

1 **SHB 2756** - H AMDS TO H STRIKING AMD (H5172.1) **944**
2 By Representative Sterk

3 On page 30, line 5 of the amendment, after "victim." insert:
4 "(a)"

5 On page 30, after line 25 of the amendment, insert the following:
6 "(b) Upon the court's own motion, or upon a verified application
7 by the prosecuting attorney, alleging with specificity that the accused
8 has violated a condition of release imposed under (a) of this
9 subsection, the court shall order the accused to be arrested and held
10 without bail or release on personal recognizance, pending an immediate
11 hearing to reconsider the release authorized under this subsection."

12 On page 31, line 31 of the amendment, after "order." insert "You
13 are further notified that, upon motion of the court or the prosecuting
14 attorney, alleging with specificity that you have violated a condition
15 of this order, you are subject to arrest without bail or release on
16 personal recognizance pending trial."

17 On page 33, after line 30 of the amendment, insert the following:
18 "**Sec. 20.** RCW 9.95.062 and 1996 c 275 s 9 are each amended to
19 read as follows:

20 (1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant
21 in a criminal action shall not stay the execution of the judgment of
22 conviction, if the court determines by a preponderance of the evidence
23 that:

24 (a) The defendant is likely to flee or to pose a danger to the
25 safety of any other person or the community if the judgment is stayed;
26 or

27 (b) The delay resulting from the stay will unduly diminish the
28 deterrent effect of the punishment; or

29 (c) A stay of the judgment will cause unreasonable trauma to the
30 victims of the crime or their families; or

31 (d) The defendant has not undertaken to the extent of the
32 defendant's financial ability to pay the financial obligations under

1 the judgment or has not posted an adequate performance bond to assure
2 payment.

3 (2) An appeal by a defendant convicted of one of the following
4 offenses shall not stay execution of the judgment of conviction: Rape
5 in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a
6 child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076,
7 and 9A.44.079); child molestation in the first, second, or third degree
8 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
9 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
10 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
11 9A.40.090); any class A or B felony that is a sexually motivated
12 offense as defined in RCW 9.94A.030; a felony violation of RCW
13 9.68A.090; a felony domestic violence offense as defined in RCW
14 10.99.020; or any offense that is, under chapter 9A.28 RCW, a criminal
15 attempt, solicitation, or conspiracy to commit one of those offenses.

16 (3) In case the defendant has been convicted of a felony, and has
17 been unable to obtain release pending the appeal by posting an appeal
18 bond, cash, adequate security, release on personal recognizance, or any
19 other conditions imposed by the court, the time the defendant has been
20 imprisoned pending the appeal shall be deducted from the term for which
21 the defendant was sentenced, if the judgment is affirmed.

22 **Sec. 21.** RCW 10.64.025 and 1996 c 275 s 10 are each amended to
23 read as follows:

24 (1) A defendant who has been found guilty of a felony and is
25 awaiting sentencing shall be detained unless the court finds by clear
26 and convincing evidence that the defendant is not likely to flee or to
27 pose a danger to the safety of any other person or the community if
28 released. Any bail bond that was posted on behalf of a defendant
29 shall, upon the defendant's conviction, be exonerated.

30 (2) A defendant who has been found guilty of one of the following
31 offenses shall be detained pending sentencing: Rape in the first or
32 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the
33 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and
34 9A.44.079); child molestation in the first, second, or third degree
35 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
36 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
37 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW

1 9A.40.090); any class A or B felony that is a sexually motivated
2 offense as defined in RCW 9.94A.030; a felony violation of RCW
3 9.68A.090; a felony domestic violence offense as defined in RCW
4 10.99.020; or any offense that is, under chapter 9A.28 RCW, a criminal
5 attempt, solicitation, or conspiracy to commit one of those offenses.

6 **Sec. 22.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to
7 read as follows:

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

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

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

17 (2) Class A and sex prior felony convictions shall always be
18 included in the offender score. Class B prior felony convictions other
19 than sex offenses shall not be included in the offender score, if since
20 the last date of release from confinement (including full-time
21 residential treatment) pursuant to a felony conviction, if any, or
22 entry of judgment and sentence, the offender had spent ten consecutive
23 years in the community without committing any crime that subsequently
24 results in a conviction. Class C prior felony convictions other than
25 sex offenses shall not be included in the offender score if, since the
26 last date of release from confinement (including full-time residential
27 treatment) pursuant to a felony conviction, if any, or entry of
28 judgment and sentence, the offender had spent five consecutive years in
29 the community without committing any crime that subsequently results in
30 a conviction. Serious traffic convictions shall not be included in the
31 offender score if, since the last date of release from confinement
32 (including full-time residential treatment) pursuant to a felony
33 conviction, if any, or entry of judgment and sentence, the offender
34 spent five years in the community without committing any crime that
35 subsequently results in a conviction. This subsection applies to both
36 adult and juvenile prior convictions.

1 (3) Out-of-state convictions for offenses shall be classified
2 according to the comparable offense definitions and sentences provided
3 by Washington law. Federal convictions for offenses shall be
4 classified according to the comparable offense definitions and
5 sentences provided by Washington law. If there is no clearly
6 comparable offense under Washington law or the offense is one that is
7 usually considered subject to exclusive federal jurisdiction, the
8 offense shall be scored as a class C felony equivalent if it was a
9 felony under the relevant federal statute.

10 (4) Score prior convictions for felony anticipatory offenses
11 (attempts, criminal solicitations, and criminal conspiracies) the same
12 as if they were convictions for completed offenses.

13 (5)(a) In the case of multiple prior convictions, for the purpose
14 of computing the offender score, count all convictions separately,
15 except:

16 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
17 encompass the same criminal conduct, shall be counted as one offense,
18 the offense that yields the highest offender score. The current
19 sentencing court shall determine with respect to other prior adult
20 offenses for which sentences were served concurrently or prior juvenile
21 offenses for which sentences were served consecutively, whether those
22 offenses shall be counted as one offense or as separate offenses using
23 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
24 if the court finds that they shall be counted as one offense, then the
25 offense that yields the highest offender score shall be used. The
26 current sentencing court may presume that such other prior offenses
27 were not the same criminal conduct from sentences imposed on separate
28 dates, or in separate counties or jurisdictions, or in separate
29 complaints, indictments, or informations;

30 (ii) In the case of multiple prior convictions for offenses
31 committed before July 1, 1986, for the purpose of computing the
32 offender score, count all adult convictions served concurrently as one
33 offense, and count all juvenile convictions entered on the same date as
34 one offense. Use the conviction for the offense that yields the
35 highest offender score.

36 (b) As used in this subsection (5), "served concurrently" means
37 that: (i) The latter sentence was imposed with specific reference to
38 the former; (ii) the concurrent relationship of the sentences was

1 judicially imposed; and (iii) the concurrent timing of the sentences
2 was not the result of a probation or parole revocation on the former
3 offense.

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

7 (7) If the present conviction is for a nonviolent offense and not
8 covered by subsection (11) or (12) of this section, count one point for
9 each adult prior felony conviction and one point for each juvenile
10 prior violent felony conviction and 1/2 point for each juvenile prior
11 nonviolent felony conviction.

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

17 (9) If the present conviction is for Murder 1 or 2, Assault 1,
18 Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1, count
19 three points for prior adult and juvenile convictions for crimes in
20 these categories, two points for each prior adult and juvenile violent
21 conviction (not already counted), one point for each prior adult
22 nonviolent felony conviction, and 1/2 point for each prior juvenile
23 nonviolent felony conviction.

24 (10) If the present conviction is for Burglary 1, count prior
25 convictions as in subsection (8) of this section; however count two
26 points for each prior adult Burglary 2 or residential burglary
27 conviction, and one point for each prior juvenile Burglary 2 or
28 residential burglary conviction.

29 (11) If the present conviction is for a felony traffic offense
30 count two points for each adult or juvenile prior conviction for
31 Vehicular Homicide or Vehicular Assault; for each felony offense or
32 serious traffic offense, count one point for each adult and 1/2 point
33 for each juvenile prior conviction.

34 (12) If the present conviction is for a drug offense count three
35 points for each adult prior felony drug offense conviction and two
36 points for each juvenile drug offense. All other adult and juvenile
37 felonies are scored as in subsection (8) of this section if the current

1 drug offense is violent, or as in subsection (7) of this section if the
2 current drug offense is nonviolent.

3 (13) If the present conviction is for Willful Failure to Return
4 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
5 Release, RCW 72.65.070, or Escape from Community Custody, RCW
6 72.09.310, count only prior escape convictions in the offender score.
7 Count adult prior escape convictions as one point and juvenile prior
8 escape convictions as 1/2 point.

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

12 (15) If the present conviction is for Burglary 2 or residential
13 burglary, count priors as in subsection (7) of this section; however,
14 count two points for each adult and juvenile prior Burglary 1
15 conviction, two points for each adult prior Burglary 2 or residential
16 burglary conviction, and one point for each juvenile prior Burglary 2
17 or residential burglary conviction.

18 (16) If the present conviction is for a sex offense, count priors
19 as in subsections (7) through (15) of this section; however count three
20 points for each adult and juvenile prior sex offense conviction.

21 (17) If the present conviction is for an offense committed while
22 the offender was under community placement, add one point.

23 (18) If the present conviction is for a felony domestic violence
24 offense as defined in RCW 10.99.020, with respect to misdemeanor
25 domestic violence offenses, count one point for each adult and 1/2
26 point for each juvenile prior conviction.

27 **Sec. 23.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997
28 c 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and
29 amended to read as follows:

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

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

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

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

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

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

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

1 requirements that the offender perform any one or more of the
2 following:

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

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

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

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

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

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

18 (i) The offender is convicted of the manufacture, delivery, or
19 possession with intent to manufacture or deliver a controlled substance
20 classified in Schedule I or II that is a narcotic drug or a felony that
21 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
22 criminal solicitation, or criminal conspiracy to commit such crimes,
23 and the violation does not involve a sentence enhancement under RCW
24 9.94A.310 (3) or (4);

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

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

31 (b) If the midpoint of the standard range is greater than one year
32 and the sentencing judge determines that the offender is eligible for
33 this option and that the offender and the community will benefit from
34 the use of the special drug offender sentencing alternative, the judge
35 may waive imposition of a sentence within the standard range and impose
36 a sentence that must include a period of total confinement in a state
37 facility for one-half of the midpoint of the standard range. During
38 incarceration in the state facility, offenders sentenced under this

1 subsection shall undergo a comprehensive substance abuse assessment and
2 receive, within available resources, treatment services appropriate for
3 the offender. The treatment services shall be designed by the division
4 of alcohol and substance abuse of the department of social and health
5 services, in cooperation with the department of corrections. If the
6 midpoint of the standard range is twenty-four months or less, no more
7 than three months of the sentence may be served in a work release
8 status. The court shall also impose one year of concurrent community
9 custody and community supervision that must include appropriate
10 outpatient substance abuse treatment, crime-related prohibitions
11 including a condition not to use illegal controlled substances, and a
12 requirement to submit to urinalysis or other testing to monitor that
13 status. The court may require that the monitoring for controlled
14 substances be conducted by the department or by a treatment
15 alternatives to street crime program or a comparable court or agency-
16 referred program. The offender may be required to pay thirty dollars
17 per month while on community custody to offset the cost of monitoring.
18 In addition, the court shall impose three or more of the following
19 conditions:

- 20 (i) Devote time to a specific employment or training;
21 (ii) Remain within prescribed geographical boundaries and notify
22 the court or the community corrections officer before any change in the
23 offender's address or employment;
24 (iii) Report as directed to a community corrections officer;
25 (iv) Pay all court-ordered legal financial obligations;
26 (v) Perform community service work;
27 (vi) Stay out of areas designated by the sentencing judge.
28 (c) If the offender violates any of the sentence conditions in (b)
29 of this subsection, the department shall impose sanctions
30 administratively, with notice to the prosecuting attorney and the
31 sentencing court. Upon motion of the court or the prosecuting
32 attorney, a violation hearing shall be held by the court. If the court
33 finds that conditions have been willfully violated, the court may
34 impose confinement consisting of up to the remaining one-half of the
35 midpoint of the standard range. All total confinement served during
36 the period of community custody shall be credited to the offender,
37 regardless of whether the total confinement is served as a result of
38 the original sentence, as a result of a sanction imposed by the

1 department, or as a result of a violation found by the court. The term
2 of community supervision shall be tolled by any period of time served
3 in total confinement as a result of a violation found by the court.

4 (d) The department shall determine the rules for calculating the
5 value of a day fine based on the offender's income and reasonable
6 obligations which the offender has for the support of the offender and
7 any dependents. These rules shall be developed in consultation with
8 the administrator for the courts, the office of financial management,
9 and the commission.

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

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

25 The report of the examination shall include at a minimum the
26 following: The defendant's version of the facts and the official
27 version of the facts, the defendant's offense history, an assessment of
28 problems in addition to alleged deviant behaviors, the offender's
29 social and employment situation, and other evaluation measures used.
30 The report shall set forth the sources of the evaluator's information.

31 The examiner shall assess and report regarding the defendant's
32 amenability to treatment and relative risk to the community. A
33 proposed treatment plan shall be provided and shall include, at a
34 minimum:

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

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

1 (C) Monitoring plans, including any requirements regarding living
2 conditions, lifestyle requirements, and monitoring by family members
3 and others;

4 (D) Anticipated length of treatment; and

5 (E) Recommended crime-related prohibitions.

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

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

21 (A) The court shall place the defendant on community custody for
22 the length of the suspended sentence or three years, whichever is
23 greater, and require the offender to comply with any conditions imposed
24 by the department of corrections under subsection (14) of this section;

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

1 crime-related prohibitions, and requirements that the offender perform
2 any one or more of the following:

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

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

7 (III) Report as directed to the court and a community corrections
8 officer;

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

12 (V) Make recoupment to the victim for the cost of any counseling
13 required as a result of the offender's crime; and

14 (C) Sex offenders sentenced under this special sex offender
15 sentencing alternative are not eligible to accrue any earned early
16 release time while serving a suspended sentence.

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

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

1 (v) If a violation of conditions occurs during community custody,
2 the department shall either impose sanctions as provided for in RCW
3 9.94A.205(2)(a) or refer the violation to the court and recommend
4 revocation of the suspended sentence as provided for in (a)(vi) of this
5 subsection.

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

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

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

26 (ix) For purposes of this subsection (8), "victim" means any
27 person who has sustained emotional, psychological, physical, or
28 financial injury to person or property as a result of the crime
29 charged. "Victim" also means a parent or guardian of a victim who is
30 a minor child unless the parent or guardian is the perpetrator of the
31 offense.

32 (x) If the defendant was less than eighteen years of age when the
33 charge was filed, the state shall pay for the cost of initial
34 evaluation and treatment.

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

1 department of corrections to evaluate whether the offender is amenable
2 to treatment and the department may place the offender in a treatment
3 program within a correctional facility operated by the department.

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

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

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

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

17 (iv) Undergo available outpatient treatment.

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

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

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

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

1 against a person where it is determined in accordance with RCW
2 9.94A.125 that the defendant or an accomplice was armed with a deadly
3 weapon at the time of commission, any felony domestic violence offense
4 as defined in RCW 10.99.020, or any felony offense under chapter 69.50
5 or 69.52 RCW not sentenced under subsection (6) of this section,
6 committed on or after July 1, 1988, the court shall in addition to the
7 other terms of the sentence, sentence the offender to a one-year term
8 of community placement beginning either upon completion of the term of
9 confinement or at such time as the offender is transferred to community
10 custody in lieu of earned early release in accordance with RCW
11 9.94A.150 (1) and (2). When the court sentences an offender under this
12 subsection to the statutory maximum period of confinement then the
13 community placement portion of the sentence shall consist entirely of
14 such community custody to which the offender may become eligible, in
15 accordance with RCW 9.94A.150 (1) and (2). Any period of community
16 custody actually served shall be credited against the community
17 placement portion of the sentence.

18 (b) When a court sentences a person to a term of total confinement
19 to the custody of the department of corrections for an offense
20 categorized as a sex offense committed on or after July 1, 1990, but
21 before June 6, 1996, a serious violent offense, vehicular homicide, or
22 vehicular assault, committed on or after July 1, 1990, the court shall
23 in addition to other terms of the sentence, sentence the offender to
24 community placement for two years or up to the period of earned early
25 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
26 longer. The community placement shall begin either upon completion of
27 the term of confinement or at such time as the offender is transferred
28 to community custody in lieu of earned early release in accordance with
29 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
30 this subsection to the statutory maximum period of confinement then the
31 community placement portion of the sentence shall consist entirely of
32 the community custody to which the offender may become eligible, in
33 accordance with RCW 9.94A.150 (1) and (2). Any period of community
34 custody actually served shall be credited against the community
35 placement portion of the sentence. Unless a condition is waived by the
36 court, the terms of community placement for offenders sentenced
37 pursuant to this section shall include the following conditions:

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

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

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

7 (iv) The offender shall pay supervision fees as determined by the
8 department of corrections;

9 (v) The residence location and living arrangements are subject to
10 the prior approval of the department of corrections during the period
11 of community placement; and

12 (vi) The offender shall submit to affirmative acts necessary to
13 monitor compliance with the orders of the court as required by the
14 department.

15 (c) As a part of any sentence imposed under (a) or (b) of this
16 subsection, the court may also order any of the following special
17 conditions:

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

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

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

24 (iv) The offender shall not consume alcohol;

25 (v) The offender shall comply with any crime-related prohibitions;

26 or

27 (vi) For an offender convicted of a felony sex offense against a
28 minor victim after June 6, 1996, the offender shall comply with any
29 terms and conditions of community placement imposed by the department
30 of corrections relating to contact between the sex offender and a minor
31 victim or a child of similar age or circumstance as a previous victim.

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

36 (10)(a) When a court sentences a person to the custody of the
37 department of corrections for an offense categorized as a sex offense
38 committed on or after June 6, 1996, the court shall, in addition to

1 other terms of the sentence, sentence the offender to community custody
2 for three years or up to the period of earned early release awarded
3 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
4 community custody shall begin either upon completion of the term of
5 confinement or at such time as the offender is transferred to community
6 custody in lieu of earned early release in accordance with RCW
7 9.94A.150 (1) and (2).

8 (b) Unless a condition is waived by the court, the terms of
9 community custody shall be the same as those provided for in subsection
10 (9)(b) of this section and may include those provided for in subsection
11 (9)(c) of this section. As part of any sentence that includes a term
12 of community custody imposed under this subsection, the court shall
13 also require the offender to comply with any conditions imposed by the
14 department of corrections under subsection (14) of this section.

15 (c) At any time prior to the completion of a sex offender's term
16 of community custody, if the court finds that public safety would be
17 enhanced, the court may impose and enforce an order extending any or
18 all of the conditions imposed pursuant to this section for a period up
19 to the maximum allowable sentence for the crime as it is classified in
20 chapter 9A.20 RCW, regardless of the expiration of the offender's term
21 of community custody. If a violation of a condition extended under
22 this subsection occurs after the expiration of the offender's term of
23 community custody, it shall be deemed a violation of the sentence for
24 the purposes of RCW 9.94A.195 and may be punishable as contempt of
25 court as provided for in RCW 7.21.040.

26 (11) If the court imposes a sentence requiring confinement of
27 thirty 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 (12) 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

1 the amount paid to the county clerk for credit. The offender's
2 compliance with payment of legal financial obligations shall be
3 supervised by the department for ten years following the entry of the
4 judgment and sentence or ten years following the offender's release
5 from total confinement. All monetary payments ordered shall be paid no
6 later than ten years after the last date of release from confinement
7 pursuant to a felony conviction or the date the sentence was entered
8 unless the superior court extends the criminal judgment an additional
9 ten years. If the legal financial obligations including crime victims'
10 assessments are not paid during the initial ten-year period, the
11 superior court may extend jurisdiction under the criminal judgment an
12 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and
13 9.94A.145. If jurisdiction under the criminal judgment is extended,
14 the department is not responsible for supervision of the offender
15 during the subsequent period. Independent of the department, the party
16 or entity to whom the legal financial obligation is owed shall have the
17 authority to utilize any other remedies available to the party or
18 entity to collect the legal financial obligation. Nothing in this
19 section makes the department, the state, or any of its employees,
20 agents, or other persons acting on their behalf liable under any
21 circumstances for the payment of these legal financial obligations. If
22 an order includes restitution as one of the monetary assessments, the
23 county clerk shall make disbursements to victims named in the order.

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

28 (14) All offenders sentenced to terms involving community
29 supervision, community service, community placement, or legal financial
30 obligation shall be under the supervision of the department of
31 corrections and shall follow explicitly the instructions and conditions
32 of the department of corrections. The department may require an
33 offender to perform affirmative acts it deems appropriate to monitor
34 compliance with the conditions of the sentence imposed.

35 (a) The instructions shall include, at a minimum, reporting as
36 directed to a community corrections officer, remaining within
37 prescribed geographical boundaries, notifying the community corrections

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

3 (b) For offenders sentenced to terms involving community custody
4 for crimes committed on or after June 6, 1996, the department may
5 include, in addition to the instructions in (a) of this subsection, any
6 appropriate conditions of supervision, including but not limited to,
7 prohibiting the offender from having contact with any other specified
8 individuals or specific class of individuals. The conditions
9 authorized under this subsection (14)(b) may be imposed by the
10 department prior to or during an offender's community custody term. If
11 a violation of conditions imposed by the court or the department
12 pursuant to subsection (10) of this section occurs during community
13 custody, it shall be deemed a violation of community placement for the
14 purposes of RCW 9.94A.207 and shall authorize the department to
15 transfer an offender to a more restrictive confinement status as
16 provided in RCW 9.94A.205. At any time prior to the completion of a
17 sex offender's term of community custody, the department may recommend
18 to the court that any or all of the conditions imposed by the court or
19 the department pursuant to subsection (10) of this section be continued
20 beyond the expiration of the offender's term of community custody as
21 authorized in subsection (10)(c) of this section.

22 The department may require offenders to pay for special services
23 rendered on or after July 25, 1993, including electronic monitoring,
24 day reporting, and telephone reporting, dependent upon the offender's
25 ability to pay. The department may pay for these services for
26 offenders who are not able to pay.

27 (15) 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 (16) The sentencing court shall give the offender credit for all
38 confinement time served before the sentencing if that confinement was

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

3 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
4 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 (18) The court shall order restitution whenever the offender is
9 convicted of a felony that results in injury to any person or damage to
10 or loss of property, whether the offender is sentenced to confinement
11 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 (19) As a part of any sentence, the court may impose and enforce
16 an order that relates directly to the circumstances of the crime for
17 which the offender has been convicted, prohibiting the offender from
18 having any contact with other specified individuals or a specific class
19 of individuals for a period not to exceed the maximum allowable
20 sentence for the crime, regardless of the expiration of the offender's
21 term of community supervision or community placement.

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

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

30 Correct the title.

EFFECT: The amendment makes the following changes: (1) All domestic violence felony offenders are added to the list of convicted offenders who may not be released while awaiting sentencing or while waiting for a decision on appeal; (2) If a court has issued a no-contact order against a person arrested for or charged with a crime involving domestic violence who is being

released from custody, and the person violates a condition of that order, the offender may be arrested and held without bail or release on personal recognizance until another hearing is held to reconsider the release of the offender. The offender must be notified of this consequence in the court order; (3) The Sentencing Reform Act is amended to allow prior misdemeanor domestic violence offenses to count as criminal history in determining an offender's sentencing score for a current felony domestic violence offense; (4) The Sentencing Reform Act is amended to require the court to sentence felony domestic violence offenders to a one year term of community placement following the release of the offender from confinement.