
SUBSTITUTE HOUSE BILL 1181

State of Washington

56th Legislature

1999 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Edwards, Romero, Radcliff, Scott, DeBolt, Cooper, Lovick, Hurst, Fisher, Kessler, Dickerson, O'Brien, Cody, Kenney, Ogden, Wood, Santos, Regala, Conway, Lantz, Rockefeller, McIntire and Stensen)

Read first time 02/19/1999.

1 AN ACT Relating to domestic violence perpetrator treatment
2 programs; amending RCW 26.50.150, 26.50.060, and 9.94A.120; and
3 prescribing penalties.

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

5 **Sec. 1.** RCW 26.50.150 and 1991 c 301 s 7 are each amended to read
6 as follows:

7 The department of social and health services shall adopt rules for
8 standards of approval of domestic violence perpetrator programs that
9 accept perpetrators of domestic violence into treatment to satisfy
10 court orders or that represent the programs as ones that treat domestic
11 violence perpetrators. The treatment must meet the following minimum
12 qualifications:

13 (1) All treatment must be based upon a full, complete clinical
14 intake including: Current and past violence history; a lethality risk
15 assessment; a complete diagnostic evaluation; a substance abuse
16 assessment; criminal history; assessment of cultural issues, learning
17 disabilities, literacy, and special language needs; and a treatment
18 plan that adequately and appropriately addresses the treatment needs of
19 the individual.

1 (2) To facilitate communication necessary for periodic safety
2 checks and case monitoring, the program must require the perpetrator to
3 sign the following releases:

4 (a) A release for the program to inform the victim and victim's
5 community and legal advocates that the perpetrator is in treatment with
6 the program, and to provide information, for safety purposes, to the
7 victim and victim's community and legal advocates;

8 (b) A release to prior and current treatment agencies to provide
9 information on the perpetrator to the program; and

10 (c) A release for the program to provide information on the
11 perpetrator to relevant legal entities including: Lawyers, courts,
12 parole, probation, child protective services, and child welfare
13 services.

14 (3) Treatment must be for a minimum treatment period defined by the
15 secretary of the department by rule. The weekly treatment sessions
16 must be in a group unless there is a documented, clinical reason for
17 another modality. Any other therapies, such as individual, marital, or
18 family therapy, substance abuse evaluations or therapy, medication
19 reviews, or psychiatric interviews, may be concomitant with the weekly
20 group treatment sessions described in this section but not a substitute
21 for it.

22 (4) The treatment must focus primarily on ending the violence,
23 holding the perpetrator accountable for his or her violence, and
24 changing his or her behavior. The treatment must be based on
25 nonvictim-blaming strategies and philosophies and shall include
26 education about the individual, family, and cultural dynamics of
27 domestic violence. If the perpetrator or the victim has a minor child,
28 treatment must specifically include education regarding the effects of
29 domestic violence on children, such as the emotional impacts of
30 domestic violence on children and the long-term consequences that
31 exposure to incidents of domestic violence may have on children.

32 (5) Satisfactory completion of treatment must be contingent upon
33 the perpetrator meeting specific criteria, defined by rule by the
34 secretary of the department, and not just upon the end of a certain
35 period of time or a certain number of sessions.

36 (6) The program must have policies and procedures for dealing with
37 reoffenses and noncompliance.

38 (7) All evaluation and treatment services must be provided by, or
39 under the supervision of, qualified personnel.

1 (8) The secretary of the department may adopt rules and establish
2 fees as necessary to implement this section.

3 **Sec. 2.** RCW 26.50.060 and 1996 c 248 s 13 are each amended to read
4 as follows:

5 (1) Upon notice and after hearing, the court may provide relief as
6 follows:

7 (a) Restrain the respondent from committing acts of domestic
8 violence;

9 (b) Exclude the respondent from the dwelling which the parties
10 share, from the residence, workplace, or school of the petitioner, or
11 from the day care or school of a child;

12 (c) On the same basis as is provided in chapter 26.09 RCW, the
13 court shall make residential provision with regard to minor children of
14 the parties. However, parenting plans as specified in chapter 26.09
15 RCW shall not be required under this chapter;

16 (d) Order the respondent to participate in (~~batterers' treatment~~)
17 a domestic violence perpetrator treatment program approved under RCW
18 26.50.150;

19 (e) Order other relief as it deems necessary for the protection of
20 the petitioner and other family or household members sought to be
21 protected, including orders or directives to a peace officer, as
22 allowed under this chapter;

23 (f) Require the respondent to pay the administrative court costs
24 and service fees, as established by the county or municipality
25 incurring the expense and to reimburse the petitioner for costs
26 incurred in bringing the action, including a reasonable attorney's fee;

27 (g) Restrain the respondent from having any contact with the victim
28 of domestic violence or the victim's children or members of the
29 victim's household;

30 (h) Require the respondent to submit to electronic monitoring. The
31 order shall specify who shall provide the electronic monitoring
32 services and the terms under which the monitoring must be performed.
33 The order also may include a requirement that the respondent pay the
34 costs of the monitoring. The court shall consider the ability of the
35 respondent to pay for electronic monitoring;

36 (i) Consider the provisions of RCW 9.41.800;

1 (j) Order possession and use of essential personal effects. The
2 court shall list the essential personal effects with sufficient
3 specificity to make it clear which property is included; and

4 (k) Order use of a vehicle.

5 (2) If a restraining order restrains the respondent from contacting
6 the respondent's minor children the restraint shall be for a fixed
7 period not to exceed one year. This limitation is not applicable to
8 orders for protection issued under chapter 26.09, 26.10, or 26.26 RCW.
9 With regard to other relief, if the petitioner has petitioned for
10 relief on his or her own behalf or on behalf of the petitioner's family
11 or household members or minor children, and the court finds that the
12 respondent is likely to resume acts of domestic violence against the
13 petitioner or the petitioner's family or household members or minor
14 children when the order expires, the court may either grant relief for
15 a fixed period or enter a permanent order of protection.

16 If the petitioner has petitioned for relief on behalf of the
17 respondent's minor children, the court shall advise the petitioner that
18 if the petitioner wants to continue protection for a period beyond one
19 year the petitioner may either petition for renewal pursuant to the
20 provisions of this chapter or may seek relief pursuant to the
21 provisions of chapter 26.09 or 26.26 RCW.

22 (3) If the court grants an order for a fixed time period, the
23 petitioner may apply for renewal of the order by filing a petition for
24 renewal at any time within the three months before the order expires.
25 The petition for renewal shall state the reasons why the petitioner
26 seeks to renew the protection order. Upon receipt of the petition for
27 renewal the court shall order a hearing which shall be not later than
28 fourteen days from the date of the order. Except as provided in RCW
29 26.50.085, personal service shall be made on the respondent not less
30 than five days before the hearing. If timely service cannot be made
31 the court shall set a new hearing date and shall either require
32 additional attempts at obtaining personal service or permit service by
33 publication as provided in RCW 26.50.085 or by mail as provided in RCW
34 26.50.123. If the court permits service by publication or mail, the
35 court shall set the new hearing date not later than twenty-four days
36 from the date of the order. If the order expires because timely
37 service cannot be made the court shall grant an ex parte order of
38 protection as provided in RCW 26.50.070. The court shall grant the
39 petition for renewal unless the respondent proves by a preponderance of

1 the evidence that the respondent will not resume acts of domestic
2 violence against the petitioner or the petitioner's children or family
3 or household members when the order expires. The court may renew the
4 protection order for another fixed time period or may enter a permanent
5 order as provided in this section. The court may award court costs,
6 service fees, and reasonable attorneys' fees as provided in subsection
7 (1)(f) of this section.

8 (4) In providing relief under this chapter, the court may realign
9 the designation of the parties as "petitioner" and "respondent" where
10 the court finds that the original petitioner is the abuser and the
11 original respondent is the victim of domestic violence and may issue an
12 ex parte temporary order for protection in accordance with RCW
13 26.50.070 on behalf of the victim until the victim is able to prepare
14 a petition for an order for protection in accordance with RCW
15 26.50.030.

16 (5) Except as provided in subsection (4) of this section, no order
17 for protection shall grant relief to any party except upon notice to
18 the respondent and hearing pursuant to a petition or counter-petition
19 filed and served by the party seeking relief in accordance with RCW
20 26.50.050.

21 (6) The court order shall specify the date the order expires if
22 any. The court order shall also state whether the court issued the
23 protection order following personal service, service by publication, or
24 service by mail and whether the court has approved service by
25 publication or mail of an order issued under this section.

26 (7) If the court declines to issue an order for protection or
27 declines to renew an order for protection, the court shall state in
28 writing on the order the particular reasons for the court's denial.

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

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

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

36 (2) The court may impose a sentence outside the standard sentence
37 range for that offense if it finds, considering the purpose of this

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

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

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

32 (5) In sentencing a first-time offender the court may waive the
33 imposition of a sentence within the sentence range and impose a
34 sentence which may include up to ninety days of confinement in a
35 facility operated or utilized under contract by the county and a
36 requirement that the offender refrain from committing new offenses.
37 The sentence may also include up to two years of community supervision,
38 which, in addition to crime-related prohibitions, may include

1 requirements that the offender perform any one or more of the
2 following:

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

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

7 (c) Pursue a prescribed, secular course of study or vocational
8 training;

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

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

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

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

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

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

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

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

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

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

1 of community supervision shall be tolled by any period of time served
2 in total confinement as a result of a violation found by the court.

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

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

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

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

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

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

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

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

- 1 (D) Anticipated length of treatment; and
- 2 (E) Recommended crime-related prohibitions.

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

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

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

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

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

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

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

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

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

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

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

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

36 (v) If a violation of conditions occurs during community custody,
37 the department shall either impose sanctions as provided for in RCW
38 9.94A.205(2)(a) or refer the violation to the court and recommend

1 revocation of the suspended sentence as provided for in (a)(vi) of this
2 subsection.

3 (vi) The court may revoke the suspended sentence at any time during
4 the period of community custody and order execution of the sentence if:
5 (A) The defendant violates the conditions of the suspended sentence, or
6 (B) the court finds that the defendant is failing to make satisfactory
7 progress in treatment. All confinement time served during the period
8 of community custody shall be credited to the offender if the suspended
9 sentence is revoked.

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

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

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

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

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

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

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

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

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

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

12 (iv) Undergo available outpatient treatment.

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

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

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

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

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

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

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

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

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

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

1 (v) The residence location and living arrangements are subject to
2 the prior approval of the department of corrections during the period
3 of community placement; and

4 (vi) The offender shall submit to affirmative acts necessary to
5 monitor compliance with the orders of the court as required by the
6 department.

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

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

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

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

16 (iv) The offender shall not consume alcohol;

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

18 or

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

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

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

38 (b) Unless a condition is waived by the court, the terms of
39 community custody shall be the same as those provided for in subsection

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

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

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

23 (12) If a sentence imposed includes payment of a legal financial
24 obligation, the sentence shall specify the total amount of the legal
25 financial obligation owed, and shall require the offender to pay a
26 specified monthly sum toward that legal financial obligation.
27 Restitution to victims shall be paid prior to any other payments of
28 monetary obligations. Any legal financial obligation that is imposed
29 by the court may be collected by the department, which shall deliver
30 the amount paid to the county clerk for credit. The offender's
31 compliance with payment of legal financial obligations shall be
32 supervised by the department for ten years following the entry of the
33 judgment and sentence or ten years following the offender's release
34 from total confinement. All monetary payments ordered shall be paid no
35 later than ten years after the last date of release from confinement
36 pursuant to a felony conviction or the date the sentence was entered
37 unless the superior court extends the criminal judgment an additional
38 ten years. If the legal financial obligations including crime victims'
39 assessments are not paid during the initial ten-year period, the

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

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

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

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

30 (b) For offenders sentenced to terms involving community custody
31 for crimes committed on or after June 6, 1996, the department may
32 include, in addition to the instructions in (a) of this subsection, any
33 appropriate conditions of supervision, including but not limited to,
34 prohibiting the offender from having contact with any other specified
35 individuals or specific class of individuals. The conditions
36 authorized under this subsection (14)(b) may be imposed by the
37 department prior to or during an offender's community custody term. If
38 a violation of conditions imposed by the court or the department
39 pursuant to subsection (10) of this section occurs during community

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

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

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

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

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

34 (18) The court shall order restitution whenever the offender is
35 convicted of a felony that results in injury to any person or damage to
36 or loss of property, whether the offender is sentenced to confinement
37 or placed under community supervision, unless extraordinary
38 circumstances exist that make restitution inappropriate in the court's

1 judgment. The court shall set forth the extraordinary circumstances in
2 the record if it does not order restitution.

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

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

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

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

29 (23) In sentencing an offender convicted of a crime of domestic
30 violence, as defined in RCW 10.99.020, if the offender has a minor
31 child, or if the victim of the offense for which the offender was
32 convicted has a minor child, the court may, as part of any term of
33 community supervision, order the offender to participate in a domestic
34 violence perpetrator program approved under RCW 26.50.150.

--- END ---