

2 **HB 2340 - H AMD 419 ADOPTED 1-27-2000**

3 By Representative Ballasiotes

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 9.94A.120 and 1999 c 324 s 2, 1999 c 197 s 4, 1999 c
8 196 s 5, and 1999 c 147 s 3 are each reenacted and amended to read as
9 follows:

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

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

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

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

23 (4) A persistent offender shall be sentenced to a term of total
24 confinement for life without the possibility of parole or, when
25 authorized by RCW 10.95.030 for the crime of aggravated murder in the
26 first degree, sentenced to death, notwithstanding the maximum sentence
27 under any other law. An offender convicted of the crime of murder in
28 the first degree shall be sentenced to a term of total confinement not
29 less than twenty years. An offender convicted of the crime of assault
30 in the first degree or assault of a child in the first degree where the
31 offender used force or means likely to result in death or intended to
32 kill the victim shall be sentenced to a term of total confinement not
33 less than five years. An offender convicted of the crime of rape in
34 the first degree shall be sentenced to a term of total confinement not
35 less than five years. The foregoing minimum terms of total confinement
36 are mandatory and shall not be varied or modified as provided in

1 subsection (2) of this section. In addition, all offenders subject to
2 the provisions of this subsection shall not be eligible for community
3 custody, earned release time, furlough, home detention, partial
4 confinement, work crew, work release, or any other form of early
5 release as defined under RCW 9.94A.150 (1), (2), (3), (~~(5), (7), or~~
6 ~~(8))~~) (6), (8), or (9), or any other form of authorized leave of
7 absence from the correctional facility while not in the direct custody
8 of a corrections officer or officers during such minimum terms of total
9 confinement except: (a) In the case of an offender in need of
10 emergency medical treatment; (b) for the purpose of commitment to an
11 inpatient treatment facility in the case of an offender convicted of
12 the crime of rape in the first degree; or (c) for an extraordinary
13 medical placement when authorized under RCW 9.94A.150(4).

14 (5)(a) In sentencing a first-time offender the court may waive the
15 imposition of a sentence within the sentence range and impose a
16 sentence which may include up to ninety days of confinement in a
17 facility operated or utilized under contract by the county and a
18 requirement that the offender refrain from committing new offenses.
19 The sentence may also include a term of community supervision or
20 community custody as specified in (b) of this subsection, which, in
21 addition to crime-related prohibitions, may include requirements that
22 the offender perform any one or more of the following:

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

24 (ii) Undergo available outpatient treatment for up to the period
25 specified in (b) of this subsection, or inpatient treatment not to
26 exceed the standard range of confinement for that offense;

27 (iii) Pursue a prescribed, secular course of study or vocational
28 training;

29 (iv) Remain within prescribed geographical boundaries and notify
30 the community corrections officer prior to any change in the offender's
31 address or employment;

32 (v) Report as directed to a community corrections officer; or

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

35 (b) The terms and statuses applicable to sentences under (a) of
36 this subsection are:

37 (i) For sentences imposed on or after July 25, 1999, for crimes
38 committed before July 1, 2000, up to one year of community supervision.
39 If treatment is ordered, the period of community supervision may

1 include up to the period of treatment, but shall not exceed two years;
2 and

3 (ii) For crimes committed on or after July 1, 2000, up to one year
4 of community custody unless treatment is ordered, in which case the
5 period of community custody may include up to the period of treatment,
6 but shall not exceed two years. Any term of community custody imposed
7 under this subsection (5) is subject to conditions and sanctions as
8 authorized in this subsection (5) and in subsection (11)(b) and (c) of
9 this section.

10 (c) The department shall discharge from community supervision any
11 offender sentenced under this subsection (5) before July 25, 1999, who
12 has served at least one year of community supervision and has completed
13 any treatment ordered by the court.

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

16 (i) The offender is convicted of a felony that is not a violent
17 offense or sex offense and the violation does not involve a sentence
18 enhancement under RCW 9.94A.310 (3) or (4);

19 (ii) The offender has no current or prior convictions for a sex
20 offense or violent offense in this state, another state, or the United
21 States;

22 (iii) For a violation of the uniform controlled substances act
23 under chapter 69.50 RCW or a criminal solicitation to commit such a
24 violation under chapter 9A.28 RCW, the offense involved only a small
25 quantity of the particular controlled substance as determined by the
26 judge upon consideration of such factors as the weight, purity,
27 packaging, sale price, and street value of the controlled substance;
28 and

29 (iv) The offender has not been found by the United States attorney
30 general to be subject to a deportation detainer or order and does not
31 become subject to a deportation order during the period of the
32 sentence.

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

1 incarceration in the state facility, offenders sentenced under this
2 subsection shall undergo a comprehensive substance abuse assessment and
3 receive, within available resources, treatment services appropriate for
4 the offender. The treatment services shall be designed by the division
5 of alcohol and substance abuse of the department of social and health
6 services, in cooperation with the department of corrections.

7 The court shall also impose:

8 (i) The remainder of the midpoint of the standard range as a term
9 of community custody which must include appropriate substance abuse
10 treatment in a program that has been approved by the division of
11 alcohol and substance abuse of the department of social and health
12 services;

13 (ii) Crime-related prohibitions including a condition not to use
14 illegal controlled substances; ((and))

15 (iii) A requirement to submit to urinalysis or other testing to
16 monitor that status; and

17 (iv) A term of community custody pursuant to subsection (11) of
18 this section to be imposed upon failure to complete or administrative
19 termination from the special drug offender sentencing alternative
20 program.

21 The court may prohibit the offender from using alcohol or
22 controlled substances and may require that the monitoring for
23 controlled substances be conducted by the department or by a treatment
24 alternatives to street crime program or a comparable court or agency-
25 referred program. The offender may be required to pay thirty dollars
26 per month while on community custody to offset the cost of monitoring.
27 In addition, the court shall impose three or more of the following
28 conditions:

29 (A) Devote time to a specific employment or training;

30 (B) Remain within prescribed geographical boundaries and notify the
31 court or the community corrections officer before any change in the
32 offender's address or employment;

33 (C) Report as directed to a community corrections officer;

34 (D) Pay all court-ordered legal financial obligations;

35 (E) Perform community service work;

36 (F) Stay out of areas designated by the sentencing judge;

37 (G) Such other conditions as the court may require such as
38 affirmative conditions.

1 (c) If the offender violates any of the sentence conditions in (b)
2 of this subsection or is found by the United States attorney general to
3 be subject to a deportation order, a violation hearing shall be held by
4 the department unless waived by the offender.

5 (i) If the department finds that conditions have been willfully
6 violated, the offender may be reclassified to serve the remaining
7 balance of the original sentence.

8 (ii) If the department finds that the offender is subject to a
9 valid deportation order, the department may administratively terminate
10 the offender from the program and reclassify the offender to serve the
11 remaining balance of the original sentence.

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

18 (e) An offender who fails to complete the special drug offender
19 sentencing alternative program or who is administratively terminated
20 from the program shall be reclassified to serve the unexpired term of
21 his or her sentence as ordered by the sentencing judge and shall be
22 subject to all rules relating to community custody and earned early
23 release time. An offender who violates any conditions of supervision
24 as defined by the department shall be sanctioned. Sanctions may
25 include, but are not limited to, reclassifying the offender to serve
26 the unexpired term of his or her sentence as ordered by the sentencing
27 judge. If an offender is reclassified to serve the unexpired term of
28 his or her sentence, the offender shall be subject to all rules
29 relating to earned early release time.

30 (7) If a sentence range has not been established for the
31 defendant's crime, the court shall impose a determinate sentence which
32 may include not more than one year of confinement; community service
33 work; until July 1, 2000, a term of community supervision not to exceed
34 one year and on and after July 1, 2000, a term of community custody not
35 to exceed one year, subject to conditions and sanctions as authorized
36 in subsection (11)(b) and (c) of this section; and/or other legal
37 financial obligations. The court may impose a sentence which provides
38 more than one year of confinement if the court finds, considering the

1 purpose of this chapter, that there are substantial and compelling
2 reasons justifying an exceptional sentence.

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

10 The report of the examination shall include at a minimum the
11 following: The defendant's version of the facts and the official
12 version of the facts, the defendant's offense history, an assessment of
13 problems in addition to alleged deviant behaviors, the offender's
14 social and employment situation, and other evaluation measures used.
15 The report shall set forth the sources of the evaluator's information.

16 The examiner shall assess and report regarding the defendant's
17 amenability to treatment and relative risk to the community. A
18 proposed treatment plan shall be provided and shall include, at a
19 minimum:

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

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

23 (C) Monitoring plans, including any requirements regarding living
24 conditions, lifestyle requirements, and monitoring by family members
25 and others;

26 (D) Anticipated length of treatment; and

27 (E) Recommended crime-related prohibitions.

28 The court on its own motion may order, or on a motion by the state
29 shall order, a second examination regarding the offender's amenability
30 to treatment. The evaluator shall be selected by the party making the
31 motion. The defendant shall pay the cost of any second examination
32 ordered unless the court finds the defendant to be indigent in which
33 case the state shall pay the cost.

34 (ii) After receipt of the reports, the court shall consider whether
35 the offender and the community will benefit from use of this special
36 sex offender sentencing alternative and consider the victim's opinion
37 whether the offender should receive a treatment disposition under this
38 subsection. If the court determines that this special sex offender
39 sentencing alternative is appropriate, the court shall then impose a

1 sentence within the sentence range. If this sentence is less than
2 eleven years of confinement, the court may suspend the execution of the
3 sentence and impose the following conditions of suspension:

4 (A) The court shall place the defendant on community custody for
5 the length of the suspended sentence or three years, whichever is
6 greater, and require the offender to comply with any conditions imposed
7 by the department of corrections under subsection (15) of this section;

8 (B) The court shall order treatment for any period up to three
9 years in duration. The court in its discretion shall order outpatient
10 sex offender treatment or inpatient sex offender treatment, if
11 available. A community mental health center may not be used for such
12 treatment unless it has an appropriate program designed for sex
13 offender treatment. The offender shall not change sex offender
14 treatment providers or treatment conditions without first notifying the
15 prosecutor, the community corrections officer, and the court, and shall
16 not change providers without court approval after a hearing if the
17 prosecutor or community corrections officer object to the change. In
18 addition, as conditions of the suspended sentence, the court may impose
19 other sentence conditions including up to six months of confinement,
20 not to exceed the sentence range of confinement for that offense,
21 crime-related prohibitions, and requirements that the offender perform
22 any one or more of the following:

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

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

27 (III) Report as directed to the court and a community corrections
28 officer;

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

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

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

37 (iii) The sex offender therapist shall submit quarterly reports on
38 the defendant's progress in treatment to the court and the parties.
39 The report shall reference the treatment plan and include at a minimum

1 the following: Dates of attendance, defendant's compliance with
2 requirements, treatment activities, the defendant's relative progress
3 in treatment, and any other material as specified by the court at
4 sentencing.

5 (iv) At the time of sentencing, the court shall set a treatment
6 termination hearing for three months prior to the anticipated date for
7 completion of treatment. Prior to the treatment termination hearing,
8 the treatment professional and community corrections officer shall
9 submit written reports to the court and parties regarding the
10 defendant's compliance with treatment and monitoring requirements, and
11 recommendations regarding termination from treatment, including
12 proposed community supervision conditions. Either party may request
13 and the court may order another evaluation regarding the advisability
14 of termination from treatment. The defendant shall pay the cost of any
15 additional evaluation ordered unless the court finds the defendant to
16 be indigent in which case the state shall pay the cost. At the
17 treatment termination hearing the court may: (A) Modify conditions of
18 community custody, and either (B) terminate treatment, or (C) extend
19 treatment for up to the remaining period of community custody.

20 (v) If a violation of conditions occurs during community custody,
21 the department shall either impose sanctions as provided for in RCW
22 9.94A.205(2)(a) or refer the violation to the court and recommend
23 revocation of the suspended sentence as provided for in (a)(vi) of this
24 subsection.

25 (vi) The court may revoke the suspended sentence at any time during
26 the period of community custody and order execution of the sentence if:
27 (A) The defendant violates the conditions of the suspended sentence, or
28 (B) the court finds that the defendant is failing to make satisfactory
29 progress in treatment. All confinement time served during the period
30 of community custody shall be credited to the offender if the suspended
31 sentence is revoked.

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

36 (viii) A sex offender therapist who examines or treats a sex
37 offender pursuant to this subsection (8) does not have to be certified
38 by the department of health pursuant to chapter 18.155 RCW if the court
39 finds that: (A) The offender has already moved to another state or

1 plans to move to another state for reasons other than circumventing the
2 certification requirements; (B) no certified providers are available
3 for treatment within a reasonable geographical distance of the
4 offender's home; and (C) the evaluation and treatment plan comply with
5 this subsection (8) and the rules adopted by the department of health.

6 (ix) For purposes of this subsection (8), "victim" means any person
7 who has sustained emotional, psychological, physical, or financial
8 injury to person or property as a result of the crime charged.
9 "Victim" also means a parent or guardian of a victim who is a minor
10 child unless the parent or guardian is the perpetrator of the offense.

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

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

21 Except for an offender who has been convicted of a violation of RCW
22 9A.44.040 or 9A.44.050, if the offender completes the treatment program
23 before the expiration of his or her term of confinement, the department
24 of corrections may request the court to convert the balance of
25 confinement to community supervision and to place conditions on the
26 offender including crime-related prohibitions and requirements that the
27 offender perform any one or more of the following:

- 28 (i) Devote time to a specific employment or occupation;
- 29 (ii) Remain within prescribed geographical boundaries and notify
30 the court or the community corrections officer prior to any change in
31 the offender's address or employment;
- 32 (iii) Report as directed to the court and a community corrections
33 officer;
- 34 (iv) Undergo available outpatient treatment.

35 If the offender violates any of the terms of his or her community
36 supervision, the court may order the offender to serve out the balance
37 of his or her community supervision term in confinement in the custody
38 of the department of corrections.

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

5 (c) Offenders convicted and sentenced for a sex offense committed
6 prior to July 1, 1987, may, subject to available funds, request an
7 evaluation by the department of corrections to determine whether they
8 are amenable to treatment. If the offender is determined to be
9 amenable to treatment, the offender may request placement in a
10 treatment program within a correctional facility operated by the
11 department. Placement in such treatment program is subject to
12 available funds.

13 (d) Within the funds available for this purpose, the department
14 shall develop and monitor transition and relapse prevention strategies,
15 including risk assessment and release plans, to reduce risk to the
16 community after sex offenders' terms of confinement in the custody of
17 the department.

18 (9)(a)(i) When a court sentences a person to a term of total
19 confinement to the custody of the department of corrections for an
20 offense categorized as a sex offense or a serious violent offense
21 committed after July 1, 1988, but before July 1, 1990, assault in the
22 second degree, assault of a child in the second degree, any crime
23 against a person where it is determined in accordance with RCW
24 9.94A.125 that the defendant or an accomplice was armed with a deadly
25 weapon at the time of commission, or any felony offense under chapter
26 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
27 committed on or after July 1, 1988, but before July 25, 1999, the court
28 shall in addition to the other terms of the sentence, sentence the
29 offender to a one-year term of community placement beginning either
30 upon completion of the term of confinement or at such time as the
31 offender is transferred to community custody in lieu of earned release
32 in accordance with RCW 9.94A.150 (1) and (2). When the court sentences
33 an offender under this subsection to the statutory maximum period of
34 confinement then the community placement portion of the sentence shall
35 consist entirely of such community custody to which the offender may
36 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any
37 period of community custody actually served shall be credited against
38 the community placement portion of the sentence.

1 (ii) Except for persons sentenced under (b) of this subsection or
2 subsection (10)(a) of this section, when a court sentences a person to
3 a term of total confinement to the custody of the department of
4 corrections for a violent offense, any crime against a person under RCW
5 9.94A.440(2), or any felony offense under chapter 69.50 or 69.52 RCW
6 not sentenced under subsection (6) of this section, committed on or
7 after July 25, 1999, but before July 1, 2000, the court shall in
8 addition to the other terms of the sentence, sentence the offender to
9 a one-year term of community placement beginning either upon completion
10 of the term of confinement or at such time as the offender is
11 transferred to community custody in lieu of earned release in
12 accordance with RCW 9.94A.150 (1) and (2). When the court sentences
13 the offender under this subsection (9)(a)(ii) to the statutory maximum
14 period of confinement, then the community placement portion of the
15 sentence shall consist entirely of such community custody to which the
16 offender may become eligible, in accordance with RCW 9.94A.150 (1) and
17 (2). Any period of community custody actually served shall be credited
18 against the community placement portion of the sentence.

19 (b) When a court sentences a person to a term of total confinement
20 to the custody of the department of corrections for an offense
21 categorized as a sex offense committed on or after July 1, 1990, but
22 before June 6, 1996, or a serious violent offense, vehicular homicide,
23 or vehicular assault, committed on or after July 1, 1990, but before
24 July 1, 2000, the court shall in addition to other terms of the
25 sentence, sentence the offender to community placement for two years or
26 up to the period of earned release awarded pursuant to RCW 9.94A.150
27 (1) and (2), whichever is longer. The community placement shall begin
28 either upon completion of the term of confinement or at such time as
29 the offender is transferred to community custody in lieu of earned
30 release in accordance with RCW 9.94A.150 (1) and (2). When the court
31 sentences an offender under this subsection to the statutory maximum
32 period of confinement then the community placement portion of the
33 sentence shall consist entirely of the community custody to which the
34 offender may become eligible, in accordance with RCW 9.94A.150 (1) and
35 (2). Any period of community custody actually served shall be credited
36 against the community placement portion of the sentence. Unless a
37 condition is waived by the court, the terms of community placement for
38 offenders sentenced pursuant to this section shall include the
39 following conditions:

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

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

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

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

9 (v) The residence location and living arrangements are subject to
10 the prior approval of the department of corrections during the period
11 of community placement; and

12 (vi) The offender shall submit to affirmative acts necessary to
13 monitor compliance with the orders of the court as required by the
14 department.

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

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

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

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

24 (iv) The offender shall not consume alcohol;

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

26 or

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

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

36 (10)(a) When a court sentences a person to the custody of the
37 department of corrections for an offense categorized as a sex offense
38 committed on or after June 6, 1996, but before July 1, 2000, the court
39 shall, in addition to other terms of the sentence, sentence the

1 offender to community custody for three years or up to the period of
2 earned release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever
3 is longer. The community custody shall begin either upon completion of
4 the term of confinement or at such time as the offender is transferred
5 to community custody in lieu of earned release in accordance with RCW
6 9.94A.150 (1) and (2).

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

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

25 (11)(a) When a court sentences a person to the custody of the
26 department of corrections for a sex offense, a violent offense, any
27 crime against a person under RCW 9.94A.440(2), or a felony offense
28 under chapter 69.50 or 69.52 RCW (~~(not sentenced under subsection (6)~~
29 ~~of this section)), committed on or after July 1, 2000, the court shall
30 in addition to the other terms of the sentence, sentence the offender
31 to community custody for the community custody range or up to the
32 period of earned release awarded pursuant to RCW 9.94A.150 (1) and (2),
33 whichever is longer. The community custody shall begin (~~either~~):
34 (i) Upon completion of the term of confinement ((or)); (ii) at such
35 time as the offender is transferred to community custody in lieu of
36 earned release in accordance with RCW 9.94A.150 (1) and (2); or (iii)
37 with regard to offenders sentenced under subsection (6) of this
38 section, upon failure to complete or administrative termination from
39 the special drug offender sentencing alternative program.~~

1 (b) Unless a condition is waived by the court, the conditions of
2 community custody shall include those provided for in subsection
3 (9)(b)(i) through (vi) of this section. The conditions may also
4 include those provided for in subsection (9)(c)(i) through (vi) of this
5 section. The court may also order the offender to participate in
6 rehabilitative programs or otherwise perform affirmative conduct
7 reasonably related to the circumstances of the offense, the offender's
8 risk of reoffending, or the safety of the community, and the department
9 shall enforce such conditions pursuant to (f) of this subsection. As
10 part of any sentence that includes a term of community custody imposed
11 under this subsection, the court shall also require the offender to
12 comply with any conditions imposed by the department of corrections
13 under subsection (15) of this section. The department shall assess the
14 offender's risk of reoffense and may establish and modify additional
15 conditions of the offender's community custody based upon the risk to
16 community safety. The department may not impose conditions that are
17 contrary to those ordered by the court and may not contravene or
18 decrease court imposed conditions. The department shall notify the
19 offender in writing of any such conditions or modifications. In
20 setting, modifying, and enforcing conditions of community custody, the
21 department shall be deemed to be performing a quasi-judicial function.

22 (c) If an offender violates conditions imposed by the court or the
23 department pursuant to this subsection during community custody, the
24 department may transfer the offender to a more restrictive confinement
25 status and impose other available sanctions as provided in RCW
26 9.94A.205 and 9.94A.207.

27 (d) Except for terms of community custody under subsection (8) of
28 this section, the department shall discharge the offender from
29 community custody on a date determined by the department, which the
30 department may modify, based on risk and performance of the offender,
31 within the range or at the end of the period of earned release,
32 whichever is later.

33 (e) At any time prior to the completion or termination of a sex
34 offender's term of community custody, if the court finds that public
35 safety would be enhanced, the court may impose and enforce an order
36 extending any or all of the conditions imposed pursuant to this section
37 for a period up to the maximum allowable sentence for the crime as it
38 is classified in chapter 9A.20 RCW, regardless of the expiration of the
39 offender's term of community custody. If a violation of a condition

1 extended under this subsection occurs after the expiration of the
2 offender's term of community custody, it shall be deemed a violation of
3 the sentence for the purposes of RCW 9.94A.195 and may be punishable as
4 contempt of court as provided for in RCW 7.21.040. If the court
5 extends a condition beyond the expiration of the term of community
6 custody, the department is not responsible for supervision of the
7 offender's compliance with the condition.

8 (f) Within the funds available for community custody, the
9 department shall determine conditions and duration of community custody
10 on the basis of risk to community safety, and shall supervise offenders
11 during community custody on the basis of risk to community safety and
12 conditions imposed by the court. The secretary shall adopt rules to
13 implement the provisions of this subsection (11)(f).

14 (g) By the close of the next business day after receiving notice of
15 a condition imposed or modified by the department, an offender may
16 request an administrative review under rules adopted by the department.
17 The condition shall remain in effect unless the reviewing officer finds
18 that it is not reasonably related to any of the following: (i) The
19 crime of conviction; (ii) the offender's risk of reoffending; or (iii)
20 the safety of the community.

21 (12) 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 (13) 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 (14) 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, community placement, or community custody which
21 exceeds the statutory maximum for the crime as provided in chapter
22 9A.20 RCW.

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

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

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

1 individuals or specific class of individuals. For offenders sentenced
2 to terms of community custody for crimes committed on or after July 1,
3 2000, the department may additionally require the offender to
4 participate in rehabilitative programs or otherwise perform affirmative
5 conduct, and to obey all laws.

6 The conditions authorized under this subsection (15)(b) may be
7 imposed by the department prior to or during an offender's community
8 custody term. If a violation of conditions imposed by the court or the
9 department pursuant to subsection (10) of this section occurs during
10 community custody, it shall be deemed a violation of community
11 placement for the purposes of RCW 9.94A.207 and shall authorize the
12 department to transfer an offender to a more restrictive confinement
13 status as provided in RCW 9.94A.205. At any time prior to the
14 completion of an offender's term of community custody, the department
15 may recommend to the court that any or all of the conditions imposed by
16 the court or the department pursuant to subsection (10) or (11) of this
17 section be continued beyond the expiration of the offender's term of
18 community custody as authorized in subsection (10)(c) or (11)(e) of
19 this section.

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

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

36 (17) The sentencing court shall give the offender credit for all
37 confinement time served before the sentencing if that confinement was
38 solely in regard to the offense for which the offender is being
39 sentenced.

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

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

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

20 (21) The court may order an offender whose sentence includes
21 community placement or community supervision to undergo a mental status
22 evaluation and to participate in available outpatient mental health
23 treatment, if the court finds that reasonable grounds exist to believe
24 that the offender is a mentally ill person as defined in RCW 71.24.025,
25 and that this condition is likely to have influenced the offense. An
26 order requiring mental status evaluation or treatment must be based on
27 a presentence report and, if applicable, mental status evaluations that
28 have been filed with the court to determine the offender's competency
29 or eligibility for a defense of insanity. The court may order
30 additional evaluations at a later date if deemed appropriate.

31 (22) In any sentence of partial confinement, the court may require
32 the defendant to serve the partial confinement in work release, in a
33 program of home detention, on work crew, or in a combined program of
34 work crew and home detention.

35 (23) All court-ordered legal financial obligations collected by the
36 department and remitted to the county clerk shall be credited and paid
37 where restitution is ordered. Restitution shall be paid prior to any
38 other payments of monetary obligations.

1 (24) In sentencing an offender convicted of a crime of domestic
2 violence, as defined in RCW 10.99.020, if the offender has a minor
3 child, or if the victim of the offense for which the offender was
4 convicted has a minor child, the court may, as part of any term of
5 community supervision, order the offender to participate in a domestic
6 violence perpetrator program approved under RCW 26.50.150.

7 (25)(a) Sex offender examinations and treatment ordered as a
8 special condition of community placement or community custody under
9 this section shall be conducted only by sex offender treatment
10 providers certified by the department of health under chapter 18.155
11 RCW unless the court finds that: (i) The offender has already moved to
12 another state or plans to move to another state for reasons other than
13 circumventing the certification requirements; (ii) no certified
14 providers are available for treatment within a reasonable geographic
15 distance of the offender's home, as determined in rules adopted by the
16 secretary; (iii) the evaluation and treatment plan comply with the
17 rules adopted by the department of health; or (iv) the treatment
18 provider is employed by the department. A treatment provider selected
19 by an offender who is not certified by the department of health shall
20 consult with a certified provider during the offender's period of
21 treatment to ensure compliance with the rules adopted by the department
22 of health. The frequency and content of the consultation shall be
23 based on the recommendation of the certified provider.

24 (b) A sex offender's failure to participate in treatment required
25 as a condition of community placement or community custody is a
26 violation that will not be excused on the basis that no treatment
27 provider was located within a reasonable geographic distance of the
28 offender's home."

29 Correct the title.

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