
HOUSE BILL 2374

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1994 Regular Session

By Representatives R. Meyers, Ballasiotes, Wineberry, Johanson, Campbell, Basich, Quall, Jones, King and H. Myers; by request of Sentencing Guidelines Commission

Read first time 01/14/94. Referred to Committee on Corrections.

1 AN ACT Relating to punishment options for offenders convicted of
2 nonviolent crimes with a sentence of twelve months or less; amending
3 RCW 9.94A.200; reenacting and amending RCW 9.94A.030, 9.94A.120, and
4 9.94A.380; adding a new section to chapter 9.94A RCW; adding a new
5 section to chapter 2.56 RCW; creating new sections; prescribing
6 penalties; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** (1) It is the intent of the legislature to
9 increase the effectiveness of punishment, improve public safety, deter
10 future criminal conduct, and enhance the capacity of offenders to
11 acquire appropriate social and work skills, by maximizing the ability
12 of the judiciary to exercise discretion in imposing punishment options
13 for nonviolent offenders who are not sex offenders with a sentence of
14 twelve months or less.

15 (2) The legislature finds that confinement is often ineffective
16 punishment for nonviolent offenders, and therefore encourages the use
17 of nonincarcerative punishment options. It is the intent of the
18 legislature that these punishment options be used in lieu of, not in
19 addition to confinement that might be otherwise imposed. It is also

1 the intent of the legislature that the imposition of punishment options
2 not be based on the gender or ethnicity of the offender.

3 **Sec. 2.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No.
4 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each
5 reenacted and amended to read as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Approved adult education" means a formal program of adult
9 education that has state certification.

10 (2) "Approved vocational-technical training" means coursework
11 and/or on-the-job training in a vocational-technical training program
12 certified by the state.

13 (3) "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.

20 ~~((+2))~~ (4) "Commission" means the sentencing guidelines
21 commission.

22 ~~((+3))~~ (5) "Community corrections officer" means an employee of
23 the department who is responsible for carrying out specific duties in
24 supervision of sentenced offenders and monitoring of sentence
25 conditions.

26 ~~((+4))~~ (6) "Community custody" means that portion of an inmate's
27 sentence of confinement in lieu of earned early release time served in
28 the community subject to controls placed on the inmate's movement and
29 activities by the department of corrections.

30 ~~((+5))~~ (7) "Community placement" means that period during which
31 the offender is subject to the conditions of community custody and/or
32 postrelease supervision, which begins either upon completion of the
33 term of confinement (postrelease supervision) or at such time as the
34 offender is transferred to community custody in lieu of earned early
35 release. Community placement may consist of entirely community
36 custody, entirely postrelease supervision, or a combination of the two.

37 ~~((+6))~~ (8) "Community rehabilitation center" means a residential
38 facility for offenders.

1 (9) "Community service" means compulsory service, without compensa-
2 tion, performed for the benefit of the community by the offender.

3 ~~((+7+))~~ (10) "Community supervision" means a period of time during
4 which a convicted offender is subject to crime-related prohibitions and
5 other sentence conditions imposed by a court pursuant to this chapter
6 or RCW 46.61.524. For first-time offenders, the supervision may
7 include crime-related prohibitions and other conditions imposed
8 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
9 for out-of-state supervision of parolees and probationers, RCW
10 9.95.270, community supervision is the functional equivalent of
11 probation and should be considered the same as probation by other
12 states.

13 ~~((+8+))~~ (11) "Confinement" means total or partial confinement as
14 defined in this section.

15 ~~((+9+))~~ (12) "Conviction" means an adjudication of guilt pursuant
16 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of
17 guilty, and acceptance of a plea of guilty.

18 ~~((+10+))~~ (13) "Court-ordered legal financial obligation" means a
19 sum of money that is ordered by a superior court of the state of
20 Washington for legal financial obligations which may include
21 restitution to the victim, statutorily imposed crime victims'
22 compensation fees as assessed pursuant to RCW 7.68.035, court costs,
23 county or interlocal drug funds, court-appointed attorneys' fees, and
24 costs of defense, fines, and any other financial obligation that is
25 assessed to the offender as a result of a felony conviction. Upon
26 conviction for vehicular assault while under the influence of
27 intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular
28 homicide while under the influence of intoxicating liquor or any drug,
29 RCW 46.61.520(1)(a), legal financial obligations may also include
30 payment to a public agency of the expense of an emergency response to
31 the incident resulting in the conviction, subject to the provisions in
32 RCW 38.52.430.

33 ~~((+11+))~~ (14) "Crime-related prohibition" means an order of a court
34 prohibiting conduct that directly relates to the circumstances of the
35 crime for which the offender has been convicted, and shall not be
36 construed to mean orders directing an offender affirmatively to
37 participate in rehabilitative programs or to otherwise perform
38 affirmative conduct.

1 (~~(12)~~) (15)(a) "Criminal history" means the list of a defendant's
2 prior convictions, whether in this state, in federal court, or
3 elsewhere. The history shall include, where known, for each conviction
4 (i) whether the defendant has been placed on probation and the length
5 and terms thereof; and (ii) whether the defendant has been incarcerated
6 and the length of incarceration.

7 (b) "Criminal history" shall always include juvenile convictions
8 for sex offenses and shall also include a defendant's other prior
9 convictions in juvenile court if: (i) The conviction was for an
10 offense which is a felony or a serious traffic offense and is criminal
11 history as defined in RCW 13.40.020(~~(6)~~) (9)(a); (ii) the defendant
12 was fifteen years of age or older at the time the offense was
13 committed; and (iii) with respect to prior juvenile class B and C
14 felonies or serious traffic offenses, the defendant was less than
15 twenty-three years of age at the time the offense for which he or she
16 is being sentenced was committed.

17 (~~(13)~~) (16) "Day fine" means a fine imposed by the sentencing
18 judge that equals the difference between the offender's net daily
19 income and the reasonable obligations that the offender has for the
20 support of the offender and any dependents.

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

26 (18) "Department" means the department of corrections.

27 (~~(14)~~) (19) "Determinate sentence" means a sentence that states
28 with exactitude the number of actual years, months, or days of total
29 confinement, of partial confinement, of community supervision, the
30 number of actual hours or days of community service work, or dollars or
31 terms of a legal financial obligation. The fact that an offender
32 through "earned early release" can reduce the actual period of
33 confinement shall not affect the classification of the sentence as a
34 determinate sentence.

35 (~~(15)~~) (20) "Disposable earnings" means that part of the earnings
36 of an individual remaining after the deduction from those earnings of
37 any amount required by law to be withheld. For the purposes of this
38 definition, "earnings" means compensation paid or payable for personal
39 services, whether denominated as wages, salary, commission, bonuses, or

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

8 ~~((16))~~ (21) "Drug offense" means:

9 (a) Any felony violation of chapter 69.50 RCW except possession of
10 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
11 controlled substance (RCW 69.50.403);

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

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

18 ~~((17))~~ (22) "Drug or alcohol monitoring" means the obligation to
19 remain free of any nonprescribed controlled substance or any alcoholic
20 beverage and to submit to periodic testing to monitor that status such
21 as drug monitoring under a treatment alternatives to street crime
22 (TASC) or comparable program.

23 (23) "Electronic community activity monitoring" means that the
24 offender's location throughout the day is monitored through electronic
25 means.

26 (24) "Escape" means:

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

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

35 ~~((18))~~ (25) "Felony traffic offense" means:

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

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

4 (~~((19))~~) (26) "Fines" means the requirement that the offender pay
5 a specific sum of money over a specific period of time to the court.

6 (~~((20))~~) (27)(a) "First-time offender" means any person who is
7 convicted of a felony (i) not classified as a violent offense or a sex
8 offense under this chapter, or (ii) that is not the manufacture,
9 delivery, or possession with intent to manufacture or deliver a
10 controlled substance classified in schedule I or II that is a narcotic
11 drug or the selling for profit of any controlled substance or
12 counterfeit substance classified in schedule I, RCW 69.50.204, except
13 leaves and flowering tops of marihuana, and except as provided in (b)
14 of this subsection, who previously has never been convicted of a felony
15 in this state, federal court, or another state, and who has never
16 participated in a program of deferred prosecution for a felony offense.

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

20 (~~((21))~~) (28) "Home detention" means a program of partial
21 confinement available to offenders wherein the offender is confined in
22 a private residence subject to electronic surveillance.

23 (29) "Inpatient treatment" means a treatment program certified by
24 the state that requires the offender to be in residence at the
25 treatment facility.

26 (30) "Intensive supervision" means a supervision program
27 implemented by the department that involves closer monitoring of the
28 defendant's compliance with sentence conditions and more frequent
29 contacts with the community corrections officer than would occur under
30 standard community supervision.

31 (31) "Most serious offense" means any of the following felonies or
32 a felony attempt to commit any of the following felonies, as now
33 existing or hereafter amended:

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

37 (b) Assault in the second degree;

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

39 (d) Child molestation in the second degree;

1 (e) Controlled substance homicide;
2 (f) Extortion in the first degree;
3 (g) Incest when committed against a child under age fourteen;
4 (h) Indecent liberties;
5 (i) Kidnapping in the second degree;
6 (j) Leading organized crime;
7 (k) Manslaughter in the first degree;
8 (l) Manslaughter in the second degree;
9 (m) Promoting prostitution in the first degree;
10 (n) Rape in the third degree;
11 (o) Robbery in the second degree;
12 (p) Sexual exploitation;
13 (q) Vehicular assault;
14 (r) Vehicular homicide, when proximately caused by the driving of
15 any vehicle by any person while under the influence of intoxicating
16 liquor or any drug as defined by RCW 46.61.502, or by the operation of
17 any vehicle in a reckless manner;
18 (s) Any other class B felony offense with a finding of sexual
19 motivation, as "sexual motivation" is defined under this section;
20 (t) Any other felony with a deadly weapon verdict under RCW
21 9.94A.125;
22 (u) Any felony offense in effect at any time prior to December 2,
23 1993, that is comparable to a most serious offense under this
24 subsection, or any federal or out-of-state conviction for an offense
25 that under the laws of this state would be a felony classified as a
26 most serious offense under this subsection.
27 ~~((22))~~ (32) "Nonviolent offense" means an offense which is not a
28 violent offense.
29 ~~((23))~~ (33) "Offender" means a person who has committed a felony
30 established by state law and is eighteen years of age or older or is
31 less than eighteen years of age but whose case has been transferred by
32 the appropriate juvenile court to a criminal court pursuant to RCW
33 13.40.110. Throughout this chapter, the terms "offender" and
34 "defendant" are used interchangeably.
35 ~~((24))~~ (34) "Outpatient treatment" means a treatment program
36 certified by the state or recommended by the department that does not
37 require that the offender be in residence at the treatment facility.
38 (35) "Partial confinement" means confinement for no more than one
39 year in a facility or institution operated or utilized under contract

1 by the state or any other unit of government, or, if home detention or
2 work crew has been ordered by the court, in an approved residence, for
3 a substantial portion of each day with the balance of the day spent in
4 the community. Partial confinement includes work release, home
5 detention, work crew, and a combination of work crew and home detention
6 as defined in this section.

7 ~~((25))~~ (36) "Persistent offender" is an offender who:

8 (a) Has been convicted in this state of any felony considered a
9 most serious offense; and

10 (b) Has, before the commission of the offense under (a) of this
11 subsection, been convicted as an offender on at least two separate
12 occasions, whether in this state or elsewhere, of felonies that under
13 the laws of this state would be considered most serious offenses and
14 would be included in the offender score under RCW 9.94A.360; provided
15 that of the two or more previous convictions, at least one conviction
16 must have occurred before the commission of any of the other most
17 serious offenses for which the offender was previously convicted.

18 ~~((26))~~ (37) "Postrelease supervision" is that portion of an
19 offender's community placement that is not community custody.

20 ~~((27))~~ (38) "Restitution" means the requirement that the offender
21 pay a specific sum of money over a specific period of time to the court
22 as payment of damages. The sum may include both public and private
23 costs. The imposition of a restitution order does not preclude civil
24 redress.

25 ~~((28))~~ (39) "Serious traffic offense" means:

26 (a) Driving while under the influence of intoxicating liquor or any
27 drug (RCW 46.61.502), actual physical control while under the influence
28 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
29 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
30 or

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

34 ~~((29))~~ (40) "Serious violent offense" is a subcategory of violent
35 offense and means:

36 (a) Murder in the first degree, homicide by abuse, murder in the
37 second degree, assault in the first degree, kidnapping in the first
38 degree, or rape in the first degree, assault of a child in the first

1 degree, or an attempt, criminal solicitation, or criminal conspiracy to
2 commit one of these felonies; or

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

6 (~~(30)~~) (41) "Sentence range" means the sentencing court's
7 discretionary range in imposing a nonappealable sentence.

8 (~~(31)~~) (42) "Sex offense" means:

9 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
10 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
11 attempt, criminal solicitation, or criminal conspiracy to commit such
12 crimes;

13 (b) A felony with a finding of sexual motivation under RCW
14 9.94A.127; or

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

18 (~~(32)~~) (43) "Sexual motivation" means that one of the purposes
19 for which the defendant committed the crime was for the purpose of his
20 or her sexual gratification.

21 (~~(33)~~) (44) "Total confinement" means confinement inside the
22 physical boundaries of a facility or institution operated or utilized
23 under contract by the state or any other unit of government for twenty-
24 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

25 (~~(34)~~) (45) "Transition training" means written and verbal
26 instructions and assistance provided by the department to the offender
27 during the two weeks prior to the offender's successful completion of
28 the work ethic camp program. The transition training shall include
29 instructions in the offender's requirements and obligations during the
30 offender's period of community custody.

31 (~~(35)~~) (46) "Victim" means any person who has sustained
32 emotional, psychological, physical, or financial injury to person or
33 property as a direct result of the crime charged.

34 (~~(36)~~) (47) "Violent offense" means:

35 (a) Any of the following felonies, as now existing or hereafter
36 amended: Any felony defined under any law as a class A felony or an
37 attempt to commit a class A felony, criminal solicitation of or
38 criminal conspiracy to commit a class A felony, manslaughter in the
39 first degree, manslaughter in the second degree, indecent liberties if

1 committed by forcible compulsion, kidnapping in the second degree,
2 arson in the second degree, assault in the second degree, assault of a
3 child in the second degree, extortion in the first degree, robbery in
4 the second degree, vehicular assault, and vehicular homicide, when
5 proximately caused by the driving of any vehicle by any person while
6 under the influence of intoxicating liquor or any drug as defined by
7 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

14 (~~((37))~~) (48) "Work crew" means a program of partial confinement
15 consisting of civic improvement tasks for the benefit of the community
16 of not less than thirty-five hours per week that complies with RCW
17 9.94A.135. The civic improvement tasks shall have minimal negative
18 impact on existing private industries or the labor force in the county
19 where the service or labor is performed. The civic improvement tasks
20 shall not affect employment opportunities for people with developmental
21 disabilities contracted through sheltered workshops as defined in RCW
22 82.04.385. Only those offenders sentenced to a facility operated or
23 utilized under contract by a county or the state are eligible to
24 participate on a work crew. Offenders sentenced for a sex offense as
25 defined in subsection (~~((31))~~) (42) of this section are not eligible
26 for the work crew program.

27 (~~((38))~~) (49) "Work ethic camp" means an alternative incarceration
28 program designed to reduce recidivism and lower the cost of corrections
29 by requiring offenders to complete a comprehensive array of real-world
30 job and vocational experiences, character-building work ethics
31 training, life management skills development, substance abuse
32 rehabilitation, counseling, literacy training, and basic adult
33 education.

34 (~~((39))~~) (50) "Work release" means a program of partial confinement
35 available to offenders who are employed or engaged as a student in a
36 regular course of study at school. Participation in work release shall
37 be conditioned upon the offender attending work or school at regularly
38 defined hours and abiding by the rules of the work release facility.

1 ~~((40) "Home detention" means a program of partial confinement~~
2 ~~available to offenders wherein the offender is confined in a private~~
3 ~~residence subject to electronic surveillance. Home detention may not~~
4 ~~be imposed for offenders convicted of a violent offense, any sex~~
5 ~~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 ~~(a) Home detention may be imposed for offenders convicted of~~
17 ~~burglary in the second degree as defined in RCW 9A.52.030 or~~
18 ~~residential burglary conditioned upon the offender: (i) Successfully~~
19 ~~completing twenty one days in a work release program, (ii) having no~~
20 ~~convictions for burglary in the second degree or residential burglary~~
21 ~~during the preceding two years and not more than two prior convictions~~
22 ~~for burglary or residential burglary, (iii) having no convictions for~~
23 ~~a violent felony offense during the preceding two years and not more~~
24 ~~than two prior convictions for a violent felony offense, (iv) having no~~
25 ~~prior charges of escape, and (v) fulfilling the other conditions of the~~
26 ~~home detention program.~~

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

1 ~~or health-related reasons is conditioned on the offender abiding by the~~
2 ~~rules of the home detention program and complying with court-ordered~~
3 ~~restitution.))~~

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

6 Home detention may not be imposed for offenders convicted of a
7 violent offense, any sex offense, any drug offense, reckless burning in
8 the first or second degree as defined in RCW 9A.48.040 or 9A.48.050,
9 assault in the third degree as defined in RCW 9A.36.031, assault of a
10 child in the third degree as defined in RCW 9A.36.140, unlawful
11 imprisonment as defined in RCW 9A.40.040, or harassment as defined in
12 RCW 9A.46.020. Home detention may be imposed for offenders convicted
13 of possession of a controlled substance (RCW 69.50.401(d)) or forged
14 prescription for a controlled substance (RCW 69.50.403) if the offender
15 fulfills the participation conditions set forth in this section and is
16 monitored for drug use by treatment alternatives to street crime (TASC)
17 or a comparable court or agency-referred program.

18 (1) Home detention may be imposed for offenders convicted of
19 burglary in the second degree as defined in RCW 9A.52.030 or
20 residential burglary as defined in RCW 9A.52.025 conditioned upon the
21 offender: (a) Successfully completing twenty-one days in a work
22 release program, (b) having no convictions for burglary in the second
23 degree or residential burglary during the preceding two years and not
24 more than two prior convictions for burglary or residential burglary,
25 (c) having no convictions for a violent felony offense during the
26 preceding two years and not more than two prior convictions for a
27 violent felony offense, (d) having no prior charges of escape, and (e)
28 fulfilling the other conditions of the home detention program.

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

1 or where the health and welfare of the offender, other inmates, or
2 staff would be jeopardized by the offender's incarceration.
3 Participation in the home detention program for medical or health-
4 related reasons is conditioned on the offender abiding by the rules of
5 the home detention program and complying with court-ordered
6 restitution.

7 **Sec. 4.** RCW 9.94A.120 and 1994 c 1 s 2 (Initiative Measure No.
8 593) and 1993 c 31 s 3 are each reenacted and amended to read as
9 follows:

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

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

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

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

23 (4) A persistent offender shall be sentenced to a term of total
24 confinement for life without the possibility of parole or, when
25 authorized by RCW 10.95.030 for the crime of aggravated murder in the
26 first degree, sentenced to death, notwithstanding the maximum sentence
27 under any other law. An offender convicted of the crime of murder in
28 the first degree shall be sentenced to a term of total confinement not
29 less than twenty years. An offender convicted of the crime of assault
30 in the first degree or assault of a child in the first degree where the
31 offender used force or means likely to result in death or intended to
32 kill the victim shall be sentenced to a term of total confinement not
33 less than five years. An offender convicted of the crime of rape in
34 the first degree shall be sentenced to a term of total confinement not
35 less than five years. The foregoing minimum terms of total confinement
36 are mandatory and shall not be varied or modified as provided in
37 subsection (2) of this section. In addition, all offenders subject to
38 the provisions of this subsection shall not be eligible for community

1 custody, earned early release time, furlough, home detention, partial
2 confinement, work crew, work release, or any other form of early
3 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
4 or any other form of authorized leave of absence from the correctional
5 facility while not in the direct custody of a corrections officer or
6 officers during such minimum terms of total confinement except in the
7 case of an offender in need of emergency medical treatment or for the
8 purpose of commitment to an inpatient treatment facility in the case of
9 an offender convicted of the crime of rape in the first degree.

10 (5) In sentencing a first-time offender the court may waive the
11 imposition of a sentence within the sentence range and impose a
12 sentence which may include up to ninety days of confinement in a
13 facility operated or utilized under contract by the county ~~((and a~~
14 ~~requirement that the offender refrain from committing new offenses))~~.
15 The sentence shall be imposed in accordance with subsection (6) of this
16 section. The sentence may also include up to ~~((two years))~~ one year of
17 community supervision, which, in addition to crime-related
18 prohibitions, may include ~~((requirements))~~ conditions that the offender
19 ~~((perform any one or more of the following))~~:

20 (a) ~~((Devote time to a specific employment or occupation;~~

21 ~~(b) Undergo available outpatient treatment for up to two years, or~~
22 ~~inpatient treatment not to exceed the standard range of confinement for~~
23 ~~that offense;~~

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

26 ~~(d))~~ Refrain from committing new offenses;

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

30 ~~((e))~~ (c) Report as directed to the court and a community
31 corrections officer; or

32 ~~((f))~~ (d) Pay all court-ordered legal financial obligations as
33 provided in RCW ~~((9.94A.030 and/or perform community service work))~~
34 9.94A.145.

35 (6)(a) When sentencing a first-time offender, or an offender who is
36 not a violent offender or a sex offender and whose sentence is twelve
37 months or less, the court shall first determine an appropriate sentence
38 within the standard range. It is appropriate that such sentence be
39 served primarily or exclusively under one or more of the punishment

1 options set forth in (c) of this subsection. If the court determines
2 that a period of total confinement is appropriate in order to
3 adequately punish the offender and to serve the best interest of
4 society, the court shall order the confinement for the minimum time
5 necessary to carry out the goals of this chapter.

6 (b) For the purposes of this subsection, if a first-time offender
7 is being sentenced under subsection (5) of this section, zero to ninety
8 days shall be considered to be the standard range. Punishment options
9 that are imposed under this section may be used in any combination and
10 may also be combined with total confinement. Conversions of total
11 confinement to punishment options shall be clearly indicated on the
12 judgment and sentence.

13 (c) Punishment options available to a court include:

14 (i) Approved adult education at the rate of five hours of education
15 for one day of total confinement;

16 (ii) Approved vocational-technical training at the rate of five
17 hours of training for one day of total confinement;

18 (iii) Community rehabilitation center at the rate of one day of
19 residence for one day of total confinement;

20 (iv) Community service at the rate of eight hours of community
21 service for one day of total confinement;

22 (v) Day fines at the rate one day of day fine for one day of total
23 confinement;

24 (vi) Day reporting at the rate of two days of day reporting for one
25 day of total confinement;

26 (vii) Drug or alcohol monitoring at the rate of five days of
27 monitoring for one day of total confinement;

28 (viii) Electronic community activity monitoring at the rate of one
29 day of monitoring for one day of total confinement;

30 (ix) Home detention at the rate of one day of home detention for
31 one day of total confinement;

32 (x) Inpatient treatment at the rate of one day of treatment for one
33 day of total confinement;

34 (xi) Intensive supervision at the rate of four days of supervision
35 for one day of total confinement;

36 (xii) Outpatient treatment at the rate of two days of treatment for
37 one day of total confinement;

38 (xiii) Partial confinement at the rate of one day of partial
39 confinement for one day of total confinement;

1 (xiv) Work crew at the rate of seven hours of work crew for one day
2 of total confinement; and

3 (xv) Work release at the rate of one day of work release for one
4 day of total confinement.

5 (d) An offender may also be placed on a term of community
6 supervision not to exceed one year. At any time after the successful
7 completion of punishment options and other conditions imposed, the
8 offender or the department may petition the court to terminate
9 community supervision.

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

16 (7) If a sentence range has not been established for the
17 defendant's crime, the court shall impose a determinate sentence which
18 may include not more than one year of confinement, (~~community service~~
19 work~~7~~), a term of community supervision not to exceed one year, and/or
20 (~~other~~) legal financial obligations. The court shall consider
21 conversion of any total confinement to punishment options in accordance
22 with subsection (6) of this section. At any time after the successful
23 completion of punishment options and other conditions imposed, the
24 offender or the department may petition the court to terminate
25 community supervision. The court may impose a sentence which provides
26 more than one year of confinement if the court finds, considering the
27 purpose of this chapter, that there are substantial and compelling
28 reasons justifying an exceptional sentence.

29 (~~(7)~~) (8)(a)(i) When an offender is convicted of a sex offense
30 other than a violation of RCW 9A.44.050 or a sex offense that is also
31 a serious violent offense and has no prior convictions for a sex
32 offense or any other felony sex offenses in this or any other state,
33 the sentencing court, on its own motion or the motion of the state or
34 the defendant, may order an examination to determine whether the
35 defendant is amenable to treatment.

36 The report of the examination shall include at a minimum the
37 following: The defendant's version of the facts and the official
38 version of the facts, the defendant's offense history, an assessment of
39 problems in addition to alleged deviant behaviors, the offender's

1 social and employment situation, and other evaluation measures used.
2 The report shall set forth the sources of the evaluator's information.

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

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

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

10 (C) Monitoring plans, including any requirements regarding living
11 conditions, lifestyle requirements, and monitoring by family members
12 and others;

13 (D) Anticipated length of treatment; and

14 (E) Recommended crime-related prohibitions.

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

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

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

33 (B) The court shall order treatment for any period up to three
34 years in duration. The court in its discretion shall order outpatient
35 sex offender treatment or inpatient sex offender treatment, if
36 available. A community mental health center may not be used for such
37 treatment unless it has an appropriate program designed for sex
38 offender treatment. The offender shall not change sex offender
39 treatment providers or treatment conditions without first notifying the

1 prosecutor, the community corrections officer, and the court, and shall
2 not change providers without court approval after a hearing if the
3 prosecutor or community corrections officer object to the change. In
4 addition, as conditions of the suspended sentence, the court may impose
5 other sentence conditions including up to six months of confinement,
6 not to exceed the sentence range of confinement for that offense,
7 crime-related prohibitions, and requirements that the offender perform
8 any one or more of the following:

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

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

13 (III) Report as directed to the court and a community corrections
14 officer;

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

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

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

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

1 community supervision, and either (B) terminate treatment, or (C)
2 extend treatment for up to the remaining period of community
3 supervision.

4 (v) The court may revoke the suspended sentence at any time during
5 the period of community supervision and order execution of the sentence
6 if: (A) The defendant violates the conditions of the suspended
7 sentence, or (B) the court finds that the defendant is failing to make
8 satisfactory progress in treatment. All confinement time served during
9 the period of community supervision shall be credited to the offender
10 if the suspended sentence is revoked.

11 (vi) Except as provided in (a)(vii) of this subsection, after July
12 1, 1991, examinations and treatment ordered pursuant to this subsection
13 shall only be conducted by sex offender treatment providers certified
14 by the department of health pursuant to chapter 18.155 RCW.

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

25 For purposes of this subsection, "victim" means any person who has
26 sustained emotional, psychological, physical, or financial injury to
27 person or property as a result of the crime charged. "Victim" also
28 means a parent or guardian of a victim who is a minor child unless the
29 parent or guardian is the perpetrator of the offense.

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

1 confinement pending an opportunity to be evaluated at the appropriate
2 facility. The court shall review the reports and may order that the
3 term of confinement imposed be served in the sexual offender treatment
4 program at the location determined by the secretary of social and
5 health services or the secretary's designee, only if the report
6 indicates that the offender is amenable to the treatment program
7 provided at these facilities. The offender shall be transferred to the
8 state pending placement in the treatment program. Any offender who has
9 escaped from the treatment program shall be referred back to the
10 sentencing court.

11 If the offender does not comply with the conditions of the
12 treatment program, the secretary of social and health services may
13 refer the matter to the sentencing court. The sentencing court shall
14 commit the offender to the department of corrections to serve the
15 balance of the term of confinement.

16 If the offender successfully completes the treatment program before
17 the expiration of the term of confinement, the court may convert the
18 balance of confinement to community supervision and may place
19 conditions on the offender including crime related prohibitions and
20 requirements that the offender perform any one or more of the
21 following:

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

29 If the offender violates any of the terms of community supervision,
30 the court may order the offender to serve out the balance of the
31 community supervision term in confinement in the custody of the
32 department of corrections.

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

35 (c)) When an offender commits any felony sex offense on or after
36 July 1, 1987, and is sentenced to a term of confinement of more than
37 one year but less than six years, the sentencing court may, on its own
38 motion or on the motion of the offender or the state, request the
39 department of corrections to evaluate whether the offender is amenable

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

3 Except for an offender who has been convicted of a violation of RCW
4 9A.44.040 or 9A.44.050, if the offender completes the treatment program
5 before the expiration of his or her term of confinement, the department
6 of corrections may request the court to convert the balance of
7 confinement to community supervision and to place conditions on the
8 offender including crime-related prohibitions and requirements that the
9 offender perform any one or more of the following:

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

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

14 (iii) Report as directed to the court and a community corrections
15 officer;

16 (iv) Undergo available outpatient treatment.

17 If the offender violates any of the terms of his or her community
18 supervision, the court may order the offender to serve out the balance
19 of his or her community supervision term in confinement in the custody
20 of the department of corrections.

21 Nothing in ~~((e)of))~~ this subsection (8)(b) shall confer
22 eligibility for such programs for offenders convicted and sentenced for
23 a sex offense committed prior to July 1, 1987. This subsection ~~((e))~~
24 (8)(b) does not apply to any crime committed after July 1, 1990.

25 ~~((d))~~ (c) Offenders convicted and sentenced for a sex offense
26 committed prior to July 1, 1987, may, subject to available funds,
27 request an evaluation by the department of corrections to determine
28 whether they are amenable to treatment. If the offender is determined
29 to be amenable to treatment, the offender may request placement in a
30 treatment program within a correctional facility operated by the
31 department. Placement in such treatment program is subject to
32 available funds.

33 ~~((8))~~ (9)(a) When a court sentences a person to a term of total
34 confinement to the custody of the department of corrections for an
35 offense categorized as a sex offense or a serious violent offense
36 committed after July 1, 1988, but before July 1, 1990, assault in the
37 second degree, assault of a child in the second degree, any crime
38 against a person where it is determined in accordance with RCW
39 9.94A.125 that the defendant or an accomplice was armed with a deadly

1 weapon at the time of commission, or any felony offense under chapter
2 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall
3 in addition to the other terms of the sentence, sentence the offender
4 to a one-year term of community placement beginning either upon
5 completion of the term of confinement or at such time as the offender
6 is transferred to community custody in lieu of earned early release in
7 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an
8 offender under this subsection to the statutory maximum period of
9 confinement then the community placement portion of the sentence shall
10 consist entirely of such community custody to which the offender may
11 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any
12 period of community custody actually served shall be credited against
13 the community placement portion of the sentence.

14 (b) When a court sentences a person to a term of total confinement
15 to the custody of the department of corrections for an offense
16 categorized as a sex offense or serious violent offense committed on or
17 after July 1, 1990, the court shall in addition to other terms of the
18 sentence, sentence the offender to community placement for two years or
19 up to the period of earned early release awarded pursuant to RCW
20 9.94A.150 (1) and (2), whichever is longer. The community placement
21 shall begin either upon completion of the term of confinement or at
22 such time as the offender is transferred to community custody in lieu
23 of earned early release in accordance with RCW 9.94A.150 (1) and (2).
24 When the court sentences an offender under this subsection to the
25 statutory maximum period of confinement then the community placement
26 portion of the sentence shall consist entirely of the community custody
27 to which the offender may become eligible, in accordance with RCW
28 9.94A.150 (1) and (2). Any period of community custody actually served
29 shall be credited against the community placement portion of the
30 sentence. Unless a condition is waived by the court, the terms of
31 community placement for offenders sentenced pursuant to this section
32 shall include the following conditions:

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

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

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

1 (iv) An offender in community custody shall not unlawfully possess
2 controlled substances;

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

5 (vi) The residence location and living arrangements are subject to
6 the prior approval of the department of corrections during the period
7 of community placement.

8 (c) The court may also order any of the following special
9 conditions:

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

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

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

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

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

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

22 ~~((+9))~~ (10) If the court imposes a sentence requiring confinement
23 of thirty days or less, the court may, in its discretion, specify that
24 the sentence be served on consecutive or intermittent days. A sentence
25 requiring more than thirty days of confinement shall be served on
26 consecutive days. Local jail administrators may schedule court-ordered
27 intermittent sentences as space permits.

28 ~~((+10))~~ (11) If a sentence imposed includes payment of a legal
29 financial obligation, the sentence shall specify the total amount of
30 the legal financial obligation owed, and shall require the offender to
31 pay a specified monthly sum toward that legal financial obligation.
32 Restitution to victims shall be paid prior to any other payments of
33 monetary obligations. Any legal financial obligation that is imposed
34 by the court may be collected by the department, which shall deliver
35 the amount paid to the county clerk for credit. The offender's
36 compliance with payment of legal financial obligations shall be
37 supervised by the department. All monetary payments ordered shall be
38 paid no later than ten years after the last date of release from
39 confinement pursuant to a felony conviction or the date the sentence

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

10 ~~((11))~~ (12) Except as provided under RCW 9.94A.140(1) and
11 9.94A.142(1), a court may not impose a sentence providing for a term of
12 confinement or community supervision or community placement which
13 exceeds the statutory maximum for the crime as provided in chapter
14 9A.20 RCW.

15 ~~((12))~~ (13) All offenders sentenced to terms involving community
16 supervision, community service, community placement, or legal financial
17 obligation shall be under the supervision of the secretary of the
18 department of corrections or such person as the secretary may designate
19 and shall follow explicitly the instructions of the secretary including
20 reporting as directed to a community corrections officer, remaining
21 within prescribed geographical boundaries, notifying the community
22 corrections officer of any change in the offender's address or
23 employment, and paying the supervision fee assessment. The department
24 may require offenders to pay for special services rendered on or after
25 July 25, 1993, including electronic monitoring, day reporting, and
26 telephone reporting, dependent upon the offender's ability to pay. The
27 department may pay for these services for offenders who are not able to
28 pay.

29 ~~((13))~~ (14) All offenders sentenced to terms involving community
30 supervision, community service, or community placement under the
31 supervision of the department of corrections shall not own, use, or
32 possess firearms or ammunition. Offenders who own, use, or are found
33 to be in actual or constructive possession of firearms or ammunition
34 shall be subject to the appropriate violation process and sanctions.
35 "Constructive possession" as used in this subsection means the power
36 and intent to control the firearm or ammunition. "Firearm" as used in
37 this subsection means a weapon or device from which a projectile may be
38 fired by an explosive such as gunpowder.

1 (~~(14)~~) (15) The sentencing court shall give the offender credit
2 for all confinement time served before the sentencing if that
3 confinement was solely in regard to the offense for which the offender
4 is being sentenced.

5 (~~(15)~~) (16) A departure from the standards in RCW 9.94A.400 (1)
6 and (2) governing whether sentences are to be served consecutively or
7 concurrently is an exceptional sentence subject to the limitations in
8 subsections (2) and (3) of this section, and may be appealed by the
9 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

10 (~~(16)~~) (17) The court shall order restitution whenever the
11 offender is convicted of a felony that results in injury to any person
12 or damage to or loss of property, whether the offender is sentenced to
13 confinement or placed under community supervision, unless extraordinary
14 circumstances exist that make restitution inappropriate in the court's
15 judgment. The court shall set forth the extraordinary circumstances in
16 the record if it does not order restitution.

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

24 (~~(18)~~) (19) In any sentence of partial confinement, the court may
25 require the defendant to serve the partial confinement in work release,
26 in a program of home detention, on work crew, or in a combined program
27 of work crew and home detention.

28 (~~(19)~~) (20) All court-ordered legal financial obligations
29 collected by the department and remitted to the county clerk shall be
30 credited and paid where restitution is ordered. Restitution shall be
31 paid prior to any other payments of monetary obligations.

32 **Sec. 5.** RCW 9.94A.200 and 1989 c 252 s 7 are each amended to read
33 as follows:

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

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

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

5 (b) The state has the burden of showing noncompliance by a
6 preponderance of the evidence. If the court finds that the violation
7 has occurred, it may order the offender to be confined for a period not
8 to exceed sixty days for each violation, and may convert any or all of
9 this confinement order to the punishment options listed in RCW
10 9.94A.120(6)(c). In addition, the court may (i) convert any punishment
11 options ordered under RCW 9.94A.120(6) to any combination of other
12 punishment options or total confinement, (ii) convert a term of partial
13 confinement to total confinement, ~~((+ii+))~~ (iii) convert community
14 service obligation to total or partial confinement, or ~~((+iii+))~~ (iv)
15 convert monetary obligations, except restitution and the crime victim
16 penalty assessment, to community service hours at the rate of the state
17 minimum wage as established in RCW 49.46.020 for each hour of community
18 service. Any time served in confinement awaiting a hearing on
19 noncompliance shall be credited against any confinement order by the
20 court; and

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

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

26 **Sec. 6.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
27 each reenacted and amended to read as follows:

28 Alternatives to total confinement are available for offenders with
29 sentences of one year or less. These alternatives include the
30 following sentence conditions that the court may order as substitutes
31 for total confinement: (1) One day of partial confinement may be
32 substituted for one day of total confinement; (2) in addition, for
33 offenders convicted of nonviolent offenses only, eight hours of
34 community service may be substituted for one day of total
35 confinement(~~(, with a maximum conversion limit of two hundred forty~~
36 ~~hours or thirty days)~~). Community service hours must be completed
37 within the period of community supervision or a time period specified

1 by the court, which shall not exceed twenty-four months, pursuant to a
2 schedule determined by the department.

3 For sentences of nonviolent offenders for one year or less, the
4 court shall consider and give priority to available alternatives to
5 total confinement and shall state its reasons in writing on the
6 judgment and sentence form if the alternatives are not used.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 2.56 RCW
8 to read as follows:

9 The administrator for the courts shall provide as part of its
10 education and training programs for judges a curriculum that emphasizes
11 the availability, effectiveness, and role nonincarcerative punishment
12 options have in a sound correctional policy for the state. The
13 curriculum shall include information from other states on the advances
14 and innovations other courts have determined to be effective as
15 punishment, as well as encouraging rehabilitation and discouraging
16 repeat criminal offenses. The curriculum shall include awareness
17 training on implementing punishment options to promote impartiality and
18 equity and avoid racial, ethnic, or sexual discrimination.

19 NEW SECTION. **Sec. 8.** The sentencing guidelines commission shall
20 evaluate the impact of implementing the punishment options provided for
21 in RCW 9.94A.120(6). The commission shall submit preliminary findings
22 to the legislature by December 1, 1995, and shall submit the final
23 report to the legislature by December 1, 1996. The report shall
24 describe the changes in sentencing practices related to the use of
25 punishment options for nonviolent offenders and include the impact of
26 sentencing alternatives on county jail populations, the savings in
27 state and local resources, and the impact on recidivism rates.

28 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and shall take
31 effect immediately.

--- END ---