

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1549**

54th Legislature  
1995 Regular Session

Passed by the House March 13, 1995  
Yeas 92 Nays 5

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**Speaker of the  
House of Representatives**

Passed by the Senate April 7, 1995  
Yeas 43 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1549** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1549**

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Passed Legislature - 1995 Regular Session

**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Morris, Wolfe, Campbell, Quall, Backlund, Dyer and Blanton; by request of Sentencing Guidelines Commission)

Read first time 02/24/95.

1       AN ACT Relating to treatment-oriented sentences for offenders  
2 convicted of manufacture, delivery, or possession with intent to  
3 deliver a narcotic from Schedule I or II; amending RCW 9.94A.030 and  
4 9.94A.190; reenacting and amending RCW 9.94A.120; adding a new section  
5 to chapter 9.94A RCW; creating a new section; prescribing penalties;  
6 and declaring an emergency.

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

8       **Sec. 1.** RCW 9.94A.030 and 1994 c 261 s 16 are each amended to read  
9 as follows:

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

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

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

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

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

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

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

20 (7) "Community supervision" means a period of time during which a  
21 convicted offender is subject to crime-related prohibitions and other  
22 sentence conditions imposed by a court pursuant to this chapter or RCW  
23 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
24 may include crime-related prohibitions and other conditions imposed  
25 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
26 for out-of-state supervision of parolees and probationers, RCW  
27 9.95.270, community supervision is the functional equivalent of  
28 probation and should be considered the same as probation by other  
29 states.

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

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

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

1 drug funds, court-appointed attorneys' fees, and costs of defense,  
2 fines, and any other financial obligation that is assessed to the  
3 offender as a result of a felony conviction. Upon conviction for  
4 vehicular assault while under the influence of intoxicating liquor or  
5 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
6 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
7 legal financial obligations may also include payment to a public agency  
8 of the expense of an emergency response to the incident resulting in  
9 the conviction, subject to the provisions in RCW 38.52.430.

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

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

22 (b) "Criminal history" shall always include juvenile convictions  
23 for sex offenses and shall also include a defendant's other prior  
24 convictions in juvenile court if: (i) The conviction was for an  
25 offense which is a felony or a serious traffic offense and is criminal  
26 history as defined in RCW 13.40.020(9); (ii) the defendant was fifteen  
27 years of age or older at the time the offense was committed; and (iii)  
28 with respect to prior juvenile class B and C felonies or serious  
29 traffic offenses, the defendant was less than twenty-three years of age  
30 at the time the offense for which he or she is being sentenced was  
31 committed.

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

36 (14) "Day reporting" means a program of enhanced supervision  
37 designed to monitor the defendant's daily activities and compliance  
38 with sentence conditions, and in which the defendant is required to

1 report daily to a specific location designated by the department or the  
2 sentencing judge.

3 ~~(15)~~ (15) "Department" means the department of corrections.

4 ~~((14))~~ (16) "Determinate sentence" means a sentence that states  
5 with exactitude the number of actual years, months, or days of total  
6 confinement, of partial confinement, of community supervision, the  
7 number of actual hours or days of community service work, or dollars or  
8 terms of a legal financial obligation. The fact that an offender  
9 through "earned early release" can reduce the actual period of  
10 confinement shall not affect the classification of the sentence as a  
11 determinate sentence.

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

24 ~~((16))~~ (18) "Drug offense" means:

25 (a) Any felony violation of chapter 69.50 RCW except possession of  
26 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
27 controlled substance (RCW 69.50.403);

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

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

34 ~~((17))~~ (19) "Escape" means:

35 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
36 second degree (RCW 9A.76.120), willful failure to return from furlough  
37 (RCW 72.66.060), willful failure to return from work release (RCW  
38 72.65.070), or willful failure to be available for supervision by the  
39 department while in community custody (RCW 72.09.310); or

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

4 (~~(18)~~) (20) "Felony traffic offense" means:

5 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
6 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
7 and-run injury-accident (RCW 46.52.020(4)); or

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

11 (~~(19)~~) (21) "Fines" means the requirement that the offender pay  
12 a specific sum of money over a specific period of time to the court.

13 (~~(20)~~) (22)(a) "First-time offender" means any person who is  
14 convicted of a felony (i) not classified as a violent offense or a sex  
15 offense under this chapter, or (ii) that is not the manufacture,  
16 delivery, or possession with intent to manufacture or deliver a  
17 controlled substance classified in schedule I or II that is a narcotic  
18 drug (~~(or)~~), nor the manufacture, delivery, or possession with intent to  
19 deliver methamphetamine, its salts, isomers, and salts of its isomers  
20 as defined in RCW 69.50.206(d)(2), nor the selling for profit of any  
21 controlled substance or counterfeit substance classified in schedule I,  
22 RCW 69.50.204, except leaves and flowering tops of marihuana, and  
23 except as provided in (b) of this subsection, who previously has never  
24 been convicted of a felony in this state, federal court, or another  
25 state, and who has never participated in a program of deferred  
26 prosecution for a felony offense.

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

30 (~~(21)~~) (23) "Most serious offense" means any of the following  
31 felonies or a felony attempt to commit any of the following felonies,  
32 as now existing or hereafter amended:

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

36 (b) Assault in the second degree;

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

38 (d) Child molestation in the second degree;

39 (e) Controlled substance homicide;

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

1 release, home detention, work crew, and a combination of work crew and  
2 home detention as defined in this section.

3 ~~((25))~~ (27) "Persistent offender" is an offender who:

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

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

14 ~~((26))~~ (28) "Postrelease supervision" is that portion of an  
15 offender's community placement that is not community custody.

16 ~~((27))~~ (29) "Restitution" means the requirement that the offender  
17 pay a specific sum of money over a specific period of time to the court  
18 as payment of damages. The sum may include both public and private  
19 costs. The imposition of a restitution order does not preclude civil  
20 redress.

21 ~~((28))~~ (30) "Serious traffic offense" means:

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

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

30 ~~((29))~~ (31) "Serious violent offense" is a subcategory of violent  
31 offense and means:

32 (a) Murder in the first degree, homicide by abuse, murder in the  
33 second degree, assault in the first degree, kidnapping in the first  
34 degree, or rape in the first degree, assault of a child in the first  
35 degree, or an attempt, criminal solicitation, or criminal conspiracy to  
36 commit one of these felonies; or

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

1       (~~(30)~~) (32) "Sentence range" means the sentencing court's  
2 discretionary range in imposing a nonappealable sentence.

3       (~~(31)~~) (33) "Sex offense" means:

4       (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
5 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal  
6 attempt, criminal solicitation, or criminal conspiracy to commit such  
7 crimes;

8       (b) A felony with a finding of sexual motivation under RCW  
9 9.94A.127; or

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

13       (~~(32)~~) (34) "Sexual motivation" means that one of the purposes  
14 for which the defendant committed the crime was for the purpose of his  
15 or her sexual gratification.

16       (~~(33)~~) (35) "Total confinement" means confinement inside the  
17 physical boundaries of a facility or institution operated or utilized  
18 under contract by the state or any other unit of government for twenty-  
19 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

20       (~~(34)~~) (36) "Transition training" means written and verbal  
21 instructions and assistance provided by the department to the offender  
22 during the two weeks prior to the offender's successful completion of  
23 the work ethic camp program. The transition training shall include  
24 instructions in the offender's requirements and obligations during the  
25 offender's period of community custody.

26       (~~(35)~~) (37) "Victim" means any person who has sustained  
27 emotional, psychological, physical, or financial injury to person or  
28 property as a direct result of the crime charged.

29       (~~(36)~~) (38) "Violent offense" means:

30       (a) Any of the following felonies, as now existing or hereafter  
31 amended: Any felony defined under any law as a class A felony or an  
32 attempt to commit a class A felony, criminal solicitation of or  
33 criminal conspiracy to commit a class A felony, manslaughter in the  
34 first degree, manslaughter in the second degree, indecent liberties if  
35 committed by forcible compulsion, kidnapping in the second degree,  
36 arson in the second degree, assault in the second degree, assault of a  
37 child in the second degree, extortion in the first degree, robbery in  
38 the second degree, vehicular assault, and vehicular homicide, when  
39 proximately caused by the driving of any vehicle by any person while

1 under the influence of intoxicating liquor or any drug as defined by  
2 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

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

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

9 ~~((37))~~ (39) "Work crew" means a program of partial confinement  
10 consisting of civic improvement tasks for the benefit of the community  
11 of not less than thirty-five hours per week that complies with RCW  
12 9.94A.135. The civic improvement tasks shall have minimal negative  
13 impact on existing private industries or the labor force in the county  
14 where the service or labor is performed. The civic improvement tasks  
15 shall not affect employment opportunities for people with developmental  
16 disabilities contracted through sheltered workshops as defined in RCW  
17 82.04.385. Only those offenders sentenced to a facility operated or  
18 utilized under contract by a county or the state are eligible to  
19 participate on a work crew. Offenders sentenced for a sex offense as  
20 defined in subsection ~~((31))~~ (33) of this section are not eligible  
21 for the work crew program.

22 ~~((38))~~ (40) "Work ethic camp" means an alternative incarceration  
23 program designed to reduce recidivism and lower the cost of corrections  
24 by requiring offenders to complete a comprehensive array of real-world  
25 job and vocational experiences, character-building work ethics  
26 training, life management skills development, substance abuse  
27 rehabilitation, counseling, literacy training, and basic adult  
28 education.

29 ~~((39))~~ (41) "Work release" means a program of partial confinement  
30 available to offenders who are employed or engaged as a student in a  
31 regular course of study at school. Participation in work release shall  
32 be conditioned upon the offender attending work or school at regularly  
33 defined hours and abiding by the rules of the work release facility.

34 ~~((40))~~ (42) "Home detention" means a program of partial  
35 confinement available to offenders wherein the offender is confined in  
36 a private residence subject to electronic surveillance. ~~((Home  
37 detention may not be imposed for offenders convicted of a violent  
38 offense, any sex offense, any drug offense, reckless burning in the  
39 first or second degree as defined in RCW 9A.48.040 or 9A.48.050,~~

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

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

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

37 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW  
38 to read as follows:

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

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

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

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

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

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

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

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

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

1 purpose of commitment to an inpatient treatment facility in the case of  
2 an offender convicted of the crime of rape in the first degree.

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

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

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

16 (c) Pursue a prescribed, secular course of study or vocational  
17 training;

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

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

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

25 (6)(a) An offender is eligible for the special drug offender  
26 sentencing alternative if:

27 (i) The offender is convicted of the manufacture, delivery, or  
28 possession with intent to manufacture or deliver a controlled substance  
29 classified in Schedule I or II that is a narcotic drug or a felony that  
30 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
31 criminal solicitation, or criminal conspiracy to commit such crimes,  
32 and the violation does not involve a sentence enhancement under RCW  
33 9.94A.310(3);

34 (ii) The offender has no prior convictions for a felony in this  
35 state, another state, or the United States; and

36 (iii) The offense involved only a small quantity of the particular  
37 controlled substance as determined by the judge upon consideration of  
38 such factors as the weight, purity, packaging, sale price, and street  
39 value of the controlled substance.

1       (b) If the midpoint of the standard range is greater than one year  
2 and the sentencing judge determines that the offender is eligible for  
3 this option and that the offender and the community will benefit from  
4 the use of the special drug offender sentencing alternative, the judge  
5 may waive imposition of a sentence within the standard range and impose  
6 a sentence that must include a period of total confinement in a state  
7 facility for one-half of the midpoint of the standard range. During  
8 incarceration in the state facility, offenders sentenced under this  
9 subsection shall undergo a comprehensive substance abuse assessment and  
10 receive, within available resources, treatment services appropriate for  
11 the offender. The treatment services shall be designed by the division  
12 of alcohol and substance abuse of the department of social and health  
13 services, in cooperation with the department of corrections. If the  
14 midpoint of the standard range is twenty-four months or less, no more  
15 than three months of the sentence may be served in a work release  
16 status. The court shall also impose one year of concurrent community  
17 custody and community supervision that must include appropriate  
18 outpatient substance abuse treatment, crime-related prohibitions  
19 including a condition not to use illegal controlled substances, and a  
20 requirement to submit to urinalysis or other testing to monitor that  
21 status. The court may require that the monitoring for controlled  
22 substances be conducted by the department or by a treatment alternative  
23 to street crime program or a comparable court or agency-referred  
24 program. The offender may be required to pay thirty dollars per month  
25 while on community custody to offset the cost of monitoring. In  
26 addition, the court shall impose three or more of the following  
27 conditions:

- 28       (i) Devote time to a specific employment or training;  
29       (ii) Remain within prescribed geographical boundaries and notify  
30 the court or the community corrections officer before any change in the  
31 offender's address or employment;  
32       (iii) Report as directed to a community corrections officer;  
33       (iv) Pay all court-ordered legal financial obligations;  
34       (v) Perform community service work;  
35       (vi) Stay out of areas designated by the sentencing judge.

36       (c) If the offender violates any of the sentence conditions in (b)  
37 of this subsection, the department shall impose sanctions  
38 administratively, with notice to the prosecuting attorney and the  
39 sentencing court. Upon motion of the court or the prosecuting

1 attorney, a violation hearing shall be held by the court. If the court  
2 finds that conditions have been willfully violated, the court may  
3 impose confinement consisting of up to the remaining one-half of the  
4 midpoint of the standard range. All total confinement served during  
5 the period of community custody shall be credited to the offender,  
6 regardless of whether the total confinement is served as a result of  
7 the original sentence, as a result of a sanction imposed by the  
8 department, or as a result of a violation found by the court. The term  
9 of community supervision shall be tolled by any period of time served  
10 in total confinement as a result of a violation found by the court.

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

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

25 ((+7)) (8)(a)(i) When an offender is convicted of a sex offense  
26 other than a violation of RCW 9A.44.050 or a sex offense that is also  
27 a serious violent offense and has no prior convictions for a sex  
28 offense or any other felony sex offenses in this or any other state,  
29 the sentencing court, on its own motion or the motion of the state or  
30 the defendant, may order an examination to determine whether the  
31 defendant is amenable to treatment.

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

38 The examiner shall assess and report regarding the defendant's  
39 amenability to treatment and relative risk to the community. A

1 proposed treatment plan shall be provided and shall include, at a  
2 minimum:

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

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

6 (C) Monitoring plans, including any requirements regarding living  
7 conditions, lifestyle requirements, and monitoring by family members  
8 and others;

9 (D) Anticipated length of treatment; and

10 (E) Recommended crime-related prohibitions.

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

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

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

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

1 other sentence conditions including up to six months of confinement,  
2 not to exceed the sentence range of confinement for that offense,  
3 crime-related prohibitions, and requirements that the offender perform  
4 any one or more of the following:

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

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

9 (III) Report as directed to the court and a community corrections  
10 officer;

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

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

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

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

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

8 (vi) Except as provided in (a)(vii) of this subsection, after July  
9 1, 1991, examinations and treatment ordered pursuant to this subsection  
10 shall only be conducted by sex offender treatment providers certified  
11 by the department of health pursuant to chapter 18.155 RCW.

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

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

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

1 program at the location determined by the secretary of social and  
2 health services or the secretary's designee, only if the report  
3 indicates that the offender is amenable to the treatment program  
4 provided at these facilities. The offender shall be transferred to the  
5 state pending placement in the treatment program. Any offender who has  
6 escaped from the treatment program shall be referred back to the  
7 sentencing court.

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

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

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

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

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

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

1 Except for an offender who has been convicted of a violation of RCW  
2 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
3 before the expiration of his or her term of confinement, the department  
4 of corrections may request the court to convert the balance of  
5 confinement to community supervision and to place conditions on the  
6 offender including crime-related prohibitions and requirements that the  
7 offender perform any one or more of the following:

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

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

12 (iii) Report as directed to the court and a community corrections  
13 officer;

14 (iv) Undergo available outpatient treatment.

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

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

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

31 ~~((8))~~ (9)(a) When a court sentences a person to a term of total  
32 confinement to the custody of the department of corrections for an  
33 offense categorized as a sex offense or a serious violent offense  
34 committed after July 1, 1988, but before July 1, 1990, assault in the  
35 second degree, assault of a child in the second degree, any crime  
36 against a person where it is determined in accordance with RCW  
37 9.94A.125 that the defendant or an accomplice was armed with a deadly  
38 weapon at the time of commission, or any felony offense under chapter  
39 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,

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

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

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

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

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

38 (iv) An offender in community custody shall not unlawfully possess  
39 controlled substances;

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

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

6 (c) The court may also order any of the following special  
7 conditions:

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

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

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

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

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

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

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

26 ~~((+10))~~ (11) If a sentence imposed includes payment of a legal  
27 financial obligation, the sentence shall specify the total amount of  
28 the legal financial obligation owed, and shall require the offender to  
29 pay a specified monthly sum toward that legal financial obligation.  
30 Restitution to victims shall be paid prior to any other payments of  
31 monetary obligations. Any legal financial obligation that is imposed  
32 by the court may be collected by the department, which shall deliver  
33 the amount paid to the county clerk for credit. The offender's  
34 compliance with payment of legal financial obligations shall be  
35 supervised by the department. All monetary payments ordered shall be  
36 paid no later than ten years after the last date of release from  
37 confinement pursuant to a felony conviction or the date the sentence  
38 was entered. Independent of the department, the party or entity to  
39 whom the legal financial obligation is owed shall have the authority to

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

8 ~~((11))~~ (12) Except as provided under RCW 9.94A.140(1) and  
9 9.94A.142(1), a court may not impose a sentence providing for a term of  
10 confinement or community supervision or community placement which  
11 exceeds the statutory maximum for the crime as provided in chapter  
12 9A.20 RCW.

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

27 ~~((13))~~ (14) All offenders sentenced to terms involving community  
28 supervision, community service, or community placement under the  
29 supervision of the department of corrections shall not own, use, or  
30 possess firearms or ammunition. Offenders who own, use, or are found  
31 to be in actual or constructive possession of firearms or ammunition  
32 shall be subject to the appropriate violation process and sanctions.  
33 "Constructive possession" as used in this subsection means the power  
34 and intent to control the firearm or ammunition. "Firearm" as used in  
35 this subsection means a weapon or device from which a projectile may be  
36 fired by an explosive such as gunpowder.

37 ~~((14))~~ (15) The sentencing court shall give the offender credit  
38 for all confinement time served before the sentencing if that

1 confinement was solely in regard to the offense for which the offender  
2 is being sentenced.

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

8 ~~((16))~~ (17) The court shall order restitution whenever the  
9 offender is convicted of a felony that results in injury to any person  
10 or damage to or loss of property, whether the offender is sentenced to  
11 confinement or placed under community supervision, unless extraordinary  
12 circumstances exist that make restitution inappropriate in the court's  
13 judgment. The court shall set forth the extraordinary circumstances in  
14 the record if it does not order restitution.

15 ~~((17))~~ (18) As a part of any sentence, the court may impose and  
16 enforce an order that relates directly to the circumstances of the  
17 crime for which the offender has been convicted, prohibiting the  
18 offender from having any contact with other specified individuals or a  
19 specific class of individuals for a period not to exceed the maximum  
20 allowable sentence for the crime, regardless of the expiration of the  
21 offender's term of community supervision or community placement.

22 ~~((18))~~ (19) In any sentence of partial confinement, the court may  
23 require the defendant to serve the partial confinement in work release,  
24 in a program of home detention, on work crew, or in a combined program  
25 of work crew and home detention.

26 ~~((19))~~ (20) All court-ordered legal financial obligations  
27 collected by the department and remitted to the county clerk shall be  
28 credited and paid where restitution is ordered. Restitution shall be  
29 paid prior to any other payments of monetary obligations.

30 **Sec. 4.** RCW 9.94A.190 and 1991 c 181 s 5 are each amended to read  
31 as follows:

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

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

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

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

23 (4) For sentences imposed pursuant to RCW 9.94A.120(6) which have  
24 a sentence range of over one year, notwithstanding any other provision  
25 of this section all such sentences regardless of length shall be served  
26 in a facility or institution operated, or utilized under contract, by  
27 the state.

28 NEW SECTION. Sec. 5. The commission shall evaluate the impact of  
29 implementing the drug offender options provided for in RCW  
30 9.94A.120(6). The commission shall submit preliminary findings to the  
31 legislature by December 1, 1996, and shall submit the final report to  
32 the legislature by December 1, 1997. The report shall describe the  
33 changes in sentencing practices related to the use of punishment  
34 options for drug offenders and include the impact of sentencing  
35 alternatives on state prison populations, the savings in state  
36 resources, the effectiveness of drug treatment services, and the impact  
37 on recidivism rates.

1        NEW SECTION.    **Sec. 6.**    This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and shall take  
4 effect immediately.

--- END ---