

2 E2SHB 1006 - S COMM AMD

3 By Committee on Human Services & Corrections

4

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

7 "Sec. 1. RCW 9.94A.030 and 1998 c 290 s 3 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Collect," or any derivative thereof, "collect and remit," or
12 "collect and deliver," when used with reference to the department of
13 corrections, means that the department is responsible for monitoring
14 and enforcing the offender's sentence with regard to the legal
15 financial obligation, receiving payment thereof from the offender, and,
16 consistent with current law, delivering daily the entire payment to the
17 superior court clerk without depositing it in a departmental account.

18 (2) "Commission" means the sentencing guidelines commission.

19 (3) "Community corrections officer" means an employee of the
20 department who is responsible for carrying out specific duties in
21 supervision of sentenced offenders and monitoring of sentence
22 conditions.

23 (4) "Community custody" means that portion of an inmate's sentence
24 of confinement in lieu of earned early release time or imposed pursuant
25 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
26 controls placed on the inmate's movement and activities by the
27 department of corrections.

28 (5) "Community placement" means that period during which the
29 offender is subject to the conditions of community custody and/or
30 postrelease supervision, which begins either upon completion of the
31 term of confinement (postrelease supervision) or at such time as the
32 offender is transferred to community custody in lieu of earned early
33 release. Community placement may consist of entirely community
34 custody, entirely postrelease supervision, or a combination of the two.

1 (6) "Community service" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender.

4 (7) "Community supervision" means a period of time during which a
5 convicted offender is subject to crime-related prohibitions and other
6 sentence conditions imposed by a court pursuant to this chapter or RCW
7 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
8 may include crime-related prohibitions and other conditions imposed
9 pursuant to RCW 9.94A.120(5). Where the court finds that any offender
10 has a chemical dependency that has contributed to his or her offense,
11 the conditions of supervision may, subject to available resources,
12 include treatment. For purposes of the interstate compact for out-of-
13 state supervision of parolees and probationers, RCW 9.95.270, community
14 supervision is the functional equivalent of probation and should be
15 considered the same as probation by other states.

16 (8) "Confinement" means total or partial confinement as defined in
17 this section.

18 (9) "Conviction" means an adjudication of guilt pursuant to Titles
19 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
20 acceptance of a plea of guilty.

21 (10) "Court-ordered legal financial obligation" means a sum of
22 money that is ordered by a superior court of the state of Washington
23 for legal financial obligations which may include restitution to the
24 victim, statutorily imposed crime victims' compensation fees as
25 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
26 drug funds, court-appointed attorneys' fees, and costs of defense,
27 fines, and any other financial obligation that is assessed to the
28 offender as a result of a felony conviction. Upon conviction for
29 vehicular assault while under the influence of intoxicating liquor or
30 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
31 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
32 legal financial obligations may also include payment to a public agency
33 of the expense of an emergency response to the incident resulting in
34 the conviction, subject to the provisions in RCW 38.52.430.

35 (11) "Crime-related prohibition" means an order of a court
36 prohibiting conduct that directly relates to the circumstances of the
37 crime for which the offender has been convicted, and shall not be
38 construed to mean orders directing an offender affirmatively to
39 participate in rehabilitative programs or to otherwise perform

1 affirmative conduct. However, affirmative acts necessary to monitor
2 compliance with the order of a court may be required by the department.

3 (12) "Criminal history" means the list of a defendant's prior
4 convictions and juvenile adjudications, whether in this state, in
5 federal court, or elsewhere. The history shall include, where known,
6 for each conviction (a) whether the defendant has been placed on
7 probation and the length and terms thereof; and (b) whether the
8 defendant has been incarcerated and the length of incarceration.

9 (13) "Day fine" means a fine imposed by the sentencing judge that
10 equals the difference between the offender's net daily income and the
11 reasonable obligations that the offender has for the support of the
12 offender and any dependents.

13 (14) "Day reporting" means a program of enhanced supervision
14 designed to monitor the defendant's daily activities and compliance
15 with sentence conditions, and in which the defendant is required to
16 report daily to a specific location designated by the department or the
17 sentencing judge.

18 (15) "Department" means the department of corrections.

19 (16) "Determinate sentence" means a sentence that states with
20 exactitude the number of actual years, months, or days of total
21 confinement, of partial confinement, of community supervision, the
22 number of actual hours or days of community service work, or dollars or
23 terms of a legal financial obligation. The fact that an offender
24 through "earned early release" can reduce the actual period of
25 confinement shall not affect the classification of the sentence as a
26 determinate sentence.

27 (17) "Disposable earnings" means that part of the earnings of an
28 individual remaining after the deduction from those earnings of any
29 amount required by law to be withheld. For the purposes of this
30 definition, "earnings" means compensation paid or payable for personal
31 services, whether denominated as wages, salary, commission, bonuses, or
32 otherwise, and, notwithstanding any other provision of law making the
33 payments exempt from garnishment, attachment, or other process to
34 satisfy a court-ordered legal financial obligation, specifically
35 includes periodic payments pursuant to pension or retirement programs,
36 or insurance policies of any type, but does not include payments made
37 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
38 or Title 74 RCW.

39 (18) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of
2 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
3 controlled substance (RCW 69.50.403);

4 (b) Any offense defined as a felony under federal law that relates
5 to the possession, manufacture, distribution, or transportation of a
6 controlled substance; or

7 (c) Any out-of-state conviction for an offense that under the laws
8 of this state would be a felony classified as a drug offense under (a)
9 of this subsection.

10 (19) "Escape" means:

11 (a) Escape in the first degree (RCW 9A.76.110), escape in the
12 second degree (RCW 9A.76.120), willful failure to return from furlough
13 (RCW 72.66.060), willful failure to return from work release (RCW
14 72.65.070), or willful failure to be available for supervision by the
15 department while in community custody (RCW 72.09.310); or

16 (b) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as an escape
18 under (a) of this subsection.

19 (20) "Felony traffic offense" means:

20 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
21 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
22 and-run injury-accident (RCW 46.52.020(4)); or

23 (b) Any federal or out-of-state conviction for an offense that
24 under the laws of this state would be a felony classified as a felony
25 traffic offense under (a) of this subsection.

26 (21) "Fines" means the requirement that the offender pay a specific
27 sum of money over a specific period of time to the court.

28 (22) "First-time offender" means any person who is convicted of a
29 felony (a) not classified as a violent offense or a sex offense under
30 this chapter, or (b) that is not the manufacture, delivery, or
31 possession with intent to manufacture or deliver a controlled substance
32 classified in Schedule I or II that is a narcotic drug or flunitrazepam
33 classified in Schedule IV, nor the manufacture, delivery, or possession
34 with intent to deliver methamphetamine, its salts, isomers, and salts
35 of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for
36 profit of any controlled substance or counterfeit substance classified
37 in Schedule I, RCW 69.50.204, except leaves and flowering tops of
38 marihuana, who previously has never been convicted of a felony in this

1 state, federal court, or another state, and who has never participated
2 in a program of deferred prosecution for a felony offense.

3 (23) "Most serious offense" means any of the following felonies or
4 a felony attempt to commit any of the following felonies, as now
5 existing or hereafter amended:

6 (a) Any felony defined under any law as a class A felony or
7 criminal solicitation of or criminal conspiracy to commit a class A
8 felony;

9 (b) Assault in the second degree;

10 (c) Assault of a child in the second degree;

11 (d) Child molestation in the second degree;

12 (e) Controlled substance homicide;

13 (f) Extortion in the first degree;

14 (g) Incest when committed against a child under age fourteen;

15 (h) Indecent liberties;

16 (i) Kidnapping in the second degree;

17 (j) Leading organized crime;

18 (k) Manslaughter in the first degree;

19 (l) Manslaughter in the second degree;

20 (m) Promoting prostitution in the first degree;

21 (n) Rape in the third degree;

22 (o) Robbery in the second degree;

23 (p) Sexual exploitation;

24 (q) Vehicular assault;

25 (r) Vehicular homicide, when proximately caused by the driving of
26 any vehicle by any person while under the influence of intoxicating
27 liquor or any drug as defined by RCW 46.61.502, or by the operation of
28 any vehicle in a reckless manner;

29 (s) Any other class B felony offense with a finding of sexual
30 motivation, as "sexual motivation" is defined under this section;

31 (t) Any other felony with a deadly weapon verdict under RCW
32 9.94A.125;

33 (u) Any felony offense in effect at any time prior to December 2,
34 1993, that is comparable to a most serious offense under this
35 subsection, or any federal or out-of-state conviction for an offense
36 that under the laws of this state would be a felony classified as a
37 most serious offense under this subsection;

38 (v)(i) A prior conviction for indecent liberties under RCW
39 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.

1 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
2 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
3 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

4 (ii) A prior conviction for indecent liberties under RCW
5 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
6 if: (A) The crime was committed against a child under the age of
7 fourteen; or (B) the relationship between the victim and perpetrator is
8 included in the definition of indecent liberties under RCW
9 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
10 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
11 through July 27, 1997.

12 (24) "Nonviolent offense" means an offense which is not a violent
13 offense.

14 (25) "Offender" means a person who has committed a felony
15 established by state law and is eighteen years of age or older or is
16 less than eighteen years of age but whose case is under superior court
17 jurisdiction under RCW 13.04.030 or has been transferred by the
18 appropriate juvenile court to a criminal court pursuant to RCW
19 13.40.110. Throughout this chapter, the terms "offender" and
20 "defendant" are used interchangeably.

21 (26) "Partial confinement" means confinement for no more than one
22 year in a facility or institution operated or utilized under contract
23 by the state or any other unit of government, or, if home detention or
24 work crew has been ordered by the court, in an approved residence, for
25 a substantial portion of each day with the balance of the day spent in
26 the community. Partial confinement includes work release, home
27 detention, work crew, and a combination of work crew and home detention
28 as defined in this section.

29 (27) "Persistent offender" is an offender who:

30 (a)(i) Has been convicted in this state of any felony considered a
31 most serious offense; and

32 (ii) Has, before the commission of the offense under (a) of this
33 subsection, been convicted as an offender on at least two separate
34 occasions, whether in this state or elsewhere, of felonies that under
35 the laws of this state would be considered most serious offenses and
36 would be included in the offender score under RCW 9.94A.360; provided
37 that of the two or more previous convictions, at least one conviction
38 must have occurred before the commission of any of the other most
39 serious offenses for which the offender was previously convicted; or

1 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
2 of a child in the first degree, child molestation in the first degree,
3 rape in the second degree, rape of a child in the second degree, or
4 indecent liberties by forcible compulsion; (B) murder in the first
5 degree, murder in the second degree, homicide by abuse, kidnapping in
6 the first degree, kidnapping in the second degree, assault in the first
7 degree, assault in the second degree, assault of a child in the first
8 degree, or burglary in the first degree, with a finding of sexual
9 motivation; or (C) an attempt to commit any crime listed in this
10 subsection (27)(b)(i); and

11 (ii) Has, before the commission of the offense under (b)(i) of this
12 subsection, been convicted as an offender on at least one occasion,
13 whether in this state or elsewhere, of an offense listed in (b)(i) of
14 this subsection. A conviction for rape of a child in the first degree
15 constitutes a conviction under subsection (27)(b)(i) only when the
16 offender was sixteen years of age or older when the offender committed
17 the offense. A conviction for rape of a child in the second degree
18 constitutes a conviction under subsection (27)(b)(i) only when the
19 offender was eighteen years of age or older when the offender committed
20 the offense.

21 (28) "Postrelease supervision" is that portion of an offender's
22 community placement that is not community custody.

23 (29) "Restitution" means the requirement that the offender pay a
24 specific sum of money over a specific period of time to the court as
25 payment of damages. The sum may include both public and private costs.
26 The imposition of a restitution order does not preclude civil redress.

27 (30) "Serious traffic offense" means:

28 (a) Driving while under the influence of intoxicating liquor or any
29 drug (RCW 46.61.502), actual physical control while under the influence
30 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
31 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
32 or

33 (b) Any federal, out-of-state, county, or municipal conviction for
34 an offense that under the laws of this state would be classified as a
35 serious traffic offense under (a) of this subsection.

36 (31) "Serious violent offense" is a subcategory of violent offense
37 and means:

38 (a) Murder in the first degree, homicide by abuse, murder in the
39 second degree, manslaughter in the first degree, assault in the first

1 degree, kidnapping in the first degree, or rape in the first degree,
2 assault of a child in the first degree, or an attempt, criminal
3 solicitation, or criminal conspiracy to commit one of these felonies;
4 or

5 (b) Any federal or out-of-state conviction for an offense that
6 under the laws of this state would be a felony classified as a serious
7 violent offense under (a) of this subsection.

8 (32) "Sentence range" means the sentencing court's discretionary
9 range in imposing a nonappealable sentence.

10 (33) "Sex offense" means:

11 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
12 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
13 criminal attempt, criminal solicitation, or criminal conspiracy to
14 commit such crimes;

15 (b) A felony with a finding of sexual motivation under RCW
16 9.94A.127 or 13.40.135; or

17 (c) Any federal or out-of-state conviction for an offense that
18 under the laws of this state would be a felony classified as a sex
19 offense under (a) of this subsection.

20 (34) "Sexual motivation" means that one of the purposes for which
21 the defendant committed the crime was for the purpose of his or her
22 sexual gratification.

23 (35) "Total confinement" means confinement inside the physical
24 boundaries of a facility or institution operated or utilized under
25 contract by the state or any other unit of government for twenty-four
26 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

27 (36) "Transition training" means written and verbal instructions
28 and assistance provided by the department to the offender during the
29 two weeks prior to the offender's successful completion of the work
30 ethic camp program. The transition training shall include instructions
31 in the offender's requirements and obligations during the offender's
32 period of community custody.

33 (37) "Victim" means any person who has sustained emotional,
34 psychological, physical, or financial injury to person or property as
35 a direct result of the crime charged.

36 (38) "Violent offense" means:

37 (a) Any of the following felonies, as now existing or hereafter
38 amended: Any felony defined under any law as a class A felony or an
39 attempt to commit a class A felony, criminal solicitation of or

1 criminal conspiracy to commit a class A felony, manslaughter in the
2 first degree, manslaughter in the second degree, indecent liberties if
3 committed by forcible compulsion, kidnapping in the second degree,
4 arson in the second degree, assault in the second degree, assault of a
5 child in the second degree, extortion in the first degree, robbery in
6 the second degree, drive-by shooting, vehicular assault, and vehicular
7 homicide, when proximately caused by the driving of any vehicle by any
8 person while under the influence of intoxicating liquor or any drug as
9 defined by RCW 46.61.502, or by the operation of any vehicle in a
10 reckless manner;

11 (b) Any conviction for a felony offense in effect at any time prior
12 to July 1, 1976, that is comparable to a felony classified as a violent
13 offense in (a) of this subsection; and

14 (c) Any federal or out-of-state conviction for an offense that
15 under the laws of this state would be a felony classified as a violent
16 offense under (a) or (b) of this subsection.

17 (39) "Work crew" means a program of partial confinement consisting
18 of civic improvement tasks for the benefit of the community of not less
19 than thirty-five hours per week that complies with RCW 9.94A.135. The
20 civic improvement tasks shall have minimal negative impact on existing
21 private industries or the labor force in the county where the service
22 or labor is performed. The civic improvement tasks shall not affect
23 employment opportunities for people with developmental disabilities
24 contracted through sheltered workshops as defined in RCW 82.04.385.
25 Only those offenders sentenced to a facility operated or utilized under
26 contract by a county or the state are eligible to participate on a work
27 crew. Offenders sentenced for a sex offense as defined in subsection
28 (33) of this section are not eligible for the work crew program.

29 (40) "Work ethic camp" means an alternative incarceration program
30 designed to reduce recidivism and lower the cost of corrections by
31 requiring offenders to complete a comprehensive array of real-world job
32 and vocational experiences, character-building work ethics training,
33 life management skills development, substance abuse rehabilitation,
34 counseling, literacy training, and basic adult education.

35 (41) "Work release" means a program of partial confinement
36 available to offenders who are employed or engaged as a student in a
37 regular course of study at school. Participation in work release shall
38 be conditioned upon the offender attending work or school at regularly
39 defined hours and abiding by the rules of the work release facility.

1 (42) "Home detention" means a program of partial confinement
2 available to offenders wherein the offender is confined in a private
3 residence subject to electronic surveillance.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
5 to read as follows:

6 (1) Where the court finds that the offender has a chemical
7 dependency that has contributed to his or her offense, the court may,
8 as a condition of the sentence and subject to available resources,
9 order the offender to participate in rehabilitative programs or
10 otherwise to perform affirmative conduct reasonably related to the
11 circumstances of the crime for which the offender has been convicted
12 and reasonably necessary or beneficial to the offender and the
13 community in rehabilitating the offender.

14 (2) This section applies to sentences which include any term other
15 than, or in addition to, a term of total confinement, including
16 suspended sentences.

17 **Sec. 3.** RCW 9.94A.110 and 1998 c 260 s 2 are each amended to read
18 as follows:

19 Before imposing a sentence upon a defendant, the court shall
20 conduct a sentencing hearing. The sentencing hearing shall be held
21 within forty court days following conviction. Upon the motion of
22 either party for good cause shown, or on its own motion, the court may
23 extend the time period for conducting the sentencing hearing.

24 Unless specifically waived by the court, the court shall order the
25 department to complete a chemical dependency screening report before
26 imposing a sentence upon a defendant who has been convicted of a
27 violation of the uniform controlled substances act under chapter 69.50
28 RCW or a criminal solicitation to commit such a violation under chapter
29 9A.28 RCW where the court finds that the offender has a chemical
30 dependency that has contributed to his or her offense. In addition,
31 the court shall, at the time of plea or conviction, order the
32 department to complete a presentence report before imposing a sentence
33 upon a defendant who has been convicted of a felony sexual offense.
34 The department of corrections shall give priority to presentence
35 investigations for sexual offenders. If the court determines that the
36 defendant may be a mentally ill person as defined in RCW 71.24.025,
37 although the defendant has not established that at the time of the

1 crime he or she lacked the capacity to commit the crime, was
2 incompetent to commit the crime, or was insane at the time of the
3 crime, the court shall order the department to complete a presentence
4 report before imposing a sentence.

5 The court shall consider the presentence reports, if any, including
6 any victim impact statement and criminal history, and allow arguments
7 from the prosecutor, the defense counsel, the offender, the victim, the
8 survivor of the victim, or a representative of the victim or survivor,
9 and an investigative law enforcement officer as to the sentence to be
10 imposed.

11 If the court is satisfied by a preponderance of the evidence that
12 the defendant has a criminal history, the court shall specify the
13 convictions it has found to exist. All of this information shall be
14 part of the record. Copies of all presentence reports presented to the
15 sentencing court and all written findings of facts and conclusions of
16 law as to sentencing entered by the court shall be sent to the
17 department by the clerk of the court at the conclusion of the
18 sentencing and shall accompany the offender if the offender is
19 committed to the custody of the department. Court clerks shall
20 provide, without charge, certified copies of documents relating to
21 criminal convictions requested by prosecuting attorneys.

22 **Sec. 4.** RCW 9.94A.120 and 1998 c 260 s 3 are each amended to read
23 as follows:

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

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

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

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

37 (4) A persistent offender shall be sentenced to a term of total
38 confinement for life without the possibility of parole or, when

1 authorized by RCW 10.95.030 for the crime of aggravated murder in the
2 first degree, sentenced to death, notwithstanding the maximum sentence
3 under any other law. An offender convicted of the crime of murder in
4 the first degree shall be sentenced to a term of total confinement not
5 less than twenty years. An offender convicted of the crime of assault
6 in the first degree or assault of a child in the first degree where the
7 offender used force or means likely to result in death or intended to
8 kill the victim shall be sentenced to a term of total confinement not
9 less than five years. An offender convicted of the crime of rape in
10 the first degree shall be sentenced to a term of total confinement not
11 less than five years. The foregoing minimum terms of total confinement
12 are mandatory and shall not be varied or modified as provided in
13 subsection (2) of this section. In addition, all offenders subject to
14 the provisions of this subsection shall not be eligible for community
15 custody, earned early release time, furlough, home detention, partial
16 confinement, work crew, work release, or any other form of early
17 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
18 or any other form of authorized leave of absence from the correctional
19 facility while not in the direct custody of a corrections officer or
20 officers during such minimum terms of total confinement except in the
21 case of an offender in need of emergency medical treatment or for the
22 purpose of commitment to an inpatient treatment facility in the case of
23 an offender convicted of the crime of rape in the first degree.

24 (5) In sentencing a first-time offender the court may waive the
25 imposition of a sentence within the sentence range and impose a
26 sentence which may include up to ninety days of confinement in a
27 facility operated or utilized under contract by the county and a
28 requirement that the offender refrain from committing new offenses.
29 The sentence may also include up to two years of community supervision,
30 which, in addition to crime-related prohibitions, may include
31 requirements that the offender perform any one or more of the
32 following:

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

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

37 (c) Pursue a prescribed, secular course of study or vocational
38 training;

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

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

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

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

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

17 (ii) The offender has no current or prior convictions for a
18 (~~felony~~) sex offense or violent offense in this state, another state,
19 or the United States; (~~and~~)

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

27 (iv) The offender has not been found by the United States attorney
28 general to be subject to a deportation detainer or order.

29 (b) If the (~~midpoint of the~~) standard range is greater than one
30 year and the sentencing judge determines that the offender is eligible
31 for this option and that the offender and the community will benefit
32 from the use of the special drug offender sentencing alternative, the
33 judge may waive imposition of a sentence within the standard range and
34 impose a sentence that must include a period of total confinement in a
35 state facility for one-half of the midpoint of the standard range.
36 During incarceration in the state facility, offenders sentenced under
37 this subsection shall undergo a comprehensive substance abuse
38 assessment and receive, within available resources, treatment services
39 appropriate for the offender. The treatment services shall be designed

1 by the division of alcohol and substance abuse of the department of
2 social and health services, in cooperation with the department of
3 corrections. ~~((If the midpoint of the standard range is twenty four
4 months or less, no more than three months of the sentence may be served
5 in a work release status.))~~

6 The court shall also impose ~~((one year of concurrent community
7 custody and community supervision that))~~:

8 (i) The remainder of the midpoint of the standard range as a term
9 of community custody which must include appropriate ((outpatient))
10 substance abuse treatment((7)) in a program that has been approved by
11 the division of alcohol and substance abuse of the department of social
12 and health services;

13 (ii) Crime-related prohibitions including a condition not to use
14 illegal controlled substances((7)); and

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

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

25 ~~((i))~~ (A) Devote time to a specific employment or training;

26 ~~((ii))~~ (B) Remain within prescribed geographical boundaries and
27 notify the court or the community corrections officer before any change
28 in the offender's address or employment;

29 ~~((iii))~~ (C) Report as directed to a community corrections
30 officer;

31 ~~((iv))~~ (D) Pay all court-ordered legal financial obligations;

32 ~~((v))~~ (E) Perform community service work;

33 ~~((vi))~~ (F) Stay out of areas designated by the sentencing judge;

34 (G) Such other conditions as the court may require such as
35 affirmative conditions.

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

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

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

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

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

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

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

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

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

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

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

24 (D) Anticipated length of treatment; and

25 (E) Recommended crime-related prohibitions.

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

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

1 eleven years of confinement, the court may suspend the execution of the
2 sentence and impose the following conditions of suspension:

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

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

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

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

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

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

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

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

36 (iii) The sex offender therapist shall submit quarterly reports on
37 the defendant's progress in treatment to the court and the parties.
38 The report shall reference the treatment plan and include at a minimum
39 the following: Dates of attendance, defendant's compliance with

1 requirements, treatment activities, the defendant's relative progress
2 in treatment, and any other material as specified by the court at
3 sentencing.

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

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

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

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

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

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

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

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

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

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

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

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

38 Nothing in this subsection (8)(b) shall confer eligibility for such
39 programs for offenders convicted and sentenced for a sex offense

1 committed prior to July 1, 1987. This subsection (8)(b) does not apply
2 to any crime committed after July 1, 1990.

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

11 (9)(a) When a court sentences a person to a term of total
12 confinement to the custody of the department of corrections for an
13 offense categorized as a sex offense or a serious violent offense
14 committed after July 1, 1988, but before July 1, 1990, assault in the
15 second degree, assault of a child in the second degree, any crime
16 against a person where it is determined in accordance with RCW
17 9.94A.125 that the defendant or an accomplice was armed with a deadly
18 weapon at the time of commission, or any felony offense under chapter
19 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
20 committed on or after July 1, 1988, the court shall in addition to the
21 other terms of the sentence, sentence the offender to a one-year term
22 of community placement beginning either upon completion of the term of
23 confinement or at such time as the offender is transferred to community
24 custody in lieu of earned early release in accordance with RCW
25 9.94A.150 (1) and (2). When the court sentences an offender under this
26 subsection to the statutory maximum period of confinement then the
27 community placement portion of the sentence shall consist entirely of
28 such community custody to which the offender may become eligible, in
29 accordance with RCW 9.94A.150 (1) and (2). Any period of community
30 custody actually served shall be credited against the community
31 placement portion of the sentence.

32 (b) When a court sentences a person to a term of total confinement
33 to the custody of the department of corrections for an offense
34 categorized as a sex offense committed on or after July 1, 1990, but
35 before June 6, 1996, a serious violent offense, vehicular homicide, or
36 vehicular assault, committed on or after July 1, 1990, the court shall
37 in addition to other terms of the sentence, sentence the offender to
38 community placement for two years or up to the period of earned early
39 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is

1 longer. The community placement shall begin either upon completion of
2 the term of confinement or at such time as the offender is transferred
3 to community custody in lieu of earned early release in accordance with
4 RCW 9.94A.150 (1) and (2). When the court sentences an offender under
5 this subsection to the statutory maximum period of confinement then the
6 community placement portion of the sentence shall consist entirely of
7 the community custody to which the offender may become eligible, in
8 accordance with RCW 9.94A.150 (1) and (2). Any period of community
9 custody actually served shall be credited against the community
10 placement portion of the sentence. Unless a condition is waived by the
11 court, the terms of community placement for offenders sentenced
12 pursuant to this section shall include the following conditions:

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

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

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

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

21 (v) The residence location and living arrangements are subject to
22 the prior approval of the department of corrections during the period
23 of community placement; and

24 (vi) The offender shall submit to affirmative acts necessary to
25 monitor compliance with the orders of the court as required by the
26 department.

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

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

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

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

36 (iv) The offender shall not consume alcohol;

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

38 or

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

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

10 (10)(a) When a court sentences a person to the custody of the
11 department of corrections for an offense categorized as a sex offense
12 committed on or after June 6, 1996, the court shall, in addition to
13 other terms of the sentence, sentence the offender to community custody
14 for three years or up to the period of earned early release awarded
15 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
16 community custody shall begin either upon completion of the term of
17 confinement or at such time as the offender is transferred to community
18 custody in lieu of earned early release in accordance with RCW
19 9.94A.150 (1) and (2).

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

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

38 (11) If the court imposes a sentence requiring confinement of
39 thirty days or less, the court may, in its discretion, specify that the

1 sentence be served on consecutive or intermittent days. A sentence
2 requiring more than thirty days of confinement shall be served on
3 consecutive days. Local jail administrators may schedule court-ordered
4 intermittent sentences as space permits.

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

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

1 (14) All offenders sentenced to terms involving community
2 supervision, community service, community placement, or legal financial
3 obligation shall be under the supervision of the department of
4 corrections and shall follow explicitly the instructions and conditions
5 of the department of corrections. The department may require an
6 offender to perform affirmative acts it deems appropriate to monitor
7 compliance with the conditions of the sentence imposed.

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

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

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

37 (15) All offenders sentenced to terms involving community
38 supervision, community service, or community placement under the
39 supervision of the department of corrections shall not own, use, or

1 possess firearms or ammunition. Offenders who own, use, or are found
2 to be in actual or constructive possession of firearms or ammunition
3 shall be subject to the appropriate violation process and sanctions.
4 "Constructive possession" as used in this subsection means the power
5 and intent to control the firearm or ammunition. "Firearm" as used in
6 this subsection means a weapon or device from which a projectile may be
7 fired by an explosive such as gunpowder.

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

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

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

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

31 (20) The court may order an offender whose sentence includes
32 community placement or community supervision to undergo a mental status
33 evaluation and to participate in available outpatient mental health
34 treatment, if the court finds that reasonable grounds exist to believe
35 that the offender is a mentally ill person as defined in RCW 71.24.025,
36 and that this condition is likely to have influenced the offense. An
37 order requiring mental status evaluation or treatment must be based on
38 a presentence report and, if applicable, mental status evaluations that
39 have been filed with the court to determine the offender's competency

1 or eligibility for a defense of insanity. The court may order
2 additional evaluations at a later date if deemed appropriate.

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

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

11 **Sec. 5.** RCW 9.94A.137 and 1995 1st sp.s. c 19 s 20 are each
12 amended to read as follows:

13 (1)(a) An offender is eligible to be sentenced to a work ethic camp
14 if the offender:

15 (i) Is sentenced to a term of total confinement of not less than
16 ~~((sixteen))~~ twelve months and one day or more than thirty-six months;
17 ~~((and))~~

18 (ii) Has no current or prior convictions for any sex offenses or
19 for violent offenses ~~((other than drug offenses for manufacturing,~~
20 ~~possession, delivery, or intent to deliver a controlled substance))~~
21 and

22 ((iii) Is not currently subject to a sentence for, or being
23 prosecuted for, a violation of the uniform controlled substances act or
24 a criminal solicitation to commit such a violation under chapter 9A.28
25 or 69.50 RCW.

26 (b) The length of the work ethic camp shall be at least one hundred
27 twenty days and not more than one hundred eighty days. ~~((Because of~~
28 ~~the conversion ratio, earned early release time shall not accrue to~~
29 ~~offenders who successfully complete the program.))~~

30 (2) If the sentencing judge determines that the offender is
31 eligible for the work ethic camp and is likely to qualify under
32 subsection (3) of this section, the judge shall impose a sentence
33 within the standard range and may recommend that the offender serve the
34 sentence at a work ethic camp. ~~((The sentence shall provide that if~~
35 ~~the offender successfully completes the program, the department shall~~
36 ~~convert the period of work ethic camp confinement at the rate of one~~
37 ~~day of work ethic camp confinement to three days of total standard~~
38 ~~confinement.))~~ In sentencing an offender to the work ethic camp, the

1 court shall specify: (a) That upon completion of the work ethic camp
2 the offender shall be released on community custody for any remaining
3 time of total confinement; (b) the applicable conditions of supervision
4 on community custody status as required by RCW 9.94A.120(9)(b) and
5 authorized by RCW 9.94A.120(9)(c); and (c) that violation of the
6 conditions may result in a return to total confinement for the balance
7 of the offender's remaining time of confinement.

8 (3) The department shall place the offender in the work ethic camp
9 program, subject to capacity, unless: (a) The department determines
10 that the offender has physical or mental impairments that would prevent
11 participation and completion of the program; (b) the department
12 determines that the offender's custody level prevents placement in the
13 program; ~~((or))~~ (c) the offender refuses to agree to the terms and
14 conditions of the program; (d) the offender has been found by the
15 United States attorney general to be subject to a deportation detainer
16 or order; or (e) the offender has participated in the work ethic camp
17 program in the past.

18 (4) An offender who fails to complete the work ethic camp program,
19 who is administratively terminated from the program, or who otherwise
20 violates any conditions of supervision, as defined by the department,
21 shall be reclassified to serve the unexpired term of his or her
22 sentence as ordered by the sentencing judge and shall be subject to all
23 rules relating to earned early release time.

24 (5) During the last two weeks prior to release from the work ethic
25 camp program the department shall provide the offender with
26 comprehensive transition training.

27 **Sec. 6.** RCW 9.94A.380 and 1988 c 157 s 4 and 1988 c 155 s 3 are
28 each reenacted and amended to read as follows:

29 Alternatives to total confinement are available for offenders with
30 sentences of one year or less. These alternatives include the
31 following sentence conditions that the court may order as substitutes
32 for total confinement:

33 (1) One day of partial confinement may be substituted for one day
34 of total confinement;

35 (2) In addition, for offenders convicted of nonviolent offenses
36 only, eight hours of community service may be substituted for one day
37 of total confinement, with a maximum conversion limit of two hundred
38 forty hours or thirty days. Community service hours must be completed

1 within the period of community supervision or a time period specified
2 by the court, which shall not exceed twenty-four months, pursuant to a
3 schedule determined by the department; and

4 (3) For offenders convicted of nonviolent and nonsex offenses, the
5 court may authorize county jails to convert jail confinement to an
6 available county supervised community option and may require the
7 offender to perform affirmative conduct pursuant to section 2 of this
8 act.

9 For sentences of nonviolent offenders for one year or less, the
10 court shall consider and give priority to available alternatives to
11 total confinement and shall state its reasons in writing on the
12 judgment and sentence form if the alternatives are not used.

13 NEW SECTION. Sec. 7. The legislature recognizes the utility of
14 drug court programs in reducing recidivism and assisting the courts by
15 diverting potential offenders from the normal course of criminal trial
16 proceedings.

17 NEW SECTION. Sec. 8. A new section is added to chapter 10.01 RCW
18 to read as follows:

19 (1) The superior and district courts of Washington may establish
20 drug court programs to accept offenders that have been diverted by the
21 courts from the normal course of prosecution for drug offenses.

22 (2) Pursuant to this section, "drug court" is defined as a program
23 that meets the criteria set forth in section 9 of this act.

24 NEW SECTION. Sec. 9. A new section is added to chapter 2.28 RCW
25 to read as follows:

26 (1) Counties may establish and operate drug courts.

27 (2) For the purposes of this section, "drug court" means a court
28 that has special calendars or dockets designed to achieve a reduction
29 in recidivism and substance abuse among nonviolent, substance abusing
30 offenders by increasing their likelihood for successful rehabilitation
31 through early, continuous, and intense judicially supervised treatment;
32 mandatory periodic drug testing; and the use of appropriate sanctions
33 and other rehabilitation services.

34 (3) Any jurisdiction that seeks a state appropriation to fund a
35 drug court program must first:

1 (a) Exhaust all federal funding received from the office of
2 national drug control policy that is available to support the
3 operations of its drug court and associated services; and

4 (b) Match, on a dollar-for-dollar basis, state moneys allocated for
5 drug court programs with local resources. Moneys allocated by the
6 state must be used to supplement, not supplant, other federal, state,
7 and local funds for drug court operations and associated services.

8 NEW SECTION. **Sec. 10.** A new section is added to chapter 70.96A
9 RCW to read as follows:

10 The department shall contract with counties operating drug courts
11 and counties in the process of implementing new drug courts for the
12 provision of drug and alcohol treatment services.

13 NEW SECTION. **Sec. 11.** The department of corrections must develop
14 criteria for successful completion of the special drug offender
15 sentencing alternative program by December 31, 1999.

16 NEW SECTION. **Sec. 12.** The Washington state institute for public
17 policy, in consultation with the sentencing guidelines commission shall
18 evaluate the impact of implementing the drug offender options provided
19 for in RCW 9.94A.120(6). The commission shall submit a final report to
20 the legislature by December 1, 2004. The report shall describe the
21 changes in sentencing practices related to the use of punishment
22 options for drug offenders and include the impact of sentencing
23 alternatives on state prison populations, the savings in state
24 resources, the effectiveness of drug treatment services, and the impact
25 on recidivism rates.

26 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
27 sections 7 through 12 of this act, referencing sections 7 through 12 of
28 this act by bill or chapter number, is not provided by June 30, 1999,
29 in the omnibus appropriations act, sections 7 through 12 of this act
30 are null and void.

31 NEW SECTION. **Sec. 14.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected."

1 **E2SHB 1006** - S COMM AMD
2 By Committee on Judiciary

3

4 On page 1, line 2 of the title, after "alcohol;" strike the
5 remainder of the title and insert "amending RCW 9.94A.030, 9.94A.110,
6 9.94A.120, and 9.94A.137; reenacting and amending RCW 9.94A.380; adding
7 a new section to chapter 9.94A RCW; adding a new section to chapter
8 10.01 RCW; adding a new section to chapter 2.28 RCW; adding a new
9 section to chapter 70.96A RCW; creating new sections; and prescribing
10 penalties."

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