
SENATE BILL 5097

State of Washington

55th Legislature

1997 Regular Session

By Senators Roach and Swecker

Read first time 01/14/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to no-contact restrictions on sentences; reenacting
2 and amending RCW 9.94A.120; creating a new section; providing an
3 effective date; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** With this act the legislature is clarifying
6 existing statutory language regarding when no-contact orders go into
7 effect. Accordingly, the legislature intends for this act to be given
8 retroactive effect to the greatest extent consistent with defendants'
9 constitutional rights.

10 **Sec. 2.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c
11 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as
12 follows:

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

15 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
16 of this section, the court shall impose a sentence within the sentence
17 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)(a) An offender is eligible for the special drug offender
18 sentencing alternative if:

19 (i) The offender is convicted of the manufacture, delivery, or
20 possession with intent to manufacture or deliver a controlled substance
21 classified in Schedule I or II that is a narcotic drug or a felony that
22 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
23 criminal solicitation, or criminal conspiracy to commit such crimes,
24 and the violation does not involve a sentence enhancement under RCW
25 9.94A.310 (3) or (4);

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

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

32 (b) If the midpoint of the standard range is greater than one year
33 and the sentencing judge determines that the offender is eligible for
34 this option and that the offender and the community will benefit from
35 the use of the special drug offender sentencing alternative, the judge
36 may waive imposition of a sentence within the standard range and impose
37 a sentence that must include a period of total confinement in a state
38 facility for one-half of the midpoint of the standard range. During
39 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
39 department, or as a result of a violation found by the court. The term

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

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

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

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

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

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

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

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

37 (C) Monitoring plans, including any requirements regarding living
38 conditions, lifestyle requirements, and monitoring by family members
39 and others;

- 1 (D) Anticipated length of treatment; and
- 2 (E) Recommended crime-related prohibitions.

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

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

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

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

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

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

4 (III) Report as directed to the court and a community corrections
5 officer;

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

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

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

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

33 (v) If a violation of conditions occurs during community custody,
34 the department shall either impose sanctions as provided for in RCW
35 9.94A.205(2)(a) or refer the violation to the court and recommend
36 revocation of the suspended sentence as provided for in (a)(vi) of this
37 subsection.

38 (vi) The court may revoke the suspended sentence at any time during
39 the period of community custody and order execution of the sentence if:

1 (A) The defendant violates the conditions of the suspended sentence, or
2 (B) the court finds that the defendant is failing to make satisfactory
3 progress in treatment. All confinement time served during the period
4 of community custody shall be credited to the offender if the suspended
5 sentence is revoked.

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

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

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

24 (b) When an offender commits any felony sex offense on or after
25 July 1, 1987, and is sentenced to a term of confinement of more than
26 one year but less than six years, the sentencing court may, on its own
27 motion or on the motion of the offender or the state, request the
28 department of corrections to evaluate whether the offender is amenable
29 to treatment and the department may place the offender in a treatment
30 program within a correctional facility operated by the department.

31 Except for an offender who has been convicted of a violation of RCW
32 9A.44.040 or 9A.44.050, if the offender completes the treatment program
33 before the expiration of his or her term of confinement, the department
34 of corrections may request the court to convert the balance of
35 confinement to community supervision and to place conditions on the
36 offender including crime-related prohibitions and requirements that the
37 offender perform any one or more of the following:

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

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

4 (iii) Report as directed to the court and a community corrections
5 officer;

6 (iv) Undergo available outpatient treatment.

7 If the offender violates any of the terms of his or her community
8 supervision, the court may order the offender to serve out the balance
9 of his or her community supervision term in confinement in the custody
10 of the department of corrections.

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

15 (c) Offenders convicted and sentenced for a sex offense committed
16 prior to July 1, 1987, may, subject to available funds, request an
17 evaluation by the department of corrections to determine whether they
18 are amenable to treatment. If the offender is determined to be
19 amenable to treatment, the offender may request placement in a
20 treatment program within a correctional facility operated by the
21 department. Placement in such treatment program is subject to
22 available funds.

23 (9)(a) When a court sentences a person to a term of total
24 confinement to the custody of the department of corrections for an
25 offense categorized as a sex offense or a serious violent offense
26 committed after July 1, 1988, but before July 1, 1990, assault in the
27 second degree, assault of a child in the second degree, any crime
28 against a person where it is determined in accordance with RCW
29 9.94A.125 that the defendant or an accomplice was armed with a deadly
30 weapon at the time of commission, or any felony offense under chapter
31 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
32 committed on or after July 1, 1988, the court shall in addition to the
33 other terms of the sentence, sentence the offender to a one-year term
34 of community placement beginning either upon completion of the term of
35 confinement or at such time as the offender is transferred to community
36 custody in lieu of earned early release in accordance with RCW
37 9.94A.150 (1) and (2). When the court sentences an offender under this
38 subsection to the statutory maximum period of confinement then the
39 community placement portion of the sentence shall consist entirely of

1 such community custody to which the offender may become eligible, in
2 accordance with RCW 9.94A.150 (1) and (2). Any period of community
3 custody actually served shall be credited against the community
4 placement portion of the sentence.

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

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

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

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

31 (iv) An offender in community custody shall not unlawfully possess
32 controlled substances;

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

35 (vi) The residence location and living arrangements are subject to
36 the prior approval of the department of corrections during the period
37 of community placement.

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

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

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

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

10 (iv) The offender shall not consume alcohol;

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

12 or

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

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

22 (10)(a) When a court sentences a person to the custody of the
23 department of corrections for an offense categorized as a sex offense
24 committed on or after June 6, 1996, the court shall, in addition to
25 other terms of the sentence, sentence the offender to community custody
26 for three years or up to the period of earned early release awarded
27 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
28 community custody shall begin either upon completion of the term of
29 confinement or at such time as the offender is transferred to community
30 custody in lieu of earned early release in accordance with RCW
31 9.94A.150 (1) and (2).

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

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

12 (11) If the court imposes a sentence requiring confinement of
13 thirty days or less, the court may, in its discretion, specify that the
14 sentence be served on consecutive or intermittent days. A sentence
15 requiring more than thirty days of confinement shall be served on
16 consecutive days. Local jail administrators may schedule court-ordered
17 intermittent sentences as space permits.

18 (12) If a sentence imposed includes payment of a legal financial
19 obligation, the sentence shall specify the total amount of the legal
20 financial obligation owed, and shall require the offender to pay a
21 specified monthly sum toward that legal financial obligation.
22 Restitution to victims shall be paid prior to any other payments of
23 monetary obligations. Any legal financial obligation that is imposed
24 by the court may be collected by the department, which shall deliver
25 the amount paid to the county clerk for credit. The offender's
26 compliance with payment of legal financial obligations shall be
27 supervised by the department. All monetary payments ordered shall be
28 paid no later than ten years after the last date of release from
29 confinement pursuant to a felony conviction or the date the sentence
30 was entered. Independent of the department, the party or entity to
31 whom the legal financial obligation is owed shall have the authority to
32 utilize any other remedies available to the party or entity to collect
33 the legal financial obligation. Nothing in this section makes the
34 department, the state, or any of its employees, agents, or other
35 persons acting on their behalf liable under any circumstances for the
36 payment of these legal financial obligations. If an order includes
37 restitution as one of the monetary assessments, the county clerk shall
38 make disbursements to victims named in the order.

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

5 (14) All offenders sentenced to terms involving community
6 supervision, community service, community placement, or legal financial
7 obligation shall be under the supervision of the department of
8 corrections and shall follow explicitly the instructions and conditions
9 of the department of corrections.

10 (a) The instructions shall include, at a minimum, reporting as
11 directed to a community corrections officer, remaining within
12 prescribed geographical boundaries, notifying the community corrections
13 officer of any change in the offender's address or employment, and
14 paying the supervision fee assessment.

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

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

1 (15) All offenders sentenced to terms involving community
2 supervision, community service, or community placement under the
3 supervision of the department of corrections shall not own, use, or
4 possess firearms or ammunition. Offenders who own, use, or are found
5 to be in actual or constructive possession of firearms or ammunition
6 shall be subject to the appropriate violation process and sanctions.
7 "Constructive possession" as used in this subsection means the power
8 and intent to control the firearm or ammunition. "Firearm" as used in
9 this subsection means a weapon or device from which a projectile may be
10 fired by an explosive such as gunpowder.

11 (16) The sentencing court shall give the offender credit for all
12 confinement time served before the sentencing if that confinement was
13 solely in regard to the offense for which the offender is being
14 sentenced.

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

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

27 (19) As a part of any sentence, the court may impose and enforce an
28 order that relates directly to the circumstances of the crime for which
29 the offender has been convicted, prohibiting the offender from having
30 any contact with other specified individuals or a specific class of
31 individuals for a period commencing upon the signing of the judgment
32 and sentence and not to exceed the maximum allowable sentence for the
33 crime, regardless of the expiration of the offender's term of community
34 supervision or community placement.

35 (20) In any sentence of partial confinement, the court may require
36 the defendant to serve the partial confinement in work release, in a
37 program of home detention, on work crew, or in a combined program of
38 work crew and home detention.

1 (21) All court-ordered legal financial obligations collected by the
2 department and remitted to the county clerk shall be credited and paid
3 where restitution is ordered. Restitution shall be paid prior to any
4 other payments of monetary obligations.

5 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 July 1, 1997.

--- END ---