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SENATE BILL 5861

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State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, Schow and Oke

Read first time 02/17/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to exceeding statutory maximum penalties for crimes  
2 involving firearms and deadly weapons; amending RCW 9.92.010 and  
3 9A.20.021; reenacting and amending RCW 9.94A.120; and prescribing  
4 penalties.

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

6 **Sec. 1.** RCW 9.92.010 and 1996 c 44 s 2 are each amended to read as  
7 follows:

8 Every person convicted of a felony for which no maximum punishment  
9 is specially prescribed by any statutory provision in force at the time  
10 of conviction and sentence, shall be punished by confinement or fine  
11 which shall not exceed confinement in a state correctional institution  
12 for a term of ten years, or by a fine in an amount fixed by the court  
13 of not more than twenty thousand dollars, or by both such confinement  
14 and fine and the offense shall be classified as a class B felony. The  
15 maximum confinement in this section may be exceeded for a crime  
16 involving a firearm in the same manner as provided under RCW  
17 9.94A.310(3) or a deadly weapon in the same manner as provided under  
18 RCW 9.94A.310(4).

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

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

6       (1) Except as authorized in subsections (2), (4), (5), (6), ~~((and))~~  
7 (8), and (13) of this section, the court shall impose a sentence within  
8 the sentence range for the offense.

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

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

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

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

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

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

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

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

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

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

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

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

27 (i) The offender is convicted of the manufacture, delivery, or  
28 possession with intent to manufacture or deliver a controlled substance  
29 classified in Schedule I or II that is a narcotic drug or a felony that  
30 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
31 criminal solicitation, or criminal conspiracy to commit such crimes,  
32 and the violation does not involve a sentence enhancement under RCW  
33 9.94A.310 (3) or (4);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (D) Anticipated length of treatment; and

10 (E) Recommended crime-related prohibitions.

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

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

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

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

1 prosecutor or community corrections officer object to the change. In  
2 addition, as conditions of the suspended sentence, the court may impose  
3 other sentence conditions including up to six months of confinement,  
4 not to exceed the sentence range of confinement for that offense,  
5 crime-related prohibitions, and requirements that the offender perform  
6 any one or more of the following:

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

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

11 (III) Report as directed to the court and a community corrections  
12 officer;

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

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

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

25 (iv) At the time of sentencing, the court shall set a treatment  
26 termination hearing for three months prior to the anticipated date for  
27 completion of treatment. Prior to the treatment termination hearing,  
28 the treatment professional and community corrections officer shall  
29 submit written reports to the court and parties regarding the  
30 defendant's compliance with treatment and monitoring requirements, and  
31 recommendations regarding termination from treatment, including  
32 proposed community supervision conditions. Either party may request  
33 and the court may order another evaluation regarding the advisability  
34 of termination from treatment. The defendant shall pay the cost of any  
35 additional evaluation ordered unless the court finds the defendant to  
36 be indigent in which case the state shall pay the cost. At the  
37 treatment termination hearing the court may: (A) Modify conditions of  
38 community custody, and either (B) terminate treatment, or (C) extend  
39 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 during  
7 the period of community custody and order execution of the sentence if:  
8 (A) The defendant violates the conditions of the suspended sentence, or  
9 (B) the court finds that the defendant is failing to make satisfactory  
10 progress in treatment. All confinement time served during the period  
11 of community custody shall be credited to the offender if the suspended  
12 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 For purposes of this subsection, "victim" means any person who has  
27 sustained emotional, psychological, physical, or financial injury to  
28 person or property as a result of the crime charged. "Victim" also  
29 means a parent or guardian of a victim who is a minor child unless the  
30 parent or guardian is the perpetrator of the offense.

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

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



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

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

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

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

12 (iv) Undergo available outpatient treatment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (iv) The offender shall not consume alcohol;

16 (v) The offender shall comply with any crime-related prohibitions;  
17 or

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

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

27 (10)(a) When a court sentences a person to the custody of the  
28 department of corrections for an offense categorized as a sex offense  
29 committed on or after June 6, 1996, the court shall, in addition to  
30 other terms of the sentence, sentence the offender to community custody  
31 for three years or up to the period of earned early release awarded  
32 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
33 community custody shall begin either upon completion of the term of  
34 confinement or at such time as the offender is transferred to community  
35 custody in lieu of earned early release in accordance with RCW  
36 9.94A.150 (1) and (2).

37 (b) Unless a condition is waived by the court, the terms of  
38 community custody shall be the same as those provided for in subsection  
39 (9)(b) of this section and may include those provided for in subsection

1 (9)(c) of this section. As part of any sentence that includes a term  
2 of community custody imposed under this subsection, the court shall  
3 also require the offender to comply with any conditions imposed by the  
4 department of corrections under subsection (14) of this section.

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

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

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

1 payment of these legal financial obligations. If an order includes  
2 restitution as one of the monetary assessments, the county clerk shall  
3 make disbursements to victims named in the order.

4 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a  
5 court may not impose a sentence providing for a term of confinement or  
6 community supervision or community placement which exceeds the  
7 statutory maximum for the crime as provided in chapter 9A.20 RCW.  
8 Also, a court may impose a sentence providing for a term of confinement  
9 or community supervision or community placement which exceeds the  
10 statutory maximum for the crime as provided in chapter 9A.20 RCW for a  
11 crime that involves a firearm under RCW 9.94A.310(3) or a deadly weapon  
12 under RCW 9.94A.310(4).

13 (14) All offenders sentenced to terms involving community  
14 supervision, community service, community placement, or legal financial  
15 obligation shall be under the supervision of the department of  
16 corrections and shall follow explicitly the instructions and conditions  
17 of the department of corrections.

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

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

1 beyond the expiration of the offender's term of community custody as  
2 authorized in subsection (10)(c) of this section.

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

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

18 (16) The sentencing court shall give the offender credit for all  
19 confinement time served before the sentencing if that confinement was  
20 solely in regard to the offense for which the offender is being  
21 sentenced.

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

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

34 (19) As a part of any sentence, the court may impose and enforce an  
35 order that relates directly to the circumstances of the crime for which  
36 the offender has been convicted, prohibiting the offender from having  
37 any contact with other specified individuals or a specific class of  
38 individuals for a period not to exceed the maximum allowable sentence

1 for the crime, regardless of the expiration of the offender's term of  
2 community supervision or community placement.

3 (20) In any sentence of partial confinement, the court may require  
4 the defendant to serve the partial confinement in work release, in a  
5 program of home detention, on work crew, or in a combined program of  
6 work crew and home detention.

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

11 **Sec. 3.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to read  
12 as follows:

13 (1) Felony. No person convicted of a classified felony shall be  
14 punished by confinement or fine exceeding the following:

15 (a) For a class A felony, by confinement in a state correctional  
16 institution for a term of life imprisonment, or by a fine in an amount  
17 fixed by the court of fifty thousand dollars, or by both such  
18 confinement and fine;

19 (b) For a class B felony, by confinement in a state correctional  
20 institution for a term of ten years, or by a fine in an amount fixed by  
21 the court of twenty thousand dollars, or by both such confinement and  
22 fine;

23 (c) For a class C felony, by confinement in a state correctional  
24 institution for five years, or by a fine in an amount fixed by the  
25 court of ten thousand dollars, or by both such confinement and fine.

26 (2) Gross misdemeanor. Every person convicted of a gross  
27 misdemeanor defined in Title 9A RCW shall be punished by imprisonment  
28 in the county jail for a maximum term fixed by the court of not more  
29 than one year, or by a fine in an amount fixed by the court of not more  
30 than five thousand dollars, or by both such imprisonment and fine.

31 (3) Misdemeanor. Every person convicted of a misdemeanor defined  
32 in Title 9A RCW shall be punished by imprisonment in the county jail  
33 for a maximum term fixed by the court of not more than ninety days, or  
34 by a fine in an amount fixed by the court of not more than one thousand  
35 dollars, or by both such imprisonment and fine.

36 (4) This section applies to only those crimes committed on or after  
37 July 1, 1984.

1       (5) The maximum confinements in this section may be exceeded as  
2 provided under RCW 9.94A.120(13) for crimes involving firearms and  
3 deadly weapons under RCW 9.94A.310 (3) and (4).

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