

---

**SUBSTITUTE SENATE BILL 6610**

---

**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Roach, T. Sheldon, Stevens, Goings, Bauer and Oke)

Read first time 02/05/98. Referred to Committee on .

1 AN ACT Relating to sex offender sentencing; reenacting and amending  
2 RCW 9.94A.120 and 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 1997 c 340 s 2, 1997 c 338 s 4, 1997 c  
5 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and  
6 amended to read as 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.44.050 or a sex offense that is also a serious  
13 violent offense and has no prior convictions for a sex offense or any  
14 other (~~(felony sex)~~) violent offenses in this or any other state, the  
15 sentencing court, on its own motion or the motion of the state or the  
16 defendant, may order an examination to determine whether the defendant  
17 is amenable to treatment.

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

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

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

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

32 (C) Monitoring plans, including any requirements regarding living  
33 conditions, lifestyle requirements, and monitoring by family members  
34 and others;

35 (D) Anticipated length of treatment; and

36 (E) Recommended crime-related prohibitions.

37 The court on its own motion may order, or on a motion by the state  
38 shall order, a second examination regarding the offender's amenability  
39 to treatment. The evaluator shall be selected by the party making the

1 motion. The defendant shall pay the cost of any second examination  
2 ordered unless the court finds the defendant to be indigent in which  
3 case the state shall pay the cost.

4 If either examination report indicates that the defendant is not  
5 amenable to treatment, the court shall not suspend the execution of the  
6 sentence.

7 At the earliest possible moment in the proceedings, the victim, the  
8 victim's parent if the victim is a minor, or the victim's guardian if  
9 one has been appointed, shall be provided with material and written  
10 information regarding all sentencing and treatment alternatives. The  
11 victim, the victim's parent if the victim is a minor, or the victim's  
12 guardian if one has been appointed, shall then be given at least forty-  
13 eight hours to consider this information before being asked to provide  
14 an opinion as to whether the offender should receive a treatment  
15 disposition. The court must ask for the opinion of the victim, the  
16 victim's parent if the victim is a minor, or the victim's guardian if  
17 one has been appointed, in every case considered for a treatment  
18 disposition.

19 (ii) After receipt of the reports, the court shall consider whether  
20 the offender and the community will benefit from use of this special  
21 sex offender sentencing alternative and ~~((consider))~~ shall give great  
22 weight to the ((vietim's)) opinion of the victim, the victim's parent  
23 if the victim is a minor, or the victim's guardian if one has been  
24 appointed, regarding whether the offender should receive a treatment  
25 disposition under this subsection. If the court determines that this  
26 special sex offender sentencing alternative is appropriate, the court  
27 shall then impose a sentence within the sentence range. If this  
28 sentence is less than eleven years of confinement, the court may  
29 suspend the execution of the sentence and impose the following  
30 conditions of suspension:

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

35 (B) The court shall order treatment for any period up to three  
36 years in duration. The court in its discretion shall order outpatient  
37 sex offender treatment or inpatient sex offender treatment, if  
38 available. A community mental health center may not be used for such  
39 treatment unless it has an appropriate program designed for sex

1 offender treatment. The offender shall not change sex offender  
2 treatment providers or treatment conditions without first notifying the  
3 prosecutor, the community corrections officer, and the court, and shall  
4 not change providers without court approval after a hearing if the  
5 prosecutor or community corrections officer object to the change. If  
6 outpatient sex offender treatment is ordered, the court order shall  
7 provide that the offender must not reside within a one-mile radius of  
8 the victim's residence as measured from property lines. In addition,  
9 as conditions of the suspended sentence, the court may impose other  
10 sentence conditions including up to six months of confinement, not to  
11 exceed the sentence range of confinement for that offense, crime-  
12 related prohibitions, and requirements that the offender perform any  
13 one or more of the following:

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

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

18 (III) Report as directed to the court and a community corrections  
19 officer;

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

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

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

28 (iii) The sex offender therapist shall submit quarterly reports on  
29 the defendant's progress in treatment to the court and the parties.  
30 The report shall reference the treatment plan and include at a minimum  
31 the following: Dates of attendance, defendant's compliance with  
32 requirements, treatment activities, the defendant's relative progress  
33 in treatment, and any other material as specified by the court at  
34 sentencing.

35 (iv) At the time of sentencing, the court shall set a treatment  
36 termination hearing for three months prior to the anticipated date for  
37 completion of treatment. Prior to the treatment termination hearing,  
38 the treatment professional and community corrections officer shall  
39 submit written reports to the court and parties regarding the

1 defendant's compliance with treatment and monitoring requirements, and  
2 recommendations regarding termination from treatment, including  
3 proposed community supervision conditions. Either party may request  
4 and the court may order another evaluation regarding the advisability  
5 of termination from treatment. The defendant shall pay the cost of any  
6 additional evaluation ordered unless the court finds the defendant to  
7 be indigent in which case the state shall pay the cost. At the  
8 treatment termination hearing the court may: (A) Modify conditions of  
9 community custody, and either (B) terminate treatment, or (C) extend  
10 treatment for up to the remaining period of community custody.

11 (v) If a violation of conditions occurs during community custody,  
12 the department shall either impose sanctions as provided for in RCW  
13 9.94A.205(2)(a) or refer the violation to the court and recommend  
14 revocation of the suspended sentence as provided for in (a)(vi) of this  
15 subsection.

16 (vi) The court may revoke the suspended sentence at any time during  
17 the period of community custody and order execution of the sentence if:  
18 (A) The defendant violates the conditions of the suspended sentence, or  
19 (B) the court finds that the defendant is failing to make satisfactory  
20 progress in treatment. All confinement time served during the period  
21 of community custody shall be credited to the offender if the suspended  
22 sentence is revoked.

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

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

36 (ix) For purposes of this subsection (8), "victim" means any person  
37 who has sustained emotional, psychological, physical, or financial  
38 injury to person or property as a result of the crime charged.



1 "Victim" also means a parent or guardian of a victim who is a minor  
2 child unless the parent or guardian is the perpetrator of the offense.

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

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

13 Except for an offender who has been convicted of a violation of RCW  
14 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
15 before the expiration of his or her term of confinement, the department  
16 of corrections may request the court to convert the balance of  
17 confinement to community supervision and to place conditions on the  
18 offender including crime-related prohibitions and requirements that the  
19 offender perform any one or more of the following:

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

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

24 (iii) Report as directed to the court and a community corrections  
25 officer;

26 (iv) Undergo available outpatient treatment.

27 If the offender violates any of the terms of his or her community  
28 supervision, the court may order the offender to serve out the balance  
29 of his or her community supervision term in confinement in the custody  
30 of the department of corrections.

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

35 (c) Offenders convicted and sentenced for a sex offense committed  
36 prior to July 1, 1987, may, subject to available funds, request an  
37 evaluation by the department of corrections to determine whether they  
38 are amenable to treatment. If the offender is determined to be  
39 amenable to treatment, the offender may request placement in a

1 treatment program within a correctional facility operated by the  
2 department. Placement in such treatment program is subject to  
3 available funds.

4 (9)(a) When a court sentences a person to a term of total  
5 confinement to the custody of the department of corrections for an  
6 offense categorized as a sex offense or a serious violent offense  
7 committed after July 1, 1988, but before July 1, 1990, assault in the  
8 second degree, assault of a child in the second degree, any crime  
9 against a person where it is determined in accordance with RCW  
10 9.94A.125 that the defendant or an accomplice was armed with a deadly  
11 weapon at the time of commission, or any felony offense under chapter  
12 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,  
13 committed on or after July 1, 1988, the court shall in addition to the  
14 other terms of the sentence, sentence the offender to a one-year term  
15 of community placement beginning either upon completion of the term of  
16 confinement or at such time as the offender is transferred to community  
17 custody in lieu of earned early release in accordance with RCW  
18 9.94A.150 (1) and (2). When the court sentences an offender under this  
19 subsection to the statutory maximum period of confinement then the  
20 community placement portion of the sentence shall consist entirely of  
21 such community custody to which the offender may become eligible, in  
22 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
23 custody actually served shall be credited against the community  
24 placement portion of the sentence.

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

1 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
2 custody actually served shall be credited against the community  
3 placement portion of the sentence. Unless a condition is waived by the  
4 court, the terms of community placement for offenders sentenced  
5 pursuant to this section shall include the following conditions:

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

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

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

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

14 (v) The residence location and living arrangements are subject to  
15 the prior approval of the department of corrections during the period  
16 of community placement; and

17 (vi) The offender shall submit to affirmative acts necessary to  
18 monitor compliance with the orders of the court as required by the  
19 department.

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

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

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

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

29 (iv) The offender shall not consume alcohol;

30 (v) The offender shall comply with any crime-related prohibitions;  
31 or

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

37 (d) Prior to transfer to, or during, community placement, any  
38 conditions of community placement may be removed or modified so as not

1 to be more restrictive by the sentencing court, upon recommendation of  
2 the department of corrections.

3 (10)(a) When a court sentences a person to the custody of the  
4 department of corrections for an offense categorized as a sex offense  
5 committed on or after June 6, 1996, the court shall, in addition to  
6 other terms of the sentence, sentence the offender to community custody  
7 for three years or up to the period of earned early release awarded  
8 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
9 community custody shall begin either upon completion of the term of  
10 confinement or at such time as the offender is transferred to community  
11 custody in lieu of earned early release in accordance with RCW  
12 9.94A.150 (1) and (2).

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

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

31 (11) If the court imposes a sentence requiring confinement of  
32 thirty days or less, the court may, in its discretion, specify that the  
33 sentence be served on consecutive or intermittent days. A sentence  
34 requiring more than thirty days of confinement shall be served on  
35 consecutive days. Local jail administrators may schedule court-ordered  
36 intermittent sentences as space permits.

37 (12) If a sentence imposed includes payment of a legal financial  
38 obligation, the sentence shall specify the total amount of the legal  
39 financial obligation owed, and shall require the offender to pay a

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

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

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

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

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

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

30 (15) All offenders sentenced to terms involving community  
31 supervision, community service, or community placement under the  
32 supervision of the department of corrections shall not own, use, or  
33 possess firearms or ammunition. Offenders who own, use, or are found  
34 to be in actual or constructive possession of firearms or ammunition  
35 shall be subject to the appropriate violation process and sanctions.  
36 "Constructive possession" as used in this subsection means the power  
37 and intent to control the firearm or ammunition. "Firearm" as used in  
38 this subsection means a weapon or device from which a projectile may be  
39 fired by an explosive such as gunpowder.

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

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

10 (18) The court shall order restitution whenever the offender is  
11 convicted of a felony that results in injury to any person or damage to  
12 or loss of property, whether the offender is sentenced to confinement  
13 or placed under community supervision, unless extraordinary  
14 circumstances exist that make restitution inappropriate in the court's  
15 judgment. The court shall set forth the extraordinary circumstances in  
16 the record if it does not order restitution.

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

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

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

32 **Sec. 2.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c  
33 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and  
34 amended to read as follows:

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

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

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

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

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

37 (5) In sentencing a first-time offender the court may waive the  
38 imposition of a sentence within the sentence range and impose a  
39 sentence which may include up to ninety days of confinement in a



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 37 (A) Frequency and type of contact between offender and therapist;
- 38 (B) Specific issues to be addressed in the treatment and
- 39 description of planned treatment modalities;

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

4 (D) Anticipated length of treatment; and

5 (E) Recommended crime-related prohibitions.

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

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

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

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 months of confinement,  
38 not to exceed the sentence range of confinement for that offense,

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

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

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

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

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

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

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

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

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

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

6 (vi) The court may revoke the suspended sentence at any time 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 (ix) For purposes of this subsection (8), "victim" means any person  
27 who has sustained emotional, psychological, physical, or financial  
28 injury to person or property as a result of the crime charged.  
29 "Victim" also means a parent or guardian of a victim who is a minor  
30 child unless the parent or guardian is the perpetrator of the offense.

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

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

1 to treatment and the department may place the offender in a treatment  
2 program within a correctional facility operated by the department.

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

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

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

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

16 (iv) Undergo available outpatient treatment.

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

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

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

33 (9)(a) When a court sentences a person to a term of total  
34 confinement to the custody of the department of corrections for an  
35 offense categorized as a sex offense or a serious violent offense  
36 committed after July 1, 1988, but before July 1, 1990, assault in the  
37 second degree, assault of a child in the second degree, any crime  
38 against a person where it is determined in accordance with RCW  
39 9.94A.125 that the defendant or an accomplice was armed with a deadly

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

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

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

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



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

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

5 (v) The residence location and living arrangements are subject to  
6 the prior approval of the department of corrections during the period  
7 of community placement; and

8 (vi) The offender shall submit to affirmative acts necessary to  
9 monitor compliance with the orders of the court as required by the  
10 department.

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

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

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

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

20 (iv) The offender shall not consume alcohol;

21 (v) The offender shall comply with any crime-related prohibitions;  
22 or

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

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

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

1 custody in lieu of earned early release in accordance with RCW  
2 9.94A.150 (1) and (2).

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

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

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

27 (12) If a sentence imposed includes payment of a legal financial  
28 obligation, the sentence shall specify the total amount of the legal  
29 financial obligation owed, and shall require the offender to pay a  
30 specified monthly sum toward that legal financial obligation.  
31 Restitution to victims shall be paid prior to any other payments of  
32 monetary obligations. Any legal financial obligation that is imposed  
33 by the court may be collected by the department, which shall deliver  
34 the amount paid to the county clerk for credit. The offender's  
35 compliance with payment of legal financial obligations shall be  
36 supervised by the department for ten years following the entry of the  
37 judgment and sentence or ten years following the offender's release  
38 from total confinement. All monetary payments ordered shall be paid no  
39 later than ten years after the last date of release from confinement

1 pursuant to a felony conviction or the date the sentence was entered  
2 unless the superior court extends the criminal judgment an additional  
3 ten years. If the legal financial obligations including crime victims'  
4 assessments are not paid during the initial ten-year period, the  
5 superior court may extend jurisdiction under the criminal judgment an  
6 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and  
7 9.94A.145. If jurisdiction under the criminal judgment is extended,  
8 the department is not responsible for supervision of the offender  
9 during the subsequent period. Independent of the department, the party  
10 or entity to whom the legal financial obligation is owed shall have the  
11 authority to utilize any other remedies available to the party or  
12 entity to collect the legal financial obligation. Nothing in this  
13 section makes the department, the state, or any of its employees,  
14 agents, or other persons acting on their behalf liable under any  
15 circumstances for the payment of these legal financial obligations. If  
16 an order includes restitution as one of the monetary assessments, the  
17 county clerk shall make disbursements to victims named in the order.

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

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

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

34 (b) For offenders sentenced to terms involving community custody  
35 for crimes committed on or after June 6, 1996, the department may  
36 include, in addition to the instructions in (a) of this subsection, any  
37 appropriate conditions of supervision, including but not limited to,  
38 prohibiting the offender from having contact with any other specified  
39 individuals or specific class of individuals. The conditions

1 authorized under this subsection (14)(b) may be imposed by the  
2 department prior to or during an offender's community custody term. If  
3 a violation of conditions imposed by the court or the department  
4 pursuant to subsection (10) of this section occurs during community  
5 custody, it shall be deemed a violation of community placement for the  
6 purposes of RCW 9.94A.207 and shall authorize the department to  
7 transfer an offender to a more restrictive confinement status as  
8 provided in RCW 9.94A.205. At any time prior to the completion of a  
9 sex offender's term of community custody, the department may recommend  
10 to the court that any or all of the conditions imposed by the court or  
11 the department pursuant to subsection (10) of this section be continued  
12 beyond the expiration of the offender's term of community custody as  
13 authorized in subsection (10)(c) of this section.

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

19 (15) All offenders sentenced to terms involving community  
20 supervision, community service, or community placement under the  
21 supervision of the department of corrections shall not own, use, or  
22 possess firearms or ammunition. Offenders who own, use, or are found  
23 to be in actual or constructive possession of firearms or ammunition  
24 shall be subject to the appropriate violation process and sanctions.  
25 "Constructive possession" as used in this subsection means the power  
26 and intent to control the firearm or ammunition. "Firearm" as used in  
27 this subsection means a weapon or device from which a projectile may be  
28 fired by an explosive such as gunpowder.

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

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

38 (18) The court shall order restitution whenever the offender is  
39 convicted of a felony that results in injury to any person or damage to

1 or loss of property, whether the offender is sentenced to confinement  
2 or placed under community supervision, unless extraordinary  
3 circumstances exist that make restitution inappropriate in the court's  
4 judgment. The court shall set forth the extraordinary circumstances in  
5 the record if it does not order restitution.

6 (19) As a part of any sentence, the court may impose and enforce an  
7 order that relates directly to the circumstances of the crime for which  
8 the offender has been convicted, prohibiting the offender from having  
9 any contact with other specified individuals or a specific class of  
10 individuals for a period not to exceed the maximum allowable sentence  
11 for the crime, regardless of the expiration of the offender's term of  
12 community supervision or community placement.

13 (20) In any sentence of partial confinement, the court may require  
14 the defendant to serve the partial confinement in work release, in a  
15 program of home detention, on work crew, or in a combined program of  
16 work crew and home detention.

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

--- END ---