **Sec. 3.** RCW 9.94A.120 and 1992 c 145 s 7 and 1992 c 75 s 2 are
2 each reenacted and amended to read as follows:

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

5 (1) Except as authorized in subsections (2), (4), (5), ~~((and))~~ (7),
6 (8), and (21) of this section, the court shall impose a sentence within
7 the sentence range for the offense.

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

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

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

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

24 (c) An offender convicted of the crime of rape in the first degree
25 shall be sentenced to a term of total confinement not less than five
26 years, and shall not be eligible for furlough, work release or other
27 authorized leave of absence from the correctional facility during such
28 minimum five-year term except for the purpose of commitment to an
29 inpatient treatment facility.

30 (d) An offender shall be sentenced to a minimum term of confinement
31 of not less than fifteen years if the offender (i) while committed to
32 a state correctional facility for murder in the first or second degree,
33 homicide by abuse, assault in the first or second degree, rape in the
34 first or second degree, kidnapping in the first degree, robbery in the
35 first degree, arson in the first degree, or burglary in the first
36 degree; (ii) commits the crime of murder in the second degree, assault
37 in the first or second degree, rape in the first or second degree,
38 arson in the first or second degree, or robbery in the first or second
39 degree. The sentence shall be served consecutive to any term of

1 confinement remaining on the offense or offenses for which the offender
2 was committed to the state institution as provided in RCW 9.94A.400 (2)
3 and (5). An offender who commits murder in the first degree while
4 committed to a state institution for the conviction of one of the
5 offenses listed in (d)(ii) of this subsection shall serve his or her
6 sentence consecutive to any term of confinement remaining on the
7 offense or offenses for which the offender was committed to the state
8 institution. RCW 9A.20.021(1)(b), which provides that the statutory
9 maximum for class B felonies is ten years, does not apply to the crimes
10 identified in (d)(ii) of this subsection when committed in a state
11 correctional facility by an offender who is committed to the state
12 institution for a crime listed in (d)(i) of this subsection. In these
13 circumstances, the statutory maximum is a term of life imprisonment.

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

17 (5) In sentencing a first-time offender the court may waive the
18 imposition of a sentence within the sentence range and impose a
19 sentence which may include up to ninety days of confinement in a
20 facility operated or utilized under contract by the county and a
21 requirement that the offender refrain from committing new offenses.
22 The sentence may also include up to ~~((two))~~ one year~~((s))~~ of community
23 supervision, which, in addition to crime-related prohibitions, may
24 include requirements that the offender perform any one or more of the
25 following:

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

27 (b) Undergo available outpatient treatment for up to ~~((two years))~~
28 one year, or inpatient treatment not to exceed the standard range of
29 confinement for that offense;

30 (c) Pursue a prescribed, secular course of study or vocational
31 training;

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

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

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

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

9 (7)(a) An offender is eligible for the special drug offender
10 sentencing alternative if:

11 (i) The offender is convicted of the manufacture, delivery, or
12 possession with intent to manufacture or deliver a controlled substance
13 classified in schedule I or II that is a narcotic drug and the
14 violation does not involve a sentence enhancement under RCW
15 9.94A.310(3);

16 (ii) The offender has no prior or other current convictions for a
17 felony in this state, another state, or the United States;

18 (iii) The offender has not previously been sentenced under this
19 special drug offender sentencing alternative;

20 (iv) The offense involved only a small quantity of the particular
21 controlled substance, as determined by the sentencing judge upon
22 consideration of such factors as the weight, purity, packaging, sale
23 price, and street value of the controlled substance.

24 (b) If the sentencing judge determines that the offender is
25 eligible for this option and that the offender and the community will
26 benefit from the use of the special drug offender sentencing
27 alternative, the judge may waive imposition of a sentence within the
28 standard range and impose a sentence that must include a period of
29 total confinement in a state facility for one-half of the midpoint of
30 the standard range. No more than three months of the sentence may be
31 served in a work release status. The court shall also impose one year
32 of community custody that must include crime-related prohibitions, a
33 condition to not use illegal controlled substances, and to submit to
34 urinalysis or other testing to monitor that status. In addition, the
35 court may impose any of the following conditions:

36 (i) Devote time to a specific employment or training;

37 (ii) Participate in outpatient substance abuse treatment;

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

4 (iv) Report as directed to a community corrections officer;

5 (v) Pay all court-ordered legal financial obligations;

6 (vi) Perform community service work;

7 (vii) Pay a day fine;

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

9 (ix) Undergo day reporting.

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

22 (8)(a)(i) When an offender is convicted of a sex offense other than
23 a violation of RCW 9A.44.050 or a sex offense that is also a serious
24 violent offense and has no prior convictions for a sex offense or any
25 other felony sex offenses in this or any other state, the sentencing
26 court, on its own motion or the motion of the state or the defendant,
27 may order an examination to determine whether the defendant is amenable
28 to treatment.

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

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

39 (A) Frequency and type of contact between offender and therapist;

1 (B) Specific issues to be addressed in the treatment and
2 description of planned treatment modalities;

3 (C) Monitoring plans, including any requirements regarding living
4 conditions, lifestyle requirements, and monitoring by family members
5 and others;

6 (D) Anticipated length of treatment; and

7 (E) Recommended crime-related prohibitions.

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

14 (ii) After receipt of the reports, the court shall consider whether
15 the offender and the community will benefit from use of this special
16 sexual offender sentencing alternative and consider the victim's
17 opinion whether the offender should receive a treatment disposition
18 under this subsection. If the court determines that this special sex
19 offender sentencing alternative is appropriate, the court shall then
20 impose a sentence within the sentence range. If this sentence is less
21 than eight years of confinement, the court may suspend the execution of
22 the sentence and impose the following conditions of suspension:

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

26 (B) The court shall order treatment for any period up to three
27 years in duration. The court in its discretion shall order outpatient
28 sex offender treatment or inpatient sex offender treatment, if
29 available. A community mental health center may not be used for such
30 treatment unless it has an appropriate program designed for sex
31 offender treatment. The offender shall not change sex offender
32 treatment providers or treatment conditions without first notifying the
33 prosecutor, the community corrections officer, and the court, and shall
34 not change providers without court approval after a hearing if the
35 prosecutor or community corrections officer object to the change. In
36 addition, as conditions of the suspended sentence, the court may impose
37 other sentence conditions including up to six months of confinement,
38 not to exceed the sentence range of confinement for that offense,

1 crime-related prohibitions, and requirements that the offender perform
2 any one or more of the following:

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

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

7 (III) Report as directed to the court and a community corrections
8 officer;

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

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

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

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

37 (v) The court may revoke the suspended sentence at any time during
38 the period of community supervision and order execution of the sentence
39 if: (A) The defendant violates the conditions of the suspended

1 sentence, or (B) the court finds that the defendant is failing to make
2 satisfactory progress in treatment. All confinement time served during
3 the period of community supervision shall be credited to the offender
4 if the suspended sentence is revoked.

5 (vi) Except as provided in (a)(vii) of this subsection, after July
6 1, 1991, examinations and treatment ordered pursuant to this subsection
7 shall only be conducted by sex offender treatment providers certified
8 by the department of health pursuant to chapter 18.155 RCW.

9 (vii) A sex offender therapist who examines or treats a sex
10 offender pursuant to this subsection (~~((7))~~) (8) does not have to be
11 certified by the department of health pursuant to chapter 18.155 RCW if
12 the court finds that: (A) The offender has already moved to another
13 state or plans to move to another state for reasons other than
14 circumventing the certification requirements; (B) no certified
15 providers are available for treatment within a reasonable geographical
16 distance of the offender's home; and (C) the evaluation and treatment
17 plan comply with this subsection (~~((7))~~) (8) and the rules adopted by
18 the department of health.

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

24 (b) When an offender is convicted of any felony sex offense
25 committed before July 1, 1987, and is sentenced to a term of
26 confinement of more than one year but less than six years, the
27 sentencing court may, on its own motion or on the motion of the
28 offender or the state, order the offender committed for up to thirty
29 days to the custody of the secretary of social and health services for
30 evaluation and report to the court on the offender's amenability to
31 treatment at these facilities. If the secretary of social and health
32 services cannot begin the evaluation within thirty days of the court's
33 order of commitment, the offender shall be transferred to the state for
34 confinement pending an opportunity to be evaluated at the appropriate
35 facility. The court shall review the reports and may order that the
36 term of confinement imposed be served in the sexual offender treatment
37 program at the location determined by the secretary of social and
38 health services or the secretary's designee, only if the report
39 indicates that the offender is amenable to the treatment program

1 provided at these facilities. The offender shall be transferred to the
2 state pending placement in the treatment program. Any offender who has
3 escaped from the treatment program shall be referred back to the
4 sentencing court.

5 If the offender does not comply with the conditions of the
6 treatment program, the secretary of social and health services may
7 refer the matter to the sentencing court. The sentencing court shall
8 commit the offender to the department of corrections to serve the
9 balance of the term of confinement.

10 If the offender successfully completes the treatment program before
11 the expiration of the term of confinement, the court may convert the
12 balance of confinement to community supervision and may place
13 conditions on the offender including crime-related prohibitions and
14 requirements that the offender perform any one or more of the
15 following:

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

23 If the offender violates any of the terms of community supervision,
24 the court may order the offender to serve out the balance of the
25 community supervision term in confinement in the custody of the
26 department of corrections.

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

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

36 Except for an offender who has been convicted of a violation of RCW
37 9A.44.040 or 9A.44.050, if the offender completes the treatment program
38 before the expiration of his or her term of confinement, the department
39 of corrections may request the court to convert the balance of

1 confinement to community supervision and to place conditions on the
2 offender including crime-related prohibitions and requirements that the
3 offender perform any one or more of the following:

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

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

8 (iii) Report as directed to the court and a community corrections
9 officer;

10 (iv) Undergo available outpatient treatment.

11 If the offender violates any of the terms of his or her community
12 supervision, the court may order the offender to serve out the balance
13 of his community supervision term in confinement in the custody of the
14 department of corrections.

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

19 (d) Offenders convicted and sentenced for a sex offense committed
20 prior to July 1, 1987, may, subject to available funds, request an
21 evaluation by the department of corrections to determine whether they
22 are amenable to treatment. If the offender is determined to be
23 amenable to treatment, the offender may request placement in a
24 treatment program within a correctional facility operated by the
25 department. Placement in such treatment program is subject to
26 available funds.

27 ~~((+8+))~~ (9)(a) When a court sentences a person to a term of total
28 confinement to the custody of the department of corrections for an
29 offense categorized as a sex offense or a serious violent offense
30 committed after July 1, 1988, but before July 1, 1990, assault in the
31 second degree, assault of a child in the second degree, any crime
32 against a person where it is determined in accordance with RCW
33 9.94A.125 that the defendant or an accomplice was armed with a deadly
34 weapon at the time of commission, or any felony offense under chapter
35 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall
36 in addition to the other terms of the sentence, sentence the offender
37 to a one-year term of community placement beginning either upon
38 completion of the term of confinement or at such time as the offender
39 is transferred to community custody in lieu of earned early release in

1 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an
2 offender under this subsection to the statutory maximum period of
3 confinement then the community placement portion of the sentence shall
4 consist entirely of such community custody to which the offender may
5 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any
6 period of community custody actually served shall be credited against
7 the community placement portion of the sentence.

8 (b) When a court sentences a person to a term of total confinement
9 to the custody of the department of corrections for an offense
10 categorized as a sex offense or serious violent offense committed on or
11 after July 1, 1990, the court shall in addition to other terms of the
12 sentence, sentence the offender to community placement for two years or
13 up to the period of earned early release awarded pursuant to RCW
14 9.94A.150 (1) and (2), whichever is longer. The community placement
15 shall begin either upon completion of the term of confinement or at
16 such time as the offender is transferred to community custody in lieu
17 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
18 When the court sentences an offender under this subsection to the
19 statutory maximum period of confinement then the community placement
20 portion of the sentence shall consist entirely of the community custody
21 to which the offender may become eligible, in accordance with RCW
22 9.94A.150 (1) and (2). Any period of community custody actually served
23 shall be credited against the community placement portion of the
24 sentence. Unless a condition is waived by the court, the terms of
25 community placement for offenders sentenced pursuant to this section
26 shall include the following conditions:

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

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

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

33 (iv) An offender in community custody shall not unlawfully possess
34 controlled substances;

35 (v) The offender shall pay supervision fees as determined by the
36 department of corrections; and

37 (vi) The residence location and living arrangements are subject to
38 the prior approval of the department of corrections during the period
39 of community placement.

1 (c) The court may also order any of the following special
2 conditions:

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

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

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

9 (iv) The offender shall not consume alcohol; or

10 (v) The offender shall comply with any crime-related prohibitions.

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

15 (~~(9)~~) (10) If the court imposes a sentence requiring confinement
16 of thirty days or less, the court may, in its discretion, specify that
17 the sentence be served on consecutive or intermittent days. A sentence
18 requiring more than thirty days of confinement shall be served on
19 consecutive days. Local jail administrators may schedule court-ordered
20 intermittent sentences as space permits.

21 (~~(10)~~) (11) If a sentence imposed includes payment of a legal
22 financial obligation, the sentence shall specify the total amount of
23 the legal financial obligation owed, and shall require the offender to
24 pay a specified monthly sum toward that legal financial obligation.
25 Restitution to victims shall be paid prior to any other payments of
26 monetary obligations. Any legal financial obligation that is imposed
27 by the court may be collected by the department, which shall deliver
28 the amount paid to the county clerk for credit. The offender's
29 compliance with payment of legal financial obligations shall be
30 supervised by the department. All monetary payments ordered shall be
31 paid no later than ten years after the last date of release from
32 confinement pursuant to a felony conviction or the date the sentence
33 was entered. Independent of the department, the party or entity to
34 whom the legal financial obligation is owed shall have the authority to
35 utilize any other remedies available to the party or entity to collect
36 the legal financial obligation. Nothing in this section makes the
37 department, the state, or any of its employees, agents, or other
38 persons acting on their behalf liable under any circumstances for the
39 payment of these legal financial obligations. If an order includes

1 restitution as one of the monetary assessments, the county clerk shall
2 make disbursements to victims named in the order.

3 ~~((11))~~ (12) Except as provided under RCW 9.94A.140(1) and
4 9.94A.142(1), a court may not impose a sentence providing for a term of
5 confinement or community supervision or community placement which
6 exceeds the statutory maximum for the crime as provided in chapter
7 9A.20 RCW.

8 ~~((12))~~ (13) All offenders sentenced to terms involving community
9 supervision, community service, community placement, or legal financial
10 obligation shall be under the supervision of the secretary of the
11 department of corrections or such person as the secretary may designate
12 and shall follow explicitly the instructions of the secretary including
13 reporting as directed to a community corrections officer, remaining
14 within prescribed geographical boundaries, notifying the community
15 corrections officer of any change in the offender's address or
16 employment, and paying the supervision fee assessment.

17 ~~((13))~~ (14) All offenders sentenced to terms involving community
18 supervision, community service, or community placement under the
19 supervision of the department of corrections shall not own, use, or
20 possess firearms or ammunition. Offenders who own, use, or are found
21 to be in actual or constructive possession of firearms or ammunition
22 shall be subject to the appropriate violation process and sanctions.
23 "Constructive possession" as used in this subsection means the power
24 and intent to control the firearm or ammunition. "Firearm" as used in
25 this subsection means a weapon or device from which a projectile may be
26 fired by an explosive such as gunpowder.

27 ~~((14))~~ (15) The sentencing court shall give the offender credit
28 for all confinement time served before the sentencing if that
29 confinement was solely in regard to the offense for which the offender
30 is being sentenced.

31 ~~((15))~~ (16) A departure from the standards in RCW 9.94A.400 (1)
32 and (2) governing whether sentences are to be served consecutively or
33 concurrently is an exceptional sentence subject to the limitations in
34 subsections (2) and (3) of this section, and may be appealed by the
35 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

36 ~~((16))~~ (17) The court shall order restitution whenever the
37 offender is convicted of a felony that results in injury to any person
38 or damage to or loss of property, whether the offender is sentenced to
39 confinement or placed under community supervision, unless extraordinary

1 circumstances exist that make restitution inappropriate in the court's
2 judgment. The court shall set forth the extraordinary circumstances in
3 the record if it does not order restitution.

4 ~~((17))~~ (18) As a part of any sentence, the court may impose and
5 enforce an order that relates directly to the circumstances of the
6 crime for which the offender has been convicted, prohibiting the
7 offender from having any contact with other specified individuals or a
8 specific class of individuals for a period not to exceed the maximum
9 allowable sentence for the crime, regardless of the expiration of the
10 offender's term of community supervision or community placement.

11 ~~((18))~~ (19) In any sentence of partial confinement, the court may
12 require the defendant to serve the partial confinement in work release,
13 in a program of home detention, on work crew, or in a combined program
14 of work crew and home detention.

15 ~~((19))~~ (20) All court-ordered legal financial obligations
16 collected by the department and remitted to the county clerk shall be
17 credited and paid where restitution is ordered. Restitution shall be
18 paid prior to any other payments of monetary obligations.

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

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

9 **Sec. 4.** RCW 9.94A.390 and 1990 c 3 s 603 are each amended to read
10 as follows:

11 If the sentencing court finds that an exceptional sentence outside
12 the standard range should be imposed in accordance with RCW
13 9.94A.120(2), the sentence is subject to review only as provided for in
14 RCW 9.94A.210(4).

15 The following are illustrative factors which the court may consider
16 in the exercise of its discretion to impose an exceptional sentence.
17 The following are illustrative only and are not intended to be
18 exclusive reasons for exceptional sentences.

19 (1) Mitigating Circumstances

20 (a) To a significant degree, the victim was an initiator, willing
21 participant, aggressor, or provoker of the incident.

22 (b) Before detection, the defendant compensated, or made a good
23 faith effort to compensate, the victim of the criminal conduct for any
24 damage or injury sustained.

25 (c) The defendant committed the crime under duress, coercion,
26 threat, or compulsion insufficient to constitute a complete defense but
27 which significantly affected his or her conduct.

28 (d) The defendant, with no apparent predisposition to do so, was
29 induced by others to participate in the crime.

30 (e) The defendant's capacity to appreciate the wrongfulness of his
31 or her conduct or to conform his or her conduct to the requirements of
32 the law, was significantly impaired (voluntary use of drugs or alcohol
33 is excluded).

34 (f) The offense was principally accomplished by another person and
35 the defendant manifested extreme caution or sincere concern for the
36 safety or well-being of the victim.

1 (g) The operation of the multiple offense policy of RCW 9.94A.400
2 results in a presumptive sentence that is clearly excessive in light of
3 the purpose of this chapter, as expressed in RCW 9.94A.010.

4 (h) The defendant or the defendant's children suffered a continuing
5 pattern of physical or sexual abuse by the victim of the offense and
6 the offense is a response to that abuse.

7 (2) Aggravating Circumstances

8 (a) The defendant's conduct during the commission of the current
9 offense manifested deliberate cruelty to the victim.

10 (b) The defendant knew or should have known that the victim of the
11 current offense was particularly vulnerable or incapable of resistance
12 due to extreme youth, advanced age, disability, or ill health.

13 (c) The current offense was a major economic offense or series of
14 offenses, so identified by a consideration of any of the following
15 factors:

16 (i) The current offense involved multiple victims or multiple
17 incidents per victim;

18 (ii) The current offense involved attempted or actual monetary loss
19 substantially greater than typical for the offense;

20 (iii) The current offense involved a high degree of sophistication
21 or planning or occurred over a lengthy period of time;

22 (iv) The defendant used his or her position of trust, confidence,
23 or fiduciary responsibility to facilitate the commission of the current
24 offense.

25 (d) The current offense was a major violation of the Uniform
26 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
27 trafficking in controlled substances, which was more onerous than the
28 typical offense of its statutory definition: The presence of ANY of
29 the following may identify a current offense as a major VUCSA:

30 (i) The current offense involved at least three separate
31 transactions in which controlled substances were sold, transferred, or
32 possessed with intent to do so; or

33 (ii) The current offense involved an attempted or actual sale or
34 transfer of controlled substances in quantities substantially larger
35 than for personal use; or

36 (iii) The current offense involved the manufacture of controlled
37 substances for use by other parties; or

38 (iv) The circumstances of the current offense reveal the offender
39 to have occupied a high position in the drug distribution hierarchy; or

1 (v) The current offense involved a high degree of sophistication or
2 planning or occurred over a lengthy period of time or involved a broad
3 geographic area of disbursement; or

4 (vi) The offender used his or her position or status to facilitate
5 the commission of the current offense, including positions of trust,
6 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
7 other medical professional)~~((;or))~~.

8 (e) The defendant is being sentenced for an offense involving the
9 use or threatened use of physical violence and poses a future danger of
10 violent behavior that will not be sufficiently mitigated by a period of
11 incarceration within the standard range. This finding may be made upon
12 conviction of any violent offense and must be supported by:

13 (i) A history of similar misconduct. This history may be
14 established by prior criminal convictions or other competent evidence;
15 and

16 (ii) A finding that the defendant is not amenable to treatment.
17 The following are among the factors the court may consider in making
18 such a finding:

19 (A) The opinion of a mental health professional that the defendant
20 would likely not be amenable to treatment;

21 (B) The defendant has been refused treatment at all available
22 facilities;

23 (C) The defendant refuses to cooperate with necessary evaluations
24 to determine the usefulness of treatment; or

25 (D) The current offense was committed less than six months after
26 the defendant was released from incarceration for a similar offense.

27 (f) The current offense included a finding of sexual motivation
28 pursuant to RCW 9.94A.127((;)).

29 ~~((;f))~~ (g) The offense was part of an ongoing pattern of sexual
30 abuse of the same victim under the age of eighteen years manifested by
31 multiple incidents over a prolonged period of time~~((;or))~~.

32 ~~((;g))~~ (h) The operation of the multiple offense policy of RCW
33 9.94A.400 results in a presumptive sentence that is clearly too lenient
34 in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

35 **Sec. 5.** RCW 9.94A.440 and 1992 c 145 s 11 and 1992 c 75 s 5 are
36 each reenacted and amended to read as follows:

37 (1) Decision not to prosecute.

1 STANDARD: A prosecuting attorney may decline to prosecute, even
2 though technically sufficient evidence to prosecute exists, in
3 situations where prosecution would serve no public purpose, would
4 defeat the underlying purpose of the law in question or would result in
5 decreased respect for the law.

6 GUIDELINE/COMMENTARY:

7 Examples

8 The following are examples of reasons not to prosecute which could
9 satisfy the standard.

10 (a) Contrary to Legislative Intent - It may be proper to decline to
11 charge where the application of criminal sanctions would be clearly
12 contrary to the intent of the legislature in enacting the particular
13 statute.

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

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

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

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

21 (iv) The statute has not been recently reconsidered by the
22 legislature.

23 This reason is not to be construed as the basis for declining cases
24 because the law in question is unpopular or because it is difficult to
25 enforce.

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

29 (d) Confinement on Other Charges - Except for crimes committed by
30 prisoners in state correctional facilities as provided in RCW
31 9.94A.120(21), it may be proper to decline to charge because the
32 accused has been sentenced on another charge to a lengthy period of
33 confinement; and

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

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

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

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

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

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

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

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

11 (f) High Disproportionate Cost of Prosecution - It may be proper to
12 decline to charge where the cost of locating or transporting, or the
13 burden on, prosecution witnesses is highly disproportionate to the
14 importance of prosecuting the offense in question. This reason should
15 be limited to minor cases and should not be relied upon in serious
16 cases.

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

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

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

30 (i) Assault cases where the victim has suffered little or no
31 injury;

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

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

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

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

39 Notification

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

3 (2) Decision to prosecute.

4 STANDARD:

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

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

20 See table below for the crimes within these categories.

21 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

22 CRIMES AGAINST PERSONS

23 Aggravated Murder

24 1st Degree Murder

25 2nd Degree Murder

26 1st Degree Kidnaping

27 1st Degree Assault

28 1st Degree Assault of a Child

29 1st Degree Rape

30 1st Degree Robbery

31 1st Degree Rape of a Child

32 1st Degree Arson

33 2nd Degree Kidnaping

34 2nd Degree Assault

35 2nd Degree Assault of a Child

36 2nd Degree Rape

37 2nd Degree Robbery

38 1st Degree Burglary

1 1st Degree Manslaughter
2 2nd Degree Manslaughter
3 1st Degree Extortion
4 Indecent Liberties
5 Incest
6 2nd Degree Rape of a Child
7 Vehicular Homicide
8 Vehicular Assault
9 3rd Degree Rape
10 3rd Degree Rape of a Child
11 1st Degree Child Molestation
12 2nd Degree Child Molestation
13 3rd Degree Child Molestation
14 2nd Degree Extortion
15 1st Degree Promoting Prostitution
16 Intimidating a Juror
17 Communication with a Minor
18 Intimidating a Witness
19 Intimidating a Public Servant
20 Bomb Threat (if against person)
21 3rd Degree Assault
22 3rd Degree Assault of a Child
23 Unlawful Imprisonment
24 Promoting a Suicide Attempt
25 Riot (if against person)

26 CRIMES AGAINST PROPERTY/OTHER CRIMES
27 2nd Degree Arson
28 1st Degree Escape
29 2nd Degree Burglary
30 1st Degree Theft
31 1st Degree Perjury
32 1st Degree Introducing Contraband
33 1st Degree Possession of Stolen Property
34 Bribery
35 Bribing a Witness
36 Bribe received by a Witness
37 Bomb Threat (if against property)
38 1st Degree Malicious Mischief
39 2nd Degree Theft

1 2nd Degree Escape
2 2nd Degree Introducing Contraband
3 2nd Degree Possession of Stolen Property
4 2nd Degree Malicious Mischief
5 1st Degree Reckless Burning
6 Taking a Motor Vehicle without Authorization
7 Forgery
8 2nd Degree Perjury
9 2nd Degree Promoting Prostitution
10 Tampering with a Witness
11 Trading in Public Office
12 Trading in Special Influence
13 Receiving/Granting Unlawful Compensation
14 Bigamy
15 Eluding a Pursuing Police Vehicle
16 Willful Failure to Return from Furlough
17 Escape from Community Custody
18 Riot (if against property)
19 Thefts of Livestock

20 ALL OTHER UNCLASSIFIED FELONIES

21 Selection of Charges/Degree of Charge

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

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

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

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

29 Overcharging includes:

30 (a) Charging a higher degree;

31 (b) Charging additional counts.

32 This standard is intended to direct prosecutors to charge those
33 crimes which demonstrate the nature and seriousness of a defendant's
34 criminal conduct, but to decline to charge crimes which are not
35 necessary to such an indication. Crimes which do not merge as a matter
36 of law, but which arise from the same course of conduct, do not all
37 have to be charged.

1 GUIDELINES/COMMENTARY:

2 Police Investigation

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

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

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

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

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

17 Exceptions

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

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

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

23 (3) The arrest of the suspect is necessary to complete the
24 investigation of the crime.

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

30 Investigation Techniques

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

33 (1) Polygraph testing;

34 (2) Hypnosis;

35 (3) Electronic surveillance;

36 (4) Use of informants.

37 Pre-Filing Discussions with Defendant

1 Discussions with the defendant or ((his/her)) a representative
2 regarding the selection or disposition of charges may occur prior to
3 the filing of charges, and potential agreements can be reached.

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

6 (1) The indeterminate ((sentencing)) sentence review board shall
7 cease to exist on June 30, 1998. Prior to June 30, 1998, the board
8 shall review each inmate convicted of crimes committed before July 1,
9 1984, and prepare a report. This report shall include a recommendation
10 regarding the offender's suitability for parole, appropriate parole
11 conditions, and, for those persons committed under a mandatory life
12 sentence, duration of confinement.

13 (2) ((The governor, through the office of financial management,
14 shall recommend to the legislature alternatives for carrying out the
15 duties of)) To facilitate termination of the board on June 30, 1998,
16 the board shall prepare a detailed plan and recommendations for the
17 transfer of jurisdiction over inmates and parolees remaining subject to
18 the indeterminate sentencing system. The plan shall consider ex post
19 facto issues and public safety concerns. In developing
20 recommendations, the ((office of financial management)) board shall
21 consult with the ((indeterminate sentence review board)) office of
22 financial management, the attorney general, the Washington association
23 of prosecuting attorneys, the Washington defender association, the
24 department of corrections, and the administrator for the courts.
25 Recommendations shall include an indication of to whom jurisdiction
26 over the inmates and parolees should be transferred, a detailed fiscal
27 analysis, and if necessary, recommended formulas and procedures for the
28 reimbursement of costs to local governments ((if necessary)). The plan
29 and recommendations shall be presented to the ((1997)) legislature no
30 later than December 1, 1995.

31 **Sec. 7.** RCW 9.95.210 and 1992 c 86 s 1 are each amended to read as
32 follows:

33 In granting probation, the court may suspend the imposition or the
34 execution of the sentence and may direct that the suspension may
35 continue upon such conditions and for such time as it shall designate,
36 not exceeding the maximum term of sentence or two years, whichever is
37 longer.

1 In the order granting probation and as a condition thereof, the
2 court may in its discretion imprison the defendant in the county jail
3 for a period not exceeding one year and may fine the defendant any sum
4 not exceeding the statutory limit for the offense committed, and court
5 costs. As a condition of probation, the court shall require the
6 payment of the penalty assessment required by RCW 7.68.035. The court
7 may also require the defendant to make such monetary payments, on such
8 terms as it deems appropriate under the circumstances, as are necessary
9 (1) to comply with any order of the court for the payment of family
10 support, (2) to make restitution to any person or persons who may have
11 suffered loss or damage by reason of the commission of the crime in
12 question or when the offender pleads guilty to a lesser offense or
13 fewer offenses and agrees with the prosecutor's recommendation that the
14 offender be required to pay restitution to a victim of an offense or
15 offenses which are not prosecuted pursuant to a plea agreement, (3) to
16 pay such fine as may be imposed and court costs, including
17 reimbursement of the state for costs of extradition if return to this
18 state by extradition was required, (4) following consideration of the
19 financial condition of the person subject to possible electronic
20 monitoring, to pay for the costs of electronic monitoring if that
21 monitoring was required by the court as a condition of release from
22 custody or as a condition of probation, and (5) to contribute to a
23 county or interlocal drug fund, and may require bonds for the faithful
24 observance of any and all conditions imposed in the probation. In the
25 case of felony offense, the court shall order the probationer to report
26 to the secretary of corrections or such officer as the secretary may
27 designate and as a condition of the probation to follow implicitly the
28 instructions of the secretary. Misdemeanants shall be assigned to the
29 county for probation. If the probationer has been ordered to make
30 restitution, the officer supervising the probationer shall make a
31 reasonable effort to ascertain whether restitution has been made. If
32 restitution has not been made as ordered, the officer shall inform the
33 prosecutor of that violation of the terms of probation not less than
34 three months prior to the termination of the probation period. The
35 secretary of corrections will promulgate rules and regulations for the
36 conduct of the person during the term of probation. For defendants
37 found guilty in district court, like functions as the secretary
38 performs in regard to probation may be performed by probation officers

1 employed for that purpose by the county legislative authority of the
2 county wherein the court is located.

3 **Sec. 8.** RCW 9.96.050 and 1980 c 75 s 1 are each amended to read as
4 follows:

5 When a prisoner on parole has performed the obligations of his or
6 her release for such time as shall satisfy the indeterminate sentence
7 review board (~~((of prison terms and paroles))~~) that his or her final
8 release is not incompatible with the best interests of society and the
9 welfare of the paroled individual, the board may make a final order of
10 discharge and issue a certificate of discharge to the prisoner. The
11 board retains the jurisdiction to issue a certificate of discharge
12 after the expiration of the prisoner's or parolee's maximum statutory
13 sentence(~~(: PROVIDED, That no such order of discharge shall be made in~~
14 ~~any case within a period of less than one year from the date on which~~
15 ~~the board has conditionally discharged the parolee from active~~
16 ~~supervision by a probation and parole officer, except where the~~
17 ~~parolee's maximum statutory sentence expires earlier)). If not granted
18 earlier, the board shall make a final order of discharge three years
19 from the date of parole unless the parolee is on suspended or revoked
20 status at the expiration of the three years. Such discharge,
21 regardless of when issued, shall have the effect of restoring all civil
22 rights lost by operation of law upon conviction, and the certification
23 of discharge shall so state. This restoration of civil rights does not
24 restore the right to receive, possess, own, or transport firearms.~~

25 The discharge provided for in this section shall be considered as
26 a part of the sentence of the convicted person and shall not in any
27 manner be construed as affecting the powers of the governor to pardon
28 any such person.

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

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

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

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

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

8 (2) Gross Misdemeanor. Every person convicted of a gross
9 misdemeanor defined in Title 9A RCW shall be punished by imprisonment
10 in the county jail for a maximum term fixed by the court of not more
11 than one year, or by a fine in an amount fixed by the court of not more
12 than five thousand dollars, or by both such imprisonment and fine.

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

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

20 **Sec. 10.** RCW 43.19.534 and 1986 c 94 s 2 are each amended to read
21 as follows:

22 State agencies, the legislature, and departments shall purchase for
23 their use all ((articles or products)) goods and services required by
24 the legislature, agencies, or departments ((which)) that are produced
25 or provided in whole or in part from class II inmate work programs
26 operated by the department of corrections through state contract.
27 These ((articles and products)) goods and services shall not be
28 purchased from any other source unless, upon application by the
29 department or agency: (1) The department of general administration
30 finds that the articles or products do not meet the reasonable
31 requirements of the agency or department, (2) are not of equal or
32 better quality, or (3) the price of the product or service is higher
33 than that produced by the private sector. However, the criteria
34 contained in (1), (2), and (3) of this section for purchasing goods and
35 services from sources other than correctional industries do not apply
36 to goods and services produced by correctional industries that
37 primarily replace goods manufactured or services obtained from outside
38 the state. The department of corrections and department of general

1 administration shall adopt administrative rules that implement this
2 section.

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

5 (1) The secretary shall increase inmate participation in class I
6 and class II correctional industries work programs incrementally until
7 a combined total of fifteen percent of all eligible physically and
8 mentally able inmates are employed in class I and class II programs by
9 December 30, 1998, and thirty percent by December 30, 2001. "Eligible
10 physically and mentally able inmates" includes all inmates in
11 department facilities except inmates determined to be incapable of
12 working in correctional industries work programs due to one of the
13 following reasons only:

14 (a) The inmate has a chronic mental deficiency or is mentally
15 retarded and participation in work programs is impossible;

16 (b) The inmate has a physical disability or illness making
17 participation in work programs impossible;

18 (c) The inmate is housed in an intensive management unit.

19 (2) The department shall deduct at least fifty percent from the
20 gross wages of each inmate working in correctional industries. This
21 amount shall be first used to pay any court-ordered legal financial
22 obligations the defendant is required to pay. Upon full payment of
23 legal financial obligations, the deduction shall be deposited into a
24 department personal inmate savings account until the account reaches at
25 least two hundred fifty dollars. Thereafter, all inmates working in
26 class I, class II, class III, and class IV correctional industries
27 programs shall pay fifty percent of their gross wages earned, up to six
28 dollars per hour, toward the cost of incarceration so long as the
29 inmate has retained at least two hundred fifty dollars in a department
30 personal inmate savings account.

31 (3) The department shall explore other methods of recovering a
32 portion of the cost of the inmate's incarceration and for encouraging
33 participation in work programs, including development of incentive
34 programs that offer inmates benefits and amenities paid for only from
35 wages earned while working in a correctional industries work program.

36 (4) The department shall develop the necessary administrative
37 structure to recover inmates' wages and keep records of the amount
38 inmates pay for the costs of incarceration and amenities. All funds

1 gained from this section shall be deposited in a dedicated fund with
2 the department and shall be used only for the purpose of enhancing and
3 maintaining the correctional industries program until December 31,
4 2000, and thereafter all funds shall be deposited in the general fund.

5 (5) The expansion of inmate employment in class I and class II
6 correctional industries shall be limited to the expanded use of
7 existing correctional industry facilities and any new facilities funded
8 in the 1993-95 budget, and any expansions funded from the recovery of
9 inmate wages described in subsection (4) of this section. The
10 department shall maximize the use of existing facilities to the fullest
11 possible extent, including the addition of second and third shifts of
12 workers where possible.

13 **Sec. 12.** RCW 72.09.070 and 1989 c 185 s 4 are each amended to read
14 as follows:

15 (1) There is created a correctional industries board of directors
16 which shall have the composition provided in RCW 72.09.080.

17 (2) Consistent with general department of corrections policies and
18 procedures pertaining to the general administration of correctional
19 facilities, the board shall establish and implement policy for
20 correctional industries programs designed to:

21 (a) Offer inmates meaningful employment, work experience, and
22 training in vocations (~~which may provide~~) that are specifically
23 designed to reduce recidivism and thereby enhance public safety by
24 providing opportunities for legitimate means of livelihood upon their
25 release from custody;

26 (b) Provide industries which will reduce the tax burden of
27 corrections and save taxpayers money through production of goods and
28 services for sale and use;

29 (c) Operate correctional work programs in an effective and
30 efficient manner which are as similar as possible to those provided by
31 the private sector;

32 (d) Encourage the development of and provide for selection of,
33 contracting for, and supervision of work programs with participating
34 private enterprise firms;

35 (e) Develop and design correctional industries work programs;

36 (f) Invest available funds in correctional industries enterprises
37 and meaningful work programs that minimize the impact on in-state jobs
38 and businesses.

1 (3) The board of directors shall at least annually review the work
2 performance of the director of correctional industries division with
3 the secretary.

4 (4) The director of correctional industries division shall review
5 and evaluate the productivity, funding, and appropriateness of all
6 correctional work programs and report on their effectiveness to the
7 board and to the secretary.

8 (5) The board of directors shall have the authority to identify and
9 establish trade advisory or apprenticeship committees to advise them on
10 correctional industries work programs. The secretary shall appoint the
11 members of the committees.

12 Where a labor management trade advisory and apprenticeship
13 committee has already been established by the department pursuant to
14 RCW 72.62.050 the existing committee shall also advise the board of
15 directors.

16 **Sec. 13.** RCW 72.09.080 and 1989 c 185 s 5 are each amended to read
17 as follows:

18 (1) The correctional industries board of directors shall consist of
19 nine voting members, appointed by the governor (~~((upon recommendation by~~
20 ~~the secretary))~~). Each member shall serve a three-year staggered term.
21 Initially, the governor shall appoint three members to one-year terms,
22 three members to two-year terms, and three members to three-year terms.
23 The speaker of the house of representatives and the president of the
24 senate shall each appoint one member from each of the two largest
25 caucuses in their respective houses. The legislators so appointed
26 shall be nonvoting members and shall serve two-year terms, or until
27 they cease to be members of the house from which they were appointed,
28 whichever occurs first. The nine members appointed by the governor
29 shall include three representatives from ~~((both))~~ labor ~~((and~~
30 ~~industry))~~, three representatives from business representing cross-
31 sections of industries and all sizes of employers, and three members
32 from the general public.

33 (2) The board of directors shall elect a chair and such other
34 officers as it deems appropriate from among the voting members.

35 (3) The voting members of the board of directors shall serve with
36 compensation pursuant to RCW 43.03.240 and shall be reimbursed by the
37 department for travel expenses and per diem under RCW 43.03.050 and

1 43.03.060, as now or hereafter amended. Legislative members shall be
2 reimbursed under RCW 44.04.120, as now or hereafter amended.

3 (4) The secretary shall provide such staff services, facilities,
4 and equipment as the board shall require to carry out its duties.

5 **Sec. 14.** RCW 72.09.110 and 1991 c 133 s 1 are each amended to read
6 as follows:

7 All inmates working in prison industries shall participate in the
8 cost of corrections, including costs to develop and implement
9 correctional industries programs(~~(. The secretary shall develop a~~
10 ~~formula which can be used to determine the extent to which the wages of~~
11 ~~these inmates will be deducted for this purpose. The amount so~~
12 ~~deducted shall be placed in the general fund and shall be a reasonable~~
13 ~~amount which will not unduly discourage the incentive to work)), by
14 means of deductions from their gross wages. The secretary may direct
15 the state treasurer to deposit a portion of these moneys in the crime
16 victims compensation account. (~~Except~~) The secretary shall direct
17 that all moneys received by an inmate(~~(7)~~) for testifying in any
18 judicial proceeding(~~(7-90)~~) shall be deposited into the crime victims
19 compensation account.~~

20 When the secretary finds it appropriate and not unduly destructive
21 of the work incentive, the secretary (~~shall~~) may also provide
22 deductions for (~~restitution7~~) savings(~~(7)~~) and family support.

23 **Sec. 15.** RCW 72.60.160 and 1981 c 136 s 103 are each amended to
24 read as follows:

25 All articles, materials, services, and supplies (~~herein~~)
26 authorized by this chapter to be produced or manufactured in
27 correctional institutions (~~may~~) shall be purchased from the
28 institution producing or manufacturing the same by any state agency
29 (~~or political subdivision of the state~~) through state contract as set
30 forth in RCW 43.19.534, and the secretary shall require those
31 institutions under his direction to give preference to the purchasing
32 of their needs of such articles as are so produced.

33 NEW SECTION. **Sec. 16.** By January 1, 1994, the secretary of
34 corrections shall submit a report to the chief clerk of the house of
35 representatives and secretary of the senate containing an
36 identification and description of any impediments which the secretary

1 believes might prevent the department from achieving compliance with
2 the inmate work participation percentages specified in section 11 of
3 this act. The secretary also shall include, in the report, alternative
4 ways to remove any identified impediments. The chief clerk and
5 secretary shall distribute the report to the appropriate standing
6 committees.

7 NEW SECTION. **Sec. 17.** The following acts or parts of acts are
8 each repealed:

9 (1) RCW 72.09.102 and 1986 c 94 s 1; and

10 (2) RCW 72.60.190 and 1981 c 136 s 104, 1979 ex.s. c 160 s 4, &
11 1959 c 28 s 72.60.190.

12 NEW SECTION. **Sec. 18.** 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 **2SSB 5451** - S AMD

17 By Senators Hargrove, A. Smith and Rinehart

18 ADOPTED 4/14/93

19 In line 1 of the title, after "felonies;" strike the remainder of
20 the title and insert "amending RCW 9.94A.390, 9.95.0011, 9.95.210,
21 9.96.050, 9A.20.021, 43.19.534, 72.09.070, 72.09.080, 72.09.110, and
22 72.60.160; reenacting and amending RCW 9.94A.030, 9.94A.120, and
23 9.94A.440; adding new a section to chapter 72.09 RCW; creating new
24 sections; repealing RCW 72.09.102 and 72.60.190; and prescribing
25 penalties."

--- END ---