
SENATE BILL 5292

State of Washington 55th Legislature 1997 Regular Session

By Senators McCaslin, Oke, Haugen and Benton

Read first time 01/22/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to habitual criminals; reenacting and amending RCW
2 9.94A.120; and prescribing penalties.

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

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

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

9 (1) Except as authorized in subsections (2), (4), (5), (6), (7) and
10 ~~((+8))~~ (9) of this section, the court shall impose a sentence within
11 the sentence range for the offense.

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

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

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

26 (5) Prior to sentencing and upon motion of the prosecuting
27 attorney, the court shall hold a hearing to determine whether the
28 offender is an habitual criminal. The motion for an habitual criminal
29 hearing must be served upon the defendant no later than ten days after
30 conviction of a felony.

31 (a) The court shall enter a finding that an offender is an habitual
32 criminal and shall sentence the offender to a term of total confinement
33 of ten years if:

34 (i) The offender has been convicted in this state of any felony;

35 (ii) The offender has, before the commission of the offense under
36 (a)(i) of this subsection, been convicted, whether in this state or
37 elsewhere, of any crime which under the laws of this state would be a
38 felony, or has been convicted on at least two separate occasions,

1 whether in this state or elsewhere, of any crime which under the laws
2 of this state would be a serious gross misdemeanor; and
3 (iii) The offender is not a persistent offender.
4 (b) The court shall enter a finding that an offender is an habitual
5 criminal and shall sentence the offender to a term of total confinement
6 of fifteen years if:
7 (i) The offender has been convicted in this state of a felony;
8 (ii) The offender has, before the commission of the offense under
9 (b)(i) of this subsection, been convicted on at least two separate
10 occasions, whether in this state or elsewhere, of any crime which under
11 the laws of this state would be a felony, or has been convicted on at
12 least four separate occasions of any crime which under the laws of this
13 state would be a serious gross misdemeanor; and
14 (iii) The offender is not a persistent offender.
15 (c) For purposes of this subsection, the term "serious gross
16 misdemeanor" means the following gross misdemeanor offenses:
17 (i) Assault in the fourth degree, RCW 9A.36.041;
18 (ii) Reckless endangerment in the second degree, RCW 9A.36.050;
19 (iii) Coercion, RCW 9A.36.070;
20 (iv) Sexual misconduct with a minor in the second degree, RCW
21 9A.44.096;
22 (v) Failure to register for a crime other than a class A felony,
23 RCW 9A.44.130;
24 (vi) Stalking, RCW 9A.46.110;
25 (vii) Reckless burning in the second degree, RCW 9A.48.050;
26 (viii) Theft in the third degree, RCW 9A.56.050;
27 (ix) Jury tampering, RCW 9A.72.140;
28 (x) Tampering with physical evidence, RCW 9A.72.150;
29 (xi) Rendering criminal assistance in the first degree, RCW
30 9A.76.070;
31 (xii) Rendering criminal assistance in the second degree, RCW
32 9A.76.080;
33 (xiii) Compounding, RCW 9A.76.100;
34 (xiv) Escape in the third degree, RCW 9A.76.130;
35 (xv) Riot, RCW 9A.84.010;
36 (xvi) Criminal attempt, solicitation, or conspiracy to commit a
37 class C felony defined in Title 9A RCW.
38 (6) In sentencing a first-time offender the court may waive the
39 imposition of a sentence within the sentence range and impose a

1 sentence which may include up to ninety days of confinement in a
2 facility operated or utilized under contract by the county and a
3 requirement that the offender refrain from committing new offenses.
4 The sentence may also include up to two years of community supervision,
5 which, in addition to crime-related prohibitions, may include
6 requirements that the offender perform any one or more of the
7 following:

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

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

12 (c) Pursue a prescribed, secular course of study or vocational
13 training;

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

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

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

21 ~~((+6))~~ (7)(a) An offender is eligible for the special drug
22 offender sentencing alternative if:

23 (i) The offender is convicted of the manufacture, delivery, or
24 possession with intent to manufacture or deliver a controlled substance
25 classified in Schedule I or II that is a narcotic drug or a felony that
26 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
27 criminal solicitation, or criminal conspiracy to commit such crimes,
28 and the violation does not involve a sentence enhancement under RCW
29 9.94A.310 (3) or (4);

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

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

36 (b) If the midpoint of the standard range is greater than one year
37 and the sentencing judge determines that the offender is eligible for
38 this option and that the offender and the community will benefit from
39 the use of the special drug offender sentencing alternative, the judge

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

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

1 the period of community custody shall be credited to the offender,
2 regardless of whether the total confinement is served as a result of
3 the original sentence, as a result of a sanction imposed by the
4 department, or as a result of a violation found by the court. The term
5 of community supervision shall be tolled by any period of time served
6 in total confinement as a result of a violation found by the court.

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

13 (~~(7)~~) (8) If a sentence range has not been established for the
14 defendant's crime, the court shall impose a determinate sentence which
15 may include not more than one year of confinement, community service
16 work, a term of community supervision not to exceed one year, and/or
17 other legal financial obligations. The court may impose a sentence
18 which provides more than one year of confinement if the court finds,
19 considering the purpose of this chapter, that there are substantial and
20 compelling reasons justifying an exceptional sentence.

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

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

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

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

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

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

6 (D) Anticipated length of treatment; and

7 (E) Recommended crime-related prohibitions.

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

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

23 (A) The court shall place the defendant on community custody for
24 the length of the suspended sentence or three years, whichever is
25 greater, and require the offender to comply with any conditions imposed
26 by the department of corrections under subsection (~~(+14)~~) (15) of this
27 section; and

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

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

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

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

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

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

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

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

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

37 (v) If a violation of conditions occurs during community custody,
38 the department shall either impose sanctions as provided for in RCW
39 9.94A.205(2)(a) or refer the violation to the court and recommend

1 revocation of the suspended sentence as provided for in (a)(vi) of this
2 subsection.

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

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

14 (viii) A sex offender therapist who examines or treats a sex
15 offender pursuant to this subsection (~~((+8+))~~) (9) does not have to be
16 certified by the department of health pursuant to chapter 18.155 RCW if
17 the court finds that: (A) The offender has already moved to another
18 state or plans to move to another state for reasons other than
19 circumventing the certification requirements; (B) no certified
20 providers are available for treatment within a reasonable geographical
21 distance of the offender's home; and (C) the evaluation and treatment
22 plan comply with this subsection (~~((+8+))~~) (9) and the rules adopted by
23 the department of health.

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

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

36 Except for an offender who has been convicted of a violation of RCW
37 9A.44.040 or 9A.44.050, if the offender completes the treatment program
38 before the expiration of his or her term of confinement, the department
39 of corrections may request the court to convert the balance of

1 confinement to community supervision and to place conditions on the
2 offender including crime-related prohibitions and requirements that the
3 offender perform any one or more of the following:

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

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

8 (iii) Report as directed to the court and a community corrections
9 officer;

10 (iv) Undergo available outpatient treatment.

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

15 Nothing in this subsection (~~((+8))~~) (9)(b) shall confer eligibility
16 for such programs for offenders convicted and sentenced for a sex
17 offense committed prior to July 1, 1987. This subsection (~~((+8))~~)
18 (9)(b) does not apply to any crime committed after July 1, 1990.

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

27 (~~((+9))~~) (10)(a) When a court sentences a person to a term of total
28 confinement to the custody of the department of corrections for an
29 offense categorized as a sex offense or a serious violent offense
30 committed after July 1, 1988, but before July 1, 1990, assault in the
31 second degree, assault of a child in the second degree, any crime
32 against a person where it is determined in accordance with RCW
33 9.94A.125 that the defendant or an accomplice was armed with a deadly
34 weapon at the time of commission, or any felony offense under chapter
35 69.50 or 69.52 RCW not sentenced under subsection (~~((+6))~~) (7) of this
36 section, committed on or after July 1, 1988, the court shall in
37 addition to the other terms of the sentence, sentence the offender to
38 a one-year term of community placement beginning either upon completion
39 of the term of confinement or at such time as the offender is

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

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

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

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

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

13 (iv) The offender shall not consume alcohol;

14 (v) The offender shall comply with any crime-related prohibitions;
15 or

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

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

25 (~~(10)~~) (11)(a) When a court sentences a person to the custody of
26 the department of corrections for an offense categorized as a sex
27 offense committed on or after June 6, 1996, the court shall, in
28 addition to other terms of the sentence, sentence the offender to
29 community custody for three years or up to the period of earned early
30 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
31 longer. The community custody shall begin either upon completion of
32 the term of confinement or at such time as the offender is transferred
33 to community custody in lieu of earned early release in accordance with
34 RCW 9.94A.150 (1) and (2).

35 (b) Unless a condition is waived by the court, the terms of
36 community custody shall be the same as those provided for in subsection
37 (9)(b) of this section and may include those provided for in subsection
38 (9)(c) of this section. As part of any sentence that includes a term
39 of community custody imposed under this subsection, the court shall

1 also require the offender to comply with any conditions imposed by the
2 department of corrections under subsection (~~(14)~~) (15) of this
3 section.

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

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

21 (~~(12)~~) (13) If a sentence imposed includes payment of a legal
22 financial obligation, the sentence shall specify the total amount of
23 the legal financial obligation owed, and shall require the offender to
24 pay a specified monthly sum toward that legal financial obligation.
25 Restitution to victims shall be paid prior to any other payments of
26 monetary obligations. Any legal financial obligation that is imposed
27 by the court may be collected by the department, which shall deliver
28 the amount paid to the county clerk for credit. The offender's
29 compliance with payment of legal financial obligations shall be
30 supervised by the department. All monetary payments ordered shall be
31 paid no later than ten years after the last date of release from
32 confinement pursuant to a felony conviction or the date the sentence
33 was entered. Independent of the department, the party or entity to
34 whom the legal financial obligation is owed shall have the authority to
35 utilize any other remedies available to the party or entity to collect
36 the legal financial obligation. Nothing in this section makes the
37 department, the state, or any of its employees, agents, or other
38 persons acting on their behalf liable under any circumstances for the
39 payment of these legal financial obligations. If an order includes

1 restitution as one of the monetary assessments, the county clerk shall
2 make disbursements to victims named in the order.

3 ~~((13))~~ (14) Except as provided under RCW 9.94A.140(1) and
4 9.94A.142(1), a court may not impose a sentence providing for a term of
5 confinement or community supervision or community placement which
6 exceeds the statutory maximum for the crime as provided in chapter
7 9A.20 RCW.

8 ~~((14))~~ (15) All offenders sentenced to terms involving community
9 supervision, community service, community placement, or legal financial
10 obligation shall be under the supervision of the department of
11 corrections and shall follow explicitly the instructions and conditions
12 of the department of corrections.

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

18 (b) For sex offenders sentenced to terms involving community
19 custody for crimes committed on or after June 6, 1996, the department
20 may include, in addition to the instructions in (a) of this subsection,
21 any appropriate conditions of supervision, including but not limited
22 to, prohibiting the offender from having contact with any other
23 specified individuals or specific class of individuals. The conditions
24 authorized under this subsection ~~((14))~~ (15)(b) may be imposed by the
25 department prior to or during a sex offender's community custody term.
26 If a violation of conditions imposed by the court or the department
27 pursuant to subsection ~~((10))~~ (11) of this section occurs during
28 community custody, it shall be deemed a violation of community
29 placement for the purposes of RCW 9.94A.207 and shall authorize the
30 department to transfer an offender to a more restrictive confinement
31 status as provided in RCW 9.94A.205. At any time prior to the
32 completion of a sex offender's term of community custody, the
33 department may recommend to the court that any or all of the conditions
34 imposed by the court or the department pursuant to subsection ~~((10))~~
35 (11) of this section be continued beyond the expiration of the
36 offender's term of community custody as authorized in subsection
37 ~~((10))~~ (11)(c) of this section.

38 The department may require offenders to pay for special services
39 rendered on or after July 25, 1993, including electronic monitoring,

1 day reporting, and telephone reporting, dependent upon the offender's
2 ability to pay. The department may pay for these services for
3 offenders who are not able to pay.

4 ~~((+15+))~~ (16) All offenders sentenced to terms involving community
5 supervision, community service, or community placement under the
6 supervision of the department of corrections shall not own, use, or
7 possess firearms or ammunition. Offenders who own, use, or are found
8 to be in actual or constructive possession of firearms or ammunition
9 shall be subject to the appropriate violation process and sanctions.
10 "Constructive possession" as used in this subsection means the power
11 and intent to control the firearm or ammunition. "Firearm" as used in
12 this subsection means a weapon or device from which a projectile may be
13 fired by an explosive such as gunpowder.

14 ~~((+16+))~~ (17) The sentencing court shall give the offender credit
15 for all confinement time served before the sentencing if that
16 confinement was solely in regard to the offense for which the offender
17 is being sentenced.

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

23 ~~((+18+))~~ (19) The court shall order restitution whenever the
24 offender is convicted of a felony that results in injury to any person
25 or damage to or loss of property, whether the offender is sentenced to
26 confinement or placed under community supervision, unless extraordinary
27 circumstances exist that make restitution inappropriate in the court's
28 judgment. The court shall set forth the extraordinary circumstances in
29 the record if it does not order restitution.

30 ~~((+19+))~~ (20) As a part of any sentence, the court may impose and
31 enforce an order that relates directly to the circumstances of the
32 crime for which the offender has been convicted, prohibiting the
33 offender from having any contact with other specified individuals or a
34 specific class of individuals for a period not to exceed the maximum
35 allowable sentence for the crime, regardless of the expiration of the
36 offender's term of community supervision or community placement.

37 ~~((+20+))~~ (21) In any sentence of partial confinement, the court may
38 require the defendant to serve the partial confinement in work release,

1 in a program of home detention, on work crew, or in a combined program
2 of work crew and home detention.

3 (~~(21)~~) (22) All court-ordered legal financial obligations
4 collected by the department and remitted to the county clerk shall be
5 credited and paid where restitution is ordered. Restitution shall be
6 paid prior to any other payments of monetary obligations.

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