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HOUSE BILL 2053

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State of Washington

53rd Legislature

1993 Regular Session

By Representatives Morris, Long, R. Fisher and Ogden; by request of Governor Lowry

Read first time 02/24/93. Referred to Committee on Corrections.

1 AN ACT Relating to sentencing; amending RCW 9.94A.040, 9.94A.150,  
2 9.94A.160, 9.94A.190, 9.94A.200, 9.94A.270, 9.94A.310, and 9A.56.040;  
3 reenacting and amending RCW 9.94A.030, 9.94A.120, 9.94A.320, 9.94A.360,  
4 and 9.94A.380; adding a new section to chapter 9.94A RCW; adding a new  
5 section to chapter 9A.56 RCW; adding a new section to chapter 72.09  
6 RCW; creating a new section; prescribing penalties; providing an  
7 effective date; and declaring an emergency.

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

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

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

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

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

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

6 (4) "Community custody" means that portion of an inmate's sentence  
7 of confinement in lieu of earned early release time or imposed pursuant  
8 to RCW 9.94A.120 (7) or (10) served in the community subject to  
9 controls placed on the inmate's movement and activities by the  
10 department of corrections.

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

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

20 (7) "Community supervision" means a period of time during which a  
21 convicted offender is subject to crime-related prohibitions and other  
22 sentence conditions imposed by a court pursuant to this chapter or RCW  
23 46.61.524. For first-time offenders, the supervision may include  
24 crime-related prohibitions and other conditions imposed pursuant to RCW  
25 9.94A.120(5). For purposes of the interstate compact for out-of-state  
26 supervision of parolees and probationers, RCW 9.95.270, community  
27 supervision is the functional equivalent of probation and should be  
28 considered the same as probation by other states.

29 (8) "Confinement" means total or partial confinement as defined in  
30 this section.

31 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
32 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
33 acceptance of a plea of guilty.

34 (10) "Court-ordered legal financial obligation" means a sum of  
35 money that is ordered by a superior court of the state of Washington  
36 for legal financial obligations which may include restitution to the  
37 victim, statutorily imposed crime victims' compensation fees as  
38 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
39 drug funds, court-appointed attorneys' fees, and costs of defense,

1 fines, and any other financial obligation that is assessed to the  
2 offender as a result of a felony conviction.

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

9 (12)(a) "Criminal history" means the list of a defendant's prior  
10 convictions, whether in this state, in federal court, or elsewhere.  
11 The history shall include, where known, for each conviction (i) whether  
12 the defendant has been placed on probation and the length and terms  
13 thereof; and (ii) whether the defendant has been incarcerated and the  
14 length of incarceration.

15 (b) "Criminal history" shall always include juvenile convictions  
16 for sex offenses and shall also include a defendant's other prior  
17 convictions in juvenile court if: (i) The conviction was for an  
18 offense which is a felony or a serious traffic offense and is criminal  
19 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was  
20 fifteen years of age or older at the time the offense was committed;  
21 and (iii) with respect to prior juvenile class B and C felonies or  
22 serious traffic offenses, the defendant was less than twenty-three  
23 years of age at the time the offense for which he or she is being  
24 sentenced was committed.

25 (13) "Day fine" means a fine imposed by the sentencing judge which  
26 equals the difference between the offender's net daily income and the  
27 reasonable obligations which the offender has for the support of the  
28 offender and any dependents.

29 (14) "Day reporting" means reporting at least once per day to a  
30 specific location designated by the department of corrections or the  
31 sentencing judge together with the requirement that the offender's  
32 location throughout each day be reported to the department of  
33 corrections.

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

35 (~~(14)~~) (16) "Determinate sentence" means a sentence that states  
36 with exactitude the number of actual years, months, or days of total  
37 confinement, of partial confinement, of community supervision, the  
38 number of actual hours or days of community service work, or dollars or  
39 terms of a legal financial obligation. The fact that an offender

1 through "earned early release" can reduce the actual period of  
2 confinement shall not affect the classification of the sentence as a  
3 determinate sentence.

4 (~~(15)~~) (17) "Disposable earnings" means that part of the earnings  
5 of an individual remaining after the deduction from those earnings of  
6 any amount required by law to be withheld. For the purposes of this  
7 definition, "earnings" means compensation paid or payable for personal  
8 services, whether denominated as wages, salary, commission, bonuses, or  
9 otherwise, and, notwithstanding any other provision of law making the  
10 payments exempt from garnishment, attachment, or other process to  
11 satisfy a court-ordered legal financial obligation, specifically  
12 includes periodic payments pursuant to pension or retirement programs,  
13 or insurance policies of any type, but does not include payments made  
14 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
15 or Title 74 RCW.

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

17 (a) Any felony violation of chapter 69.50 RCW except possession of  
18 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
19 controlled substance (RCW 69.50.403);

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

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

26 (~~(17)~~) (19) "Drug or alcohol monitoring" means the obligation to  
27 remain free of any nonprescribed controlled substance or of any  
28 alcoholic beverage and to submit to periodic testing in a program to  
29 monitor that status as directed by the department of corrections, such  
30 as drug monitoring under a treatment alternatives to street crime  
31 (TASC) or comparable program.

32 (20) "Education or training" means participation in a formal  
33 program of education or training which has state certification.

34 (21) "Eligible offender" means any person (a) who has been  
35 convicted of a nonviolent offense that is not a sex offense and that is  
36 not the manufacture, delivery, or possession with intent to manufacture  
37 or deliver a controlled substance classified in schedule I or II that  
38 is a narcotic drug or the selling for profit any controlled substance  
39 or counterfeit substance classified in schedule I, RCW 69.50.204,

1 except leaves and flowering tops of marijuana, (b) who has no prior or  
2 other current convictions for a violent offense or a sex offense, and  
3 (c) who has not more than two prior convictions in this state, another  
4 state, or the United States of nonviolent felony offenses. For the  
5 purpose of this subsection a juvenile adjudication for an offense,  
6 other than a sex offense, committed before the age of fifteen years is  
7 not a previous felony conviction.

8 (22) "Escape" means:

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

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

17 ~~((18))~~ (23) "Felony traffic offense" means:

18 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
19 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
20 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

1        ~~((21))~~ (26) "Home detention" means a program of partial  
2 confinement available to offenders wherein 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, any  
5 sex offense, any drug offense, reckless burning in the first or second  
6 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third  
7 degree as defined in RCW 9A.36.031, assault of a child in the third  
8 degree, unlawful imprisonment as defined in RCW 9A.40.040, or  
9 harassment as defined in RCW 9A.46.020. Home detention may be imposed  
10 for offenders convicted of possession of a controlled substance (RCW  
11 69.50.401(d)) or forged prescription for a controlled substance (RCW  
12 69.50.403) if the offender fulfills the participation conditions set  
13 forth in this subsection and is monitored for drug use by treatment  
14 alternatives to street crime (TASC) or a comparable court or agency-  
15 referred program.

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

32        (27) "Inpatient treatment" means participation in a treatment  
33 program certified by the state which requires the offender to be  
34 present at least twelve hours per day.

35        (28) "Modified sentence option" means the modification of a  
36 sentence within the standard sentence range, based upon an assessment  
37 and recommendation submitted to the court by the department within four  
38 months of the date of sentence, whereby the court reviews the proposed  
39 modification of the original sentence that imposes sentence options as

1 provided for in RCW 9.94A.380 and places the offender under supervision  
2 by the department for up to the original sentence.

3 (29) "Nonviolent offense" means an offense which is not a violent  
4 offense.

5 ~~((22))~~ (30) "Offender" means a person who has committed a felony  
6 established by state law and is eighteen years of age or older or is  
7 less than eighteen years of age but whose case has been transferred by  
8 the appropriate juvenile court to a criminal court pursuant to RCW  
9 13.40.110. Throughout this chapter, the terms "offender" and  
10 "defendant" are used interchangeably.

11 ~~((23))~~ (31) "Outpatient treatment" means participation in a  
12 treatment program certified by the state or recommended by the  
13 department of corrections which does not require the offender to be  
14 present for more than twelve hours per day.

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

23 ~~((24))~~ (33) "Persistent offender" is an offender who:

24 (a) Has been convicted in this state of any felony considered a  
25 serious violent offense; and

26 (b) Has, before the commission of the offense under (a) of this  
27 subsection, been convicted as an offender on at least two separate  
28 occasions, whether in this state or elsewhere, of felonies that under  
29 the laws of this state would be considered serious violent offenses  
30 provided that of the two or more previous convictions, at least one  
31 conviction must have occurred before the commission of any of the other  
32 serious violent offenses for which the offender was previously  
33 convicted.

34 (34) "Postrelease supervision" is that portion of an offender's  
35 community placement that is not community custody.

36 ~~((25))~~ (35) "Restitution" means the requirement that the offender  
37 pay a specific sum of money over a specific period of time to the court  
38 as payment of damages. The sum may include both public and private

1 costs. The imposition of a restitution order does not preclude civil  
2 redress.

3 ~~((+26+))~~ (36) "Serious traffic offense" means:

4 (a) Driving while under the influence of intoxicating liquor or any  
5 drug (RCW 46.61.502), actual physical control while under the influence  
6 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
7 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
8 or

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

12 ~~((+27+))~~ (37) "Serious violent offense" is a subcategory of violent  
13 offense and means:

14 (a) Murder in the first degree, homicide by abuse, murder in the  
15 second degree, assault in the first degree, kidnapping in the first  
16 degree, or rape in the first degree, assault of a child in the first  
17 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
18 commit one of these felonies; or

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

22 ~~((+28+))~~ (38) "Sentence range" means the sentencing court's  
23 discretionary range in imposing a nonappealable sentence.

24 ~~((+29+))~~ (39) "Sex offense" means:

25 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
26 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal  
27 attempt, criminal solicitation, or criminal conspiracy to commit such  
28 crimes;

29 (b) A felony with a finding of sexual motivation under RCW  
30 9.94A.127; or

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

34 ~~((+30+))~~ (40) "Sexual motivation" means that one of the purposes  
35 for which the defendant committed the crime was for the purpose of his  
36 or her sexual gratification.

37 ~~((+31+))~~ (41) "Total confinement" means confinement inside the  
38 physical boundaries of a facility or institution operated or utilized



1 under contract by the state or any other unit of government for twenty-  
2 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

3 ~~((+32+))~~ (42) "Victim" means any person who has sustained  
4 emotional, psychological, physical, or financial injury to person or  
5 property as a direct result of the crime charged.

6 ~~((+33+))~~ (43) "Violent offense" means:

7 (a) Any of the following felonies, as now existing or hereafter  
8 amended: Any felony defined under any law as a class A felony or an  
9 attempt to commit a class A felony, criminal solicitation of or  
10 criminal conspiracy to commit a class A felony, manslaughter in the  
11 first degree, manslaughter in the second degree, indecent liberties if  
12 committed by forcible compulsion, kidnapping in the second degree,  
13 arson in the second degree, assault in the second degree, assault of a  
14 child in the second degree, extortion in the first degree, robbery in  
15 the second degree, vehicular assault, and vehicular homicide, when  
16 proximately caused by the driving of any vehicle by any person while  
17 under the influence of intoxicating liquor or any drug as defined by  
18 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

25 ~~((+34+))~~ (44) "Work crew" means a program of partial confinement  
26 consisting of civic improvement tasks for the benefit of the community  
27 of not less than thirty-five hours per week that complies with RCW  
28 9.94A.135. The civic improvement tasks shall be performed on public  
29 property or on private property owned or operated by nonprofit  
30 entities, except that, for emergency purposes only, work crews may  
31 perform snow removal on any private property. The civic improvement  
32 tasks shall have minimal negative impact on existing private industries  
33 or the labor force in the county where the service or labor is  
34 performed. The civic improvement tasks shall not affect employment  
35 opportunities for people with developmental disabilities contracted  
36 through sheltered workshops as defined in RCW 82.04.385. Only those  
37 offenders sentenced to a facility operated or utilized under contract  
38 by a county are eligible to participate on a work crew. Offenders

1 sentenced for a sex offense as defined in subsection ~~((29))~~ (39) of  
2 this section are not eligible for the work crew program.

3 ~~((35))~~ (45) "Work release" means a program of partial confinement  
4 available to offenders who are employed or engaged as a student in a  
5 regular course of study at school. Participation in work release shall  
6 be conditioned upon the offender attending work or school at regularly  
7 defined hours and abiding by the rules of the work release facility.

8 ~~((36))~~ "Home detention" means a program of partial confinement  
9 available to offenders wherein the offender is confined in a private  
10 residence subject to electronic surveillance. Home detention may not  
11 be imposed for offenders convicted of a violent offense, any sex  
12 offense, any drug offense, reckless burning in the first or second  
13 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third  
14 degree as defined in RCW 9A.36.031, assault of a child in the third  
15 degree, unlawful imprisonment as defined in RCW 9A.40.040, or  
16 harassment as defined in RCW 9A.46.020. Home detention may be imposed  
17 for offenders convicted of possession of a controlled substance (RCW  
18 69.50.401(d)) or forged prescription for a controlled substance (RCW  
19 69.50.403) if the offender fulfills the participation conditions set  
20 forth in this subsection and is monitored for drug use by treatment  
21 alternatives to street crime (TASC) or a comparable court or agency-  
22 referred program.

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

34 (b) Participation in a home detention program shall be conditioned  
35 upon: (i) The offender obtaining or maintaining current employment or  
36 attending a regular course of school study at regularly defined hours,  
37 or the offender performing parental duties to offspring or minors  
38 normally in the custody of the offender, (ii) abiding by the rules of  
39 the home detention program, and (iii) compliance with court ordered

1 legal financial obligations. The home detention program may also be  
2 made available to offenders whose charges and convictions do not  
3 otherwise disqualify them if medical or health related conditions,  
4 concerns or treatment would be better addressed under the home  
5 detention program, or where the health and welfare of the offender,  
6 other inmates, or staff would be jeopardized by the offender's  
7 incarceration. Participation in the home detention program for medical  
8 or health related reasons is conditioned on the offender abiding by the  
9 rules of the home detention program and complying with court ordered  
10 restitution.))

11 **Sec. 2.** RCW 9.94A.040 and 1986 c 257 s 18 are each amended to read  
12 as follows:

13 (1) A sentencing guidelines commission is established as an agency  
14 of state government.

15 (2) The commission shall, following a public hearing or hearings:

16 (a) Devise a series of recommended standard sentence ranges for all  
17 felony offenses and a system for determining which range of punishment  
18 applies to each offender based on the extent and nature of the  
19 offender's criminal history, if any;

20 (b) Devise recommended prosecuting standards in respect to charging  
21 of offenses and plea agreements; and

22 (c) Devise recommended standards to govern whether sentences are to  
23 be served consecutively or concurrently.

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

27 (4) In devising the standard sentence ranges of total and partial  
28 confinement under this section, the commission is subject to the  
29 following limitations:

30 (a) If the maximum term in the range is one year or less, the  
31 minimum term in the range shall be no less than one-third of the  
32 maximum term in the range, except that if the maximum term in the range  
33 is ninety days or less, the minimum term may be less than one-third of  
34 the maximum;

35 (b) If the maximum term in the range is greater than one year, the  
36 minimum term in the range shall be no less than seventy-five percent of  
37 the maximum term in the range; and

1 (c) The maximum term of confinement in a range may not exceed the  
2 statutory maximum for the crime as provided in RCW 9A.20.020.

3 (5) In carrying out its duties under subsection (2) of this  
4 section, the commission shall give consideration to the existing  
5 guidelines adopted by the association of superior court judges and the  
6 Washington association of prosecuting attorneys and the experience  
7 gained through use of those guidelines. The commission shall emphasize  
8 confinement for the violent offender and alternatives to total  
9 confinement for the nonviolent offender.

10 ~~(6) ((This commission shall conduct a study to determine the  
11 capacity of correctional facilities and programs which are or will be  
12 available. While the commission need not consider such capacity in  
13 arriving at its recommendations, the commission shall project whether  
14 the implementation of its recommendations would result in exceeding  
15 such capacity. If the commission finds that this result would probably  
16 occur, then the commission shall prepare an additional list of standard  
17 sentences which shall be consistent with such capacity.~~

18 ~~(7))~~ The commission may recommend to the legislature revisions or  
19 modifications to the standard sentence ranges and other standards. If  
20 implementation of the revisions or modifications would result in  
21 exceeding the capacity of correctional facilities, then the commission  
22 shall accompany its recommendation with an additional list of standard  
23 sentence ranges which are consistent with correction capacity.

24 ~~((+8))~~ (7) The commission shall study the existing criminal code  
25 and from time to time make recommendations to the legislature for  
26 modification.

27 ~~((+9))~~ (8) The commission shall exercise its duties under this  
28 section in conformity with chapter 34.05 RCW, as now existing or  
29 hereafter amended.

30 **Sec. 3.** RCW 9.94A.120 and 1992 c 145 s 7, 1992 c 75 s 2, and 1992  
31 c 45 s 5 are each reenacted and amended to read as follows:

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

34 (1) Except as authorized in subsections (2), (4), (5), ~~((and))~~ (6),  
35 (7), (9), and (10) of this section, the court shall impose a sentence  
36 within the sentence range for the offense.

37 (2) The court may impose a sentence outside the standard sentence  
38 range for that offense if it finds, considering the purpose of this

1 chapter, that there are substantial and compelling reasons justifying  
2 an exceptional sentence.

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

7 (4) A persistent offender shall be sentenced to a term of total  
8 confinement for life without the possibility of parole or, when  
9 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
10 first degree, sentenced to death, notwithstanding the maximum sentence  
11 under any other law. An offender convicted of the crime of murder in  
12 the first degree shall be sentenced to a term of total confinement not  
13 less than twenty years. An offender convicted of the crime of assault  
14 in the first degree or assault of a child in the first degree where the  
15 offender used force or means likely to result in death or intended to  
16 kill the victim shall be sentenced to a term of total confinement not  
17 less than five years. An offender convicted of the crime of rape in  
18 the first degree shall be sentenced to a term of total confinement not  
19 less than five years, and shall not be eligible for furlough, work  
20 release or other authorized leave of absence from the correctional  
21 facility during such minimum five-year term except for the purpose of  
22 commitment to an inpatient treatment facility. The foregoing minimum  
23 terms of total confinement are mandatory and shall not be varied or  
24 modified as provided in subsection (2) of this section.

25 (5) In sentencing a first-time offender with a sentence range of  
26 more than ninety days the court may waive the imposition of a sentence  
27 within the sentence range and impose a sentence which may include up to  
28 ninety days of confinement in a facility operated or utilized under  
29 contract by the county and a requirement that the offender refrain from  
30 committing new offenses. The sentence may also include up to ~~((two))~~  
31 one year~~((s))~~ of community supervision, which, in addition to crime-  
32 related prohibitions, may include requirements that the offender  
33 perform any one or more of the following:

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

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

38 (c) Pursue a prescribed, secular course of study or vocational  
39 training;

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

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

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

8 (6)(a) In sentencing an eligible offender with a sentence range  
9 classified in zone I as defined in RCW 9.94A.310(6), the sentencing  
10 judge shall fix a period of total confinement within the sentence range  
11 not to exceed the midpoint of the standard range and shall convert all  
12 but ten days of total confinement and may convert all total confinement  
13 to community service, day fines, home detention or drug or alcohol  
14 monitoring, or some combination of those authorized sentencing options  
15 at the rates provided in RCW 9.94A.380 and may impose a period of  
16 community supervision to run until such authorized sentence options are  
17 completed, but in no event longer than one year.

18 (b) In sentencing an eligible offender with a sentence range  
19 classified in zone II as defined in RCW 9.94A.310(6), the sentencing  
20 judge shall fix a period of total confinement within the sentence range  
21 up to the midpoint of the standard range and shall convert at least  
22 one-half the period of total confinement to one or more of the  
23 authorized sentencing options provided in RCW 9.94A.380 and may convert  
24 all or any part of the balance of total confinement to one or more of  
25 the authorized sentencing options at the rate provided in RCW 9.94A.380  
26 and may impose a period of community supervision to run until such  
27 authorized sentencing options are completed, but in no event longer  
28 than one year.

29 (c) A sentencing judge may impose a sentence within the standard  
30 range applicable to the offender without regard to (a) or (b) of this  
31 subsection if the sentencing judge determines that specific individual  
32 characteristics of the offender demonstrate that a sentence imposed  
33 pursuant to (a) or (b) of this subsection will not adequately protect  
34 public safety. Whenever a sentencing judge does not impose a sentence  
35 pursuant to (a) or (b) of this subsection the sentencing judge shall  
36 set forth the reasons in writing. Such a sentence is not an  
37 exceptional sentence and shall not be subject to appellate review.

38 (d) A sentencing judge who has imposed a sentence containing  
39 authorized sentencing options may, upon notice and hearing, convert any

1 unserved sentencing options to any other authorized sentencing option  
2 at the rate provided in RCW 9.94A.380 at any time during the sentence.  
3 This provision does not authorize any increase in the length of  
4 sentence imposed at the original sentencing.

5 (7) When an offender is convicted of the manufacture, delivery, or  
6 possession with intent to manufacture or deliver a controlled substance  
7 classified in schedule I or II that is a narcotic drug and the offender  
8 has no prior or other current convictions in this state, another state,  
9 or the United States, the sentencing judge shall consider whether the  
10 offender and the community will benefit from the use of the special  
11 drug offender sentencing alternative. If the court determines that  
12 both the offender and the community will benefit from the use of this  
13 sentencing alternative the court may waive imposition of a sentence  
14 within the standard range and impose a sentence which shall include a  
15 period of total confinement of not to exceed one-third of the midpoint  
16 of the sentence range and which may include up to two-thirds of the  
17 midpoint of the sentence range as community custody, which, in addition  
18 to crime-related prohibitions, shall include the requirement that the  
19 offender refrain from committing new offenses and may include one or  
20 more of the following:

21 (a) Devote time to a specific employment or training;

22 (b) Undergo available treatment alternatives to street crime (TASC)  
23 or comparable outpatient treatment for up to the period of community  
24 custody;

25 (c) Inpatient treatment not to exceed the confinement time imposed  
26 at sentencing;

27 (d) Undergo day supervision;

28 (e) Remain within prescribed geographical boundaries and notify the  
29 court or the community corrections officer prior to any change in the  
30 offender's address or employment;

31 (f) Report as directed to a community corrections officer;

32 (g) Pay all court-ordered legal financial obligations as provided  
33 in RCW 9.94A.030 and/or perform community service work;

34 (h) Pay day fine;

35 (i) Stay out of areas designated by the sentencing judge.

36 If the offender violates these sentence conditions, sanctions shall  
37 be imposed by the department of corrections administratively, as with  
38 community custody status, with notice to the prosecuting attorney and  
39 the sentencing court. Upon motion of the court or the prosecuting

1 attorney, a modification hearing shall be held by the court. If the  
2 court finds that conditions have been willfully violated, the court may  
3 impose confinement of not more than an additional one-third of the  
4 midpoint of the standard sentence range. All total confinement,  
5 including inpatient treatment, served during the period of community  
6 custody shall be credited to the offender, regardless of whether the  
7 total confinement is served as a result of the original sentence, as a  
8 result of a sanction imposed by the department of corrections, or as a  
9 result of a violation found by the court. In no event shall all  
10 periods of total confinement, however imposed, exceed two-thirds of the  
11 standard sentence range.

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

23 ((+7)) (9)(a) In sentencing an offender whose sentence range is  
24 one year and one day to three years of total confinement, except for  
25 offenders whose current offense is a sex offense, serious violent  
26 offense, violent offense, or first-time drug offense, if the court  
27 finds that the offender accepts responsibility for the offense, the  
28 potential for offender rehabilitation exists, and the offender and the  
29 community will benefit from this sentence option, the court may impose  
30 a sentence within the sentence range and authorize eligibility for  
31 release under the modified sentence option. The offender shall be  
32 placed in total confinement with the department during which the  
33 department shall complete an assessment of the offender within  
34 prescribed standards. Assessment standards shall be developed by the  
35 department with input from representatives of the courts and  
36 prosecuting attorneys.

37 Upon completion of the assessment, the department may develop a  
38 plan for a modified sentence option which shall be submitted to the  
39 court within four months of the date of sentence. For offenders for



1 whom the department does not recommend a modified sentence option, the  
2 department shall submit a report to the court identifying the reasons,  
3 within four months of the date of sentence.

4 Within thirty days after the report is received, the court shall  
5 review and respond to the department report. If the court does not  
6 respond within thirty days of receipt of the report, the department may  
7 release the offender to the modified sentence option plan.

8 (b) The modified sentence option plan shall convert the remainder  
9 of the total confinement sentence to sentence options recommended by  
10 the department and provided within RCW 9.94A.380 or other similar  
11 options available within the local jurisdiction.

12 In addition to crime-related prohibitions, the modified sentence  
13 option shall include the requirement that the offender refrain from  
14 committing new offenses, report as directed to a community corrections  
15 officer, and may include one or more of the following requirements:

16 (i) Remain within prescribed geographic boundaries and notify the  
17 community corrections officer prior to any change in address or  
18 employment;

19 (ii) Pay a day fine;

20 (iii) Pay all court-ordered legal financial obligations as provided  
21 within RCW 9.94A.030 and/or perform community service work;

22 (iv) Stay out of specific geographical areas;

23 (v) Not use nonprescribed drugs or alcohol.

24 If the court believes the department has unreasonably denied the  
25 modified sentence option, the court may request the department to  
26 reconsider.

27 (c) If the offender violates the modified sentence option plan or  
28 conditions, sanctions may be imposed by the department pursuant to RCW  
29 9.94A.205, with notice of the hearing results to the prosecuting  
30 attorney and sentencing court.

31 Upon receipt of the notice of hearing results, the court or the  
32 prosecuting attorney may schedule a modification hearing. If the court  
33 finds that the conditions have been willfully violated, the court may  
34 modify conditions of the modified sentence option and/or impose  
35 confinement time.

36 (d) All total confinement, including inpatient treatment served  
37 during the period of modified sentence option supervision, shall be  
38 credited to the offender regardless of whether the total confinement is  
39 served as a result of the original sentence, as a result of a sanction

1 imposed by the department, or as a result of a violation found by the  
2 court. All total confinement time served by offenders sentenced under  
3 this subsection shall be in a department facility.

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

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

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

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

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

24 (C) Monitoring plans, including any requirements regarding living  
25 conditions, lifestyle requirements, and monitoring by family members  
26 and others;

27 (D) Anticipated length of treatment; and

28 (E) Recommended crime-related prohibitions.

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

35 (ii) After receipt of the reports, the court shall consider whether  
36 the offender and the community will benefit from use of this special  
37 sexual offender sentencing alternative and consider the victim's  
38 opinion whether the offender should receive a treatment disposition  
39 under this subsection. If the court determines that this special sex

1 offender sentencing alternative is appropriate, the court shall then  
2 impose a sentence within the sentence range. If this sentence is less  
3 than eight years of confinement, the court may suspend the execution of  
4 the sentence and impose the following conditions of suspension:

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

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

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

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

27 (III) Report as directed to the court and a community corrections  
28 officer;

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

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

34 (iii) The sex offender therapist shall submit quarterly reports on  
35 the defendant's progress in treatment to the court and the parties.  
36 The report shall reference the treatment plan and include at a minimum  
37 the following: Dates of attendance, defendant's compliance with  
38 requirements, treatment activities, the defendant's relative progress

1 in treatment, and any other material as specified by the court at  
2 sentencing.

3 (iv) At the time of sentencing, the court shall set a treatment  
4 termination hearing for three months prior to the anticipated date for  
5 completion of treatment. Prior to the treatment termination hearing,  
6 the treatment professional and community corrections officer shall  
7 submit written reports to the court and parties regarding the  
8 defendant's compliance with treatment and monitoring requirements, and  
9 recommendations regarding termination from treatment, including  
10 proposed community supervision conditions. Either party may request  
11 and the court may order another evaluation regarding the advisability  
12 of termination from treatment. The defendant shall pay the cost of any  
13 additional evaluation ordered unless the court finds the defendant to  
14 be indigent in which case the state shall pay the cost. At the  
15 treatment termination hearing the court may: (A) Modify conditions of  
16 community supervision, and either (B) terminate treatment, or (C)  
17 extend treatment for up to the remaining period of community  
18 supervision.

19 (v) The court may revoke the suspended sentence at any time during  
20 the period of community supervision and order execution of the sentence  
21 if: (A) The defendant violates the conditions of the suspended  
22 sentence, or (B) the court finds that the defendant is failing to make  
23 satisfactory progress in treatment. All confinement time served during  
24 the period of community supervision shall be credited to the offender  
25 if the suspended sentence is revoked.

26 (vi) Except as provided in (a)(vii) of this subsection, after July  
27 1, 1991, examinations and treatment ordered pursuant to this subsection  
28 shall only be conducted by sex offender treatment providers certified  
29 by the department of health pursuant to chapter 18.155 RCW.

30 (vii) A sex offender therapist who examines or treats a sex  
31 offender pursuant to this subsection (~~((+7))~~) (10) does not have to be  
32 certified by the department of health pursuant to chapter 18.155 RCW if  
33 the court finds that: (A) The offender has already moved to another  
34 state or plans to move to another state for reasons other than  
35 circumventing the certification requirements; (B) no certified  
36 providers are available for treatment within a reasonable geographical  
37 distance of the offender's home; and (C) the evaluation and treatment  
38 plan comply with this subsection (~~((+7))~~) (10) and the rules adopted by  
39 the department of health.

1 For purposes of this subsection, "victim" means any person who has  
2 sustained emotional, psychological, physical, or financial injury to  
3 person or property as a result of the crime charged. "Victim" also  
4 means a parent or guardian of a victim who is a minor child unless the  
5 parent or guardian is the perpetrator of the offense.

6 (b) When an offender is convicted of any felony sex offense  
7 committed before July 1, 1987, and is sentenced to a term of  
8 confinement of more than one year but less than six years, the  
9 sentencing court may, on its own motion or on the motion of the  
10 offender or the state, order the offender committed for up to thirty  
11 days to the custody of the secretary of social and health services for  
12 evaluation and report to the court on the offender's amenability to  
13 treatment at these facilities. If the secretary of social and health  
14 services cannot begin the evaluation within thirty days of the court's  
15 order of commitment, the offender shall be transferred to the state for  
16 confinement pending an opportunity to be evaluated at the appropriate  
17 facility. The court shall review the reports and may order that the  
18 term of confinement imposed be served in the sexual offender treatment  
19 program at the location determined by the secretary of social and  
20 health services or the secretary's designee, only if the report  
21 indicates that the offender is amenable to the treatment program  
22 provided at these facilities. The offender shall be transferred to the  
23 state pending placement in the treatment program. Any offender who has  
24 escaped from the treatment program shall be referred back to the  
25 sentencing court.

26 If the offender does not comply with the conditions of the  
27 treatment program, the secretary of social and health services may  
28 refer the matter to the sentencing court. The sentencing court shall  
29 commit the offender to the department of corrections to serve the  
30 balance of the term of confinement.

31 If the offender successfully completes the treatment program before  
32 the expiration of the term of confinement, the court may convert the  
33 balance of confinement to community supervision and may place  
34 conditions on the offender including crime-related prohibitions and  
35 requirements that the offender perform any one or more of the  
36 following:

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

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

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

6 (iv) Undergo available outpatient treatment.

7 If the offender violates any of the terms of community supervision,  
8 the court may order the offender to serve out the balance of the  
9 community supervision term in confinement in the custody of the  
10 department of corrections.

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

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

20 Except for an offender who has been convicted of a violation of RCW  
21 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
22 before the expiration of his or her term of confinement, the department  
23 of corrections may request the court to convert the balance of  
24 confinement to community supervision and to place conditions on the  
25 offender including crime-related prohibitions and requirements that the  
26 offender perform any one or more of the following:

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

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

31 (iii) Report as directed to the court and a community corrections  
32 officer;

33 (iv) Undergo available outpatient treatment.

34 If the offender violates any of the terms of his or her community  
35 supervision, the court may order the offender to serve out the balance  
36 of his or her community supervision term in confinement in the custody  
37 of the department of corrections.

38 Nothing in (c) of this subsection shall confer eligibility for such  
39 programs for offenders convicted and sentenced for a sex offense

1 committed prior to July 1, 1987. This subsection (c) does not apply to  
2 any crime committed after July 1, 1990.

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

11 ~~((+8+))~~ (11)(a) When a court sentences a person to a term of total  
12 confinement to the custody of the department of corrections for an  
13 offense categorized as a sex offense or a serious violent offense  
14 committed after July 1, 1988, but before July 1, 1990, assault in the  
15 second degree, assault of a child in the second degree, any crime  
16 against a person where it is determined in accordance with RCW  
17 9.94A.125 that the defendant or an accomplice was armed with a deadly  
18 weapon at the time of commission, or any felony offense under chapter  
19 69.50 or 69.52 RCW not sentenced under subsection (6), (7), or (9) of  
20 this section, committed on or after July 1, 1988, the court shall in  
21 addition to the other terms of the sentence, sentence the offender to  
22 a one-year term of community placement beginning either upon completion  
23 of the term of confinement or at such time as the offender is  
24 transferred to community custody in lieu of earned early release in  
25 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an  
26 offender under this subsection to the statutory maximum period of  
27 confinement then the community placement portion of the sentence shall  
28 consist entirely of such community custody to which the offender may  
29 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any  
30 period of community custody actually served shall be credited against  
31 the community placement portion of the sentence.

32 (b) When a court sentences a person to a term of total confinement  
33 to the custody of the department of corrections for an offense  
34 categorized as a sex offense or serious violent offense committed on or  
35 after July 1, 1990, the court shall in addition to other terms of the  
36 sentence, sentence the offender to community placement for two years or  
37 up to the period of earned early release awarded pursuant to RCW  
38 9.94A.150 (1) and (2), whichever is longer. The community placement  
39 shall begin either upon completion of the term of confinement or at

1 such time as the offender is transferred to community custody in lieu  
2 of earned early release in accordance with RCW 9.94A.150 (1) and (2).  
3 When the court sentences an offender under this subsection to the  
4 statutory maximum period of confinement then the community placement  
5 portion of the sentence shall consist entirely of the community custody  
6 to which the offender may become eligible, in accordance with RCW  
7 9.94A.150 (1) and (2). Any period of community custody actually served  
8 shall be credited against the community placement portion of the  
9 sentence. Unless a condition is waived by the court, the terms of  
10 community placement for offenders sentenced pursuant to this section  
11 shall include the following conditions:

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

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

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

18 (iv) An offender in community custody shall not unlawfully possess  
19 controlled substances;

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

22 (vi) The residence location and living arrangements are subject to  
23 the prior approval of the department of corrections during the period  
24 of community placement.

25 (c) The court may also order any of the following special  
26 conditions:

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

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

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

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

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

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



1       (~~(9)~~) (12) If the court imposes a sentence requiring confinement  
2 of thirty days or less, the court may, in its discretion, specify that  
3 the sentence be served on consecutive or intermittent days. A sentence  
4 requiring more than thirty days of confinement shall be served on  
5 consecutive days. Local jail administrators may schedule court-ordered  
6 intermittent sentences as space permits.

7       (~~(10)~~) (13) If a sentence imposed includes payment of a legal  
8 financial obligation, the sentence shall specify the total amount of  
9 the legal financial obligation owed, and shall require the offender to  
10 pay a specified monthly sum toward that legal financial obligation.  
11 Restitution to victims shall be paid prior to any other payments of  
12 monetary obligations. Any legal financial obligation that is imposed  
13 by the court may be collected by the department, which shall deliver  
14 the amount paid to the county clerk for credit. The offender's  
15 compliance with payment of legal financial obligations shall be  
16 supervised by the department. All monetary payments ordered shall be  
17 paid no later than ten years after the last date of release from  
18 confinement pursuant to a felony conviction or the date the sentence  
19 was entered. Independent of the department, the party or entity to  
20 whom the legal financial obligation is owed shall have the authority to  
21 utilize any other remedies available to the party or entity to collect  
22 the legal financial obligation. Nothing in this section makes the  
23 department, the state, or any of its employees, agents, or other  
24 persons acting on their behalf liable under any circumstances for the  
25 payment of these legal financial obligations. If an order includes  
26 restitution as one of the monetary assessments, the county clerk shall  
27 make disbursements to victims named in the order.

28       (~~(11)~~) (14) Except as provided under RCW 9.94A.140(1) and  
29 9.94A.142(1), a court may not impose a sentence providing for a term of  
30 confinement or community supervision or community placement which  
31 exceeds the statutory maximum for the crime as provided in chapter  
32 9A.20 RCW.

33       (~~(12)~~) (15) All offenders sentenced to terms involving community  
34 supervision, community service, community placement, or legal financial  
35 obligation shall be under the supervision of the secretary of the  
36 department of corrections or such person as the secretary may designate  
37 and shall follow explicitly the instructions of the secretary including  
38 reporting as directed to a community corrections officer, remaining  
39 within prescribed geographical boundaries, notifying the community

1 corrections officer of any change in the offender's address or  
2 employment, and paying the supervision fee assessment.

3 ~~((13))~~ (16) All offenders sentenced to terms involving community  
4 supervision, community service, or community placement under the  
5 supervision of the department of corrections shall not own, use, or  
6 possess firearms or ammunition. Offenders who own, use, or are found  
7 to be in actual or constructive possession of firearms or ammunition  
8 shall be subject to the appropriate violation process and sanctions.  
9 "Constructive possession" as used in this subsection means the power  
10 and intent to control the firearm or ammunition. "Firearm" as used in  
11 this subsection means a weapon or device from which a projectile may be  
12 fired by an explosive such as gunpowder.

13 ~~((14))~~ (17) The sentencing court shall give the offender credit  
14 for all confinement time served before the sentencing if that  
15 confinement was solely in regard to the offense for which the offender  
16 is being sentenced.

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

22 ~~((16))~~ (19) The court shall order restitution whenever the  
23 offender is convicted of a felony that results in injury to any person  
24 or damage to or loss of property, whether the offender is sentenced to  
25 confinement or placed under community supervision, unless extraordinary  
26 circumstances exist that make restitution inappropriate in the court's  
27 judgment. The court shall set forth the extraordinary circumstances in  
28 the record if it does not order restitution.

29 ~~((17))~~ (20) As a part of any sentence, the court may impose and  
30 enforce an order that relates directly to the circumstances of the  
31 crime for which the offender has been convicted, prohibiting the  
32 offender from having any contact with other specified individuals or a  
33 specific class of individuals for a period not to exceed the maximum  
34 allowable sentence for the crime, regardless of the expiration of the  
35 offender's term of community supervision or community placement.

36 ~~((18))~~ (21) In any sentence of partial confinement, the court may  
37 require the defendant to serve the partial confinement in work release,  
38 in a program of home detention, on work crew, or in a combined program  
39 of work crew and home detention.

1       (~~(19)~~) (22) All court-ordered legal financial obligations  
2 collected by the department and remitted to the county clerk shall be  
3 credited and paid where restitution is ordered. Restitution shall be  
4 paid prior to any other payments of monetary obligations.

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

7       The sentencing guidelines commission shall conduct a study  
8 evaluating the impact of revisions to RCW 9.94A.120 (6), (7), and (9).  
9 The study shall describe changes in sentencing practices related to the  
10 use of alternatives to total confinement for nonviolent offenders. The  
11 study shall assess the impact of sentencing alternatives on state  
12 prison and local jail populations, the savings in state and local  
13 resources, and the impact on recidivism rates. The commission shall  
14 submit preliminary findings to the legislature by December 1, 1994, and  
15 shall submit the final report to the legislature by December 1, 1996.

16       **Sec. 5.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read  
17 as follows:

18       No person serving a sentence imposed pursuant to this chapter and  
19 committed to the custody of the department shall leave the confines of  
20 the correctional facility or be released prior to the expiration of the  
21 sentence except as follows:

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

1 convicted of a serious violent offense or a sex offense that is a class  
2 A felony committed on or after July 1, 1990, the aggregate earned early  
3 release time may not exceed fifteen percent of the sentence. In no  
4 other case shall the aggregate earned early release time exceed one-  
5 third of the total sentence;

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

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

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

23 (5) Other than partial confinement ordered by the sentencing judge  
24 under RCW 9.94A.120(9), no more than the final six months of the  
25 sentence may be served in partial confinement designed to aid the  
26 offender in finding work and reestablishing him or herself in the  
27 community;

28 (6) The governor may pardon any offender;

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

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

35 **Sec. 6.** RCW 9.94A.160 and 1984 c 246 s 1 are each amended to read  
36 as follows:

37 ~~((If the governor finds that an emergency exists in that the~~  
38 ~~population of a state residential correctional facility exceeds its~~

1 reasonable, maximum capacity, then the governor may do any one or more  
2 of the following:

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

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

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

4       The sentencing guidelines commission shall ensure that the inmate  
5 population of the state's residential correctional facilities does not  
6 exceed the maximum operational capacity as specified in the omnibus  
7 appropriations act.

8       (1) When the population of state residential correctional  
9 facilities exceeds one hundred five percent of the maximum operational  
10 capacity, as specified in the omnibus appropriations act, for sixty or  
11 more consecutive days the secretary may declare that an emergency  
12 exists.

13       (2) Upon certification by the director of financial management that  
14 emergency conditions exist, the sentencing guidelines commission shall  
15 convene into an emergency meeting for the purpose of adopting  
16 sentencing adjustments that will reduce the inmate population to one  
17 hundred percent or less of the maximum operational capacity. Sentence  
18 reductions shall be restricted to nonviolent offenders, shall not  
19 exceed four months, and shall be effective at the end of the term of  
20 confinement. Sentence reductions shall be applied to offenders who  
21 have been previously sentenced.

22       (3) Sentence adjustments made under subsection (2) of this section  
23 shall be adopted in conformity with chapter 34.05 RCW and shall take  
24 effect on the date prescribed by the commission. The legislature shall  
25 approve or modify the commission's revision or amendment at the next  
26 legislative session after the sentencing adjustments take effect.  
27 Failure of the legislature to act shall be deemed as approval of the  
28 sentencing adjustments.

29       **Sec. 7.** RCW 9.94A.190 and 1991 c 181 s 5 are each amended to read  
30 as follows:

31       (1) A sentence that includes a term or terms of confinement  
32 totaling more than one year shall be served in a facility or  
33 institution operated, or utilized under contract, by the state. Except  
34 as provided for in subsection (3) or (4) of this section, a sentence of  
35 not more than one year of confinement shall be served in a facility  
36 operated, licensed, or utilized under contract, by the county, or if  
37 home detention or work crew has been ordered by the court, in the

1 residence of either the defendant or a member of the defendant's  
2 immediate family.

3 (2) If a county uses a state partial confinement facility for the  
4 partial confinement of a person sentenced to confinement for not more  
5 than one year, the county shall reimburse the state for the use of the  
6 facility as provided for in this subsection. The office of financial  
7 management shall set the rate of reimbursement based upon the average  
8 per diem cost per offender in the facility. The office of financial  
9 management shall determine to what extent, if any, reimbursement shall  
10 be reduced or eliminated because of funds provided by the legislature  
11 to the department of corrections for the purpose of covering the cost  
12 of county use of state partial confinement facilities. The office of  
13 financial management shall reestablish reimbursement rates each even-  
14 numbered year.

15 (3) A person who is sentenced for a felony to a term of not more  
16 than one year, and who is committed or returned to incarceration in a  
17 state facility on another felony conviction, either under the  
18 indeterminate sentencing laws, chapter 9.95 RCW, or under this chapter  
19 shall serve all terms of confinement, including a sentence of not more  
20 than one year, in a facility or institution operated, or utilized under  
21 contract, by the state, consistent with the provisions of RCW  
22 9.94A.400.

23 (4) For sentences imposed pursuant to RCW 9.94A.120(7) or sentences  
24 imposed pursuant to RCW 9.94A.120(10) which are over one year before  
25 converting all or part of the sentence to authorized sentencing  
26 options, notwithstanding any other provision of this section, all such  
27 sentences regardless of length shall be served in a facility or  
28 institution operated, or utilized under contract, by the state.

29 **Sec. 8.** RCW 9.94A.200 and 1989 c 252 s 7 are each amended to read  
30 as follows:

31 (1) If an offender violates any condition or requirement of a  
32 sentence, the court may modify its order of judgment and sentence and  
33 impose further punishment in accordance with this section.

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

36 (a) The court, upon the motion of the state, or upon its own  
37 motion, shall require the offender to show cause why the offender

1 should not be punished for the noncompliance. The court may issue a  
2 summons or a warrant of arrest for the offender's appearance;

3 (b) The state has the burden of showing noncompliance by a  
4 preponderance of the evidence. If the court finds that the violation  
5 has occurred, it may order the offender to be confined for a period not  
6 to exceed sixty days for each violation(~~(, and)~~). The total amount of  
7 confinement time the court may order for all violations that occur  
8 during a term of community supervision shall not exceed the high end of  
9 the sentence range for the offense. The court may (i) convert a term  
10 of partial confinement to total confinement, (ii) convert community  
11 service obligation to total or partial confinement, (~~(or)~~) (iii)  
12 convert monetary obligations, except restitution and the crime victim  
13 penalty assessment, to community service hours at the rate of the state  
14 minimum wage as established in RCW 49.46.020 for each hour of community  
15 service, or (iv) convert to other sentencing alternatives as authorized  
16 in RCW 9.94A.380. Any time served in confinement awaiting a hearing on  
17 noncompliance shall be credited against any confinement order by the  
18 court; and

19 (c) If the court finds that the violation was not willful, the  
20 court may modify its previous order regarding payment of legal  
21 financial obligations and regarding community service obligations.

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

24 **Sec. 9.** RCW 9.94A.270 and 1991 c 104 s 1 are each amended to read  
25 as follows:

26 (1) Whenever a punishment imposed under this chapter requires  
27 supervision services to be provided, the offender shall pay to the  
28 department of corrections the monthly assessment, prescribed under  
29 subsection (2) of this section, which shall be for the duration of the  
30 terms of supervision and which shall be considered as payment or part  
31 payment of the cost of providing supervision to the offender. The  
32 department may exempt or defer a person from the payment of all or any  
33 part of the assessment based upon any of the following factors:

34 (a) The offender has diligently attempted but has been unable to  
35 obtain employment that provides the offender sufficient income to make  
36 such payments.



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

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

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

8 (e) The offender is responsible for the support of dependents and  
9 the payment of the assessment constitutes an undue hardship on the  
10 offender.

11 (f) Other extenuating circumstances as determined by the  
12 department.

13 (2) The department of corrections shall adopt a rule prescribing  
14 the amount of the assessment. The department may, if it finds it  
15 appropriate, prescribe a schedule of assessments that shall vary in  
16 accordance with the intensity or cost of the supervision. The  
17 department may not prescribe any assessment that is less than ten  
18 dollars nor more than ((fifty)) sixty-two dollars.

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

22 (4) This section shall not apply to probation services provided  
23 under an interstate compact pursuant to chapter 9.95 RCW or to  
24 probation services provided for persons placed on probation prior to  
25 June 10, 1982.

26 **Sec. 10.** RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read  
27 as follows:

28 (1) TABLE 1

29 Sentencing Grid

30 SERIOUSNESS

31 SCORE

OFFENDER SCORE

32 9 or  
33 0 1 2 3 4 5 6 7 8 more

34  
35 XV Life Sentence without Parole/Death Penalty  
36

1	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
2		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
3		320	333	347	361	374	388	416	450	493	548
4											
5	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
6		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
7		164	178	192	205	219	233	260	288	342	397
8											
9	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
10		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
11		123	136	147	160	171	184	216	236	277	318
12											
13	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
14		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
15		102	114	125	136	147	158	194	211	245	280
16											
17	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
18		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
19		68	75	82	89	96	102	130	144	171	198
20											
21	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
22		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
23		41	48	54	61	68	75	102	116	144	171
24											
25	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
26		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
27		27	34	41	48	54	61	89	102	116	144
28											
29	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
30		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
31		20	27	34	41	48	54	75	89	102	116
32											
33	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
34		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
35		14	20	27	34	41	48	61	75	89	102
36											
37	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
38		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
39		12	14	17	20	29	43	54	68	82	96

1	<hr/>											
2	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m	
3		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-	
4		9	12	14	17	20	29	43	57	70	84	
5	<hr/>											
6	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y	
7		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-	
8		3	8	12	12	16	22	29	43	57	68	
9	<hr/>											
10	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m	
11		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-	
12		Days	6	9	12	14	18	22	29	43	57	
13	<hr/>											
14	I			3m	4m	5m	8m	13m	16m	20m	2y2m	
15		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-	
16		Days	Days	5	6	8	12	14	18	22	29	
17	<hr/>											
18	<u>NV-1</u>			<u>3m</u>	<u>4m</u>	<u>5m</u>	<u>8m</u>	<u>13m</u>	<u>16m</u>	<u>20m</u>		
19		<u>0-30</u>	<u>0-60</u>	<u>0-90</u>	<u>2-</u>	<u>2-</u>	<u>3-</u>	<u>4-</u>	<u>12+-</u>	<u>14-</u>	<u>17-</u>	
20		<u>Days</u>	<u>Days</u>	<u>Days</u>	<u>5</u>	<u>6</u>	<u>8</u>	<u>12</u>	<u>14</u>	<u>18</u>	<u>22</u>	
21	<hr/> <hr/>											

22 NOTE: Numbers in the first horizontal row of each seriousness category  
23 represent sentencing midpoints in years(y) and months(m). Numbers in  
24 the second and third rows represent presumptive sentencing ranges in  
25 months, or in days if so designated. 12+ equals one year and one day.

26 (2) For persons convicted of the anticipatory offenses of criminal  
27 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
28 presumptive sentence is determined by locating the sentencing grid  
29 sentence range defined by the appropriate offender score and the  
30 seriousness level of the completed crime, and multiplying the range by  
31 75 percent.

32 (3) The following additional times shall be added to the  
33 presumptive sentence if the offender or an accomplice was armed with a  
34 deadly weapon as defined in this chapter and the offender is being  
35 sentenced for one of the crimes listed in this subsection. If the  
36 offender or an accomplice was armed with a deadly weapon and the  
37 offender is being sentenced for an anticipatory offense under chapter  
38 9A.28 RCW to commit one of the crimes listed in this subsection, the

1 following times shall be added to the presumptive range determined  
2 under subsection (2) of this section:

3 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.-  
4 200), or Kidnapping 1 (RCW 9A.40.020)

5 (b) 18 months for Burglary 1 (RCW 9A.52.020)

6 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault  
7 of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110), Kidnapping 2  
8 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW  
9 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug  
10 offense.

11 (4) The following additional times shall be added to the  
12 presumptive sentence if the offender or an accomplice committed the  
13 offense while in a county jail or state correctional facility as that  
14 term is defined in this chapter and the offender is being sentenced for  
15 one of the crimes listed in this subsection. If the offender or an  
16 accomplice committed one of the crimes listed in this subsection while  
17 in a county jail or state correctional facility as that term is defined  
18 in this chapter, and the offender is being sentenced for an anticipa-  
19 tory offense under chapter 9A.28 RCW to commit one of the crimes listed  
20 in this subsection, the following times shall be added to the  
21 presumptive sentence range determined under subsection (2) of this  
22 section:

23 (a) Eighteen months for offenses committed under RCW 69.50.401(a)-  
24 (1)(i) or 69.50.410;

25 (b) Fifteen months for offenses committed under RCW  
26 69.50.401(a)(1)(ii), (iii), and (iv);

27 (c) Twelve months for offenses committed under RCW 69.50.401(d).

28 For the purposes of this subsection, all of the real property of  
29 a state correctional facility or county jail shall be deemed to be part  
30 of that facility or county jail.

31 (5) An additional twenty-four months shall be added to the  
32 presumptive sentence for any ranked offense involving a violation of  
33 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

34 (6)(a) The following sentence ranges are classified as zone I:

35 (i) A crime of seriousness level NV-1 and an offender score of 0,  
36 1, or 2;

37 (ii) A crime of seriousness level I and an offender score of 0 or  
38 1; and

39 (iii) A crime of seriousness level II and an offender score of 0.



1           Leading Organized Crime (RCW  
2           9A.82.060(1)(a))

3       IX       Assault of a Child 2 (RCW 9A.36.130)  
4           Robbery 1 (RCW 9A.56.200)  
5           Manslaughter 1 (RCW 9A.32.060)  
6           Explosive devices prohibited (RCW 70.74.180)  
7           Indecent Liberties (with forcible  
8           compulsion) (RCW 9A.44.100(1)(a))  
9           Endangering life and property by explosives  
10          with threat to human being (RCW  
11          70.74.270)  
12          Over 18 and deliver narcotic from Schedule  
13          III, IV, or V or a nonnarcotic from  
14          Schedule I-V to someone under 18 and 3  
15          years junior (RCW 69.50.406)  
16          Controlled Substance Homicide (RCW  
17          69.50.415)  
18          Sexual Exploitation (RCW 9.68A.040)  
19          Inciting Criminal Profiteering (RCW  
20          9A.82.060(1)(b))

21       VIII     Arson 1 (RCW 9A.48.020)  
22           Promoting Prostitution 1 (RCW 9A.88.070)  
23           Selling for profit (controlled or  
24           counterfeit) any controlled substance  
25           (RCW 69.50.410)  
26           Manufacture, deliver, or possess with intent  
27           to deliver heroin or cocaine (RCW  
28           69.50.401(a)(1)(i))  
29           Manufacture, deliver, or possess with intent  
30           to deliver methamphetamine (RCW  
31           69.50.401(a)(1)(ii))  
32           Vehicular Homicide, by being under the  
33           influence of intoxicating liquor or any  
34           drug or by the operation of any vehicle  
35           in a reckless manner (RCW 46.61.520)

1 VII Burglary 1 (RCW 9A.52.020)  
2 Vehicular Homicide, by disregard for the  
3 safety of others (RCW 46.61.520)  
4 Introducing Contraband 1 (RCW 9A.76.140)  
5 Indecent Liberties (without forcible  
6 compulsion) (RCW 9A.44.100(1) (b) and  
7 (c))  
8 Child Molestation 2 (RCW 9A.44.086)  
9 Dealing in depictions of minor engaged in  
10 sexually explicit conduct (RCW  
11 9.68A.050)  
12 Sending, bringing into state depictions of  
13 minor engaged in sexually explicit  
14 conduct (RCW 9.68A.060)  
15 Involving a minor in drug dealing (RCW  
16 69.50.401(f))

17 VI Bribery (RCW 9A.68.010)  
18 Manslaughter 2 (RCW 9A.32.070)  
19 Rape of a Child 3 (RCW 9A.44.079)  
20 Intimidating a Juror/Witness (RCW 9A.72.110,  
21 9A.72.130)  
22 Damaging building, etc., by explosion with  
23 no threat to human being (RCW  
24 70.74.280(2))  
25 Endangering life and property by explosives  
26 with no threat to human being (RCW  
27 70.74.270)  
28 Incest 1 (RCW 9A.64.020(1))  
29 (~~Manufacture, deliver, or possess with~~  
30 ~~intent to deliver narcotics from~~  
31 ~~Schedule I or II (except heroin or~~  
32 ~~cocaine) (RCW 69.50.401(a)(1)(i))~~)  
33 Intimidating a Judge (RCW 9A.72.160)  
34 Bail Jumping with Murder 1 (RCW  
35 9A.76.170(2)(a))

1 V Criminal Mistreatment 1 (RCW 9A.42.020)  
2 Rape 3 (RCW 9A.44.060)  
3 Sexual Misconduct with a Minor 1 (RCW  
4 9A.44.093)  
5 Child Molestation 3 (RCW 9A.44.089)  
6 Kidnapping 2 (RCW 9A.40.030)  
7 Extortion 1 (RCW 9A.56.120)  
8 Incest 2 (RCW 9A.64.020(2))  
9 Perjury 1 (RCW 9A.72.020)  
10 Extortionate Extension of Credit (RCW  
11 9A.82.020)  
12 Advancing money or property for extortionate  
13 extension of credit (RCW 9A.82.030)  
14 Extortionate Means to Collect Extensions of  
15 Credit (RCW 9A.82.040)  
16 Rendering Criminal Assistance 1 (RCW  
17 9A.76.070)  
18 Bail Jumping with class A Felony (RCW  
19 9A.76.170(2)(b))  
20 Delivery of imitation controlled substance  
21 by person eighteen or over to person  
22 under eighteen (RCW 69.52.030(2))  
23 Manufacture, deliver, or possess with intent  
24 to deliver narcotics from Schedule I or  
25 II (except heroin or cocaine) (RCW  
26 69.50.401(a)(1)(i))  
27 IV (~~Residential Burglary (RCW 9A.52.025)~~  
28 ~~Theft of Livestock 1 (RCW 9A.56.080)~~)  
29 Robbery 2 (RCW 9A.56.210)  
30 Assault 2 (RCW 9A.36.021)  
31 Escape 1 (RCW 9A.76.110)  
32 Arson 2 (RCW 9A.48.030)  
33 Bribing a Witness/Bribe Received by Witness  
34 (RCW 9A.72.090, 9A.72.100)  
35 Malicious Harassment (RCW 9A.36.080)  
36 Threats to Bomb (RCW 9.61.160)  
37 Willful Failure to Return from Furlough (RCW  
38 72.66.060)



1 Hit and Run « Injury Accident (RCW  
2 46.52.020(4))  
3 Vehicular Assault (RCW 46.61.522)  
4 (~~Manufacture, deliver, or possess with~~  
5 ~~intent to deliver narcotics from~~  
6 ~~Schedule III, IV, or V or nonnarcotics~~  
7 ~~from Schedule I-V (except marijuana or~~  
8 ~~methamphetamines) (RCW~~  
9 ~~69.50.401(a)(1)(ii) through (iv))~~)  
10 Influencing Outcome of Sporting Event (RCW  
11 9A.82.070)  
12 Use of Proceeds of Criminal Profiteering  
13 (RCW 9A.82.080 (1) and (2))  
14 Knowingly Trafficking in Stolen Property  
15 (RCW 9A.82.050(2))

16 III Theft of Livestock 1 (RCW 9A.56.080)  
17 Residential Burglary (RCW 9A.52.025)  
18 Criminal mistreatment 2 (RCW 9A.42.030)  
19 Extortion 2 (RCW 9A.56.130)  
20 Unlawful Imprisonment (RCW 9A.40.040)  
21 Assault 3 (RCW 9A.36.031)  
22 Assault of a Child 3 (RCW 9A.36.140)  
23 Custodial Assault (RCW 9A.36.100)  
24 Unlawful possession of firearm or pistol by felon (RCW  
25 9.41.040)  
26 Harassment (RCW 9A.46.020)  
27 Promoting Prostitution 2 (RCW 9A.88.080)  
28 Willful Failure to Return from Work Release  
29 (RCW 72.65.070)  
30 (~~Burglary 2 (RCW 9A.52.030)~~)  
31 Introducing Contraband 2 (RCW 9A.76.150)  
32 Communication with a Minor for Immoral  
33 Purposes (RCW 9.68A.090)  
34 Patronizing a Juvenile Prostitute (RCW  
35 9.68A.100)  
36 Escape 2 (RCW 9A.76.120)  
37 Perjury 2 (RCW 9A.72.030)  
38 Bail Jumping with class B or C Felony (RCW  
39 9A.76.170(2)(c))

1 Intimidating a Public Servant (RCW  
2 9A.76.180)  
3 Tampering with a Witness (RCW 9A.72.120)  
4 (~~Manufacture, deliver, or possess with~~  
5 ~~intent to deliver marijuana (RCW~~  
6 ~~69.50.401(a)(1)(ii))~~  
7 ~~Delivery of a material in lieu of a~~  
8 ~~controlled substance (RCW 69.50.401(c))~~  
9 ~~Manufacture, distribute, or possess with~~  
10 ~~intent to distribute an imitation~~  
11 ~~controlled substance (RCW 69.52.030(1))~~  
12 ~~Recklessly Trafficking in Stolen Property~~  
13 ~~(RCW 9A.82.050(1))~~  
14 ~~Theft of livestock 2 (RCW 9A.56.080))~~  
15 Manufacture, deliver, or possess with intent  
16 to deliver narcotics from Schedule III,  
17 IV, or V or nonnarcotics from Schedule  
18 I-V (except marijuana or  
19 methamphetamines) (RCW  
20 69.50.401(a)(1)(ii) through (iv))  
21 Securities Act violation (RCW 21.20.400)  
22 II (~~Malicious Mischief 1 (RCW 9A.48.070)~~  
23 ~~Possession of Stolen Property 1 (RCW~~  
24 ~~9A.56.150)~~  
25 ~~Theft 1 (RCW 9A.56.030)~~  
26 ~~Possession of controlled substance that is~~  
27 ~~either heroin or narcotics from~~  
28 ~~Schedule I or II (RCW 69.50.401(d))~~  
29 ~~Possession of phencyclidine (PCP) (RCW~~  
30 ~~69.50.401(d))~~  
31 ~~Create, deliver, or possess a counterfeit~~  
32 ~~controlled substance (RCW~~  
33 ~~69.50.401(b))~~  
34 Burglary 2 (RCW 9A.52.030)  
35 Manufacture, distribute, or possess with  
36 intent to distribute an imitation  
37 controlled substance (RCW 69.52.030(1))  
38 Recklessly Trafficking in Stolen Property  
39 (RCW 9A.82.050(1))

1           Theft of Livestock 2 (RCW 9A.56.080)  
2           Manufacture, deliver, or possess with intent  
3           to deliver marijuana (RCW  
4           69.50.401(a)(1)(ii))  
5           Delivery of a material in lieu of a  
6           controlled substance (RCW 69.50.401(c))  
7           Computer Trespass 1 (RCW 9A.52.110)  
8           Reckless Endangerment 1 (RCW 9A.36.045)  
9           Escape from Community Custody (RCW  
10           72.09.310)

11           I       (~~Theft 2 (RCW 9A.56.040)~~  
12           ~~Possession of Stolen Property 2 (RCW~~  
13           ~~9A.56.160)~~  
14           ~~Forgery (RCW 9A.60.020)~~  
15           ~~Taking Motor Vehicle Without Permission (RCW~~  
16           ~~9A.56.070)~~  
17           ~~Vehicle Prowl 1 (RCW 9A.52.095)~~  
18           ~~Attempting to Elude a Pursuing Police~~  
19           ~~Vehicle (RCW 46.61.024)~~  
20           ~~Malicious Mischief 2 (RCW 9A.48.080))~~  
21           Malicious Mischief 1 (RCW 9A.48.070)  
22           Possession of phencyclidine (PCP) (RCW  
23           69.50.401(d))  
24           Create, deliver, or possess a counterfeit  
25           controlled substance (RCW 69.50.401(b))  
26           Theft 1 (RCW 9A.56.030)  
27           Motor Vehicle Theft (section 14 of this act)  
28           Possession of Stolen Property 1 (RCW  
29           9A.56.150)  
30           Reckless Burning 1 (RCW 9A.48.040)  
31           (~~Unlawful Issuance of Checks or Drafts (RCW~~  
32           ~~9A.56.060)~~  
33           ~~Unlawful Use of Food Stamps (RCW 9.91.140~~  
34           ~~(2) and (3))~~  
35           ~~False Verification for Welfare (RCW~~  
36           ~~74.08.055)~~  
37           ~~Forged Prescription (RCW 69.41.020)~~  
38           ~~Forged Prescription for a Controlled~~  
39           ~~Substance (RCW 69.50.403)~~

1 ~~Possess controlled substance that is a~~  
2 ~~narcotic from Schedule III, IV, or V or~~  
3 ~~non-narcotic from Schedule I-V (except~~  
4 ~~phencyclidine) (RCW 69.50.401(d))~~

5 Possess controlled substance that is either  
6 heroin or narcotics from Schedule I or  
7 II (RCW 69.50.401(d))

8 NV-I Theft 2 (RCW 9A.56.040)  
9 Possession of Stolen Property 2 (RCW  
10 9A.56.160)  
11 Forgery (RCW 9A.60.020)  
12 Vehicle Prowl 1 (RCW 9A.52.095)  
13 Taking Motor Vehicle Without Permission (RCW  
14 9A.56.070)  
15 Attempting to Elude a Pursuing Police  
16 Vehicle (RCW 46.61.024)  
17 Malicious Mischief 2 (RCW 9A.48.080)  
18 Unlawful Issuance of Checks or Drafts (RCW  
19 9A.56.060)  
20 Unlawful Use of Food Stamps (RCW 9.91.140  
21 (2) and (3))  
22 False Verification for Welfare (RCW  
23 74.08.055)  
24 Forged Prescription (RCW 69.41.020)  
25 Forged Prescription for a Controlled  
26 Substance (RCW 69.50.403)  
27 Possess controlled substance that is a  
28 narcotic from Schedule III, IV, or V or  
29 non-narcotic from Schedule I-V (except  
30 phencyclidine) (RCW 69.50.401(d))

31 **Sec. 12.** RCW 9.94A.360 and 1992 c 145 s 10 and 1992 c 75 s 4 are  
32 each reenacted and amended to read as follows:

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

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

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

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

26 (3) Out-of-state convictions for offenses shall be classified  
27 according to the comparable offense definitions and sentences provided  
28 by Washington law.

29 (4) Always include juvenile convictions for sex offenses. Include  
30 other class A juvenile felonies only if the offender was 15 or older at  
31 the time the juvenile offense was committed. Include other class B and  
32 C juvenile felony convictions only if the offender was 15 or older at  
33 the time the juvenile offense was committed and the offender was less  
34 than 23 at the time the offense for which he or she is being sentenced  
35 was committed.

36 (5) Score prior convictions for felony anticipatory offenses  
37 (attempts, criminal solicitations, and criminal conspiracies) the same  
38 as if they were convictions for completed offenses.

1 (6) In the case of multiple prior convictions, for the purpose of  
2 computing the offender score, count all convictions separately, except:

3 (a) Prior adult offenses which were found, under RCW  
4 9.94A.400(1)(a), to encompass the same criminal conduct, shall be  
5 counted as one offense, the offense that yields the highest offender  
6 score. The current sentencing court shall determine with respect to  
7 other prior adult offenses for which sentences were served concurrently  
8 whether those offenses shall be counted as one offense or as separate  
9 offenses, and if the court finds that they shall be counted as one  
10 offense, then the offense that yields the highest offender score shall  
11 be used;

12 (b) Juvenile prior convictions entered or sentenced on the same  
13 date shall count as one offense, the offense that yields the highest  
14 offender score, except for juvenile prior convictions for violent  
15 offenses with separate victims, which shall count as separate offenses;  
16 and

17 (c) In the case of multiple prior convictions for offenses  
18 committed before July 1, 1986, for the purpose of computing the  
19 offender score, count all adult convictions served concurrently as one  
20 offense, and count all juvenile convictions entered on the same date as  
21 one offense. Use the conviction for the offense that yields the  
22 highest offender score.

23 (7) If the present conviction is one of the anticipatory offenses  
24 of criminal attempt, solicitation, or conspiracy, count each prior  
25 conviction as if the present conviction were for a completed offense.

26 (8) If the present conviction is for a nonviolent offense and not  
27 covered by subsection (12) or (13) of this section, count one point for  
28 each adult prior felony conviction and one point for each juvenile  
29 prior violent felony conviction and 1/2 point for each juvenile prior  
30 nonviolent felony conviction.

31 (9) If the present conviction is for a violent offense and not  
32 covered in subsection (10), (11), (12), or (13) of this section, count  
33 two points for each prior adult and juvenile violent felony conviction,  
34 one point for each prior adult nonviolent felony conviction, and 1/2  
35 point for each prior juvenile nonviolent felony conviction.

36 (10) If the present conviction is for Murder 1 or 2, Assault 1,  
37 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count  
38 three points for prior adult and juvenile convictions for crimes in  
39 these categories, two points for each prior adult and juvenile violent

1 conviction (not already counted), one point for each prior adult  
2 nonviolent felony conviction, and 1/2 point for each prior juvenile  
3 nonviolent felony conviction.

4 (11) If the present conviction is for Burglary 1, count prior  
5 convictions as in subsection (9) of this section; however count two  
6 points for each prior adult Burglary 2 or residential burglary  
7 conviction, and one point for each prior juvenile Burglary 2 or  
8 residential burglary conviction.

9 (12) If the present conviction is for a felony traffic offense  
10 count two points for each adult or juvenile prior conviction for  
11 Vehicular Homicide or Vehicular Assault; for each felony offense or  
12 serious traffic offense, count one point for each adult and 1/2 point  
13 for each juvenile prior conviction.

14 (13) If the present conviction is for a drug offense count three  
15 points for each adult prior felony drug offense conviction and two  
16 points for each juvenile drug offense. All other adult and juvenile  
17 felonies are scored as in subsection (9) of this section if the current  
18 drug offense is violent, or as in subsection (8) of this section if the  
19 current drug offense is nonviolent.

20 (14) If the present conviction is for Willful Failure to Return  
21 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
22 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
23 72.09.310, count only prior escape convictions in the offender score.  
24 Count adult prior escape convictions as one point and juvenile prior  
25 escape convictions as 1/2 point.

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

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

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

38 (18) If the present conviction is for an offense committed while  
39 the offender was under community placement, add one point.

1        (19) This section does not apply when an offender is sentenced  
2 pursuant to RCW 9.94A.120(4).

3        **Sec. 13.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are  
4 each reenacted and amended to read as follows:

5        (1) Alternatives to total confinement are available for offenders  
6 ((with sentences)) not sentenced under RCW 9.94A.120(6) (a) or (b) or  
7 (9) to a term of one year or less. These alternatives include the  
8 following sentence conditions that the court may order as substitutes  
9 for total confinement: ((+1)) (a) One day of partial confinement may  
10 be substituted for one day of total confinement; ((+2)) (b) in  
11 addition, for offenders convicted of nonviolent offenses only, eight  
12 hours of community service may be substituted for one day of total  
13 confinement, with a maximum conversion limit of two hundred forty hours  
14 or thirty days. Community service hours must be completed within the  
15 period of community supervision or a time period specified by the  
16 court, which shall not exceed twenty-four months, pursuant to a  
17 schedule determined by the department.

18        For sentences of nonviolent offenders not sentenced under RCW  
19 9.94A.120(6) (a) or (b) or (9) for one year or less, the court shall  
20 consider and give priority to available alternatives to total  
21 confinement and shall state its reasons in writing on the judgment and  
22 sentence form if the alternatives are not used.

23        (2) "Authorized sentencing options" means:

24        (a) Partial confinement as defined in RCW 9.94A.030 at the rate of  
25 one day of partial confinement for one day of total confinement;

26        (b) Community service as defined in RCW 9.94A.030 at the rate of  
27 eight hours of community service for one day of total confinement;

28        (c) Work crew as defined in RCW 9.94A.030 at the rate of seven  
29 hours of work crew for one day of total confinement;

30        (d) Work release as defined in RCW 9.94A.030 at the rate of one  
31 day of work release for one day of total confinement;

32        (e) Home detention as defined in RCW 9.94A.030 at the rate of one  
33 day of home detention for one day of total confinement;

34        (f) Day reporting as defined in RCW 9.94A.030 at the rate of two  
35 days of day reporting for one day of total confinement;

36        (g) Drug or alcohol monitoring as defined in RCW 9.94A.030 at the  
37 rate of five days of drug or alcohol monitoring for one day of total  
38 confinement;



1        (h) Inpatient treatment as defined in RCW 9.94A.030 at the rate of  
2 one day of inpatient treatment for one day of total confinement;

3        (i) Day fine as defined in RCW 9.94A.030 at the rate of one day of  
4 day fine for one day of total confinement;

5        (j) Education or training as defined in RCW 9.94A.030 at the rate  
6 of five hours of education or training for one day of total  
7 confinement; or

8        (k) Outpatient treatment as defined in RCW 9.94A.030 at the rate  
9 of two days of outpatient treatment for one day of total confinement.

10        (3) Sentencing alternatives must be completed within the time  
11 period specified by the court, pursuant to a schedule determined by the  
12 department.

13        (4) The department shall determine the rules for calculating the  
14 value of a day fine based on the offender's income and reasonable  
15 obligations which the offender has for the support of the offender and  
16 any dependents. These rules shall be developed in consultation with  
17 the administrator for the courts, the office of financial management,  
18 and the sentencing guidelines commission.

19        NEW SECTION. Sec. 14. A new section is added to chapter 9A.56  
20 RCW to read as follows:

21        (1) A person is guilty of motor vehicle theft if the person  
22 commits theft of a motor vehicle, regardless of its value.

23        (2) Motor vehicle theft is a class B felony.

24        **Sec. 15.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to  
25 read as follows:

26        (1) A person is guilty of theft in the second degree if he or she  
27 commits theft of:

28        (a) Property or services which exceed(s) two hundred and fifty  
29 dollars in value, but does not exceed one thousand five hundred dollars  
30 in value; or

31        (b) A public record, writing, or instrument kept, filed, or  
32 deposited according to law with or in the keeping of any public office  
33 or public servant; or

34        (c) An access device; or

35        (d) ~~((A motor vehicle, of a value less than one thousand five~~  
36 ~~hundred dollars; or~~

1        ~~(e))~~) A firearm, of a value less than one thousand five hundred  
2 dollars.

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

4        NEW SECTION.   **Sec. 16.**   A new section is added to chapter 72.09  
5 RCW to read as follows:

6        (1) The department of community development in conjunction with  
7 the department of corrections shall develop guidelines and criteria for  
8 counties to develop and propose to the department of community  
9 development a plan for alternatives to incarceration. The county  
10 legislative body or the county executive shall approve the plan prior  
11 to submittal to the department of community development. The plan may  
12 represent a single county or combination of counties. Plans developed  
13 by the counties may recommend funding requirements for the development  
14 and/or enhancement of alternatives to incarceration.

15        (2) A single county or combination of counties may elect to have  
16 the state develop and implement alternatives to incarceration subject  
17 to the submittal of a plan by the department of corrections and  
18 approval of the plan by the department of community development.

19        (3) Counties shall be eligible for funding of up to seventy-five  
20 percent of the costs identified in the approved plan. Counties shall  
21 be responsible for funding at least twenty-five percent of the costs of  
22 the approved plan and may assume fines, fees, and recoveries of cost  
23 from offenders who may participate in these programs.

24        (4) State funding for implementation of the proposals approved by  
25 the department of community development is subject to the availability  
26 of funds appropriated to the department of community development and  
27 provided solely for such purposes. Moneys distributed under this  
28 section shall be expended exclusively for enhancements to alternatives  
29 to incarceration and shall not be used to replace or supplant existing  
30 funding for current level services.

31        NEW SECTION.   **Sec. 17.**   (1) The Washington council on justice  
32 policy is hereby established. The council shall consist of nineteen  
33 members appointed by the governor. Membership shall include:

34        (a) At least one representative of city governments;

35        (b) At least one representative of county governments;

36        (c) At least one representative of sheriffs and police chiefs;

37        (d) At least one representative of criminal defense attorneys;

1 (e) At least one representative of prosecuting attorneys;  
2 (f) At least one representative of the judiciary;  
3 (g) At least one representative of business;  
4 (h) At least one representative of labor;  
5 (i) At least one representative of higher education;  
6 (j) At least one representative of the common schools;  
7 (k) At least one representative from crime victims' organizations;  
8 (l) Four legislators, one from each major caucus in each chamber;  
9 (m) At least two citizen representatives, one from eastern  
10 Washington and one from western Washington.

11 (2) Nonlegislative members may receive reimbursement for travel  
12 under RCW 43.03.050 and 43.03.060. Legislative members may be  
13 reimbursed under RCW 41.04.300.

14 (3) The council shall review the state's long-range strategy for  
15 criminal justice policies. The council shall include a broad focus in  
16 its deliberations, including adult and juvenile justice topics as well  
17 as crime prevention, substance abuse and treatment, sentencing  
18 policies, with attention to both state and local government policies.  
19 The council shall interact with other state entities addressing  
20 particular components of the criminal justice system, including the  
21 sentencing guidelines commission and the juvenile disposition standards  
22 board.

23 (4) The council shall report to the governor and the legislature  
24 by January 15, 1995. The council shall expire July 1, 1995.

25 NEW SECTION. **Sec. 18.** (1) This act is necessary for the  
26 immediate preservation of the public peace, health, or safety, or  
27 support of the state government and its existing public institutions,  
28 and shall take effect July 1, 1993.

29 (2) Persons sentenced for adjusted nonviolent offenses prior to  
30 July 1, 1993, shall have their sentences adjusted pursuant to this act  
31 by the secretary of corrections or the secretary's designee, or by the  
32 administrator of the local correctional facility in which the offender  
33 is confined. Sentences that were originally longer than one year  
34 before adjustment shall be served in a state facility or institution  
35 operated, or utilized under contract, by the state.

--- END ---