

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1181**

56th Legislature  
1999 Regular Session

Passed by the House February 26, 1999  
Yeas 96 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate April 9, 1999  
Yeas 43 Nays 2

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**President of the Senate**

Approved

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Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1181** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

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**Chief Clerk**

FILED

Secretary of State  
State of Washington

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**SUBSTITUTE HOUSE BILL 1181**

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Passed Legislature - 1999 Regular Session

**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.

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