
SENATE BILL 5940

State of Washington

55th Legislature

1997 Regular Session

By Senators Roach, Stevens, Finkbeiner and Oke

Read first time 02/20/97. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to sex offenses; 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), and (8)
10 of this section, the court shall impose a sentence within the sentence
11 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) In sentencing a first-time offender the court may waive the
27 imposition of a sentence within the sentence range and impose a
28 sentence which may include up to ninety days of confinement in a
29 facility operated or utilized under contract by the county and a
30 requirement that the offender refrain from committing new offenses.
31 The sentence may also include up to two years of community supervision,
32 which, in addition to crime-related prohibitions, may include
33 requirements that the offender perform any one or more of the
34 following:

- 35 (a) Devote time to a specific employment or occupation;
- 36 (b) Undergo available outpatient treatment for up to two years, or
37 inpatient treatment not to exceed the standard range of confinement for
38 that offense;

1 (c) Pursue a prescribed, secular course of study or vocational
2 training;

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

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

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

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

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

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

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

25 (b) If the midpoint of the standard range is greater than one year
26 and the sentencing judge determines that the offender is eligible for
27 this option and that the offender and the community will benefit from
28 the use of the special drug offender sentencing alternative, the judge
29 may waive imposition of a sentence within the standard range and impose
30 a sentence that must include a period of total confinement in a state
31 facility for one-half of the midpoint of the standard range. During
32 incarceration in the state facility, offenders sentenced under this
33 subsection shall undergo a comprehensive substance abuse assessment and
34 receive, within available resources, treatment services appropriate for
35 the offender. The treatment services shall be designed by the division
36 of alcohol and substance abuse of the department of social and health
37 services, in cooperation with the department of corrections. If the
38 midpoint of the standard range is twenty-four months or less, no more
39 than three months of the sentence may be served in a work release

1 status. The court shall also impose one year of concurrent community
2 custody and community supervision that must include appropriate
3 outpatient substance abuse treatment, crime-related prohibitions
4 including a condition not to use illegal controlled substances, and a
5 requirement to submit to urinalysis or other testing to monitor that
6 status. The court may require that the monitoring for controlled
7 substances be conducted by the department or by a treatment
8 alternatives to street crime program or a comparable court or agency-
9 referred program. The offender may be required to pay thirty dollars
10 per month while on community custody to offset the cost of monitoring.
11 In addition, the court shall impose three or more of the following
12 conditions:

- 13 (i) Devote time to a specific employment or training;
- 14 (ii) Remain within prescribed geographical boundaries and notify
15 the court or the community corrections officer before any change in the
16 offender's address or employment;
- 17 (iii) Report as directed to a community corrections officer;
- 18 (iv) Pay all court-ordered legal financial obligations;
- 19 (v) Perform community service work;
- 20 (vi) Stay out of areas designated by the sentencing judge.

21 (c) If the offender violates any of the sentence conditions in (b)
22 of this subsection, the department shall impose sanctions
23 administratively, with notice to the prosecuting attorney and the
24 sentencing court. Upon motion of the court or the prosecuting
25 attorney, a violation hearing shall be held by the court. If the court
26 finds that conditions have been willfully violated, the court may
27 impose confinement consisting of up to the remaining one-half of the
28 midpoint of the standard range. All total confinement served during
29 the period of community custody shall be credited to the offender,
30 regardless of whether the total confinement is served as a result of
31 the original sentence, as a result of a sanction imposed by the
32 department, or as a result of a violation found by the court. The term
33 of community supervision shall be tolled by any period of time served
34 in total confinement as a result of a violation found by the court.

35 (d) The department shall determine the rules for calculating the
36 value of a day fine based on the offender's income and reasonable
37 obligations which the offender has for the support of the offender and
38 any dependents. These rules shall be developed in consultation with

1 the administrator for the courts, the office of financial management,
2 and the commission.

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

11 (8)(a)(i) When an offender is convicted of a sex offense other than
12 a violation of RCW 9A.44.040 or 9A.44.050 (~~or a sex offense that is~~
13 ~~also a serious violent offense~~) and has no prior convictions for a
14 violent offense, a sex offense, or any other felony (~~(sex offenses in~~
15 ~~this or any other state)~~) with a deadly weapon verdict under RCW
16 9.94A.125 or firearm enhancement under RCW 9.94A.310, the sentencing
17 court, on its own motion or the motion of the state or the defendant,
18 may order an examination to determine whether the defendant is amenable
19 to treatment. The defendant shall pay the cost of the examination
20 unless the court finds the defendant to be indigent, in which case the
21 state shall pay the cost.

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

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

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

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

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

38 (D) Anticipated length of treatment; and

39 (E) Recommended crime-related prohibitions.

1 The court (~~on its own motion may order, or on a motion by the~~
2 ~~state~~) shall order(~~(7)~~) a second examination regarding the offender's
3 amenability to treatment. The evaluator shall not be (~~selected by the~~
4 ~~party making the motion~~) affiliated in any manner with either the
5 potential treatment provider or the initial evaluator. The defendant
6 shall pay the cost of (~~any~~) the second examination (~~ordered~~) unless
7 the court finds the defendant to be indigent in which case the state
8 shall pay the cost.

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

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

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

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

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

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

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

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

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

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

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

36 (v) If a violation of conditions occurs during community custody,
37 the department shall either impose sanctions as provided for in RCW
38 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) does not have to be certified
16 by the department of health pursuant to chapter 18.155 RCW if the court
17 finds that: (A) The offender has already moved to another state or
18 plans to move to another state for reasons other than circumventing the
19 certification requirements; (B) no certified providers are available
20 for treatment within a reasonable geographical distance of the
21 offender's home; and (C) the evaluation and treatment plan comply with
22 this subsection (8) and the rules adopted by the department of health.

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

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

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

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

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

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

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

9 (iv) Undergo available outpatient treatment.

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (12) If a sentence imposed includes payment of a legal financial
21 obligation, the sentence shall specify the total amount of the legal
22 financial obligation owed, and shall require the offender to pay a
23 specified monthly sum toward that legal financial obligation.
24 Restitution to victims shall be paid prior to any other payments of
25 monetary obligations. Any legal financial obligation that is imposed
26 by the court may be collected by the department, which shall deliver
27 the amount paid to the county clerk for credit. The offender's
28 compliance with payment of legal financial obligations shall be
29 supervised by the department. All monetary payments ordered shall be
30 paid no later than ten years after the last date of release from
31 confinement pursuant to a felony conviction or the date the sentence
32 was entered. Independent of the department, the party or entity to
33 whom the legal financial obligation is owed shall have the authority to
34 utilize any other remedies available to the party or entity to collect
35 the legal financial obligation. Nothing in this section makes the
36 department, the state, or any of its employees, agents, or other
37 persons acting on their behalf liable under any circumstances for the
38 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) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
4 court may not impose a sentence providing for a term of confinement or
5 community supervision or community placement which exceeds the
6 statutory maximum for the crime as provided in chapter 9A.20 RCW.

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

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

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

36 The department may require offenders to pay for special services
37 rendered on or after July 25, 1993, including electronic monitoring,
38 day reporting, and telephone reporting, dependent upon the offender's

1 ability to pay. The department may pay for these services for
2 offenders who are not able to pay.

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

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

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

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

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

36 (20) In any sentence of partial confinement, the court may require
37 the defendant to serve the partial confinement in work release, in a
38 program of home detention, on work crew, or in a combined program of
39 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.

--- **END** ---