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ENGROSSED SUBSTITUTE SENATE BILL 6499

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State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kline, Hargrove, Costa, Long, Regala, Winsley and Kohl-Welles; by request of Department of Corrections)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to supervision of offenders; amending RCW  
2 9.94A.545, 9.94A.631, 9.94A.637, 9.94A.650, 9.94A.690, 9.94A.700,  
3 9.94A.705, 9.94A.715, 9.94A.720, 9.94A.740, 9.94A.750, 9.94A.760,  
4 9.92.060, 9.95.204, 9.95.210, 72.04A.090, 4.56.100, 72.65.080, and  
5 41.06.380; reenacting and amending RCW 9.94A.753; and providing an  
6 effective date.

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

8 **Sec. 1.** RCW 9.94A.545 and 2000 c 28 s 13 are each amended to read  
9 as follows:

10 (1) On all sentences of confinement for one year or less, the court  
11 may impose up to one year of community custody, subject to conditions  
12 and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An  
13 offender shall be on community custody as of the date of sentencing.  
14 However, during the time for which the offender is in total or partial  
15 confinement pursuant to the sentence or a violation of the sentence,  
16 the period of community custody shall toll.

17 (2) The department may eliminate or terminate any term of community  
18 custody imposed by the court under this section, or any term of  
19 community supervision imposed by the court under prior law, for an

1 offender who is classified at the lowest risk level pursuant to a risk  
2 assessment by the department. No liability may attach to the state,  
3 the department, or any department employee based on the determination  
4 to classify an offender at the lowest risk level, or to eliminate or  
5 terminate a term of community custody or community supervision, in the  
6 absence of gross negligence. The decision to eliminate or terminate  
7 community custody or community supervision shall not affect the  
8 superior court's jurisdiction over the offender.

9 (3) When the department classifies an offender at the lowest risk  
10 level, the department shall notify the sentencing court, the county  
11 prosecutor, and the county clerk of the county where the offender was  
12 convicted.

13 **Sec. 2.** RCW 9.94A.631 and 1984 c 209 s 11 are each amended to read  
14 as follows:

15 If an offender violates any condition or requirement of a sentence,  
16 a community corrections officer may arrest or cause the arrest of the  
17 offender without a warrant, pending a determination by the court. If  
18 there is reasonable cause to believe that an offender has violated a  
19 condition or requirement of the sentence, an offender may be required  
20 to submit to a search and seizure of the offender's person, residence,  
21 automobile, or other personal property. A community corrections  
22 officer may also arrest an offender for any crime committed in his or  
23 her presence. The facts and circumstances of the conduct of the  
24 offender shall be reported by the community corrections officer, with  
25 recommendations, to the court.

26 If a community corrections officer arrests or causes the arrest of  
27 an offender under this section, the offender shall be confined and  
28 detained in the county jail of the county in which the offender was  
29 taken into custody, and the sheriff of that county shall receive and  
30 keep in the county jail, where room is available, all prisoners  
31 delivered to the jail by the community corrections officer, and such  
32 offenders shall not be released from custody on bail or personal  
33 recognizance, except upon approval of the court, pursuant to a written  
34 order.

35 Community corrections officers have no obligation to arrest and  
36 detain an offender, or to report a violation to the superior court,  
37 where the department has eliminated or terminated supervision pursuant

1 to RCW 9.94A.545, 9.94A.650, 9.94A.690, 9.94A.700, 9.94A.705, and  
2 9.94A.715.

3 **Sec. 3.** RCW 9.94A.637 and 2000 c 119 s 3 are each amended to read  
4 as follows:

5 (1) When an offender has completed the requirements of the sentence  
6 while under the custody or supervision of the department, the secretary  
7 of the department or the secretary's designee shall notify the  
8 sentencing court, which shall discharge the offender and provide the  
9 offender with a certificate of discharge. The department has no  
10 obligation to provide notice under this section if the offender is no  
11 longer under the custody or supervision of the department at the time  
12 the offender completes the requirements of the sentence.

13 (2) An offender who is not convicted of a violent offense or a sex  
14 offense and is sentenced to a term involving community supervision may  
15 be considered for a discharge of sentence by the sentencing court prior  
16 to the completion of community supervision, provided that the offender  
17 has completed at least one-half of the term of community supervision  
18 and has met all other sentence requirements.

19 (3) Except as provided in subsection (4) of this section, the  
20 discharge shall have the effect of restoring all civil rights lost by  
21 operation of law upon conviction, and the certificate of discharge  
22 shall so state. Nothing in this section prohibits the use of an  
23 offender's prior record for purposes of determining sentences for later  
24 offenses as provided in this chapter. Nothing in this section affects  
25 or prevents use of the offender's prior conviction in a later criminal  
26 prosecution either as an element of an offense or for impeachment  
27 purposes. A certificate of discharge is not based on a finding of  
28 rehabilitation.

29 (4) Unless otherwise ordered by the sentencing court, a certificate  
30 of discharge shall not terminate the offender's obligation to comply  
31 with an order issued under chapter 10.99 RCW that excludes or prohibits  
32 the offender from having contact with a specified person or coming  
33 within a set distance of any specified location that was contained in  
34 the judgment and sentence. An offender who violates such an order  
35 after a certificate of discharge has been issued shall be subject to  
36 prosecution according to the chapter under which the order was  
37 originally issued.

1 (5) Upon release from custody, the offender may apply to the  
2 department for counseling and help in adjusting to the community. This  
3 voluntary help may be provided for up to one year following the release  
4 from custody.

5 **Sec. 4.** RCW 9.94A.650 and 2000 c 28 s 18 are each amended to read  
6 as follows:

7 (1) This section applies to offenders who have never been  
8 previously convicted of a felony in this state, federal court, or  
9 another state, and who have never participated in a program of deferred  
10 prosecution for a felony, and who are convicted of a felony that is  
11 not:

12 (a) Classified as a violent offense or a sex offense under this  
13 chapter;

14 (b) Manufacture, delivery, or possession with intent to manufacture  
15 or deliver a controlled substance classified in Schedule I or II that  
16 is a narcotic drug or flunitrazepam classified in Schedule IV;

17 (c) Manufacture, delivery, or possession with intent to deliver a  
18 methamphetamine, its salts, isomers, and salts of its isomers as  
19 defined in RCW 69.50.206(d)(2); or

20 (d) The selling for profit of any controlled substance or  
21 counterfeit substance classified in Schedule I, RCW 69.50.204, except  
22 leaves and flowering tops of marihuana.

23 (2) In sentencing a first-time offender the court may waive the  
24 imposition of a sentence within the standard sentence range and impose  
25 a sentence which may include up to ninety days of confinement in a  
26 facility operated or utilized under contract by the county and a  
27 requirement that the offender refrain from committing new offenses.  
28 The sentence may also include a term of community supervision or  
29 community custody as specified in subsection (3) of this section,  
30 which, in addition to crime-related prohibitions, may include  
31 requirements that the offender perform any one or more of the  
32 following:

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

34 (b) Undergo available outpatient treatment for up to the period  
35 specified in subsection (3) of this section, or inpatient treatment not  
36 to exceed the standard range of confinement for that offense;

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

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

4 (e) Report as directed to a community corrections officer; or

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

7 (3) The terms and statuses applicable to sentences under subsection  
8 (2) of this section are:

9 (a) For sentences imposed on or after July 25, 1999, for crimes  
10 committed before July 1, 2000, up to one year of community supervision.  
11 If treatment is ordered, the period of community supervision may  
12 include up to the period of treatment, but shall not exceed two years;  
13 and

14 (b) For crimes committed on or after July 1, 2000, up to one year  
15 of community custody unless treatment is ordered, in which case the  
16 period of community custody may include up to the period of treatment,  
17 but shall not exceed two years. Any term of community custody imposed  
18 under this section is subject to conditions and sanctions as authorized  
19 in this section and in RCW 9.94A.715 (2) and (3).

20 (4) The department shall discharge from community supervision any  
21 offender sentenced under this section before July 25, 1999, who has  
22 served at least one year of community supervision and has completed any  
23 treatment ordered by the court.

24 (5) The department may eliminate or terminate any term of community  
25 custody or community supervision imposed by the court under this  
26 section for an offender who is classified at the lowest risk level  
27 pursuant to a risk assessment by the department. No liability may  
28 attach to the state, the department, or any department employee based  
29 on the determination to classify an offender at the lowest risk level,  
30 or to eliminate or terminate a term of community custody or community  
31 supervision, in the absence of gross negligence. The decision to  
32 eliminate or terminate community custody or community supervision shall  
33 not affect the superior court's jurisdiction over the offender.

34 (6) When the department classifies an offender at the lowest risk  
35 level, the department shall notify the sentencing court, the county  
36 prosecutor, and the county clerk of the county where the offender was  
37 convicted.

1       **Sec. 5.** RCW 9.94A.690 and 2000 c 28 s 21 are each amended to read  
2 as follows:

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

5       (i) Is sentenced to a term of total confinement of not less than  
6 twelve months and one day or more than thirty-six months;

7       (ii) Has no current or prior convictions for any sex offenses or  
8 for violent offenses; and

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

13       (b) The length of the work ethic camp shall be at least one hundred  
14 twenty days and not more than one hundred eighty days.

15       (2) If the sentencing court determines that the offender is  
16 eligible for the work ethic camp and is likely to qualify under  
17 subsection (3) of this section, the judge shall impose a sentence  
18 within the standard sentence range and may recommend that the offender  
19 serve the sentence at a work ethic camp. In sentencing an offender to  
20 the work ethic camp, the court shall specify: (a) That upon completion  
21 of the work ethic camp the offender shall be released on community  
22 custody for any remaining time of total confinement; (b) the applicable  
23 conditions of supervision on community custody status as required by  
24 RCW 9.94A.700(4) and authorized by RCW 9.94A.700(5); and (c) that  
25 violation of the conditions may result in a return to total confinement  
26 for the balance of the offender's remaining time of confinement.

27       (3) The department shall place the offender in the work ethic camp  
28 program, subject to capacity, unless: (a) The department determines  
29 that the offender has physical or mental impairments that would prevent  
30 participation and completion of the program; (b) the department  
31 determines that the offender's custody level prevents placement in the  
32 program; (c) the offender refuses to agree to the terms and conditions  
33 of the program; (d) the offender has been found by the United States  
34 attorney general to be subject to a deportation detainer or order; or  
35 (e) the offender has participated in the work ethic camp program in the  
36 past.

37       (4) An offender who fails to complete the work ethic camp program,  
38 who is administratively terminated from the program, or who otherwise  
39 violates any conditions of supervision, as defined by the department,

1 shall be reclassified to serve the unexpired term of his or her  
2 sentence as ordered by the sentencing court and shall be subject to all  
3 rules relating to earned release time.

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

7 (6) The department may eliminate or terminate any term of community  
8 custody imposed by the court under this section for an offender who is  
9 classified at the lowest risk level pursuant to a risk assessment by  
10 the department. No liability may attach to the state, the department,  
11 or any department employee based on the determination to classify an  
12 offender at the lowest risk level, or to eliminate or terminate a term  
13 of community custody, in the absence of gross negligence. The decision  
14 to eliminate or terminate community custody shall not affect the  
15 superior court's jurisdiction over the offender.

16 (7) When the department classifies an offender at the lowest risk  
17 level, the department shall notify the sentencing court, the county  
18 prosecutor, and the county clerk of the county where the offender was  
19 convicted.

20 **Sec. 6.** RCW 9.94A.700 and 2000 c 28 s 22 are each amended to read  
21 as follows:

22 When a court sentences an offender to a term of total confinement  
23 in the custody of the department for any of the offenses specified in  
24 this section, the court shall also sentence the offender to a term of  
25 community placement as provided in this section.

26 (1) The court shall order a one-year term of community placement  
27 for the following:

28 (a) A sex offense or a serious violent offense committed after July  
29 1, 1988, but before July 1, 1990; or

30 (b) An offense committed on or after July 1, 1988, but before July  
31 25, 1999, that is:

32 (i) Assault in the second degree;

33 (ii) Assault of a child in the second degree;

34 (iii) A crime against persons where it is determined in accordance  
35 with RCW 9.94A.602 that the offender or an accomplice was armed with a  
36 deadly weapon at the time of commission; or

37 (iv) A felony offense under chapter 69.50 or 69.52 RCW not  
38 sentenced under RCW 9.94A.660.

1 (2) The court shall sentence the offender to a term of community  
2 placement of two years or up to the period of earned release awarded  
3 pursuant to RCW 9.94A.728, whichever is longer, for:

4 (a) An offense categorized as a sex offense committed on or after  
5 July 1, 1990, but before June 6, 1996, including those sex offenses  
6 also included in other offense categories;

7 (b) A serious violent offense other than a sex offense committed on  
8 or after July 1, 1990, but before July 1, 2000; or

9 (c) A vehicular homicide or vehicular assault committed on or after  
10 July 1, 1990, but before July 1, 2000.

11 (3) The community placement ordered under this section shall begin  
12 either upon completion of the term of confinement or at such time as  
13 the offender is transferred to community custody in lieu of earned  
14 release. When the court sentences an offender to the statutory maximum  
15 sentence then the community placement portion of the sentence shall  
16 consist entirely of the community custody to which the offender may  
17 become eligible. Any period of community custody actually served shall  
18 be credited against the community placement portion of the sentence.

19 (4) Unless a condition is waived by the court, the terms of any  
20 community placement imposed under this section shall include the  
21 following conditions:

22 (a) The offender shall report to and be available for contact with  
23 the assigned community corrections officer as directed;

24 (b) The offender shall work at department-approved education,  
25 employment, or community service, or any combination thereof;

26 (c) The offender shall not possess or consume controlled substances  
27 except pursuant to lawfully issued prescriptions;

28 (d) The offender shall pay supervision fees as determined by the  
29 department; and

30 (e) The residence location and living arrangements shall be subject  
31 to the prior approval of the department during the period of community  
32 placement.

33 (5) As a part of any terms of community placement imposed under  
34 this section, the court may also order one or more of the following  
35 special conditions:

36 (a) The offender shall remain within, or outside of, a specified  
37 geographical boundary;

38 (b) The offender shall not have direct or indirect contact with the  
39 victim of the crime or a specified class of individuals;



1 (c) The offender shall participate in crime-related treatment or  
2 counseling services;

3 (d) The offender shall not consume alcohol; or

4 (e) The offender shall comply with any crime-related prohibitions.

5 (6) An offender convicted of a felony sex offense against a minor  
6 victim after June 6, 1996, shall comply with any terms and conditions  
7 of community placement imposed by the department relating to contact  
8 between the sex offender and a minor victim or a child of similar age  
9 or circumstance as a previous victim.

10 (7) Prior to or during community placement, upon recommendation of  
11 the department, the sentencing court may remove or modify any  
12 conditions of community placement so as not to be more restrictive.

13 (8) The department may eliminate or terminate any term of community  
14 placement or community custody imposed by the court under this section  
15 for an offender who is classified at the lowest risk level pursuant to  
16 a risk assessment by the department. No liability may attach to the  
17 state, the department, or any department employee based on the  
18 determination to classify an offender at the lowest risk level, or to  
19 eliminate or terminate a term of community placement or community  
20 custody, in the absence of gross negligence. The decision to eliminate  
21 or terminate community placement or community custody shall not affect  
22 the superior court's jurisdiction over the offender.

23 (9) When the department classifies an offender at the lowest risk  
24 level, the department shall notify the sentencing court, the county  
25 prosecutor, and the county clerk of the county where the offender was  
26 convicted.

27 **Sec. 7.** RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read  
28 as follows:

29 (1) Except for persons sentenced under RCW 9.94A.700(2) or  
30 9.94A.710, when a court sentences a person to a term of total  
31 confinement to the custody of the department for a violent offense, any  
32 crime against persons under RCW 9.94A.411(2), or any felony offense  
33 under chapter 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660,  
34 committed on or after July 25, 1999, but before July 1, 2000, the court  
35 shall in addition to the other terms of the sentence, sentence the  
36 offender to a one-year term of community placement beginning either  
37 upon completion of the term of confinement or at such time as the  
38 offender is transferred to community custody in lieu of earned release

1 in accordance with RCW 9.94A.728 (1) and (2). When the court sentences  
2 the offender under this section to the statutory maximum period of  
3 confinement, then the community placement portion of the sentence shall  
4 consist entirely of such community custody to which the offender may  
5 become eligible, in accordance with RCW 9.94A.728 (1) and (2). Any  
6 period of community custody actually served shall be credited against  
7 the community placement portion of the sentence.

8 (2) The department may eliminate or terminate any term of community  
9 placement or community custody imposed by the court under this section  
10 for an offender who is classified at the lowest risk level pursuant to  
11 a risk assessment by the department. No liability may attach to the  
12 state, the department, or any department employee based on the  
13 determination to classify an offender at the lowest risk level, or to  
14 eliminate or terminate a term of community placement or community  
15 custody, in the absence of gross negligence. The decision to eliminate  
16 or terminate community placement or community custody shall not affect  
17 the superior court's jurisdiction over the offender.

18 (3) When the department classifies an offender at the lowest risk  
19 level, the department shall notify the sentencing court, the county  
20 prosecutor, and the county clerk of the county where the offender was  
21 convicted.

22 **Sec. 8.** RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each  
23 amended to read as follows:

24 (1) When a court sentences a person to the custody of the  
25 department for a sex offense not sentenced under RCW 9.94A.712, a  
26 violent offense, any crime against persons under RCW 9.94A.411(2), or  
27 a felony offense under chapter 69.50 or 69.52 RCW, committed on or  
28 after July 1, 2000, the court shall in addition to the other terms of  
29 the sentence, sentence the offender to community custody for the  
30 community custody range established under RCW 9.94A.850 or up to the  
31 period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2),  
32 whichever is longer. The community custody shall begin: (a) Upon  
33 completion of the term of confinement; (b) at such time as the offender  
34 is transferred to community custody in lieu of earned release in  
35 accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to  
36 offenders sentenced under RCW 9.94A.660, upon failure to complete or  
37 administrative termination from the special drug offender sentencing  
38 alternative program.

1 (2)(a) Unless a condition is waived by the court, the conditions of  
2 community custody shall include those provided for in RCW 9.94A.700(4).  
3 The conditions may also include those provided for in RCW 9.94A.700(5).  
4 The court may also order the offender to participate in rehabilitative  
5 programs or otherwise perform affirmative conduct reasonably related to  
6 the circumstances of the offense, the offender's risk of reoffending,  
7 or the safety of the community, and the department shall enforce such  
8 conditions pursuant to subsection (6) of this section.

9 (b) As part of any sentence that includes a term of community  
10 custody imposed under this subsection, the court shall also require the  
11 offender to comply with any conditions imposed by the department under  
12 RCW 9.94A.720. The department shall assess the offender's risk of  
13 reoffense and may establish and modify additional conditions of the  
14 offender's community custody based upon the risk to community safety.  
15 In addition, the department may require the offender to participate in  
16 rehabilitative programs, or otherwise perform affirmative conduct, and  
17 to obey all laws.

18 (c) The department may not impose conditions that are contrary to  
19 those ordered by the court and may not contravene or decrease court  
20 imposed conditions except as authorized under subsection (8) of this  
21 section. The department shall notify the offender in writing of any  
22 such conditions or modifications. In setting, modifying, and enforcing  
23 conditions of community custody, the department shall be deemed to be  
24 performing a quasi-judicial function.

25 (3) If an offender violates conditions imposed by the court or the  
26 department pursuant to this section during community custody, the  
27 department may transfer the offender to a more restrictive confinement  
28 status and impose other available sanctions as provided in RCW  
29 9.94A.737 and 9.94A.740.

30 (4) Except for terms of community custody under RCW 9.94A.670, the  
31 department shall discharge the offender from community custody on a  
32 date determined by the department, which the department may modify,  
33 based on risk and performance of the offender, within the range or at  
34 the end of the period of earned release, whichever is later.

35 (5) At any time prior to the completion or termination of a sex  
36 offender's term of community custody, if the court finds that public  
37 safety would be enhanced, the court may impose and enforce an order  
38 extending any or all of the conditions imposed pursuant to this section  
39 for a period up to the maximum allowable sentence for the crime as it

1 is classified in chapter 9A.20 RCW, regardless of the expiration of the  
2 offender's term of community custody. If a violation of a condition  
3 extended under this subsection occurs after the expiration of the  
4 offender's term of community custody, it shall be deemed a violation of  
5 the sentence for the purposes of RCW 9.94A.631 and may be punishable as  
6 contempt of court as provided for in RCW 7.21.040. If the court  
7 extends a condition beyond the expiration of the term of community  
8 custody, the department is not responsible for supervision of the  
9 offender's compliance with the condition.

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

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

23 (8) Except for terms of community custody imposed under RCW  
24 9.94A.660 and 9.94A.670 or imposed upon a person convicted of a sex  
25 offense or a serious violent offense, the department may eliminate or  
26 terminate any term of community custody imposed by the court under this  
27 section for an offender who is classified at the lowest risk level  
28 pursuant to a risk assessment by the department. No liability may  
29 attach to the state, the department, or any department employee based  
30 on the determination to classify an offender at the lowest risk level,  
31 or to eliminate or terminate a term of community custody, in the  
32 absence of gross negligence. The decision to eliminate or terminate  
33 community custody shall not affect the superior court's jurisdiction  
34 over the offender.

35 (9) When the department classifies an offender at the lowest risk  
36 level, the department shall notify the sentencing court, the county  
37 prosecutor, and the county clerk of the county where the offender was  
38 convicted.

1       **Sec. 9.** RCW 9.94A.720 and 2000 c 28 s 26 are each amended to read  
2 as follows:

3       (1)(a) Except as provided in RCW 9.94A.545(2), 9.94A.650(5),  
4 9.94A.690(6), 9.94A.700(8), 9.94A.705(2), and 9.94A.715(8), all  
5 offenders sentenced to terms involving community supervision,  
6 (~~community service~~) community placement, or community custody(~~or~~  
7 ~~legal financial obligation~~) shall be under the supervision of the  
8 department and shall follow explicitly the instructions and conditions  
9 of the department. The department may require an offender to perform  
10 affirmative acts it deems appropriate to monitor compliance with the  
11 conditions of the sentence imposed.

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

17       (c) For offenders sentenced to terms involving community custody  
18 for crimes committed on or after June 6, 1996, the department may  
19 include, in addition to the instructions in (b) of this subsection, any  
20 appropriate conditions of supervision, including but not limited to,  
21 prohibiting the offender from having contact with any other specified  
22 individuals or specific class of individuals.

23       (d) For offenders sentenced to terms of community custody for  
24 crimes committed on or after July 1, 2000, the department may impose  
25 conditions as specified in RCW 9.94A.715.

26       The conditions authorized under (c) of this subsection may be  
27 imposed by the department prior to or during an offender's community  
28 custody term. If a violation of conditions imposed by the court or the  
29 department pursuant to RCW 9.94A.710 occurs during community custody,  
30 it shall be deemed a violation of community placement for the purposes  
31 of RCW 9.94A.740 and shall authorize the department to transfer an  
32 offender to a more restrictive confinement status as provided in RCW  
33 9.94A.737. At any time prior to the completion of an offender's term  
34 of community custody, the department may recommend to the court that  
35 any or all of the conditions imposed by the court or the department  
36 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the  
37 expiration of the offender's term of community custody as authorized in  
38 RCW 9.94A.715 (3) or (5).

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

6 (2) No offender sentenced to terms involving community supervision,  
7 community service, community custody, or community placement under the  
8 supervision of the department may own, use, or possess firearms or  
9 ammunition. Offenders who own, use, or are found to be in actual or  
10 constructive possession of firearms or ammunition shall be subject to  
11 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and  
12 9.94A.740. "Constructive possession" as used in this subsection means  
13 the power and intent to control the firearm or ammunition. "Firearm"  
14 as used in this subsection has the same definition as in RCW 9.41.010.

15 **Sec. 10.** RCW 9.94A.740 and 1999 c 196 s 9 are each amended to read  
16 as follows:

17 (1) The secretary may issue warrants for the arrest of any offender  
18 who violates a condition of community placement or community custody.  
19 The arrest warrants shall authorize any law enforcement or peace  
20 officer or community corrections officer of this state or any other  
21 state where such offender may be located, to arrest the offender and  
22 place him or her in total confinement pending disposition of the  
23 alleged violation. The department shall compensate the local  
24 jurisdiction at the office of financial management's adjudicated rate,  
25 in accordance with RCW 70.48.440. A community corrections officer, if  
26 he or she has reasonable cause to believe an offender in community  
27 placement or community custody has violated a condition of community  
28 placement or community custody, may suspend the person's community  
29 placement or community custody status and arrest or cause the arrest  
30 and detention in total confinement of the offender, pending the  
31 determination of the secretary as to whether the violation has  
32 occurred. The community corrections officer shall report to the  
33 secretary all facts and circumstances and the reasons for the action of  
34 suspending community placement or community custody status. A  
35 violation of a condition of community placement or community custody  
36 shall be deemed a violation of the sentence for purposes of RCW  
37 9.94A.631. The authority granted to community corrections officers  
38 under this section shall be in addition to that set forth in RCW

1 9.94A.631. Community corrections officers have no obligation to arrest  
2 and detain an offender, or to report a violation to the superior court,  
3 where the department has eliminated or terminated supervision pursuant  
4 to RCW 9.94A.545, 9.94A.650, 9.94A.690, 9.94A.700, 9.94A.705, and  
5 9.94A.715.

6 (2) Inmates, as defined in RCW 72.09.015, who have been transferred  
7 to community custody and who are detained in a local correctional  
8 facility are the financial responsibility of the department of  
9 corrections, except as provided in subsection (3) of this section. The  
10 community custody inmate shall be removed from the local correctional  
11 facility, except as provided in subsection (3) of this section, not  
12 later than eight days, excluding weekends and holidays, following  
13 admittance to the local correctional facility and notification that the  
14 inmate is available for movement to a state correctional institution.

15 (3) The department may negotiate with local correctional  
16 authorities for an additional period of detention; however, sex  
17 offenders sanctioned for community custody violations under RCW  
18 9.94A.737(2) to a term of confinement shall remain in the local  
19 correctional facility for the complete term of the sanction. For  
20 confinement sanctions imposed under RCW 9.94A.737(2)(a), the local  
21 correctional facility shall be financially responsible. For  
22 confinement sanctions imposed under RCW 9.94A.737(2)(b), the department  
23 of corrections shall be financially responsible for that portion of the  
24 sanction served during the time in which the sex offender is on  
25 community custody in lieu of earned release, and the local correctional  
26 facility shall be financially responsible for that portion of the  
27 sanction served by the sex offender after the time in which the sex  
28 offender is on community custody in lieu of earned release. The  
29 department, in consultation with the Washington association of sheriffs  
30 and police chiefs and those counties in which the sheriff does not  
31 operate a correctional facility, shall establish a methodology for  
32 determining the department's local correctional facilities bed  
33 utilization rate, for each county in calendar year 1998, for offenders  
34 being held for violations of conditions of community custody, community  
35 placement, or community supervision. For confinement sanctions imposed  
36 under RCW 9.94A.737(2) (c) or (d), the local correctional facility  
37 shall continue to be financially responsible to the extent of the  
38 calendar year 1998 bed utilization rate. If the department's use of  
39 bed space in local correctional facilities of any county for

1 confinement sanctions imposed on offenders sentenced to a term of  
2 community custody under RCW 9.94A.737(2) (c) or (d) exceeds the 1998  
3 bed utilization rate for the county, the department shall compensate  
4 the county for the excess use at the per diem rate equal to the lowest  
5 rate charged by the county under its contract with a municipal  
6 government during the year in which the use occurs.

7 **Sec. 11.** RCW 9.94A.750 and 2000 c 28 s 32 are each amended to read  
8 as follows:

9 This section applies to offenses committed on or before July 1,  
10 1985.

11 (1) If restitution is ordered, the court shall determine the amount  
12 of restitution due at the sentencing hearing or within one hundred  
13 eighty days. The court may continue the hearing beyond the one hundred  
14 eighty days for good cause. The court shall then set a minimum monthly  
15 payment that the offender is required to make towards the restitution  
16 that is ordered. The court should take into consideration the total  
17 amount of the restitution owed, the offender's present, past, and  
18 future ability to pay, as well as any assets that the offender may  
19 have.

20 (2) During the period of supervision, the community corrections  
21 officer may examine the offender to determine if there has been a  
22 change in circumstances that warrants an amendment of the monthly  
23 payment schedule. The community corrections officer may recommend a  
24 change to the schedule of payment and shall inform the court of the  
25 recommended change and the reasons for the change. The sentencing  
26 court may then reset the monthly minimum payments based on the report  
27 from the community corrections officer of the change in circumstances.

28 (3) Except as provided in subsection (6) of this section,  
29 restitution ordered by a court pursuant to a criminal conviction shall  
30 be based on easily ascertainable damages for injury to or loss of  
31 property, actual expenses incurred for treatment for injury to persons,  
32 and lost wages resulting from injury. Restitution shall not include  
33 reimbursement for damages for mental anguish, pain and suffering, or  
34 other intangible losses, but may include the costs of counseling  
35 reasonably related to the offense. The amount of restitution shall not  
36 exceed double the amount of the offender's gain or the victim's loss  
37 from the commission of the offense.



1 (4) For the purposes of this section, the offender shall remain  
2 under the court's jurisdiction for a term of ten years following the  
3 offender's release from total confinement or ten years subsequent to  
4 the entry of the judgment and sentence, whichever period is longer.  
5 Prior to the expiration of the initial ten-year period, the superior  
6 court may extend jurisdiction under the criminal judgment an additional  
7 ten years for payment of restitution. (~~(If jurisdiction under the~~  
8 ~~criminal judgment is extended, the department is not responsible for~~  
9 ~~supervision of the offender during the subsequent period.)~~) The  
10 portion of the sentence concerning restitution may be modified as to  
11 amount, terms and conditions during either the initial ten-year period  
12 or subsequent ten-year period if the criminal judgment is extended,  
13 regardless of the expiration of the offender's term of community  
14 supervision and regardless of the statutory maximum sentence for the  
15 crime. The court may not reduce the total amount of restitution  
16 ordered because the offender may lack the ability to pay the total  
17 amount. The offender's compliance with the restitution shall be  
18 supervised by the department during any term of community placement,  
19 community custody, or community supervision. The department is not  
20 responsible for supervision of the offender during any subsequent  
21 period of time the offender remains under the court's jurisdiction.

22 (5) Restitution may be ordered whenever the offender is convicted  
23 of an offense which results in injury to any person or damage to or  
24 loss of property or as provided in subsection (6) of this section. In  
25 addition, restitution may be ordered to pay for an injury, loss, or  
26 damage if the offender pleads guilty to a lesser offense or fewer  
27 offenses and agrees with the prosecutor's recommendation that the  
28 offender be required to pay restitution to a victim of an offense or  
29 offenses which are not prosecuted pursuant to a plea agreement.

30 (6) Restitution for the crime of rape of a child in the first,  
31 second, or third degree, in which the victim becomes pregnant, shall  
32 include: (a) All of the victim's medical expenses that are associated  
33 with the rape and resulting pregnancy; and (b) child support for any  
34 child born as a result of the rape if child support is ordered pursuant  
35 to a proceeding in superior court or administrative order for support  
36 for that child. The clerk must forward any restitution payments made  
37 on behalf of the victim's child to the Washington state child support  
38 registry under chapter 26.23 RCW. Identifying information about the  
39 victim and child shall not be included in the order. The offender

1 shall receive a credit against any obligation owing under the  
2 administrative or superior court order for support of the victim's  
3 child. For the purposes of this subsection, the offender shall remain  
4 under the court's jurisdiction until the offender has satisfied support  
5 obligations under the superior court or administrative order but not  
6 longer than a maximum term of twenty-five years following the  
7 offender's release from total confinement or twenty-five years  
8 subsequent to the entry of the judgment and sentence, whichever period  
9 is longer. The court may not reduce the total amount of restitution  
10 ordered because the offender may lack the ability to pay the total  
11 amount. The department shall supervise the offender's compliance with  
12 the restitution ordered under this subsection during any term of  
13 community placement, community custody, or community supervision. The  
14 department is not responsible for supervision of the offender during  
15 any subsequent period of time the offender remains under the court's  
16 jurisdiction.

17 (7) In addition to any sentence that may be imposed, an offender  
18 who has been found guilty of an offense involving fraud or other  
19 deceptive practice or an organization which has been found guilty of  
20 any such offense may be ordered by the sentencing court to give notice  
21 of the conviction to the class of persons or to the sector of the  
22 public affected by the conviction or financially interested in the  
23 subject matter of the offense by mail, by advertising in designated  
24 areas or through designated media, or by other appropriate means.

25 (8) This section does not limit civil remedies or defenses  
26 available to the victim or offender including support enforcement  
27 remedies for support ordered under subsection (6) of this section for  
28 a child born as a result of a rape of a child victim. The court shall  
29 identify in the judgment and sentence the victim or victims entitled to  
30 restitution and what amount is due each victim. The state or victim  
31 may enforce the court-ordered restitution in the same manner as a  
32 judgment in a civil action. Restitution collected through civil  
33 enforcement must be paid through the registry of the court and must be  
34 distributed proportionately according to each victim's loss when there  
35 is more than one victim.

36 **Sec. 12.** RCW 9.94A.753 and 2000 c 226 s 3 and 2000 c 28 s 33 are  
37 each reenacted and amended to read as follows:

38 This section applies to offenses committed after July 1, 1985.

1 (1) When restitution is ordered, the court shall determine the  
2 amount of restitution due at the sentencing hearing or within one  
3 hundred eighty days except as provided in subsection (7) of this  
4 section. The court may continue the hearing beyond the one hundred  
5 eighty days for good cause. The court shall then set a minimum monthly  
6 payment that the offender is required to make towards the restitution  
7 that is ordered. The court should take into consideration the total  
8 amount of the restitution owed, the offender's present, past, and  
9 future ability to pay, as well as any assets that the offender may  
10 have.

11 (2) During the period of supervision, the community corrections  
12 officer may examine the offender to determine if there has been a  
13 change in circumstances that warrants an amendment of the monthly  
14 payment schedule. The community corrections officer may recommend a  
15 change to the schedule of payment and shall inform the court of the  
16 recommended change and the reasons for the change. The sentencing  
17 court may then reset the monthly minimum payments based on the report  
18 from the community corrections officer of the change in circumstances.

19 (3) Except as provided in subsection (6) of this section,  
20 restitution ordered by a court pursuant to a criminal conviction shall  
21 be based on easily ascertainable damages for injury to or loss of  
22 property, actual expenses incurred for treatment for injury to persons,  
23 and lost wages resulting from injury. Restitution shall not include  
24 reimbursement for damages for mental anguish, pain and suffering, or  
25 other intangible losses, but may include the costs of counseling  
26 reasonably related to the offense. The amount of restitution shall not  
27 exceed double the amount of the offender's gain or the victim's loss  
28 from the commission of the crime.

29 (4) For the purposes of this section, for an offense committed  
30 prior to July 1, 2000, the offender shall remain under the court's  
31 jurisdiction for a term of ten years following the offender's release  
32 from total confinement or ten years subsequent to the entry of the  
33 judgment and sentence, whichever period ends later. Prior to the  
34 expiration of the initial ten-year period, the superior court may  
35 extend jurisdiction under the criminal judgment an additional ten years  
36 for payment of restitution. For an offense committed on or after July  
37 1, 2000, the offender shall remain under the court's jurisdiction until  
38 the obligation is completely satisfied, regardless of the statutory  
39 maximum for the crime. The portion of the sentence concerning

1 restitution may be modified as to amount, terms, and conditions during  
2 any period of time the offender remains under the court's jurisdiction,  
3 regardless of the expiration of the offender's term of community  
4 supervision and regardless of the statutory maximum sentence for the  
5 crime. The court may not reduce the total amount of restitution  
6 ordered because the offender may lack the ability to pay the total  
7 amount. The offender's compliance with the restitution shall be  
8 supervised by the department (~~for ten years following the entry of the~~  
9 ~~judgment and sentence or ten years following the offender's release~~  
10 ~~from total confinement~~) during any term of community placement,  
11 community custody, or community supervision. The department is not  
12 responsible for supervision of the offender during any subsequent  
13 period of time the offender remains under the court's jurisdiction.

14 (5) Restitution shall be ordered whenever the offender is convicted  
15 of an offense which results in injury to any person or damage to or  
16 loss of property or as provided in subsection (6) of this section  
17 unless extraordinary circumstances exist which make restitution  
18 inappropriate in the court's judgment and the court sets forth such  
19 circumstances in the record. In addition, restitution shall be ordered  
20 to pay for an injury, loss, or damage if the offender pleads guilty to  
21 a lesser offense or fewer offenses and agrees with the prosecutor's  
22 recommendation that the offender be required to pay restitution to a  
23 victim of an offense or offenses which are not prosecuted pursuant to  
24 a plea agreement.

25 (6) Restitution for the crime of rape of a child in the first,  
26 second, or third degree, in which the victim becomes pregnant, shall  
27 include: (a) All of the victim's medical expenses that are associated  
28 with the rape and resulting pregnancy; and (b) child support for any  
29 child born as a result of the rape if child support is ordered pursuant  
30 to a civil superior court or administrative order for support for that  
31 child. The clerk must forward any restitution payments made on behalf  
32 of the victim's child to the Washington state child support registry  
33 under chapter 26.23 RCW. Identifying information about the victim and  
34 child shall not be included in the order. The offender shall receive  
35 a credit against any obligation owing under the administrative or  
36 superior court order for support of the victim's child. For the  
37 purposes of this subsection, the offender shall remain under the  
38 court's jurisdiction until the offender has satisfied support  
39 obligations under the superior court or administrative order for the

1 period provided in RCW 4.16.020 or a maximum term of twenty-five years  
2 following the offender's release from total confinement or twenty-five  
3 years subsequent to the entry of the judgment and sentence, whichever  
4 period is longer. The court may not reduce the total amount of  
5 restitution ordered because the offender may lack the ability to pay  
6 the total amount. The department shall supervise the offender's  
7 compliance with the restitution ordered under this subsection during  
8 any term of community placement, community custody, or community  
9 supervision. The department is not responsible for supervision of the  
10 offender during any subsequent period of time the offender remains  
11 under the court's jurisdiction.

12 (7) Regardless of the provisions of subsections (1) through (6) of  
13 this section, the court shall order restitution in all cases where the  
14 victim is entitled to benefits under the crime victims' compensation  
15 act, chapter 7.68 RCW. If the court does not order restitution and the  
16 victim of the crime has been determined to be entitled to benefits  
17 under the crime victims' compensation act, the department of labor and  
18 industries, as administrator of the crime victims' compensation  
19 program, may petition the court within one year of entry of the  
20 judgment and sentence for entry of a restitution order. Upon receipt  
21 of a petition from the department of labor and industries, the court  
22 shall hold a restitution hearing and shall enter a restitution order.

23 (8) In addition to any sentence that may be imposed, an offender  
24 who has been found guilty of an offense involving fraud or other  
25 deceptive practice or an organization which has been found guilty of  
26 any such offense may be ordered by the sentencing court to give notice  
27 of the conviction to the class of persons or to the sector of the  
28 public affected by the conviction or financially interested in the  
29 subject matter of the offense by mail, by advertising in designated  
30 areas or through designated media, or by other appropriate means.

31 (9) This section does not limit civil remedies or defenses  
32 available to the victim, survivors of the victim, or offender including  
33 support enforcement remedies for support ordered under subsection (6)  
34 of this section for a child born as a result of a rape of a child  
35 victim. The court shall identify in the judgment and sentence the  
36 victim or victims entitled to restitution and what amount is due each  
37 victim. The state or victim may enforce the court-ordered restitution  
38 in the same manner as a judgment in a civil action. Restitution  
39 collected through civil enforcement must be paid through the registry

1 of the court and must be distributed proportionately according to each  
2 victim's loss when there is more than one victim.

3 **Sec. 13.** RCW 9.94A.760 and 2001 c 10 s 3 are each amended to read  
4 as follows:

5 (1) Whenever a person is convicted of a felony, the court may order  
6 the payment of a legal financial obligation as part of the sentence.  
7 The court must on either the judgment and sentence or on a subsequent  
8 order to pay, designate the total amount of a legal financial  
9 obligation and segregate this amount among the separate assessments  
10 made for restitution, costs, fines, and other assessments required by  
11 law. On the same order, the court is also to set a sum that the  
12 offender is required to pay on a monthly basis towards satisfying the  
13 legal financial obligation. If the court fails to set the offender  
14 monthly payment amount, the department shall set the amount. Upon  
15 receipt of an offender's monthly payment, restitution shall be paid  
16 prior to any payments of other monetary obligations. After restitution  
17 is satisfied, the county clerk shall distribute the payment  
18 proportionally among all other fines, costs, and assessments imposed,  
19 unless otherwise ordered by the court.

20 (2) If the court determines that the offender, at the time of  
21 sentencing, has the means to pay for the cost of incarceration, the  
22 court may require the offender to pay for the cost of incarceration at  
23 a rate of fifty dollars per day of incarceration. Payment of other  
24 court-ordered financial obligations, including all legal financial  
25 obligations and costs of supervision shall take precedence over the  
26 payment of the cost of incarceration ordered by the court. All funds  
27 recovered from offenders for the cost of incarceration in the county  
28 jail shall be remitted to the county and the costs of incarceration in  
29 a prison shall be remitted to the department.

30 (3) The court may add to the judgment and sentence or subsequent  
31 order to pay a statement that a notice of payroll deduction is to be  
32 issued immediately. If the court chooses not to order the immediate  
33 issuance of a notice of payroll deduction at sentencing, the court  
34 shall add to the judgment and sentence or subsequent order to pay a  
35 statement that a notice of payroll deduction may be issued or other  
36 income-withholding action may be taken, without further notice to the  
37 offender if a monthly court-ordered legal financial obligation payment

1 is not paid when due, and an amount equal to or greater than the amount  
2 payable for one month is owed.

3 If a judgment and sentence or subsequent order to pay does not  
4 include the statement that a notice of payroll deduction may be issued  
5 or other income-withholding action may be taken if a monthly legal  
6 financial obligation payment is past due, the department may serve a  
7 notice on the offender stating such requirements and authorizations.  
8 Service shall be by personal service or any form of mail requiring a  
9 return receipt.

10 (4) Independent of the department, the party or entity to whom the  
11 legal financial obligation is owed shall have the authority to use any  
12 other remedies available to the party or entity to collect the legal  
13 financial obligation. These remedies include enforcement in the same  
14 manner as a judgment in a civil action by the party or entity to whom  
15 the legal financial obligation is owed. Restitution collected through  
16 civil enforcement must be paid through the registry of the court and  
17 must be distributed proportionately according to each victim's loss  
18 when there is more than one victim. The judgment and sentence shall  
19 identify the party or entity to whom restitution is owed so that the  
20 state, party, or entity may enforce the judgment. If restitution is  
21 ordered pursuant to RCW 9.94A.750(6) or 9.94A.753(6) to a victim of  
22 rape of a child or a victim's child born from the rape, the Washington  
23 state child support registry shall be identified as the party to whom  
24 payments must be made. Restitution obligations arising from the rape  
25 of a child in the first, second, or third degree that result in the  
26 pregnancy of the victim may be enforced for the time periods provided  
27 under RCW 9.94A.750(6) and 9.94A.753(6). All other legal financial  
28 obligations for an offense committed prior to July 1, 2000, may be  
29 enforced at any time during the ten-year period following the  
30 offender's release from total confinement or within ten years of entry  
31 of the judgment and sentence, whichever period ends later. Prior to  
32 the expiration of the initial ten-year period, the superior court may  
33 extend the criminal judgment an additional ten years for payment of  
34 legal financial obligations including crime victims' assessments. All  
35 other legal financial obligations for an offense committed on or after  
36 July 1, 2000, may be enforced at any time the offender remains under  
37 the court's jurisdiction. For an offense committed on or after July 1,  
38 2000, the court shall retain jurisdiction over the offender, for  
39 purposes of the offender's compliance with payment of the legal

1 financial obligations, until the obligation is completely satisfied,  
2 regardless of the statutory maximum for the crime. The department of  
3 corrections shall supervise the offender's compliance with payment of  
4 the legal financial obligations (~~((for ten years following the entry of  
5 the judgment and sentence, or ten years following the offender's  
6 release from total confinement, whichever period ends later))~~) during  
7 any term of community placement, community custody, or community  
8 supervision. The department is not responsible for supervision of the  
9 offender during any subsequent period of time the offender remains  
10 under the court's jurisdiction.

11 (5) In order to assist the court in setting a monthly sum that the  
12 offender must pay during the period of supervision, the offender is  
13 required to report to the department for purposes of preparing a  
14 recommendation to the court. When reporting, the offender is required,  
15 under oath, to respond truthfully and honestly to all questions  
16 concerning present, past, and future earning capabilities and the  
17 location and nature of all property or financial assets. The offender  
18 is further required to bring all documents requested by the department.

19 (6) After completing the investigation, the department shall make  
20 a report to the court on the amount of the monthly payment that the  
21 offender should be required to make towards a satisfied legal financial  
22 obligation.

23 (7) During the period of supervision, the department may make a  
24 recommendation to the court that the offender's monthly payment  
25 schedule be modified so as to reflect a change in financial  
26 circumstances. If the department sets the monthly payment amount, the  
27 department may modify the monthly payment amount without the matter  
28 being returned to the court. During the period of supervision, the  
29 department may require the offender to report to the department for the  
30 purposes of reviewing the appropriateness of the collection schedule  
31 for the legal financial obligation. During this reporting, the  
32 offender is required under oath to respond truthfully and honestly to  
33 all questions concerning earning capabilities and the location and  
34 nature of all property or financial assets. The offender shall bring  
35 all documents requested by the department in order to prepare the  
36 collection schedule.

37 (8) After the judgment and sentence or payment order is entered,  
38 the department is authorized, for any period of supervision, to collect  
39 the legal financial obligation from the offender. Any amount collected



1 by the department shall be remitted daily to the county clerk for the  
2 purpose of disbursements. The department is authorized to accept  
3 credit cards as payment for a legal financial obligation, and any costs  
4 incurred related to accepting credit card payments shall be the  
5 responsibility of the offender.

6 (9) The department or any obligee of the legal financial obligation  
7 may seek a mandatory wage assignment for the purposes of obtaining  
8 satisfaction for the legal financial obligation pursuant to RCW  
9 9.94A.7701.

10 (10) The requirement that the offender pay a monthly sum towards a  
11 legal financial obligation constitutes a condition or requirement of a  
12 sentence and the offender is subject to the penalties for noncompliance  
13 as provided in RCW 9.94A.634, 9.94A.737, or 9.94A.740.

14 (11) The county clerk shall provide the department with  
15 individualized monthly billings for each offender with an unsatisfied  
16 legal financial obligation and shall provide the department with notice  
17 of payments by such offenders no less frequently than weekly.

18 (12) The department may arrange for the collection of unpaid legal  
19 financial obligations through the county clerk, or through another  
20 entity if the clerk does not assume responsibility for collection. The  
21 costs for collection services shall be paid by the offender.

22 (13) Nothing in this chapter makes the department, the state, or  
23 any of its employees, agents, or other persons acting on their behalf  
24 liable under any circumstances for the payment of these legal financial  
25 obligations.

26 **Sec. 14.** RCW 9.92.060 and 1996 c 298 s 5 are each amended to read  
27 as follows:

28 (1) Whenever any person is convicted of any crime except murder,  
29 burglary in the first degree, arson in the first degree, robbery, rape  
30 of a child, or rape, the superior court may, in its discretion, at the  
31 time of imposing sentence upon such person, direct that such sentence  
32 be stayed and suspended until otherwise ordered by the superior court,  
33 and that the sentenced person be placed under the charge of a community  
34 corrections officer employed by the department of corrections, or if  
35 the county elects to assume responsibility for the supervision of all  
36 superior court misdemeanor probationers a probation officer employed  
37 or contracted for by the county, upon such terms as the superior court  
38 may determine.

1 (2) As a condition to suspension of sentence, the superior court  
2 shall require the payment of the penalty assessment required by RCW  
3 7.68.035. In addition, the superior court may require the convicted  
4 person to make such monetary payments, on such terms as the superior  
5 court deems appropriate under the circumstances, as are necessary: (a)  
6 To comply with any order of the court for the payment of family  
7 support; (b) to make restitution to any person or persons who may have  
8 suffered loss or damage by reason of the commission of the crime in  
9 question or when the offender pleads guilty to a lesser offense or  
10 fewer offenses and agrees with the prosecutor's recommendation that the  
11 offender be required to pay restitution to a victim of an offense or  
12 offenses which are not prosecuted pursuant to a plea agreement; (c) to  
13 pay any fine imposed and not suspended and the court or other costs  
14 incurred in the prosecution of the case, including reimbursement of the  
15 state for costs of extradition if return to this state by extradition  
16 was required; and (d) to contribute to a county or interlocal drug  
17 fund.

18 (3) As a condition of the suspended sentence, the superior court  
19 may order the probationer to report to the secretary of corrections or  
20 such officer as the secretary may designate and as a condition of the  
21 probation to follow the instructions of the secretary. If the county  
22 legislative authority has elected to assume responsibility for the  
23 supervision of superior court misdemeanor probationers within its  
24 jurisdiction, the superior court misdemeanor probationer shall report  
25 to a probation officer employed or contracted for by the county. In  
26 cases where a superior court misdemeanor probationer is sentenced in  
27 one county, but resides within another county, there must be provisions  
28 for the probationer to report to the agency having supervision  
29 responsibility for the probationer's county of residence.

30 (4) If restitution to the victim has been ordered under subsection  
31 (2)(b) of this section and the superior court has ordered supervision,  
32 the officer supervising the probationer shall make a reasonable effort  
33 to ascertain whether restitution has been made as ordered. If the  
34 superior court has ordered supervision and restitution has not been  
35 made, the officer shall inform the prosecutor of that violation of the  
36 terms of the suspended sentence not less than three months prior to the  
37 termination of the suspended sentence.

38 (5) In cases where the court has ordered supervision as a condition  
39 of probation, the department of corrections may eliminate or terminate

1 the supervision, including supervision for payment of restitution or  
2 legal financial obligations, if the department has classified the  
3 offender at the lowest risk level pursuant to a risk assessment. No  
4 liability shall attach to the state, the department, or any department  
5 employee based on the determination to classify an offender at the  
6 lowest risk level, or to eliminate or terminate supervision, in the  
7 absence of gross negligence. The decision to eliminate or terminate  
8 supervision shall not affect the superior court's jurisdiction over the  
9 offender.

10 (6) When the department classifies an offender at the lowest risk  
11 level, the department shall notify the sentencing court, the county  
12 prosecutor, and the county clerk of the county where the offender was  
13 convicted.

14 **Sec. 15.** RCW 9.95.204 and 1996 c 298 s 1 are each amended to read  
15 as follows:

16 (1) When a superior court places a defendant convicted of a  
17 misdemeanor or gross misdemeanor on probation and orders supervision  
18 under RCW 9.92.060 or 9.95.210, the department of corrections has  
19 initial responsibility for supervision of that defendant. The  
20 department may eliminate or terminate supervision, including  
21 supervision for payment of restitution or legal financial obligations,  
22 if the department has classified the offender at the lowest risk level  
23 pursuant to a risk assessment. No liability shall attach to the state,  
24 the department, or any department employee based on the determination  
25 to classify an offender at the lowest risk level, or to eliminate or  
26 terminate supervision, in the absence of gross negligence. The  
27 decision to eliminate or terminate supervision shall not affect the  
28 superior court's jurisdiction over the offender.

29 (2) A county legislative authority may assume responsibility for  
30 the supervision of all defendants within its jurisdiction who have been  
31 convicted of a misdemeanor or gross misdemeanor and sentenced to  
32 probation by a superior court. The assumption of responsibility shall  
33 be made by contract with the department of corrections on a biennial  
34 basis.

35 (3) If a county assumes supervision responsibility, the county  
36 shall supervise all superior court misdemeanant probationers within  
37 that county for the duration of the biennium, as set forth in the  
38 contract with the department of corrections.

1 (4) A contract between a county legislative authority and the  
2 department of corrections for the transfer of supervision  
3 responsibility must include, at a minimum, the following provisions:

4 (a) The county's agreement to supervise all misdemeanor  
5 probationers who are sentenced by a superior court within that county  
6 and who reside within that county;

7 (b) A reciprocal agreement regarding the supervision of superior  
8 court misdemeanor probationers sentenced in one county but who reside  
9 in another county;

10 (c) The county's agreement to comply with the minimum standards for  
11 classification and supervision of offenders as required under RCW  
12 9.95.206;

13 (d) The amount of funds available from the department of  
14 corrections to the county for supervision of superior court  
15 misdemeanor probationers, calculated according to a formula  
16 established by the department of corrections;

17 (e) A method for the payment of funds by the department of  
18 corrections to the county;

19 (f) The county's agreement that any funds received by the county  
20 under the contract will be expended only to cover costs of supervision  
21 of superior court misdemeanor probationers;

22 (g) The county's agreement to account to the department of  
23 corrections for the expenditure of all funds received under the  
24 contract and to submit to audits for compliance with the supervision  
25 standards and financial requirements of this section;

26 (h) Provisions regarding rights and remedies in the event of a  
27 possible breach of contract or default by either party; and

28 (i) Provisions allowing for voluntary termination of the contract  
29 by either party, with good cause, after sixty days' written notice.

30 (5) If the contract between the county and the department of  
31 corrections is terminated for any reason, the department of corrections  
32 shall reassume responsibility for supervision of superior court  
33 misdemeanor probationers within that county, unless the department has  
34 terminated supervision pursuant to subsection (1) of this section. In  
35 such an event, the department of corrections retains any and all rights  
36 and remedies available by law and under the contract.

37 (6) The state of Washington, the department of corrections and its  
38 employees, community corrections officers, and volunteers who assist  
39 community corrections officers are not liable for any harm caused by

1 the actions of a superior court misdemeanor probationer who is under  
2 the supervision of a county. A county, its probation department and  
3 employees, probation officers, and volunteers who assist probation  
4 officers are not liable for any harm caused by the actions of a  
5 superior court misdemeanor probationer who is under the supervision of  
6 the department of corrections. This subsection applies regardless of  
7 whether the supervising entity is in compliance with the standards of  
8 supervision at the time of the misdemeanor probationer's actions.

9 (7) The state of Washington, the department of corrections and its  
10 employees, community corrections officers, any county under contract  
11 with the department of corrections pursuant to this section and its  
12 employees, probation officers, and volunteers who assist community  
13 corrections officers and probation officers in the superior court  
14 misdemeanor probation program are not liable for civil damages  
15 resulting from any act or omission in the rendering of superior court  
16 misdemeanor probation activities unless the act or omission  
17 constitutes gross negligence. For purposes of this section,  
18 "volunteers" is defined according to RCW 51.12.035.

19 (8) When the department classifies an offender at the lowest risk  
20 level, the department shall notify the sentencing court, the county  
21 prosecutor, and the county clerk of the county where the offender was  
22 convicted.

23 **Sec. 16.** RCW 9.95.210 and 1996 c 298 s 3 are each amended to read  
24 as follows:

25 (1) In granting probation, the superior court may suspend the  
26 imposition or the execution of the sentence and may direct that the  
27 suspension may continue upon such conditions and for such time as it  
28 shall designate, not exceeding the maximum term of sentence or two  
29 years, whichever is longer.

30 (2) In the order granting probation and as a condition thereof, the  
31 superior court may in its discretion imprison the defendant in the  
32 county jail for a period not exceeding one year and may fine the  
33 defendant any sum not exceeding the statutory limit for the offense  
34 committed, and court costs. As a condition of probation, the superior  
35 court shall require the payment of the penalty assessment required by  
36 RCW 7.68.035. The superior court may also require the defendant to  
37 make such monetary payments, on such terms as it deems appropriate  
38 under the circumstances, as are necessary: (a) To comply with any

1 order of the court for the payment of family support; (b) to make  
2 restitution to any person or persons who may have suffered loss or  
3 damage by reason of the commission of the crime in question or when the  
4 offender pleads guilty to a lesser offense or fewer offenses and agrees  
5 with the prosecutor's recommendation that the offender be required to  
6 pay restitution to a victim of an offense or offenses which are not  
7 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be  
8 imposed and court costs, including reimbursement of the state for costs  
9 of extradition if return to this state by extradition was required; (d)  
10 following consideration of the financial condition of the person  
11 subject to possible electronic monitoring, to pay for the costs of  
12 electronic monitoring if that monitoring was required by the court as  
13 a condition of release from custody or as a condition of probation; (e)  
14 to contribute to a county or interlocal drug fund; and (f) to make  
15 restitution to a public agency for the costs of an emergency response  
16 under RCW 38.52.430, and may require bonds for the faithful observance  
17 of any and all conditions imposed in the probation.

18 (3) The superior court shall order restitution in all cases where  
19 the victim is entitled to benefits under the crime victims'  
20 compensation act, chapter 7.68 RCW. If the superior court does not  
21 order restitution and the victim of the crime has been determined to be  
22 entitled to benefits under the crime victims' compensation act, the  
23 department of labor and industries, as administrator of the crime  
24 victims' compensation program, may petition the superior court within  
25 one year of imposition of the sentence for entry of a restitution  
26 order. Upon receipt of a petition from the department of labor and  
27 industries, the superior court shall hold a restitution hearing and  
28 shall enter a restitution order.

29 (4) In granting probation, the superior court may order the  
30 probationer to report to the secretary of corrections or such officer  
31 as the secretary may designate and as a condition of the probation to  
32 follow the instructions of the secretary. If the county legislative  
33 authority has elected to assume responsibility for the supervision of  
34 superior court misdemeanor probationers within its jurisdiction, the  
35 superior court misdemeanor probationer shall report to a probation  
36 officer employed or contracted for by the county. In cases where a  
37 superior court misdemeanor probationer is sentenced in one county, but  
38 resides within another county, there must be provisions for the

1 probationer to report to the agency having supervision responsibility  
2 for the probationer's county of residence.

3 (5) If the probationer has been ordered to make restitution and the  
4 superior court has ordered supervision, the officer supervising the  
5 probationer shall make a reasonable effort to ascertain whether  
6 restitution has been made. If the superior court has ordered  
7 supervision and restitution has not been made as ordered, the officer  
8 shall inform the prosecutor of that violation of the terms of probation  
9 not less than three months prior to the termination of the probation  
10 period. The secretary of corrections will promulgate rules and  
11 regulations for the conduct of the person during the term of probation.  
12 For defendants found guilty in district court, like functions as the  
13 secretary performs in regard to probation may be performed by probation  
14 officers employed for that purpose by the county legislative authority  
15 of the county wherein the court is located.

16 (6) The department may eliminate or terminate supervision,  
17 including supervision for payment of restitution or legal financial  
18 obligations, if the department has classified the probationer at the  
19 lowest risk level pursuant to a risk assessment. No liability shall  
20 attach to the state, the department, or any department employee based  
21 on the determination to classify a probationer at the lowest risk  
22 level, or to eliminate or terminate supervision, in the absence of  
23 gross negligence. The decision to eliminate or terminate supervision  
24 shall not affect the superior court's jurisdiction over the  
25 probationer.

26 (7) When the department classifies an offender at the lowest risk  
27 level, the department shall notify the sentencing court, the county  
28 prosecutor, and the county clerk of the county where the offender was  
29 convicted.

30 **Sec. 17.** RCW 72.04A.090 and 1981 c 136 s 84 are each amended to  
31 read as follows:

32 Whenever a parolee breaches a condition or conditions under which  
33 he or she was granted parole, or violates any law of the state or rules  
34 and regulations of the indeterminate sentence review board (~~(of prison~~  
35 ~~terms and paroles)~~), any (~~(probation and parole)~~) community corrections  
36 officer may arrest, or cause the arrest and suspension of parole of,  
37 such parolee without a warrant, pending a determination by the board.  
38 The facts and circumstances of such conduct of the parolee shall be

1 reported by the (~~probation and parole~~) community corrections officer,  
2 with recommendations, to the indeterminate sentence review board (~~of~~  
3 ~~prison terms and paroles~~), who may order the revocation or suspension  
4 of parole, revise or modify the conditions of parole or take such other  
5 action as may be deemed appropriate in accordance with RCW 9.95.120.  
6 The indeterminate sentence review board (~~of prison terms and~~  
7 ~~paroles~~), after consultation with the secretary of corrections, shall  
8 make all rules and regulations concerning procedural matters, which  
9 shall include the time when state (~~probation and parole~~) community  
10 corrections officers shall file with the board reports required by this  
11 section, procedures pertaining thereto and the filing of such  
12 information as may be necessary to enable the indeterminate sentence  
13 review board (~~of prison terms and paroles~~) to perform its functions  
14 under this section.

15 The (~~probation and parole~~) community corrections officers shall  
16 have like authority and power regarding the arrest and detention of a  
17 probationer who has breached a condition or conditions under which he  
18 or she was granted probation by the superior court, or violates any law  
19 of the state, pending a determination by the superior court. Community  
20 corrections officers have no obligation to arrest and detain a  
21 probationer, or to report a violation to the superior court, where the  
22 department has eliminated or terminated supervision pursuant to RCW  
23 9.92.060, 9.95.204, or 9.95.210.

24 In the event a (~~probation and parole~~) community corrections  
25 officer shall arrest or cause the arrest and suspension of parole of a  
26 parolee or probationer in accordance with the provisions of this  
27 section, such parolee or probationer shall be confined and detained in  
28 the county jail of the county in which the parolee or probationer was  
29 taken into custody, and the sheriff of such county shall receive and  
30 keep in the county jail, where room is available, all prisoners  
31 delivered thereto by the (~~probation and parole~~) community corrections  
32 officer, and such parolees shall not be released from custody on bail  
33 or personal recognizance, except upon approval of the indeterminate  
34 sentence review board (~~of prison terms and paroles~~) and the issuance  
35 by the board of an order of reinstatement on parole on the same or  
36 modified conditions of parole.

37 **Sec. 18.** RCW 4.56.100 and 1997 c 358 s 4 are each amended to read  
38 as follows:



1 (1) When any judgment for the payment of money only shall have been  
2 paid or satisfied, the clerk of the court in which such judgment was  
3 rendered shall note upon the record in the execution docket  
4 satisfaction thereof giving the date of such satisfaction upon either  
5 the payment to such clerk of the amount of such judgment, costs and  
6 interest and any accrued costs by reason of the issuance of any  
7 execution, or the filing with such clerk of a satisfaction entitled in  
8 such action and identifying the same executed by the judgment creditor  
9 or his or her attorney of record in such action or his or her assignee  
10 acknowledged as deeds are acknowledged. The clerk has the authority to  
11 note the satisfaction of judgments for criminal and juvenile legal  
12 financial obligations when the clerk's record indicates payment in full  
13 or as directed by the court. Every satisfaction of judgment and every  
14 partial satisfaction of judgment which provides for the payment of  
15 money shall clearly designate the judgment creditor and his or her  
16 attorney if any, the judgment debtor, the amount or type of  
17 satisfaction, whether the satisfaction is full or partial, the cause  
18 number, and the date of entry of the judgment. A certificate by such  
19 clerk of the entry of such satisfaction by him or her may be filed in  
20 the office of the clerk of any county in which an abstract of such  
21 judgment has been filed. When so satisfied by the clerk or the filing  
22 of such certificate the lien of such judgment shall be discharged.

23 (2) The department of social and health services shall file a  
24 satisfaction of judgment for welfare fraud conviction if a person does  
25 not pay money through the clerk as required under subsection (1) of  
26 this section.

27 ~~((3) The department of corrections shall file a satisfaction of~~  
28 ~~judgment if a person does not pay money through the clerk's office as~~  
29 ~~required under subsection (1) of this section.))~~

30 **Sec. 19.** RCW 72.65.080 and 1982 1st ex.s. c 48 s 18 are each  
31 amended to read as follows:

32 The secretary may enter into contracts with ~~((the appropriate~~  
33 ~~authorities)) other governmental agencies or private organizations for  
34 the ~~((payment of the cost of feeding and lodging and other expenses of~~  
35 ~~housing)) management and operation of work release ~~((participants))~~  
36 programs. Such contracts may include any other terms and conditions as  
37 may be appropriate for the implementation of the work release program.  
38 In addition the secretary is authorized to acquire, by lease or~~~~

1 contract, appropriate facilities for the housing of work release  
2 participants and providing for their subsistence and supervision. Such  
3 work release participants placed in leased or contracted facilities  
4 shall be required to reimburse the department the per capita cost of  
5 subsistence and lodging in accordance with the provisions and in the  
6 priority established by RCW 72.65.050(2). The location of such  
7 facilities shall be subject to the zoning laws of the city or county in  
8 which they may be situated.

9 Any work release program in existence on the effective date of this  
10 act shall be managed and operated pursuant to a contract with a private  
11 organization under this section.

12 **Sec. 20.** RCW 41.06.380 and 1979 ex.s. c 46 s 2 are each amended to  
13 read as follows:

14 Nothing contained in this chapter shall prohibit any department, as  
15 defined in RCW 41.06.020, from purchasing services by contract with  
16 individuals or business entities if such services were regularly  
17 purchased by valid contract by such department prior to April 23, 1979:  
18 PROVIDED, That no such contract may be executed or renewed if it would  
19 have the effect of terminating classified employees or classified  
20 employee positions existing at the time of the execution or renewal of  
21 the contract, except as authorized by RCW 72.65.080.

22 NEW SECTION. **Sec. 21.** This act takes effect July 1, 2002. The  
23 legislature intends that sections 1 through 18 of this act apply  
24 retroactively to sentences imposed and offenders on community custody,  
25 community placement, community service, community supervision, legal  
26 financial obligations, or probation before, on, or after July 1, 2002.

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