

2 **HB 1709** - S COMM AMD

3 By Committee on Human Services & Corrections

4

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

7 "**Sec. 1.** RCW 9.92.151 and 1990 c 3 s 201 are each amended to read
8 as follows:

9 The sentence of a prisoner confined in a county jail facility for
10 a felony, gross misdemeanor, or misdemeanor conviction may be reduced
11 by earned release credits in accordance with procedures that shall be
12 developed and promulgated by the correctional agency having
13 jurisdiction. The earned early release time shall be for good behavior
14 and good performance as determined by the correctional agency having
15 jurisdiction. Any program established pursuant to this section shall
16 allow an offender to earn early release credits for presentence
17 incarceration. The correctional agency shall not credit the offender
18 with earned early release credits in advance of the offender actually
19 earning the credits. In the case of an offender convicted of a serious
20 violent offense or a sex offense that is a class A felony committed on
21 or after July 1, 1990, robbery in the first or second degree,
22 manslaughter in the first or second degree, assault in the second
23 degree, or any attempt, conspiracy, or solicitation to commit these
24 crimes, the aggregate earned early release time may not exceed fifteen
25 percent of the sentence. In no other case may the aggregate earned
26 early release time exceed one-third of the total sentence.

27 **Sec. 2.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read
28 as follows:

29 No person serving a sentence imposed pursuant to this chapter and
30 committed to the custody of the department shall leave the confines of
31 the correctional facility or be released prior to the expiration of the
32 sentence except as follows:

33 (1) Except as otherwise provided for in subsection (2) of this
34 section, the term of the sentence of an offender committed to a
35 correctional facility operated by the department, may be reduced by

1 earned early release time in accordance with procedures that shall be
2 developed and promulgated by the correctional agency having
3 jurisdiction in which the offender is confined. The earned early
4 release time shall be for good behavior and good performance, as
5 determined by the correctional agency having jurisdiction. The
6 correctional agency shall not credit the offender with earned early
7 release credits in advance of the offender actually earning the
8 credits. Any program established pursuant to this section shall allow
9 an offender to earn early release credits for presentence
10 incarceration. If an offender is transferred from a county jail to the
11 department of corrections, the county jail facility shall certify to
12 the department the amount of time spent in custody at the facility and
13 the amount of earned early release time. In the case of an offender
14 convicted of a serious violent offense or a sex offense that is a class
15 A felony committed on or after July 1, 1990, robbery in the first or
16 second degree, manslaughter in the first or second degree, assault in
17 the second degree, or any attempt, conspiracy, or solicitation to
18 commit these crimes, the aggregate earned early release time may not
19 exceed fifteen percent of the sentence. In no other case shall the
20 aggregate earned early release time exceed one-third of the total
21 sentence;

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

31 (3) An offender may leave a correctional facility pursuant to an
32 authorized furlough or leave of absence. In addition, offenders may
33 leave a correctional facility when in the custody of a corrections
34 officer or officers;

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

1 (5) No more than the final six months of the sentence may be served
2 in partial confinement designed to aid the offender in finding work and
3 reestablishing him or herself in the community;

4 (6) The governor may pardon any offender;

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

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

11 **Sec. 3.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read
12 as follows:

13 (1) All cities and counties are authorized to establish and
14 maintain farms, camps, and work release programs and facilities, as
15 well as special detention facilities. The facilities shall meet the
16 requirements of chapter 70.48 RCW and any rules adopted thereunder.

17 (2) Farms and camps may be established either inside or outside the
18 territorial limits of a city or county. A sentence of confinement in
19 a city or county jail may include placement in a farm or camp. Unless
20 directed otherwise by court order, the chief law enforcement officer or
21 department of corrections, may transfer the prisoner to a farm or camp.
22 The sentencing court, chief law enforcement officer, or department of
23 corrections may not transfer to a farm or camp a greater number of
24 prisoners than can be furnished with constructive employment and can be
25 reasonably accommodated.

26 (3) The city or county may establish a city or county work release
27 program and housing facilities for the prisoners in the program. In
28 such regard, factors such as employment conditions and the condition of
29 jail facilities should be considered. When a work release program is
30 established the following provisions apply:

31 (a) A person convicted of a felony and placed in a city or county
32 jail is eligible for the work release program. A person sentenced to
33 a city or county jail is eligible for the work release program. The
34 program may be used as a condition of probation for a criminal offense.
35 Good conduct is a condition of participation in the program.

36 (b) The court may permit a person who is currently, regularly
37 employed to continue his or her employment. The chief law enforcement
38 officer or department of corrections shall make all necessary

1 arrangements if possible. The court may authorize the person to seek
2 suitable employment and may authorize the chief law enforcement officer
3 or department of corrections to make reasonable efforts to find
4 suitable employment for the person. A person participating in the work
5 release program may not work in an establishment where there is a labor
6 dispute.

7 (c) The work release prisoner shall be confined in a work release
8 facility or jail unless authorized to be absent from the facility for
9 program-related purposes, unless the court directs otherwise.

10 (d) Each work release prisoner's earnings may be collected by the
11 chief law enforcement officer or a designee. The chief law enforcement
12 officer or a designee may deduct from the earnings moneys for the
13 payments for the prisoner's board, personal expenses inside and outside
14 the jail, a share of the administrative expenses of this section,
15 court-ordered victim compensation, and court-ordered restitution.
16 Support payments for the prisoner's dependents, if any, shall be made
17 as directed by the court. With the prisoner's consent, the remaining
18 funds may be used to pay the prisoner's preexisting debts. Any
19 remaining balance shall be returned to the prisoner.

20 (e) The prisoner's sentence may be reduced by earned early release
21 time in accordance with procedures that shall be developed and
22 promulgated by the work release facility. The earned early release
23 time shall be for good behavior and good performance as determined by
24 the facility. The facility shall not credit the offender with earned
25 early release credits in advance of the offender actually earning the
26 credits. In the case of an offender convicted of a serious violent
27 offense or a sex offense that is a class A felony committed on or after
28 July 1, 1990, robbery in the first or second degree, manslaughter in
29 the first or second degree, assault in the second degree, or any
30 attempt, conspiracy, or solicitation to commit these crimes, the
31 aggregate earned early release time may not exceed fifteen percent of
32 the sentence. In no other case may the aggregate earned early release
33 time exceed one-third of the total sentence.

34 (f) If the work release prisoner violates the conditions of custody
35 or employment, the prisoner shall be returned to the sentencing court.
36 The sentencing court may require the prisoner to spend the remainder of
37 the sentence in actual confinement and may cancel any earned reduction
38 of the sentence.

1 (4) A special detention facility may be operated by a
2 noncorrectional agency or by noncorrectional personnel by contract with
3 the governing unit. The employees shall meet the standards of training
4 and education established by the criminal justice training commission
5 as authorized by RCW 43.101.080. The special detention facility may
6 use combinations of features including, but not limited to, low-
7 security or honor prisoner status, work farm, work release, community
8 review, prisoner facility maintenance and food preparation, training
9 programs, or alcohol or drug rehabilitation programs. Special
10 detention facilities may establish a reasonable fee schedule to cover
11 the cost of facility housing and programs. The schedule shall be on a
12 sliding basis that reflects the person's ability to pay.

13 NEW SECTION. **Sec. 4.** Sections 1 through 3 of this act apply to
14 crimes committed on or after the effective date of sections 1 through
15 3 of this act.

16 **Sec. 5.** RCW 9.94A.030 and 1994 c 261 s 16 are each amended to read
17 as follows:

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

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

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

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

32 (4) "Community custody" means that portion of an inmate's sentence
33 of confinement in lieu of: (a) Release before the expiration of a
34 maximum sentence; or (b) earned early release time. Community custody
35 must be served in the community subject to controls placed on the
36 inmate's movement and activities by the department of corrections.

1 (5) "Community placement" means that period during which the
2 offender is subject to the conditions of community custody and/or
3 postrelease supervision, which begins either upon completion of the
4 (~~term of confinement~~) sentence (postrelease supervision) or at such
5 time as the offender is transferred to community custody in lieu of:
6 (a) Release before the expiration of a maximum sentence; or (b) earned
7 early release. Community placement may consist of entirely community
8 custody, entirely postrelease supervision, or a combination of the two.

9 (6) "Community service" means compulsory service, without
10 compensation, performed for the benefit of the community by the
11 offender.

12 (7) "Community supervision" means a period of time during which a
13 convicted offender is subject to crime-related prohibitions and other
14 sentence conditions imposed by a court pursuant to this chapter or RCW
15 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
16 may include crime-related prohibitions and other conditions imposed
17 pursuant to RCW 9.94A.120(~~(+5)~~) (6). For purposes of the interstate
18 compact for out-of-state supervision of parolees and probationers, RCW
19 9.95.270, community supervision is the functional equivalent of
20 probation and should be considered the same as probation by other
21 states.

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

24 (9) "Conviction" means an adjudication of guilt pursuant to Titles
25 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
26 acceptance of a plea of guilty.

27 (10) "Court-ordered legal financial obligation" means a sum of
28 money that is ordered by a superior court of the state of Washington
29 for legal financial obligations which may include restitution to the
30 victim, statutorily imposed crime victims' compensation fees as
31 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
32 drug funds, court-appointed attorneys' fees, and costs of defense,
33 fines, and any other financial obligation that is assessed to the
34 offender as a result of a felony conviction. Upon conviction for
35 vehicular assault while under the influence of intoxicating liquor or
36 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
37 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
38 legal financial obligations may also include payment to a public agency

1 of the expense of an emergency response to the incident resulting in
2 the conviction, subject to the provisions in RCW 38.52.430.

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(9); (ii) the defendant was fifteen
20 years of age or older at the time the offense was committed; and (iii)
21 with respect to prior juvenile class B and C felonies or serious
22 traffic offenses, the defendant was less than twenty-three years of age
23 at the time the offense for which he or she is being sentenced was
24 committed.

25 (13) "Department" means the department of corrections.

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

35 (15) "Disciplinary confinement" means a period of total confinement
36 imposed by the department due to an offender's violation of a
37 disciplinary rule adopted by the department.

38 (16) "Disposable earnings" means that part of the earnings of an
39 individual remaining after the deduction from those earnings of any

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

11 ~~((16))~~ (17) "Drug offense" means:

12 (a) Any felony violation of chapter 69.50 RCW except possession of
13 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
14 controlled substance (RCW 69.50.403);

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

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

21 ~~((17))~~ (18) "Escape" means:

22 (a) Escape in the first degree (RCW 9A.76.110), escape in the
23 second degree (RCW 9A.76.120), willful failure to return from furlough
24 (RCW 72.66.060), willful failure to return from work release (RCW
25 72.65.070), or willful failure to be available for supervision by the
26 department while in community custody (RCW 72.09.310); or

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

30 ~~((18))~~ (19) "Felony traffic offense" means:

31 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
32 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
33 and-run injury-accident (RCW 46.52.020(4)); or

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

37 ~~((19))~~ (20) "Fines" means the requirement that the offender pay
38 a specific sum of money over a specific period of time to the court.

1 (~~(20)~~) (21)(a) "First-time offender" means any person who is
2 convicted of a felony (i) not classified as a violent offense or a sex
3 offense under this chapter, or (ii) that is not the manufacture,
4 delivery, or possession with intent to manufacture or deliver a
5 controlled substance classified in schedule I or II that is a narcotic
6 drug or the selling for profit of any controlled substance or
7 counterfeit substance classified in schedule I, RCW 69.50.204, except
8 leaves and flowering tops of marijuana, and except as provided in (b)
9 of this subsection, who previously has never been convicted of a felony
10 in this state, federal court, or another state, and who has never
11 participated in a program of deferred prosecution for a felony offense.

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

15 (~~(21)~~) (22) "Home detention" means a program of partial
16 confinement available to offenders wherein the offender is confined in
17 a private residence subject to electronic surveillance.

18 (23) "Mandatory term of total confinement" means the minimum period
19 of time that an offender must serve in total confinement for conviction
20 of an offense.

21 (24) "Most serious offense" means any of the following felonies or
22 a felony attempt to commit any of the following felonies, as now
23 existing or hereafter amended:

24 (a) Any felony defined under any law as a class A felony or
25 criminal solicitation of or criminal conspiracy to commit a class A
26 felony;

27 (b) Assault in the second degree;

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

29 (d) Child molestation in the second degree;

30 (e) Controlled substance homicide;

31 (f) Extortion in the first degree;

32 (g) Incest when committed against a child under age fourteen;

33 (h) Indecent liberties;

34 (i) Kidnapping in the second degree;

35 (j) Leading organized crime;

36 (k) Manslaughter in the first degree;

37 (l) Manslaughter in the second degree;

38 (m) Promoting prostitution in the first degree;

39 (n) Rape in the third degree;

1 (o) Robbery in the second degree;
2 (p) Sexual exploitation;
3 (q) Vehicular assault;
4 (r) Vehicular homicide, when proximately caused by the driving of
5 any vehicle by any person while under the influence of intoxicating
6 liquor or any drug as defined by RCW 46.61.502, or by the operation of
7 any vehicle in a reckless manner;
8 (s) Any other class B felony offense with a finding of sexual
9 motivation, as "sexual motivation" is defined under this section;
10 (t) Any other felony with a deadly weapon verdict under RCW
11 9.94A.125;
12 (u) Any felony offense in effect at any time prior to December 2,
13 1993, that is comparable to a most serious offense under this
14 subsection, or any federal or out-of-state conviction for an offense
15 that under the laws of this state would be a felony classified as a
16 most serious offense under this subsection.
17 (~~(22)~~) (25) "Nonviolent offense" means an offense which is not a
18 violent offense.
19 (~~(23)~~) (26) "Offender" means a person who has committed a felony
20 established by state law and is eighteen years of age or older or is
21 less than eighteen years of age but whose case has been transferred by
22 the appropriate juvenile court to a criminal court pursuant to RCW
23 13.40.110. Throughout this chapter, the terms "offender" and
24 "defendant" are used interchangeably.
25 (~~(24)~~) (27) "Partial confinement" means confinement for no more
26 than one year in a facility or institution operated or utilized under
27 contract by the state or any other unit of government, or, if home
28 detention or work crew has been ordered by the court, in an approved
29 residence, for a substantial portion of each day with the balance of
30 the day spent in the community. Partial confinement includes work
31 release, home detention, work crew, and a combination of work crew and
32 home detention as defined in this section.
33 (~~(25)~~) (28) "Persistent offender" is an offender who:
34 (a) Has been convicted in this state of any felony considered a
35 most serious offense; and
36 (b) Has, before the commission of the offense under (a) of this
37 subsection, been convicted as an offender on at least two separate
38 occasions, whether in this state or elsewhere, of felonies that under
39 the laws of this state would be considered most serious offenses and

1 would be included in the offender score under RCW 9.94A.360; provided
2 that of the two or more previous convictions, at least one conviction
3 must have occurred before the commission of any of the other most
4 serious offenses for which the offender was previously convicted.

5 ~~((26))~~ (29) "Postrelease supervision" is that portion of an
6 offender's community placement that is not community custody.

7 ~~((27))~~ (30) "Restitution" means the requirement that the offender
8 pay a specific sum of money over a specific period of time to the court
9 as payment of damages. The sum may include both public and private
10 costs. The imposition of a restitution order does not preclude civil
11 redress.

12 ~~((28))~~ (31) "Serious traffic offense" means:

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

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

21 ~~((29))~~ (32) "Serious violent offense" is a subcategory of violent
22 offense and means:

23 (a) Murder in the first degree, homicide by abuse, murder in the
24 second degree, assault in the first degree, kidnapping in the first
25 degree, or rape in the first degree, assault of a child in the first
26 degree, or an attempt, criminal solicitation, or criminal conspiracy to
27 commit one of these felonies; or

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

31 ~~((30))~~ (33) "Sentence range" means the sentencing court's
32 discretionary range in imposing a nonappealable sentence.

33 ~~((31))~~ (34) "Sex offense" means:

34 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
35 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal
36 attempt, criminal solicitation, or criminal conspiracy to commit such
37 crimes;

38 (b) A felony with a finding of sexual motivation under RCW
39 9.94A.127; or

1 (c) 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 sex
3 offense under (a) of this subsection.

4 (~~(32)~~) (35) "Sexual motivation" means that one of the purposes
5 for which the defendant committed the crime was for the purpose of his
6 or her sexual gratification.

7 (~~(33)~~) (36) "Total confinement" means confinement inside the
8 physical boundaries of a facility or institution operated or utilized
9 under contract by the state or any other unit of government for twenty-
10 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

11 (~~(34)~~) (37) "Transition training" means written and verbal
12 instructions and assistance provided by the department to the offender
13 during the two weeks prior to the offender's successful completion of
14 the work ethic camp program. The transition training shall include
15 instructions in the offender's requirements and obligations during the
16 offender's period of community custody.

17 (~~(35)~~) (38) "Victim" means any person who has sustained
18 emotional, psychological, physical, or financial injury to person or
19 property as a direct result of the crime charged.

20 (~~(36)~~) (39) "Violent offense" means:

21 (a) Any of the following felonies, as now existing or hereafter
22 amended: Any felony defined under any law as a class A felony or an
23 attempt to commit a class A felony, criminal solicitation of or
24 criminal conspiracy to commit a class A felony, manslaughter in the
25 first degree, manslaughter in the second degree, indecent liberties if
26 committed by forcible compulsion, kidnapping in the second degree,
27 arson in the second degree, assault in the second degree, assault of a
28 child in the second degree, extortion in the first degree, robbery in
29 the second degree, vehicular assault, and vehicular homicide, when
30 proximately caused by the driving of any vehicle by any person while
31 under the influence of intoxicating liquor or any drug as defined by
32 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

1 (~~(37)~~) (40) "Work crew" means a program of partial confinement
2 consisting of civic improvement tasks for the benefit of the community
3 of not less than thirty-five hours per week that complies with RCW
4 9.94A.135. The civic improvement tasks shall have minimal negative
5 impact on existing private industries or the labor force in the county
6 where the service or labor is performed. The civic improvement tasks
7 shall not affect employment opportunities for people with developmental
8 disabilities contracted through sheltered workshops as defined in RCW
9 82.04.385. Only those offenders sentenced to a facility operated or
10 utilized under contract by a county or the state are eligible to
11 participate on a work crew. Offenders sentenced for a sex offense as
12 defined in subsection (~~(31)~~) (34) of this section are not eligible
13 for the work crew program.

14 (~~(38)~~) (41) "Work ethic camp" means an alternative incarceration
15 program designed to reduce recidivism and lower the cost of corrections
16 by requiring offenders to complete a comprehensive array of real-world
17 job and vocational experiences, character-building work ethics
18 training, life management skills development, substance abuse
19 rehabilitation, counseling, literacy training, and basic adult
20 education.

21 (~~(39)~~) (42) "Work release" means a program of partial confinement
22 available to offenders who are employed or engaged as a student in a
23 regular course of study at school. Participation in work release shall
24 be conditioned upon the offender attending work or school at regularly
25 defined hours and abiding by the rules of the work release facility.

26 (~~(40)~~) "~~Home detention~~" means a program of partial confinement
27 available to offenders wherein the offender is confined in a private
28 residence subject to electronic surveillance. ~~Home detention may not~~
29 ~~be imposed for offenders convicted of a violent offense, any sex~~
30 ~~offense, any drug offense, reckless burning in the first or second~~
31 ~~degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third~~
32 ~~degree as defined in RCW 9A.36.031, assault of a child in the third~~
33 ~~degree, unlawful imprisonment as defined in RCW 9A.40.040, or~~
34 ~~harassment as defined in RCW 9A.46.020. Home detention may be imposed~~
35 ~~for offenders convicted of possession of a controlled substance (RCW~~
36 ~~69.50.401(d)) or forged prescription for a controlled substance (RCW~~
37 ~~69.50.403) if the offender fulfills the participation conditions set~~
38 ~~forth in this subsection and is monitored for drug use by treatment~~

1 alternatives to street crime (TASC) or a comparable court or agency-
2 referred program.

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

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

30 **Sec. 6.** RCW 9.94A.120 and 1994 c 1 s 2 (Initiative Measure No.
31 593) and 1993 c 31 s 3 are each reenacted and amended to read as
32 follows:

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

35 (1) Except as authorized in subsections (~~((2), (4), (5), and (7))~~)
36 (3), (5), (6), and (8) of this section, the court shall impose a
37 sentence within the sentence range for the offense.

1 (2)(a) When an offender is sentenced for a serious violent offense
2 or a sex offense that is a class A felony committed on or after January
3 1, 1996, and the standard range for the offense is a term of
4 confinement totaling more than one year, the maximum sentence must
5 consist of two parts: (i) A specified mandatory term of total
6 confinement that is equal to eighty-five percent of the maximum
7 sentence; and (ii) a specified maximum term of disciplinary confinement
8 that is equal to fifteen percent of the maximum sentence. The offender
9 shall not be released before the expiration of his or her maximum
10 sentence except as allowed under RCW 9.94A.150 and 72.09.130.

11 (b) When an offender is sentenced for an offense other than an
12 offense under (a) of this subsection committed on or after January 1,
13 1996, and the standard range for the offense is a term of confinement
14 totaling more than one year, the maximum sentence must consist of two
15 parts: (i) A specified mandatory term of total confinement that is
16 equal to two-thirds of the maximum sentence; and (ii) a specified
17 maximum term of disciplinary confinement that is equal to one-third of
18 the sentence. The offender shall not be released before the expiration
19 of his or her maximum sentence except as allowed under RCW 9.94A.150
20 and 72.09.130.

21 (c) When a court pronounces a sentence under this section, it shall
22 explain: (i) The minimum amount of time the offender will serve in
23 total confinement in a correctional institution; (ii) any credit for
24 time served in a county jail facility, including any earned early
25 release credits under RCW 9.92.151, for which the offender may be
26 eligible; and (iii) the maximum amount of time the offender may serve
27 in disciplinary confinement, assuming the offender commits one or more
28 infractions while in total confinement that result in the imposition of
29 disciplinary confinement. The court shall also explain that the amount
30 of time the offender actually serves in total confinement may be
31 extended by the department of corrections for disciplinary infractions
32 and that the offender has absolutely no expectation of release before
33 the expiration of his or her maximum sentence. The court's explanation
34 must be included in a written summary of the sentence.

35 (d) The court's explanation of the potential length of an
36 offender's confinement does not create any right in an offender to a
37 release before the expiration of his or her maximum sentence. The
38 provisions of this chapter, and any rules adopted under this chapter,
39 do not create a constitutional right in any person. Offenders do not

1 have any state-created liberty or property interests by virtue of these
2 provisions or rules.

3 (3) The court may impose a sentence outside the standard sentence
4 range for that offense if it finds, considering the purpose of this
5 chapter, that there are substantial and compelling reasons justifying
6 an exceptional sentence.

7 ~~((+3))~~ (4) Whenever a sentence outside the standard range is
8 imposed, the court shall set forth the reasons for its decision in
9 written findings of fact and conclusions of law. A sentence outside
10 the standard range shall be a determinate sentence.

11 ~~((+4))~~ (5) A persistent offender shall be sentenced to a term of
12 total confinement for life without the possibility of parole or, when
13 authorized by RCW 10.95.030 for the crime of aggravated murder in the
14 first degree, sentenced to death, notwithstanding the maximum sentence
15 under any other law. An offender convicted of the crime of murder in
16 the first degree shall be sentenced to a term of total confinement not
17 less than twenty years. An offender convicted of the crime of assault
18 in the first degree or assault of a child in the first degree where the
19 offender used force or means likely to result in death or intended to
20 kill the victim shall be sentenced to a term of total confinement not
21 less than five years. An offender convicted of the crime of rape in
22 the first degree shall be sentenced to a term of total confinement not
23 less than five years. The foregoing minimum terms of total confinement
24 are mandatory and shall not be varied or modified as provided in
25 subsection ~~((+2))~~ (3) of this section. In addition, all offenders
26 subject to the provisions of this subsection shall not be eligible for
27 community custody, earned early release time, furlough, home detention,
28 partial confinement, work crew, work release, or any other form of
29 early release as defined under RCW 9.94A.150 ~~((+1), (2), (3), (5), (7),~~
30 ~~or (8))~~ (2), (3), (4), (6), (8), or (9), or any other form of
31 authorized leave of absence from the correctional facility while not in
32 the direct custody of a corrections officer or officers during such
33 minimum terms of total confinement except in the case of an offender in
34 need of emergency medical treatment or for the purpose of commitment to
35 an inpatient treatment facility in the case of an offender convicted of
36 the crime of rape in the first degree. The mandatory term of total
37 confinement established under subsection (1) of this section must be
38 equal to or greater than any minimum term of total confinement under
39 this subsection.

1 (~~(5)~~) (6) In sentencing a first-time offender the court may waive
2 the imposition of a sentence within the sentence range and impose a
3 sentence which may include up to ninety days of confinement in a
4 facility operated or utilized under contract by the county and a
5 requirement that the offender refrain from committing new offenses.
6 The sentence may also include up to two years of community supervision,
7 which, in addition to crime-related prohibitions, may include
8 requirements that the offender perform any one or more of the
9 following:

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

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

14 (c) Pursue a prescribed, secular course of study or vocational
15 training;

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

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

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

23 (~~(6)~~) (7) If a sentence range has not been established for the
24 defendant's crime, the court shall impose a determinate sentence which
25 may include not more than one year of confinement, community service
26 work, a term of community supervision not to exceed one year, and/or
27 other legal financial obligations. The court may impose a sentence
28 which provides more than one year of confinement if the court finds,
29 considering the purpose of this chapter, that there are substantial and
30 compelling reasons justifying an exceptional sentence.

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

38 The report of the examination shall include at a minimum the
39 following: The defendant's version of the facts and the official

1 version of the facts, the defendant's offense history, an assessment of
2 problems in addition to alleged deviant behaviors, the offender's
3 social and employment situation, and other evaluation measures used.
4 The report shall set forth the sources of the evaluator's information.

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

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

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

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

15 (D) Anticipated length of treatment; and

16 (E) Recommended crime-related prohibitions.

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

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

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

35 (B) The court shall order treatment for any period up to three
36 years in duration. The court in its discretion shall order outpatient
37 sex offender treatment or inpatient sex offender treatment, if
38 available. A community mental health center may not be used for such
39 treatment unless it has an appropriate program designed for sex

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

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

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

15 (III) Report as directed to the court and a community corrections
16 officer;

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

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

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

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

1 be indigent in which case the state shall pay the cost. At the
2 treatment termination hearing the court may: (A) Modify conditions of
3 community supervision, and either (B) terminate treatment, or (C)
4 extend treatment for up to the remaining period of community
5 supervision.

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

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

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

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

32 ~~(b) ((When an offender is convicted of any felony sex offense
33 committed before July 1, 1987, and is sentenced to a term of
34 confinement of more than one year but less than six years, the
35 sentencing court may, on its own motion or on the motion of the
36 offender or the state, order the offender committed for up to thirty
37 days to the custody of the secretary of social and health services for
38 evaluation and report to the court on the offender's amenability to
39 treatment at these facilities. If the secretary of social and health~~

1 services cannot begin the evaluation within thirty days of the court's
2 order of commitment, the offender shall be transferred to the state for
3 confinement pending an opportunity to be evaluated at the appropriate
4 facility. The court shall review the reports and may order that the
5 term of confinement imposed be served in the sexual offender treatment
6 program at the location determined by the secretary of social and
7 health services or the secretary's designee, only if the report
8 indicates that the offender is amenable to the treatment program
9 provided at these facilities. The offender shall be transferred to the
10 state pending placement in the treatment program. Any offender who has
11 escaped from the treatment program shall be referred back to the
12 sentencing court.

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

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

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

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

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

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

1 motion or on the motion of the offender or the state, request the
2 department of corrections to evaluate whether the offender is amenable
3 to treatment and the department may place the offender in a treatment
4 program within a correctional facility operated by the department.

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

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

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

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

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

35 ~~((8))~~ (9)(a) When a court sentences a person to a term of total
36 confinement to the custody of the department of corrections for an
37 offense categorized as a sex offense or a serious violent offense
38 committed after July 1, 1988, but before July 1, 1990, assault in the
39 second degree, assault of a child in the second degree, any crime

1 against a person where it is determined in accordance with RCW
2 9.94A.125 that the defendant or an accomplice was armed with a deadly
3 weapon at the time of commission, or any felony offense under chapter
4 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall
5 in addition to the other terms of the sentence, sentence the offender
6 to a one-year term of community placement beginning either upon
7 completion of the term of confinement or at such time as the offender
8 is transferred to community custody in lieu of release before the
9 expiration of the maximum sentence in accordance with RCW 9.94A.150(1)
10 or earned early release in accordance with RCW 9.94A.150 ((1) and)
11 (2) and (3). When the court sentences an offender under this
12 subsection to the statutory maximum period of confinement then the
13 community placement portion of the sentence shall consist entirely of
14 such community custody to which the offender may become eligible, in
15 accordance with RCW 9.94A.150 ((1) and (2)). Any period of community
16 custody actually served shall be credited against the community
17 placement portion of the sentence.

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

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

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

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

7 (iv) An offender in community custody shall not unlawfully possess
8 controlled substances;

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

11 (vi) The residence location and living arrangements are subject to
12 the prior approval of the department of corrections during the period
13 of community placement.

14 (c) The court may also order any of the following special
15 conditions:

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

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

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

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

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

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

28 (~~(9)~~) (10) If the court imposes a sentence requiring confinement
29 of thirty days or less, the court may, in its discretion, specify that
30 the sentence be served on consecutive or intermittent days. A sentence
31 requiring more than thirty days of confinement shall be served on
32 consecutive days. Local jail administrators may schedule court-ordered
33 intermittent sentences as space permits.

34 (~~(10)~~) (11) If a sentence imposed includes payment of a legal
35 financial obligation, the sentence shall specify the total amount of
36 the legal financial obligation owed, and shall require the offender to
37 pay a specified monthly sum toward that legal financial obligation.
38 Restitution to victims shall be paid prior to any other payments of
39 monetary obligations. Any legal financial obligation that is imposed

1 by the court may be collected by the department, which shall deliver
2 the amount paid to the county clerk for credit. The offender's
3 compliance with payment of legal financial obligations shall be
4 supervised by the department. All monetary payments ordered shall be
5 paid no later than ten years after the last date of release from
6 confinement pursuant to a felony conviction or the date the sentence
7 was entered. Independent of the department, the party or entity to
8 whom the legal financial obligation is owed shall have the authority to
9 utilize any other remedies available to the party or entity to collect
10 the legal financial obligation. Nothing in this section makes the
11 department, the state, or any of its employees, agents, or other
12 persons acting on their behalf liable under any circumstances for the
13 payment of these legal financial obligations. If an order includes
14 restitution as one of the monetary assessments, the county clerk shall
15 make disbursements to victims named in the order.

16 ~~((11))~~ (12) Except as provided under RCW 9.94A.140(1) and
17 9.94A.142(1), a court may not impose a sentence providing for a term of
18 confinement or community supervision or community placement which
19 exceeds the statutory maximum for the crime as provided in chapter
20 9A.20 RCW.

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

35 ~~((13))~~ (14) All offenders sentenced to terms involving community
36 supervision, community service, or community placement under the
37 supervision of the department of corrections shall not own, use, or
38 possess firearms or ammunition. Offenders who own, use, or are found
39 to be in actual or constructive possession of firearms or ammunition

1 shall be subject to the appropriate violation process and sanctions.
2 "Constructive possession" as used in this subsection means the power
3 and intent to control the firearm or ammunition. "Firearm" as used in
4 this subsection means a weapon or device from which a projectile may be
5 fired by an explosive such as gunpowder.

6 ~~((14))~~ (15) The sentencing court shall give the offender credit
7 for all confinement time served before the sentencing if that
8 confinement was solely in regard to the offense for which the offender
9 is being sentenced.

10 ~~((15))~~ (16) A departure from the standards in RCW 9.94A.400 (1)
11 and (2) governing whether sentences are to be served consecutively or
12 concurrently is an exceptional sentence subject to the limitations in
13 subsections ~~((2) and)~~ (3) and (4) of this section, and may be
14 appealed by the defendant or the state as set forth in RCW 9.94A.210
15 (2) through (6).

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

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

30 ~~((18))~~ (19) In any sentence of partial confinement, the court may
31 require the defendant to serve the partial confinement in work release,
32 in a program of home detention, on work crew, or in a combined program
33 of work crew and home detention.

34 ~~((19))~~ (20) All court-ordered legal financial obligations
35 collected by the department and remitted to the county clerk shall be
36 credited and paid where restitution is ordered. Restitution shall be
37 paid prior to any other payments of monetary obligations.

1 **Sec. 7.** RCW 9.94A.132 and 1994 sp.s. c 7 s 533 are each amended to
2 read as follows:

3 The department is authorized to determine whether any person
4 subject to the confines of a correctional facility would substantially
5 benefit from successful participation in: (1) Literacy training, (2)
6 employment skills training, or (3) educational efforts to identify and
7 control sources of anger (~~and,~~). Upon a determination that the
8 person would substantially benefit, the department may require such
9 successful participation: (a) As a condition for offenders to avoid
10 receiving disciplinary confinement under RCW 9.94A.150(1); or (b) as a
11 condition for eligibility to obtain early release from the confines of
12 a correctional facility under RCW 9.94A.150(2).

13 The department shall adopt rules and procedures to administer this
14 section.

15 **Sec. 8.** RCW 9.94A.137 and 1993 c 338 s 4 are each amended to read
16 as follows:

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

19 (a) Is sentenced to a term of total confinement of not less than
20 twenty-two months or more than thirty-six months;

21 (b) Is between the ages of eighteen and twenty-eight years; and

22 (c) Has no current or prior convictions for any sex offenses or
23 violent offenses.

24 (2) If the sentencing judge determines that the offender is
25 eligible for the work ethic camp and is likely to qualify under
26 subsection (3) of this section, the judge shall impose a sentence
27 within the standard range and may recommend that the offender serve the
28 sentence at a work ethic camp. The sentence shall provide that if the
29 offender successfully completes the program, the department shall
30 convert the period of work ethic camp confinement at the rate of one
31 day of work ethic camp confinement to three days of total standard
32 confinement. The court shall also provide that upon completion of the
33 work ethic camp program, the offender shall be released on community
34 custody for any remaining time of total confinement.

35 (3) The department shall place the offender in the work ethic camp
36 program, subject to capacity, unless the department determines that the
37 offender has physical or mental impairments that would prevent

1 participation and completion of the program, or the offender refuses to
2 agree to the terms and conditions of the program.

3 (4) An inmate who fails to complete the work ethic camp program,
4 who is administratively terminated from the program, or who otherwise
5 violates any conditions of supervision, as defined by the department,
6 shall be reclassified to serve the unexpired term of his or her
7 sentence as ordered by the sentencing judge and shall be subject to all
8 rules relating to: (a) Disciplinary confinement for offenses committed
9 on or after January 1, 1996; or (b) earned early release time for
10 offenses committed before January 1, 1996.

11 (5) The length of the work ethic camp program shall be at least one
12 hundred twenty days and not more than one hundred eighty days. Because
13 of the conversion ratio, earned early release time shall not accrue to
14 offenders who successfully complete the program.

15 (6) During the last two weeks prior to release from the work ethic
16 camp program the department shall provide the offender with
17 comprehensive transition training.

18 **Sec. 9.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read
19 as follows:

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

24 (1)(a) Except as provided under (b) of this subsection, an offender
25 sentenced to confinement for a felony offense committed on or after
26 January 1, 1996, is eligible for release before the expiration of a
27 maximum sentence after the offender has served his or her specified
28 mandatory term of total confinement and any disciplinary confinement
29 imposed by the department due to the offender's violation of a
30 disciplinary rule adopted by the department under RCW 72.09.130(2). No
31 offender who violates a disciplinary rule is eligible for release
32 before the expiration of his or her maximum sentence until the offender
33 has served all disciplinary confinement imposed by the department. If
34 an offender is transferred from a county jail to the department of
35 corrections, the county jail facility shall certify to the department
36 the amount of time spent in custody at the facility and the amount of
37 earned early release time. Earned early release time received in a
38 county jail must be credited as time served to an offender.

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

10 (2) Except as otherwise provided for in subsection ((+2)) (3) of
11 this section, the term of the sentence of an offender committed to a
12 correctional facility operated by the department for an offense
13 committed before January 1, 1996, may be reduced by earned early
14 release time in accordance with procedures that shall be developed and
15 promulgated by the correctional agency having jurisdiction in which the
16 offender is confined. The earned early release time shall be for good
17 behavior and good performance, as determined by the correctional agency
18 having jurisdiction. The correctional agency shall not credit the
19 offender with earned early release credits in advance of the offender
20 actually earning the credits. Any program established pursuant to this
21 section shall allow an offender to earn early release credits for
22 presentence incarceration. If an offender is transferred from a county
23 jail to the department of corrections, the county jail facility shall
24 certify to the department the amount of time spent in custody at the
25 facility and the amount of earned early release time. In the case of
26 an offender convicted of a serious violent offense or a sex offense
27 that is a class A felony committed on or after July 1, 1990, the
28 aggregate earned early release time may not exceed fifteen percent of
29 the sentence. In no other case shall the aggregate earned early
30 release time exceed one-third of the total sentence;

31 ((+2)) (3) A person convicted of a sex offense or an offense
32 categorized as a serious violent offense, assault in the second degree,
33 assault of a child in the second degree, any crime against a person
34 where it is determined in accordance with RCW 9.94A.125 that the
35 defendant or an accomplice was armed with a deadly weapon at the time
36 of commission, or any felony offense under chapter 69.50 or 69.52 RCW
37 may become eligible, in accordance with a program developed by the
38 department, for transfer to community custody status in lieu of earned
39 early release time pursuant to subsection ((+1)) (2) of this section;

1 (~~(3)~~) (4) An offender may leave a correctional facility pursuant
2 to an authorized furlough or leave of absence. In addition, offenders
3 may leave a correctional facility when in the custody of a corrections
4 officer or officers;

5 (~~(4)~~) (5) The governor, upon recommendation from the clemency and
6 pardons board, may grant an extraordinary release for reasons of
7 serious health problems, senility, advanced age, extraordinary
8 meritorious acts, or other extraordinary circumstances;

9 (~~(5)~~) (6) No more than the final six months of the sentence may
10 be served in partial confinement designed to aid the offender in
11 finding work and reestablishing him or herself in the community;

12 (~~(6)~~) (7) The governor may pardon any offender;

13 (~~(7)~~) (8) The department of corrections may release an offender
14 from confinement any time within ten days before a release date
15 calculated under this section; and

16 (~~(8)~~) (9) An offender may leave a correctional facility prior to
17 completion of his sentence if the sentence has been reduced as provided
18 in RCW 9.94A.160.

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

21 (1) Home detention may not be imposed for offenders convicted of a
22 violent offense, any sex offense, any drug offense, reckless burning in
23 the first or second degree as defined in RCW 9A.48.040 or 9A.48.050,
24 assault in the third degree as defined in RCW 9A.36.031, assault of a
25 child in the third degree, unlawful imprisonment as defined in RCW
26 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention
27 may be imposed for offenders convicted of possession of a controlled
28 substance (RCW 69.50.401(d)) or forged prescription for a controlled
29 substance (RCW 69.50.403) if the offender fulfills the participation
30 conditions set forth in this subsection and is monitored for drug use
31 by treatment alternatives to street crime (TASC) or a comparable court
32 or agency-referred program.

33 (2) Home detention may be imposed for offenders convicted of
34 burglary in the second degree as defined in RCW 9A.52.030 or
35 residential burglary conditioned upon the offender: (a) Successfully
36 completing twenty-one days in a work release program, (b) having no
37 convictions for burglary in the second degree or residential burglary
38 during the preceding two years and not more than two prior convictions

1 for burglary or residential burglary, (c) having no convictions for a
2 violent felony offense during the preceding two years and not more than
3 two prior convictions for a violent felony offense, (d) having no prior
4 charges of escape, and (e) fulfilling the other conditions of the home
5 detention program.

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

22 **Sec. 11.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read
23 as follows:

24 (1) All cities and counties are authorized to establish and
25 maintain farms, camps, and work release programs and facilities, as
26 well as special detention facilities. The facilities shall meet the
27 requirements of chapter 70.48 RCW and any rules adopted thereunder.

28 (2) Farms and camps may be established either inside or outside the
29 territorial limits of a city or county. A sentence of confinement in
30 a city or county jail may include placement in a farm or camp. Unless
31 directed otherwise by court order, the chief law enforcement officer or
32 department of corrections, may transfer the prisoner to a farm or camp.
33 The sentencing court, chief law enforcement officer, or department of
34 corrections may not transfer to a farm or camp a greater number of
35 prisoners than can be furnished with constructive employment and can be
36 reasonably accommodated.

37 (3) The city or county may establish a city or county work release
38 program and housing facilities for the prisoners in the program. In

1 such regard, factors such as employment conditions and the condition of
2 jail facilities should be considered. When a work release program is
3 established the following provisions apply:

4 (a) A person convicted of a felony and placed in a city or county
5 jail is eligible for the work release program. A person sentenced to
6 a city or county jail is eligible for the work release program. The
7 program may be used as a condition of probation for a criminal offense.
8 Good conduct is a condition of participation in the program.

9 (b) The court may permit a person who is currently, regularly
10 employed to continue his or her employment. The chief law enforcement
11 officer or department of corrections shall make all necessary
12 arrangements if possible. The court may authorize the person to seek
13 suitable employment and may authorize the chief law enforcement officer
14 or department of corrections to make reasonable efforts to find
15 suitable employment for the person. A person participating in the work
16 release program may not work in an establishment where there is a labor
17 dispute.

18 (c) The work release prisoner shall be confined in a work release
19 facility or jail unless authorized to be absent from the facility for
20 program-related purposes, unless the court directs otherwise.

21 (d) Each work release prisoner's earnings may be collected by the
22 chief law enforcement officer or a designee. The chief law enforcement
23 officer or a designee may deduct from the earnings moneys for the
24 payments for the prisoner's board, personal expenses inside and outside
25 the jail, a share of the administrative expenses of this section,
26 court-ordered victim compensation, and court-ordered restitution.
27 Support payments for the prisoner's dependents, if any, shall be made
28 as directed by the court. With the prisoner's consent, the remaining
29 funds may be used to pay the prisoner's preexisting debts. Any
30 remaining balance shall be returned to the prisoner.

31 (e) The prisoner's sentence for an offense committed before January
32 1, 1996, may be reduced by earned early release time in accordance with
33 procedures that shall be developed and promulgated by the work release
34 facility. The earned early release time shall be for good behavior and
35 good performance as determined by the facility. The facility shall not
36 credit the offender with earned early release credits in advance of the
37 offender actually earning the credits. In the case of an offender
38 convicted of a serious violent offense or a sex offense that is a class
39 A felony committed on or after July 1, 1990, the aggregate earned early

1 release time may not exceed fifteen percent of the sentence. In no
2 other case may the aggregate earned early release time exceed one-third
3 of the total sentence.

4 (f) If the work release prisoner violates the conditions of custody
5 or employment, the prisoner shall be returned to the sentencing court.
6 The sentencing court may require the prisoner to spend the remainder of
7 the sentence in actual confinement and may cancel any earned reduction
8 of the sentence.

9 (4) A special detention facility may be operated by a
10 noncorrectional agency or by noncorrectional personnel by contract with
11 the governing unit. The employees shall meet the standards of training
12 and education established by the criminal justice training commission
13 as authorized by RCW 43.101.080. The special detention facility may
14 use combinations of features including, but not limited to, low-
15 security or honor prisoner status, work farm, work release, community
16 review, prisoner facility maintenance and food preparation, training
17 programs, or alcohol or drug rehabilitation programs. Special
18 detention facilities may establish a reasonable fee schedule to cover
19 the cost of facility housing and programs. The schedule shall be on a
20 sliding basis that reflects the person's ability to pay.

21 **Sec. 12.** RCW 72.09.130 and 1981 c 136 s 17 are each amended to
22 read as follows:

23 (1) The department shall adopt a system providing incentives for
24 good conduct and disincentives for poor conduct. The system may
25 include increases or decreases in the degree of liberty granted the
26 inmate within the programs operated by the department ((and)).

27 (2) For offenses committed on or after January 1, 1996, the system
28 shall specify disciplinary infractions that may result in the
29 imposition of disciplinary confinement and the length of the
30 disciplinary confinement that may be imposed for each disciplinary
31 infraction. These disciplinary rules may cover violation of
32 institution rules, refusal to work, refusal to participate in treatment
33 or other rehabilitative programs, and other matters determined by the
34 department. The system must be fair, measurable, and understandable to
35 offenders, staff, and the public. At least once in each twelve-month
36 period, the department shall inform the offender in writing as to his
37 or her conduct and performance. This written evaluation must include
38 reasons for imposing or not imposing disciplinary confinement. The

1 imposition of disciplinary confinement is considered to be a
2 disciplinary sanction imposed upon an offender, and the procedure for
3 imposing the disciplinary confinement and the rights of the offender in
4 the procedure are those established by the department for other
5 disciplinary sanctions.

6 By January 1, 1996, the department shall adopt a written
7 description of the system. The department shall provide a copy of this
8 description to each offender in its custody convicted of an offense
9 committed after December 31, 1995.

10 (3) For offenses committed before January 1, 1996, the system must
11 include recommended increases or decreases in the number of earned
12 early release days that an inmate can earn for good conduct and good
13 performance. Earned early release days shall be recommended by the
14 department as a form of tangible reward for accomplishment. The system
15 shall be fair, measurable, and understandable to offenders, staff, and
16 the public. At least once in each twelve-month period, the department
17 shall inform the offender in writing as to his or her conduct and
18 performance. This written evaluation shall include reasons for
19 awarding or not awarding recommended earned early release days for good
20 conduct and good performance. The term "good performance" as used in
21 this section means successfully performing a work, work training, or
22 educational task to levels of expectation as specified in writing by
23 the department. The term "good conduct" as used in this section refers
24 to compliance with department rules.

25 Within one year after July 1, 1981, the department shall adopt, and
26 provide a written description of, the system. The department shall
27 provide a copy of this description to each offender in its custody.

28 **Sec. 13.** RCW 9.94A.123 and 1987 c 402 s 2 are each amended to read
29 as follows:

30 The legislature finds that the sexual offender treatment programs
31 at western and eastern state hospitals, while not proven to be totally
32 effective, may be of some benefit in positively affecting the behavior
33 of certain sexual offenders. Given the significance of the problems of
34 sexual assault and sexual abuse of children, it is therefore
35 appropriate to review and revise these treatment efforts.

36 At the same time, concerns regarding the lack of adequate security
37 at the existing programs must be satisfactorily addressed. In an
38 effort to promote public safety, it is the intent of the legislature to

1 transfer the responsibility for felony sexual offenders from the
2 department of social and health services to the department of
3 corrections.

4 Therefore, no person committing a felony sexual offense on or after
5 July 1, 1987, may be committed under RCW 9.94A.120(~~((7)(b))~~) (8)(b) to
6 the department of social and health services at eastern state hospital
7 or western state hospital. Any person committed to the department of
8 social and health services under RCW 9.94A.120(~~((7)(b))~~) (8)(b) for an
9 offense committed before July 1, 1987, and still in the custody of the
10 department of social and health services on June 30, 1993, shall be
11 transferred to the custody of the department of corrections. Any
12 person eligible for evaluation or treatment under RCW
13 9.94A.120(~~((7)(b))~~) (8)(b) shall be committed to the department of
14 corrections.

15 **Sec. 14.** RCW 9.94A.127 and 1990 c 3 s 601 are each amended to read
16 as follows:

17 (1) The prosecuting attorney shall file a special allegation of
18 sexual motivation in every criminal case other than sex offenses as
19 defined in RCW 9.94A.030(~~((29)(a) or (c))~~) (34) (a) or (c) when
20 sufficient admissible evidence exists, which, when considered with the
21 most plausible, reasonably foreseeable defense that could be raised
22 under the evidence, would justify a finding of sexual motivation by a
23 reasonable and objective fact-finder.

24 (2) In a criminal case wherein there has been a special allegation
25 the state shall prove beyond a reasonable doubt that the accused
26 committed the crime with a sexual motivation. The court shall make a
27 finding of fact of whether or not a sexual motivation was present at
28 the time of the commission of the crime, or if a jury trial is had, the
29 jury shall, if it finds the defendant guilty, also find a special
30 verdict as to whether or not the defendant committed the crime with a
31 sexual motivation. This finding shall not be applied to sex offenses
32 as defined in RCW 9.94A.030(~~((29)(a) or (c))~~) (34) (a) or (c).

33 (3) The prosecuting attorney shall not withdraw the special
34 allegation of sexual motivation without approval of the court through
35 an order of dismissal of the special allegation. The court shall not
36 dismiss this special allegation unless it finds that such an order is
37 necessary to correct an error in the initial charging decision or

1 unless there are evidentiary problems which make proving the special
2 allegation doubtful.

3 **Sec. 15.** RCW 9.94A.130 and 1984 c 209 s 7 are each amended to read
4 as follows:

5 The power to defer or suspend the imposition or execution of
6 sentence is hereby abolished in respect to sentences prescribed for
7 felonies committed after June 30, 1984, except for offenders sentenced
8 under RCW 9.94A.120(~~((7)(a))~~) (8)(a), the special sexual offender
9 sentencing alternative, whose sentence may be suspended.

10 **Sec. 16.** RCW 9.94A.180 and 1991 c 181 s 4 are each amended to read
11 as follows:

12 (1) An offender sentenced to a term of partial confinement shall be
13 confined in the facility for at least eight hours per day or, if
14 serving a work crew sentence shall comply with the conditions of that
15 sentence as set forth in RCW 9.94A.030(~~((23))~~) (27) and 9.94A.135. The
16 offender shall be required as a condition of partial confinement to
17 report to the facility at designated times. An offender may be
18 required to comply with crime-related prohibitions during the period of
19 partial confinement.

20 (2) An offender in a county jail ordered to serve all or part of a
21 term of less than one year in work release, work crew, or a program of
22 home detention who violates the rules of the work release facility,
23 work crew, or program of home detention or fails to remain employed or
24 enrolled in school may be transferred to the appropriate county
25 detention facility without further court order but shall, upon request,
26 be notified of the right to request an administrative hearing on the
27 issue of whether or not the offender failed to comply with the order
28 and relevant conditions. Pending such hearing, or in the absence of a
29 request for the hearing, the offender shall serve the remainder of the
30 term of confinement as total confinement. This subsection shall not
31 affect transfer or placement of offenders committed to the state
32 department of corrections.

33 **Sec. 17.** RCW 9.94A.210 and 1989 c 214 s 1 are each amended to read
34 as follows:

35 (1) A sentence within the standard range for the offense shall not
36 be appealed. For purposes of this section, a sentence imposed on a

1 first offender under RCW 9.94A.120(~~(+5)~~) (6) shall also be deemed to
2 be within the standard range for the offense and shall not be appealed.

3 (2) A sentence outside the sentence range for the offense is
4 subject to appeal by the defendant or the state. The appeal shall be
5 to the court of appeals in accordance with rules adopted by the supreme
6 court.

7 (3) Pending review of the sentence, the sentencing court or the
8 court of appeals may order the defendant confined or placed on
9 conditional release, including bond.

10 (4) To reverse a sentence which is outside the sentence range, the
11 reviewing court must find: (a) Either that the reasons supplied by the
12 sentencing judge are not supported by the record which was before the
13 judge or that those reasons do not justify a sentence outside the
14 standard range for that offense; or (b) that the sentence imposed was
15 clearly excessive or clearly too lenient.

16 (5) A review under this section shall be made solely upon the
17 record that was before the sentencing court. Written briefs shall not
18 be required and the review and decision shall be made in an expedited
19 manner according to rules adopted by the supreme court.

20 (6) The court of appeals shall issue a written opinion in support
21 of its decision whenever the judgment of the sentencing court is
22 reversed and may issue written opinions in any other case where the
23 court believes that a written opinion would provide guidance to
24 sentencing judges and others in implementing this chapter and in
25 developing a common law of sentencing within the state.

26 (7) The department may petition for a review of a sentence
27 committing an offender to the custody or jurisdiction of the
28 department. The review shall be limited to errors of law. Such
29 petition shall be filed with the court of appeals no later than ninety
30 days after the department has actual knowledge of terms of the
31 sentence. The petition shall include a certification by the department
32 that all reasonable efforts to resolve the dispute at the superior
33 court level have been exhausted.

34 **Sec. 18.** RCW 9.94A.390 and 1990 c 3 s 603 are each amended to read
35 as follows:

36 If the sentencing court finds that an exceptional sentence outside
37 the standard range should be imposed in accordance with RCW

1 9.94A.120(~~(+2)~~) (3), the sentence is subject to review only as
2 provided for in RCW 9.94A.210(4).

3 The following are illustrative factors which the court may consider
4 in the exercise of its discretion to impose an exceptional sentence.
5 The following are illustrative only and are not intended to be
6 exclusive reasons for exceptional sentences.

7 (1) Mitigating Circumstances

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

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

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

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

18 (e) The defendant's capacity to appreciate the wrongfulness of his
19 conduct or to conform his conduct to the requirements of the law, was
20 significantly impaired (voluntary use of drugs or alcohol is excluded).

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

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

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

30 (2) Aggravating Circumstances

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

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

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

1 (i) The current offense involved multiple victims or multiple
2 incidents per victim;

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

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

7 (iv) The defendant used his or her position of trust, confidence,
8 or fiduciary responsibility to facilitate the commission of the current
9 offense.

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

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

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

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

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

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

28 (vi) The offender used his or her position or status to facilitate
29 the commission of the current offense, including positions of trust,
30 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
31 other medical professional); or

32 (e) The current offense included a finding of sexual motivation
33 pursuant to RCW 9.94A.127;

34 (f) The offense was part of an ongoing pattern of sexual abuse of
35 the same victim under the age of eighteen years manifested by multiple
36 incidents over a prolonged period of time; or

37 (g) The operation of the multiple offense policy of RCW 9.94A.400
38 results in a presumptive sentence that is clearly too lenient in light
39 of the purpose of this chapter, as expressed in RCW 9.94A.010.

1 **Sec. 19.** RCW 9.94A.400 and 1990 c 3 s 704 are each amended to read
2 as follows:

3 (1)(a) Except as provided in (b) of this subsection, whenever a
4 person is to be sentenced for two or more current offenses, the
5 sentence range for each current offense shall be determined by using
6 all other current and prior convictions as if they were prior
7 convictions for the purpose of the offender score: PROVIDED, That if
8 the court enters a finding that some or all of the current offenses
9 encompass the same criminal conduct then those current offenses shall
10 be counted as one crime. Sentences imposed under this subsection shall
11 be served concurrently. Consecutive sentences may only be imposed
12 under the exceptional sentence provisions of RCW 9.94A.120 and
13 9.94A.390(2)(f) or any other provision of RCW 9.94A.390. "Same
14 criminal conduct," as used in this subsection, means two or more crimes
15 that require the same criminal intent, are committed at the same time
16 and place, and involve the same victim. This definition does not apply
17 in cases involving vehicular assault or vehicular homicide if the
18 victims occupied the same vehicle. However, the sentencing judge may
19 consider multiple victims in such instances as an aggravating
20 circumstance under RCW 9.94A.390.

21 (b) Whenever a person is convicted of two or more serious violent
22 offenses, as defined in RCW 9.94A.030, arising from separate and
23 distinct criminal conduct, the sentence range for the offense with the
24 highest seriousness level under RCW 9.94A.320 shall be determined using
25 the offender's prior convictions and other current convictions that are
26 not serious violent offenses in the offender score and the sentence
27 range for other serious violent offenses shall be determined by using
28 an offender score of zero. The sentence range for any offenses that
29 are not serious violent offenses shall be determined according to (a)
30 of this subsection. All sentences imposed under (b) of this subsection
31 shall be served consecutively to each other and concurrently with
32 sentences imposed under (a) of this subsection.

33 (2) Whenever a person while under sentence of felony commits
34 another felony and is sentenced to another term of confinement, the
35 latter term shall not begin until expiration of all prior terms.

36 (3) Subject to subsections (1) and (2) of this section, whenever a
37 person is sentenced for a felony that was committed while the person
38 was not under sentence of a felony, the sentence shall run concurrently
39 with any felony sentence which has been imposed by any court in this or

1 another state or by a federal court subsequent to the commission of the
2 crime being sentenced unless the court pronouncing the current sentence
3 expressly orders that they be served consecutively.

4 (4) Whenever any person granted probation under RCW 9.95.210 or
5 9.92.060, or both, has the probationary sentence revoked and a prison
6 sentence imposed, that sentence shall run consecutively to any sentence
7 imposed pursuant to this chapter, unless the court pronouncing the
8 subsequent sentence expressly orders that they be served concurrently.

9 (5) However, in the case of consecutive sentences, all periods of
10 total confinement shall be served before any partial confinement,
11 community service, community supervision, or any other requirement or
12 conditions of any of the sentences. Except for exceptional sentences
13 as authorized under RCW 9.94A.120(~~(+2)~~) (3), if two or more sentences
14 that run consecutively include periods of community supervision, the
15 aggregate of the community supervision period shall not exceed twenty-
16 four months.

17 **Sec. 20.** RCW 9.94A.440 and 1992 c 145 s 11 and 1992 c 75 s 5 are
18 each reenacted and amended to read as follows:

19 (1) Decision not to prosecute.

20 STANDARD: A prosecuting attorney may decline to prosecute, even
21 though technically sufficient evidence to prosecute exists, in
22 situations where prosecution would serve no public purpose, would
23 defeat the underlying purpose of the law in question or would result in
24 decreased respect for the law.

25 GUIDELINE/COMMENTARY:

26 Examples

27 The following are examples of reasons not to prosecute which could
28 satisfy the standard.

29 (a) Contrary to Legislative Intent - It may be proper to decline to
30 charge where the application of criminal sanctions would be clearly
31 contrary to the intent of the legislature in enacting the particular
32 statute.

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

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

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

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

3 (iv) The statute has not been recently reconsidered by the
4 legislature.

5 This reason is not to be construed as the basis for declining cases
6 because the law in question is unpopular or because it is difficult to
7 enforce.

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

11 (d) Confinement on Other Charges - It may be proper to decline to
12 charge because the accused has been sentenced on another charge to a
13 lengthy period of confinement; and

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

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

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

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

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

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

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

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

30 (f) High Disproportionate Cost of Prosecution - It may be proper to
31 decline to charge where the cost of locating or transporting, or the
32 burden on, prosecution witnesses is highly disproportionate to the
33 importance of prosecuting the offense in question. This reason should
34 be limited to minor cases and should not be relied upon in serious
35 cases.

36 (g) Improper Motives of Complainant - It may be proper to decline
37 charges because the motives of the complainant are improper and
38 prosecution would serve no public purpose, would defeat the underlying

1 purpose of the law in question or would result in decreased respect for
2 the law.

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

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

11 (i) Assault cases where the victim has suffered little or no
12 injury;

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

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

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

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

20 Notification

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

23 (2) Decision to prosecute.

24 STANDARD:

25 Crimes against persons will be filed if sufficient admissible
26 evidence exists, which, when considered with the most plausible,
27 reasonably foreseeable defense that could be raised under the evidence,
28 would justify conviction by a reasonable and objective fact-finder.
29 With regard to offenses prohibited by RCW 9A.44.040, 9A.44.050,
30 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, and
31 9A.64.020 the prosecutor should avoid pre-filing agreements or
32 diversions intended to place the accused in a program of treatment or
33 counseling, so that treatment, if determined to be beneficial, can be
34 provided pursuant to RCW 9.94A.120(~~(+7)~~) (8).

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

1 See table below for the crimes within these categories.

2 CATEGORIZATION OF CRIMES FOR PROSECUTING STANDARDS

3 CRIMES AGAINST PERSONS

- 4 Aggravated Murder
- 5 1st Degree Murder
- 6 2nd Degree Murder
- 7 1st Degree Kidnaping
- 8 1st Degree Assault
- 9 1st Degree Assault of a Child
- 10 1st Degree Rape
- 11 1st Degree Robbery
- 12 1st Degree Rape of a Child
- 13 1st Degree Arson
- 14 2nd Degree Kidnaping
- 15 2nd Degree Assault
- 16 2nd Degree Assault of a Child
- 17 2nd Degree Rape
- 18 2nd Degree Robbery
- 19 1st Degree Burglary
- 20 1st Degree Manslaughter
- 21 2nd Degree Manslaughter
- 22 1st Degree Extortion
- 23 Indecent Liberties
- 24 Incest
- 25 2nd Degree Rape of a Child
- 26 Vehicular Homicide
- 27 Vehicular Assault
- 28 3rd Degree Rape
- 29 3rd Degree Rape of a Child
- 30 1st Degree Child Molestation
- 31 2nd Degree Child Molestation
- 32 3rd Degree Child Molestation
- 33 2nd Degree Extortion
- 34 1st Degree Promoting Prostitution
- 35 Intimidating a Juror
- 36 Communication with a Minor
- 37 Intimidating a Witness
- 38 Intimidating a Public Servant

1 Bomb Threat (if against person)
2 3rd Degree Assault
3 3rd Degree Assault of a Child
4 Unlawful Imprisonment
5 Promoting a Suicide Attempt
6 Riot (if against person)

7 CRIMES AGAINST PROPERTY/OTHER CRIMES
8 2nd Degree Arson
9 1st Degree Escape
10 2nd Degree Burglary
11 1st Degree Theft
12 1st Degree Perjury
13 1st Degree Introducing Contraband
14 1st Degree Possession of Stolen Property
15 Bribery
16 Bribing a Witness
17 Bribe received by a Witness
18 Bomb Threat (if against property)
19 1st Degree Malicious Mischief
20 2nd Degree Theft
21 2nd Degree Escape
22 2nd Degree Introducing Contraband
23 2nd Degree Possession of Stolen Property
24 2nd Degree Malicious Mischief
25 1st Degree Reckless Burning
26 Taking a Motor Vehicle without Authorization
27 Forgery
28 2nd Degree Perjury
29 2nd Degree Promoting Prostitution
30 Tampering with a Witness
31 Trading in Public Office
32 Trading in Special Influence
33 Receiving/Granting Unlawful Compensation
34 Bigamy
35 Eluding a Pursuing Police Vehicle

1 Willful Failure to Return from Furlough
2 Escape from Community Custody
3 Riot (if against property)
4 Thefts of Livestock

5 ALL OTHER UNCLASSIFIED FELONIES

6 Selection of Charges/Degree of Charge

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

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

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

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

14 Overcharging includes:

15 (a) Charging a higher degree;

16 (b) Charging additional counts.

17 This standard is intended to direct prosecutors to charge those
18 crimes which demonstrate the nature and seriousness of a defendant's
19 criminal conduct, but to decline to charge crimes which are not
20 necessary to such an indication. Crimes which do not merge as a matter
21 of law, but which arise from the same course of conduct, do not all
22 have to be charged.

23 GUIDELINES/COMMENTARY:

24 Police Investigation

25 A prosecuting attorney is dependent upon law enforcement agencies
26 to conduct the necessary factual investigation which must precede the
27 decision to prosecute. The prosecuting attorney shall ensure that a
28 thorough factual investigation has been conducted before a decision to
29 prosecute is made. In ordinary circumstances the investigation should
30 include the following:

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

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

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

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

1 Exceptions

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

- 4 (1) Probable cause exists to believe the suspect is guilty; and
5 (2) The suspect presents a danger to the community or is likely to
6 flee if not apprehended; or
7 (3) The arrest of the suspect is necessary to complete the
8 investigation of the crime.

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

14 Investigation Techniques

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

- 17 (1) Polygraph testing;
18 (2) Hypnosis;
19 (3) Electronic surveillance;
20 (4) Use of informants.

21 Pre-Filing Discussions with Defendant

22 Discussions with the defendant or his/her representative regarding
23 the selection or disposition of charges may occur prior to the filing
24 of charges, and potential agreements can be reached.

25 **Sec. 21.** RCW 13.40.135 and 1990 c 3 s 604 are each amended to read
26 as follows:

27 (1) The prosecuting attorney shall file a special allegation of
28 sexual motivation in every juvenile offense other than sex offenses as
29 defined in RCW 9.94A.030(~~((29) (a) or (c))~~) (34) (a) or (c) when
30 sufficient admissible evidence exists, which, when considered with the
31 most plausible, reasonably consistent defense that could be raised
32 under the evidence, would justify a finding of sexual motivation by a
33 reasonable and objective fact-finder.

34 (2) In a juvenile case wherein there has been a special allegation
35 the state shall prove beyond a reasonable doubt that the juvenile
36 committed the offense with a sexual motivation. The court shall make
37 a finding of fact of whether or not the sexual motivation was present
38 at the time of the commission of the offense. This finding shall not

1 be applied to sex offenses as defined in RCW 9.94A.030(~~((29)(a) or~~
2 ~~(c))~~) (34) (a) or (c).

3 (3) The prosecuting attorney shall not withdraw the special
4 allegation of "sexual motivation" without approval of the court through
5 an order of dismissal. The court shall not dismiss the special
6 allegation unless it finds that such an order is necessary to correct
7 an error in the initial charging decision or unless there are
8 evidentiary problems which make proving the special allegation
9 doubtful.

10 **Sec. 22.** RCW 18.155.010 and 1990 c 3 s 801 are each amended to
11 read as follows:

12 The legislature finds that sex offender therapists who examine and
13 treat sex offenders pursuant to the special sexual offender sentencing
14 alternative under RCW 9.94A.120(~~((7)(a))~~) (8)(a) and who may treat
15 juvenile sex offenders pursuant to RCW 13.40.160, play a vital role in
16 protecting the public from sex offenders who remain in the community
17 following conviction. The legislature finds that the qualifications,
18 practices, techniques, and effectiveness of sex offender treatment
19 providers vary widely and that the court's ability to effectively
20 determine the appropriateness of granting the sentencing alternative
21 and monitoring the offender to ensure continued protection of the
22 community is undermined by a lack of regulated practices. The
23 legislature recognizes the right of sex offender therapists to
24 practice, consistent with the paramount requirements of public safety.
25 Public safety is best served by regulating sex offender therapists
26 whose clients are being evaluated and being treated pursuant to RCW
27 9.94A.120(~~((7)(a))~~) (8)(a) and 13.40.160. This chapter shall be
28 construed to require only those sex offender therapists who examine and
29 treat sex offenders pursuant to RCW 9.94A.120(~~((7)(a))~~) (8)(a) and
30 13.40.160 to obtain a sexual offender treatment certification as
31 provided in this chapter.

32 **Sec. 23.** RCW 18.155.020 and 1990 c 3 s 802 are each amended to
33 read as follows:

34 Unless the context clearly requires otherwise, the definitions in
35 this section apply throughout this chapter:

36 (1) "Certified sex offender treatment provider" means a licensed,
37 certified, or registered health professional who is certified to

1 examine and treat sex offenders pursuant to RCW 9.94A.120(~~((7)(a))~~)
2 (8)(a) and 13.40.160.

3 (2) "Department" means the department of health.

4 (3) "Secretary" means the secretary of health.

5 (4) "Sex offender treatment provider" means a person who counsels
6 or treats sex offenders accused of or convicted of a sex offense as
7 defined by RCW 9.94A.030.

8 **Sec. 24.** RCW 18.155.030 and 1990 c 3 s 803 are each amended to
9 read as follows:

10 (1) No person shall represent himself or herself as a certified sex
11 offender treatment provider without first applying for and receiving a
12 certificate pursuant to this chapter.

13 (2) Only a certified sex offender treatment provider may perform or
14 provide the following services:

15 (a) Evaluations conducted for the purposes of and pursuant to RCW
16 9.94A.120(~~((7)(a))~~) (8)(a) and 13.40.160;

17 (b) Treatment of convicted sex offenders who are sentenced and
18 ordered into treatment pursuant to RCW 9.94A.120(~~((7)(a))~~) (8)(a) and
19 adjudicated juvenile sex offenders who are ordered into treatment
20 pursuant to RCW 13.40.160.

21 **Sec. 25.** RCW 43.43.754 and 1994 c 271 s 402 are each amended to
22 read as follows:

23 Every adult or juvenile individual convicted of a felony or
24 adjudicated guilty of an equivalent juvenile offense defined as a sex
25 offense under RCW 9.94A.030(~~((31)(a))~~) (34)(a) or a violent offense as
26 defined in RCW 9.94A.030 shall have a blood sample drawn for purposes
27 of DNA identification analysis. For persons convicted of such offenses
28 or adjudicated guilty of an equivalent juvenile offense who are serving
29 a term of confinement in a county jail or detention facility, the
30 county shall be responsible for obtaining blood samples prior to
31 release from the county jail or detention facility. For persons
32 convicted of such offenses or adjudicated guilty of an equivalent
33 juvenile offense, who are serving a term of confinement in a department
34 of corrections facility or a division of juvenile rehabilitation
35 facility, the facility holding the person shall be responsible for
36 obtaining blood samples prior to release from such facility. Any blood
37 sample taken pursuant to RCW 43.43.752 through 43.43.758 shall be used

1 solely for the purpose of providing DNA or other blood grouping tests
2 for identification analysis and prosecution of a sex offense or a
3 violent offense.

4 This section applies to all adults who are convicted after July 1,
5 1990. This section applies to all juveniles who are adjudicated guilty
6 after July 1, 1994.

7 **Sec. 26.** RCW 46.61.524 and 1991 c 348 s 2 are each amended to read
8 as follows:

9 (1) A person convicted under RCW 46.61.520(1)(a) or 46.61.522(1)(b)
10 shall, as a condition of community supervision imposed under RCW
11 9.94A.383 or community placement imposed under RCW 9.94A.120(~~(+8)~~)
12 (9), complete a diagnostic evaluation by an alcohol or drug dependency
13 agency approved by the department of social and health services or a
14 qualified probation department, as defined under RCW 46.61.516 that has
15 been approved by the department of social and health services. This
16 report shall be forwarded to the department of licensing. If the
17 person is found to have an alcohol or drug problem that requires
18 treatment, the person shall complete treatment in a program approved by
19 the department of social and health services under chapter 70.96A RCW.
20 If the person is found not to have an alcohol or drug problem that
21 requires treatment, he or she shall complete a course in an information
22 school approved by the department of social and health services under
23 chapter 70.96A RCW. The convicted person shall pay all costs for any
24 evaluation, education, or treatment required by this section, unless
25 the person is eligible for an existing program offered or approved by
26 the department of social and health services. Nothing in this ~~((aet))~~
27 section requires the addition of new treatment or assessment facilities
28 nor affects the department of social and health services use of
29 existing programs and facilities authorized by law.

30 (2) As provided for under RCW 46.20.285, the department shall
31 revoke the license, permit to drive, or a nonresident privilege of a
32 person convicted of vehicular homicide under RCW 46.61.520 or vehicular
33 assault under RCW 46.61.522. The department shall determine the
34 eligibility of a person convicted of vehicular homicide under RCW
35 46.61.520(1)(a) or vehicular assault under ~~((+RCW))~~ RCW
36 46.61.522(1)(b) to receive a license based upon the report provided by
37 the designated alcoholism treatment facility or probation department,

1 and shall deny reinstatement until satisfactory progress in an approved
2 program has been established and the person is otherwise qualified.

3 NEW SECTION. **Sec. 27.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 28.** Sections 1 through 4 of this act shall take
8 effect on the date Washington's application for a federal truth-in-
9 sentencing grant available pursuant to 42 U.S.C. 13702 et. seq., as now
10 or hereafter amended, is validly approved and funded in an amount not
11 less than twenty-five million dollars. If the grant is not so approved
12 and funded by January 1, 2000, sections 1 through 4 of this act are
13 null and void."

14 **HB 1709** - S COMM AMD

15 By Committee on Human Services & Corrections

16

17 On page 1, line 1 of the title, after "release;" strike the
18 remainder of the title and insert "amending RCW 9.92.151, 9.94A.150,
19 70.48.210, 9.94A.030, 9.94A.132, 9.94A.137, 9.94A.150, 70.48.210,
20 72.09.130, 9.94A.123, 9.94A.127, 9.94A.130, 9.94A.180, 9.94A.210,
21 9.94A.390, 9.94A.400, 13.40.135, 18.155.010, 18.155.020, 18.155.030,
22 43.43.754, and 46.61.524; reenacting and amending RCW 9.94A.120 and
23 9.94A.440; adding a new section to chapter 9.94A RCW; creating a new
24 section; prescribing penalties; and providing a contingent effective
25 date."

26 EFFECT: Retains all provisions of original bill; adds a contingent
27 effective date making the original provisions contingent on receiving
28 a federal grant sufficiently large to cover the costs of implementing
29 the reductions in earned early release; adds the provisions of SB 5906,
30 which create a new category of "disciplinary confinement" to be used
31 for adding "bad time" to offenders' sentences if they commit
32 infractions in prison.

--- END ---