
SENATE BILL 6048

State of Washington

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By Senators Oke, Schow, Palmer and Kohl

Read first time 03/01/95. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to work ethic camps; amending RCW 9.94A.137; and
2 reenacting and amending RCW 9.94A.120.

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

4 **Sec. 1.** RCW 9.94A.137 and 1993 c 338 s 4 are each amended to read
5 as follows:

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

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

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

11 (c) Has no current or prior convictions for any sex offenses or
12 violent offenses.

13 (2) If the sentencing judge determines that the offender is
14 eligible for the work ethic camp and is likely to qualify under
15 subsection (3) of this section, the judge shall impose a sentence
16 within the standard range and may recommend that the offender serve the
17 sentence at a work ethic camp. The sentence shall provide that if the
18 offender successfully completes the program, the department shall
19 convert the period of work ethic camp confinement at the rate of one

1 day of work ethic camp confinement to three days of total standard
2 confinement. In sentencing an offender to the work ethic camp, the
3 court shall ((also provide)) specify: (a) That upon completion of the
4 work ethic camp program, the offender shall be released on community
5 custody for any remaining time of total confinement; (b) the applicable
6 conditions of supervision on community custody status as authorized by
7 RCW 9.94A.120(8)(b) and (c); and (c) the conditions, the violation of
8 which may result in a return to total confinement for the balance of
9 the offender's remaining time of confinement.

10 (3) The department shall place the offender in the work ethic camp
11 program, subject to capacity, unless the department determines that the
12 offender has physical or mental impairments that would prevent
13 participation and completion of the program, or the offender refuses to
14 agree to the terms and conditions of the program.

15 (4) An inmate who fails to complete the work ethic camp program,
16 who is administratively terminated from the program, or who commits any
17 crime or otherwise violates any condition((s)) of supervision, as
18 defined by the department pursuant to subsection (2) of this section,
19 shall immediately be ((reclassified)) returned to confinement to serve
20 the unexpired term of his or her sentence as ordered by the sentencing
21 judge and shall be subject to all rules relating to earned early
22 release time.

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

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

30 **Sec. 2.** 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) of
36 this section, the court shall impose a sentence within the sentence
37 range for the offense.

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

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

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

34 (5) In sentencing a first-time offender the court may waive the
35 imposition of a sentence within the sentence range and impose a
36 sentence which may include up to ninety days of confinement in a
37 facility operated or utilized under contract by the county and a
38 requirement that the offender refrain from committing new offenses.
39 The sentence may also include up to two years of community supervision,

1 which, in addition to crime-related prohibitions, may include
2 requirements that the offender perform any one or more of the
3 following:

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

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

8 (c) Pursue a prescribed, secular course of study or vocational
9 training;

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

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

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

17 (6) 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)(a)(i) When an offender is convicted of a sex offense other than
26 a violation of RCW 9A.44.050 or a sex offense that is also a serious
27 violent offense and has no prior convictions for a sex offense or any
28 other felony sex offenses in this or any other state, the sentencing
29 court, on its own motion or the motion of the state or the defendant,
30 may order an examination to determine whether the defendant is amenable
31 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) does not have to be certified
14 by the department of health pursuant to chapter 18.155 RCW if the court
15 finds that: (A) The offender has already moved to another state or
16 plans to move to another state for reasons other than circumventing the
17 certification requirements; (B) no certified providers are available
18 for treatment within a reasonable geographical distance of the
19 offender's home; and (C) the evaluation and treatment plan comply with
20 this subsection (7) and the rules adopted by the department of health.

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

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

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

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

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

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

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

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

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

38 Except for an offender who has been convicted of a violation of RCW
39 9A.44.040 or 9A.44.050, if the offender completes the treatment program

1 before the expiration of his or her term of confinement, the department
2 of corrections may request the court to convert the balance of
3 confinement to community supervision and to place conditions on the
4 offender including crime-related prohibitions and requirements that the
5 offender perform any one or more of the following:

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

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

10 (iii) Report as directed to the court and a community corrections
11 officer;

12 (iv) Undergo available outpatient treatment.

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

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

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

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

1 completion of the term of confinement or at such time as the offender
2 is transferred to community custody in lieu of earned early release in
3 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an
4 offender under this subsection to the statutory maximum period of
5 confinement then the community placement portion of the sentence shall
6 consist entirely of such community custody to which the offender may
7 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any
8 period of community custody actually served shall be credited against
9 the community placement portion of the sentence.

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

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

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

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

35 (iv) An offender in community custody shall not unlawfully possess
36 controlled substances;

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

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

4 (c) The court may also order any of the following special
5 conditions:

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

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

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

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

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

14 (d) As a part of any sentence converted from total confinement to
15 community custody pursuant to RCW 9.94A.137(2) after successful
16 completion of a work ethic camp program, the court may impose and
17 enforce any of the conditions of community custody supervision
18 enumerated in (b) and (c) of this subsection, including a prohibition
19 against new felony convictions, the violation of which may result in a
20 return to total confinement for the balance of the offender's remaining
21 time of confinement.

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

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

32 (10) If a sentence imposed includes payment of a legal financial
33 obligation, the sentence shall specify the total amount of the legal
34 financial obligation owed, and shall require the offender to pay a
35 specified monthly sum toward that legal financial obligation.
36 Restitution to victims shall be paid prior to any other payments of
37 monetary obligations. Any legal financial obligation that is imposed
38 by the court may be collected by the department, which shall deliver
39 the amount paid to the county clerk for credit. The offender's

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

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

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

32 (13) All offenders sentenced to terms involving community
33 supervision, community service, or community placement under the
34 supervision of the department of corrections shall not own, use, or
35 possess firearms or ammunition. Offenders who own, use, or are found
36 to be in actual or constructive possession of firearms or ammunition
37 shall be subject to the appropriate violation process and sanctions.
38 "Constructive possession" as used in this subsection means the power
39 and intent to control the firearm or ammunition. "Firearm" as used in

1 this subsection means a weapon or device from which a projectile may be
2 fired by an explosive such as gunpowder.

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

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

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

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

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

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

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