

ESSB 5990 - H COMM AMD

By Committee on Appropriations

ADOPTED 04/24/2003

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.94A.728 and 2002 c 290 s 21 and 2002 c 50 s 2 are
4 each reenacted and amended to read as follows:

5 No person serving a sentence imposed pursuant to this chapter and
6 committed to the custody of the department shall leave the confines of
7 the correctional facility or be released prior to the expiration of the
8 sentence except as follows:

9 (1) Except as otherwise provided for in subsection (2) of this
10 section, the term of the sentence of an offender committed to a
11 correctional facility operated by the department may be reduced by
12 earned release time in accordance with procedures that shall be
13 developed and promulgated by the correctional agency having
14 jurisdiction in which the offender is confined. The earned release
15 time shall be for good behavior and good performance, as determined by
16 the correctional agency having jurisdiction. The correctional agency
17 shall not credit the offender with earned release credits in advance of
18 the offender actually earning the credits. Any program established
19 pursuant to this section shall allow an offender to earn early release
20 credits for presentence incarceration. If an offender is transferred
21 from a county jail to the department, the administrator of a county
22 jail facility shall certify to the department the amount of time spent
23 in custody at the facility and the amount of earned release time. An
24 offender who has been convicted of a felony committed after July 23,
25 1995, that involves any applicable deadly weapon enhancements under RCW
26 9.94A.533 (3) or (4), or both, shall not receive any good time credits
27 or earned release time for that portion of his or her sentence that
28 results from any deadly weapon enhancements.

29 (a) In the case of an offender convicted of a serious violent
30 offense, or a sex offense that is a class A felony, committed on or

1 after July 1, 1990, and before July 1, 2003, the aggregate earned
2 release time may not exceed fifteen percent of the sentence. In the
3 case of an offender convicted of a serious violent offense, or a sex
4 offense that is a class A felony, committed on or after July 1, 2003,
5 the aggregate earned release time may not exceed ten percent of the
6 sentence.

7 (b)(i) In the case of an offender who qualifies under (b)(ii) of
8 this subsection, the aggregate earned release time may not exceed fifty
9 percent of the sentence.

10 (ii) An offender is qualified to earn up to fifty percent of
11 aggregate earned release time under this subsection (1)(b) if he or
12 she:

13 (A) Is classified in one of the two lowest risk categories under
14 (b)(iii) of this subsection;

15 (B) Is not confined pursuant to a sentence for:

16 (I) A sex offense;

17 (II) A violent offense;

18 (III) A crime against persons as defined in RCW 9.94A.411;

19 (IV) A felony that is domestic violence as defined in RCW
20 10.99.020;

21 (V) A violation of RCW 9A.52.025 (residential burglary);

22 (VI) A violation of, or an attempt, solicitation, or conspiracy to
23 violate, RCW 69.50.401 by manufacture or delivery or possession with
24 intent to deliver methamphetamine; or

25 (VII) A violation of, or an attempt, solicitation, or conspiracy to
26 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
27 and

28 (C) Has no prior conviction for:

29 (I) A sex offense;

30 (II) A violent offense;

31 (III) A crime against persons as defined in RCW 9.94A.411;

32 (IV) A felony that is domestic violence as defined in RCW
33 10.99.020;

34 (V) A violation of RCW 9A.52.025 (residential burglary);

35 (VI) A violation of, or an attempt, solicitation, or conspiracy to
36 violate, RCW 69.50.401 by manufacture or delivery or possession with
37 intent to deliver methamphetamine; or

1 (VII) A violation of, or an attempt, solicitation, or conspiracy to
2 violate, RCW 69.50.406 (delivery of a controlled substance to a minor).

3 (iii) For purposes of determining an offender's eligibility under
4 this subsection (1)(b), the department shall perform a risk assessment
5 of every offender committed to a correctional facility operated by the
6 department who has no current or prior conviction for a sex offense, a
7 violent offense, a crime against persons as defined in RCW 9.94A.411,
8 a felony that is domestic violence as defined in RCW 10.99.020, a
9 violation of RCW 9A.52.025 (residential burglary), a violation of, or
10 an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by
11 manufacture or delivery or possession with intent to deliver
12 methamphetamine, or a violation of, or an attempt, solicitation, or
13 conspiracy to violate, RCW 69.50.406 (delivery of a controlled
14 substance to a minor). The department must classify each assessed
15 offender in one of four risk categories between highest and lowest
16 risk.

17 (iv) The department shall recalculate the earned release time and
18 reschedule the expected release dates for each qualified offender under
19 this subsection (1)(b).

20 (v) This subsection (1)(b) applies retroactively to eligible
21 offenders serving terms of total confinement in a state correctional
22 facility as of the effective date of this section.

23 (vi) This subsection (1)(b) does not apply to offenders convicted
24 after July 1, 2010.

25 (c) In no other case shall the aggregate earned release time exceed
26 one-third of the total sentence;

27 (2)(a) A person convicted of a sex offense or an offense
28 categorized as a serious violent offense, assault in the second degree,
29 vehicular homicide, vehicular assault, assault of a child in the second
30 degree, any crime against persons where it is determined in accordance
31 with RCW 9.94A.602 that the offender or an accomplice was armed with a
32 deadly weapon at the time of commission, or any felony offense under
33 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
34 eligible, in accordance with a program developed by the department, for
35 transfer to community custody status in lieu of earned release time
36 pursuant to subsection (1) of this section;

1 (b) A person convicted of a sex offense, a violent offense, any
2 crime against persons under RCW 9.94A.411(2), or a felony offense under
3 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may
4 become eligible, in accordance with a program developed by the
5 department, for transfer to community custody status in lieu of earned
6 release time pursuant to subsection (1) of this section;

7 (c) The department shall, as a part of its program for release to
8 the community in lieu of earned release, require the offender to
9 propose a release plan that includes an approved residence and living
10 arrangement. All offenders with community placement or community
11 custody terms eligible for release to community custody status in lieu
12 of earned release shall provide an approved residence and living
13 arrangement prior to release to the community;

14 (d) The department may deny transfer to community custody status in
15 lieu of earned release time pursuant to subsection (1) of this section
16 if the department determines an offender's release plan, including
17 proposed residence location and living arrangements, may violate the
18 conditions of the sentence or conditions of supervision, place the
19 offender at risk to violate the conditions of the sentence, place the
20 offender at risk to reoffend, or present a risk to victim safety or
21 community safety. The department's authority under this section is
22 independent of any court-ordered condition of sentence or statutory
23 provision regarding conditions for community custody or community
24 placement;

25 (3) An offender may leave a correctional facility pursuant to an
26 authorized furlough or leave of absence. In addition, offenders may
27 leave a correctional facility when in the custody of a corrections
28 officer or officers;

29 (4)(a) The secretary may authorize an extraordinary medical
30 placement for an offender when all of the following conditions exist:

31 (i) The offender has a medical condition that is serious enough to
32 require costly care or treatment;

33 (ii) The offender poses a low risk to the community because he or
34 she is physically incapacitated due to age or the medical condition;
35 and

36 (iii) Granting the extraordinary medical placement will result in
37 a cost savings to the state.

1 (b) An offender sentenced to death or to life imprisonment without
2 the possibility of release or parole is not eligible for an
3 extraordinary medical placement.

4 (c) The secretary shall require electronic monitoring for all
5 offenders in extraordinary medical placement unless the electronic
6 monitoring equipment interferes with the function of the offender's
7 medical equipment or results in the loss of funding for the offender's
8 medical care. The secretary shall specify who shall provide the
9 monitoring services and the terms under which the monitoring shall be
10 performed.

11 (d) The secretary may revoke an extraordinary medical placement
12 under this subsection at any time(~~(-)~~);

13 (5) The governor, upon recommendation from the clemency and pardons
14 board, may grant an extraordinary release for reasons of serious health
15 problems, senility, advanced age, extraordinary meritorious acts, or
16 other extraordinary circumstances;

17 (6) No more than the final six months of the sentence may be served
18 in partial confinement designed to aid the offender in finding work and
19 reestablishing himself or herself in the community;

20 (7) The governor may pardon any offender;

21 (8) The department may release an offender from confinement any
22 time within ten days before a release date calculated under this
23 section; and

24 (9) An offender may leave a correctional facility prior to
25 completion of his or her sentence if the sentence has been reduced as
26 provided in RCW 9.94A.870.

27 Notwithstanding any other provisions of this section, an offender
28 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
29 mandatory minimum sentence of total confinement shall not be released
30 from total confinement before the completion of the listed mandatory
31 minimum sentence for that felony crime of conviction unless allowed
32 under RCW 9.94A.540, however persistent offenders are not eligible for
33 extraordinary medical placement.

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

36 The legislature declares that the changes to the maximum

1 percentages of earned release time in this act do not create any
2 expectation that the percentage of earned release time cannot be
3 revised and offenders have no reason to conclude that the maximum
4 percentage of earned release time is an entitlement or creates any
5 liberty interest. The legislature retains full control over the right
6 to revise the percentages of earned release time available to offenders
7 at any time. This section applies to persons convicted on or after the
8 effective date of this section.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW
10 to read as follows:

11 (1) When the department performs a risk assessment pursuant to RCW
12 9.94A.500, or to determine a person's conditions of supervision, the
13 risk assessment shall classify the offender into one of at least four
14 risk categories.

15 (2) The department shall supervise every offender sentenced to a
16 term of community custody, community placement, or community
17 supervision:

18 (a) Whose risk assessment places that offender in one of the two
19 highest risk categories; or

20 (b) Regardless of the offender's risk category if:

21 (i) The offender's current conviction is for:

22 (A) A sex offense;

23 (B) A violent offense;

24 (C) A crime against persons as defined in RCW 9.94A.411;

25 (D) A felony that is domestic violence as defined in RCW 10.99.020;

26 (E) A violation of RCW 9A.52.025 (residential burglary);

27 (F) A violation of, or an attempt, solicitation, or conspiracy to
28 violate, RCW 69.50.401 by manufacture or delivery or possession with
29 intent to deliver methamphetamine; or

30 (G) A violation of, or an attempt, solicitation, or conspiracy to
31 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

32 (ii) The offender has a prior conviction for:

33 (A) A sex offense;

34 (B) A violent offense;

35 (C) A crime against persons as defined in RCW 9.94A.411;

36 (D) A felony that is domestic violence as defined in RCW 10.99.020;

1 (E) A violation of RCW 9A.52.025 (residential burglary);

2 (F) A violation of, or an attempt, solicitation, or conspiracy to
3 violate, RCW 69.50.401 by manufacture or delivery or possession with
4 intent to deliver methamphetamine; or

5 (G) A violation of, or an attempt, solicitation, or conspiracy to
6 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

7 (iii) The conditions of the offender's community custody, community
8 placement, or community supervision include chemical dependency
9 treatment;

10 (iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670;
11 or

12 (v) The offender is subject to supervision pursuant to RCW
13 9.94A.745.

14 (3) The department is not authorized to, and may not, supervise any
15 offender sentenced to a term of community custody, community placement,
16 or community supervision unless the offender is one for whom
17 supervision is required under subsection (2) of this section.

18 (4) This section expires July 1, 2010.

19 **Sec. 4.** RCW 9.94A.700 and 2002 c 175 s 13 are each amended to read
20 as follows:

21 When a court sentences an offender to a term of total confinement
22 in the custody of the department for any of the offenses specified in
23 this section, the court shall also sentence the offender to a term of
24 community placement as provided in this section. Except as provided in
25 section 3 of this act, the department shall supervise any sentence of
26 community placement imposed under this section.

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

29 (a) A sex offense or a serious violent offense committed after July
30 1, 1988, but before July 1, 1990; or

31 (b) An offense committed on or after July 1, 1988, but before July
32 25, 1999, that is:

33 (i) Assault in the second degree;

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

35 (iii) A crime against persons where it is determined in accordance

1 with RCW 9.94A.602 that the offender or an accomplice was armed with a
2 deadly weapon at the time of commission; or

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

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

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

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

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

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

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

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

28 (b) The offender shall work at department-approved education,
29 employment, or community restitution, or any combination thereof;

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

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

34 (e) The residence location and living arrangements shall be subject
35 to the prior approval of the department during the period of community
36 placement.

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

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

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

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

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

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

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

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

20 **Sec. 5.** RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read
21 as follows:

22 Except for persons sentenced under RCW 9.94A.700(2) or 9.94A.710,
23 when a court sentences a person to a term of total confinement to the
24 custody of the department for a violent offense, any crime against
25 persons under RCW 9.94A.411(2), or any felony offense under chapter
26 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660, committed on or
27 after July 25, 1999, but before July 1, 2000, the court shall in
28 addition to the other terms of the sentence, sentence the offender to
29 a one-year term of community placement beginning either upon completion
30 of the term of confinement or at such time as the offender is
31 transferred to community custody in lieu of earned release in
32 accordance with RCW 9.94A.728 (1) and (2). When the court sentences
33 the offender under this section to the statutory maximum period of
34 confinement, then the community placement portion of the sentence shall
35 consist entirely of such community custody to which the offender may
36 become eligible, in accordance with RCW 9.94A.728 (1) and (2). Any

1 period of community custody actually served shall be credited against
2 the community placement portion of the sentence. Except as provided in
3 section 3 of this act, the department shall supervise any sentence of
4 community placement or community custody imposed under this section.

5 **Sec. 6.** RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each
6 amended to read as follows:

7 (1) When a court sentences a person to the custody of the
8 department for a sex offense not sentenced under RCW 9.94A.712, a
9 violent offense, any crime against persons under RCW 9.94A.411(2), or
10 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
11 after July 1, 2000, the court shall in addition to the other terms of
12 the sentence, sentence the offender to community custody for the
13 community custody range established under RCW 9.94A.850 or up to the
14 period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2),
15 whichever is longer. The community custody shall begin: (a) Upon
16 completion of the term of confinement; (b) at such time as the offender
17 is transferred to community custody in lieu of earned release in
18 accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to
19 offenders sentenced under RCW 9.94A.660, upon failure to complete or
20 administrative termination from the special drug offender sentencing
21 alternative program. Except as provided in section 3 of this act, the
22 department shall supervise any sentence of community custody imposed
23 under this section.

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

32 (b) As part of any sentence that includes a term of community
33 custody imposed under this subsection, the court shall also require the
34 offender to comply with any conditions imposed by the department under
35 RCW 9.94A.720. The department shall assess the offender's risk of
36 reoffense and may establish and modify additional conditions of the

1 offender's community custody based upon the risk to community safety.
2 In addition, the department may require the offender to participate in
3 rehabilitative programs, or otherwise perform affirmative conduct, and
4 to obey all laws.

5 (c) The department may not impose conditions that are contrary to
6 those ordered by the court and may not contravene or decrease court
7 imposed conditions. The department shall notify the offender in
8 writing of any such conditions or modifications. In setting,
9 modifying, and enforcing conditions of community custody, the
10 department shall be deemed to be performing a quasi-judicial function.

11 (3) If an offender violates conditions imposed by the court or the
12 department pursuant to this section during community custody, the
13 department may transfer the offender to a more restrictive confinement
14 status and impose other available sanctions as provided in RCW
15 9.94A.737 and 9.94A.740.

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

21 (5) At any time prior to the completion or termination of a sex
22 offender's term of community custody, if the court finds that public
23 safety would be enhanced, the court may impose and enforce an order
24 extending any or all of the conditions imposed pursuant to this section
25 for a period up to the maximum allowable sentence for the crime as it
26 is classified in chapter 9A.20 RCW, regardless of the expiration of the
27 offender's term of community custody. If a violation of a condition
28 extended under this subsection occurs after the expiration of the
29 offender's term of community custody, it shall be deemed a violation of
30 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
31 contempt of court as provided for in RCW 7.21.040. If the court
32 extends a condition beyond the expiration of the term of community
33 custody, the department is not responsible for supervision of the
34 offender's compliance with the condition.

35 (6) Within the funds available for community custody, the
36 department shall determine conditions and duration of community custody
37 on the basis of risk to community safety, and shall supervise offenders

1 during community custody on the basis of risk to community safety and
2 conditions imposed by the court. The secretary shall adopt rules to
3 implement the provisions of this subsection.

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

11 **Sec. 7.** RCW 9.94A.720 and 2002 c 175 s 14 are each amended to read
12 as follows:

13 (1)(a) Except as provided in section 3 of this act, all offenders
14 sentenced to terms involving community supervision, community
15 restitution, community placement, or community custody(~~(, or legal~~
16 financial obligation)) shall be under the supervision of the department
17 and shall follow explicitly the instructions and conditions of the
18 department. The department may require an offender to perform
19 affirmative acts it deems appropriate to monitor compliance with the
20 conditions of the sentence imposed. The department may only supervise
21 the offender's compliance with payment of legal financial obligations
22 during any period in which the department is authorized to supervise
23 the offender in the community under section 3 of this act.

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

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

35 (d) For offenders sentenced to terms of community custody for

1 crimes committed on or after July 1, 2000, the department may impose
2 conditions as specified in RCW 9.94A.715.

3 The conditions authorized under (c) of this subsection may be
4 imposed by the department prior to or during an offender's community
5 custody term. If a violation of conditions imposed by the court or the
6 department pursuant to RCW 9.94A.710 occurs during community custody,
7 it shall be deemed a violation of community placement for the purposes
8 of RCW 9.94A.740 and shall authorize the department to transfer an
9 offender to a more restrictive confinement status as provided in RCW
10 9.94A.737. At any time prior to the completion of an offender's term
11 of community custody, the department may recommend to the court that
12 any or all of the conditions imposed by the court or the department
13 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
14 expiration of the offender's term of community custody as authorized in
15 RCW 9.94A.715 (3) or (5).

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

21 (2) No offender sentenced to terms involving community supervision,
22 community restitution, community custody, or community placement under
23 the supervision of the department may own, use, or possess firearms or
24 ammunition. Offenders who own, use, or are found to be in actual or
25 constructive possession of firearms or ammunition shall be subject to
26 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
27 9.94A.740. "Constructive possession" as used in this subsection means
28 the power and intent to control the firearm or ammunition. "Firearm"
29 as used in this subsection has the same definition as in RCW 9.41.010.

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

32 Except as provided in RCW 9.94A.650, on all sentences of
33 confinement for one year or less, in which the offender is convicted of
34 a sex offense, a violent offense, a crime against a person under RCW
35 9.94A.411, or felony violation of chapter 69.50 or 69.52 RCW or an
36 attempt, conspiracy, or solicitation to commit such a crime, the court

1 may impose up to one year of community custody, subject to conditions
2 and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An
3 offender shall be on community custody as of the date of sentencing.
4 However, during the time for which the offender is in total or partial
5 confinement pursuant to the sentence or a violation of the sentence,
6 the period of community custody shall toll.

7 **Sec. 9.** 2002 c 290 s 30 (uncodified) is amended to read as
8 follows:

9 Section 2 of this act expires (~~July 1, 2004~~) on the effective
10 date of section 9, chapter . . . , Laws of 2003 (section 9 of this act).

11 **Sec. 10.** 2002 c 290 s 31 (uncodified) is amended to read as
12 follows:

13 Sections 7 through 11 and 14 through 23 of this act take effect
14 (~~July 1, 2004, and apply to crimes committed on or after July 1,~~
15 ~~2004~~) on the effective date of section 9, chapter . . . , Laws of 2003
16 (section 9 of this act).

17 **Sec. 11.** RCW 70.96A.350 and 2002 c 290 s 4 are each amended to
18 read as follows:

19 (1) The criminal justice treatment account is created in the state
20 treasury. Moneys in the account may be expended solely for: (a)
21 Substance abuse treatment and treatment support services for offenders
22 with an addiction or a substance abuse problem that, if not treated,
23 would result in addiction, against whom charges are filed by a
24 prosecuting attorney in Washington state; and (b) the provision of drug
25 and alcohol treatment services and treatment support services for
26 nonviolent offenders within a drug court program. Moneys in the
27 account may be spent only after appropriation.

28 (2) For purposes of this section:

29 (a) "Treatment" means services that are critical to a participant's
30 successful completion of his or her substance abuse treatment program,
31 but does not include the following services: Housing other than that
32 provided as part of an inpatient substance abuse treatment program,
33 vocational training, and mental health counseling; and

1 (b) "Treatment support" means transportation to or from inpatient
2 or outpatient treatment services when no viable alternative exists, and
3 child care services that are necessary to ensure a participant's
4 ability to attend outpatient treatment sessions.

5 (3) Revenues to the criminal justice treatment account consist of:
6 (a) (~~Savings to the state general fund resulting from implementation~~
7 ~~of chapter 290, Laws of 2002, as calculated~~) Funds transferred to the
8 account pursuant to this section; and (b) any other revenues
9 appropriated to or deposited in the account.

10 (4)(a) (~~The department of corrections, the sentencing guidelines~~
11 ~~commission, the office of financial management, and the caseload~~
12 ~~forecast council shall develop a methodology for calculating the~~
13 ~~projected biennial savings under this section. Savings shall be~~
14 ~~projected for the fiscal biennium beginning on July 1, 2003, and for~~
15 ~~each biennium thereafter. By September 1, 2002, the proposed~~
16 ~~methodology shall be submitted to the governor and the appropriate~~
17 ~~committees of the legislature. The methodology is deemed approved~~
18 ~~unless the legislature enacts legislation to modify or reject the~~
19 ~~methodology.~~

20 (b) ~~When the department of corrections submits its biennial budget~~
21 ~~request to the governor in 2002 and in each even-numbered year~~
22 ~~thereafter, the department of corrections shall use the methodology~~
23 ~~approved in (a) of this subsection to calculate savings to the state~~
24 ~~general fund for the ensuing fiscal biennium resulting from reductions~~
25 ~~in drug offender sentencing as a result of sections 2 and 3, chapter~~
26 ~~290, Laws of 2002 and sections 7, 8, and 9, chapter 290, Laws of 2002.~~
27 ~~The department shall report the dollar amount of the savings to the~~
28 ~~state treasurer, the office of financial management, and the fiscal~~
29 ~~committees of the legislature.~~

30 (c)) For the fiscal biennium beginning July 1, 2003, (~~and each~~
31 ~~fiscal biennium thereafter,~~) the state treasurer shall transfer
32 (~~seventy five percent of the amount reported in (b) of this~~
33 ~~subsection~~) eight million nine hundred fifty thousand dollars from the
34 general fund into the criminal justice treatment account, divided into
35 eight equal quarterly payments. (~~However, the amount transferred to~~
36 ~~the criminal justice treatment account shall not exceed the limit of~~
37 ~~eight million two hundred fifty thousand dollars per fiscal year.~~

1 ~~After the first fiscal year in which the amount to be transferred~~
2 ~~equals or exceeds eight million two hundred fifty thousand dollars,~~
3 ~~this limit))~~ For the fiscal year beginning July 1, 2005, and each
4 subsequent fiscal year, the state treasurer shall transfer eight
5 million two hundred fifty thousand dollars from the general fund to the
6 criminal justice treatment account, divided into four equal quarterly
7 payments. For the fiscal year beginning July 1, 2006, and each
8 subsequent fiscal year, the amount transferred shall be increased on an
9 annual basis by the implicit price deflator as published by the federal
10 bureau of labor statistics.

11 ~~((d))~~ (b) For the fiscal biennium beginning July 1, 2003, and
12 each biennium thereafter, the state treasurer shall transfer ~~((twenty-~~
13 ~~five percent of the amount reported in (b) of this subsection))~~ two
14 million nine hundred eighty-four thousand dollars from the general fund
15 into the violence reduction and drug enforcement account, divided into
16 eight quarterly payments. The amounts transferred pursuant to this
17 subsection ~~(4)((d))~~ (b) shall be used solely for providing drug and
18 alcohol treatment services to offenders confined in a state
19 correctional facility ~~((receiving a reduced sentence as a result of~~
20 ~~implementation of chapter 290, Laws of 2002 and))~~ who are assessed with
21 an addiction or a substance abuse problem that if not treated would
22 result in addiction. ~~((Any excess funds remaining after providing drug~~
23 ~~and alcohol treatment services to offenders receiving a reduced~~
24 ~~sentence as a result of implementation of chapter 290, Laws of 2002 may~~
25 ~~be expended to provide treatment for offenders confined in a state~~
26 ~~correctional facility and who are assessed with an addiction or a~~
27 ~~substance abuse problem that contributed to the crime.~~

28 ~~(e))~~ (c) In each odd-numbered year, the legislature shall
29 appropriate the amount transferred to the criminal justice treatment
30 account in ~~((e))~~ (a) of this subsection to the division of alcohol
31 and substance abuse for the purposes of subsection (5) of this section.

32 (5) Moneys appropriated to the division of alcohol and substance
33 abuse from the criminal justice treatment account shall be distributed
34 as specified in this subsection. The department shall serve as the
35 fiscal agent for purposes of distribution. Until July 1, 2004, the
36 department may not use moneys appropriated from the criminal justice
37 treatment account for administrative expenses and shall distribute all

1 amounts appropriated under subsection (4)((+e+)) (c) of this section in
2 accordance with this subsection. Beginning in July 1, 2004, the
3 department may retain up to three percent of the amount appropriated
4 under subsection (4)((+e+)) (c) of this section for its administrative
5 costs.

6 (a) Seventy percent of amounts appropriated to the division from
7 the account shall be distributed to counties pursuant to the
8 distribution formula adopted under this section. The division of
9 alcohol and substance abuse, in consultation with the department of
10 corrections, the sentencing guidelines commission, the Washington state
11 association of counties, the Washington state association of drug court
12 professionals, the superior court judges' association, the Washington
13 association of prosecuting attorneys, representatives of the criminal
14 defense bar, representatives of substance abuse treatment providers,
15 and any other person deemed by the division to be necessary, shall
16 establish a fair and reasonable methodology for distribution to
17 counties of moneys in the criminal justice treatment account. County
18 or regional plans submitted for the expenditure of formula funds must
19 be approved by the panel established in (b) of this subsection.

20 (b) Thirty percent of the amounts appropriated to the division from
21 the account shall be distributed as grants for purposes of treating
22 offenders against whom charges are filed by a county prosecuting
23 attorney. The division shall appoint a panel of representatives from
24 the Washington association of prosecuting attorneys, the Washington
25 association of sheriffs and police chiefs, the superior court judges'
26 association, the Washington state association of counties, the
27 Washington defender's association or the Washington association of
28 criminal defense lawyers, the department of corrections, the Washington
29 state association of drug court professionals, substance abuse
30 treatment providers, and the division. The panel shall review county
31 or regional plans for funding under (a) of this subsection and grants
32 approved under this subsection. The panel shall attempt to ensure that
33 treatment as funded by the grants is available to offenders statewide.

34 (6) The county alcohol and drug coordinator, county prosecutor,
35 county sheriff, county superior court, a substance abuse treatment
36 provider appointed by the county legislative authority, a member of the
37 criminal defense bar appointed by the county legislative authority,

1 and, in counties with a drug court, a representative of the drug court
2 shall jointly submit a plan, approved by the county legislative
3 authority or authorities, to the panel established in subsection (5)(b)
4 of this section, for disposition of all the funds provided from the
5 criminal justice treatment account within that county. The funds shall
6 be used solely to provide approved alcohol and substance abuse
7 treatment pursuant to RCW 70.96A.090 and treatment support services.
8 No more than ten percent of the total moneys received under subsections
9 (4) and (5) of this section by a county or group of counties
10 participating in a regional agreement shall be spent for treatment
11 support services.

12 (7) Counties are encouraged to consider regional agreements and
13 submit regional plans for the efficient delivery of treatment under
14 this section.

15 (8) Moneys allocated under this section shall be used to
16 supplement, not supplant, other federal, state, and local funds used
17 for substance abuse treatment.

18 (9) Counties must meet the criteria established in RCW
19 2.28.170(3)(b).

20 NEW SECTION. **Sec. 12.** The Washington state institute for public
21 policy shall study the results of the changes in earned release under
22 section 1 of this act. The study shall determine whether the changes
23 in earned release affect the rate of recidivism or the type of offenses
24 committed by persons whose release dates were affected by the changes
25 in this act. The Washington state institute for public policy shall
26 report its findings to the governor and the appropriate committees of
27 the legislature no later than December 1, 2008.

28 NEW SECTION. **Sec. 13.** The legislature intends to revise and
29 improve the processes for billing and collecting legal financial
30 obligations. The purpose of sections 13 through 27 of this act is to
31 respond to suggestions and requests made by county government
32 officials, and in particular county clerks, to assume the collection of
33 such obligations in cooperation and coordination with the department of
34 corrections and the administrative office for the courts. The
35 legislature undertakes this effort following a collaboration between

1 local officials, the department of corrections, and the administrative
2 office for the courts. The intent of sections 13 through 27 of this
3 act is to promote an increased and more efficient collection of legal
4 financial obligations and, as a result, improve the likelihood that the
5 affected agencies will increase the collections which will provide
6 additional benefits to all parties and, in particular, crime victims
7 whose restitution is dependent upon the collections.

8 **Sec. 14.** RCW 9.94A.760 and 2001 c 10 s 3 are each amended to read
9 as follows:

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

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

35 (3) The court may add to the judgment and sentence or subsequent
36 order to pay a statement that a notice of payroll deduction is to be

1 issued immediately. If the court chooses not to order the immediate
2 issuance of a notice of payroll deduction at sentencing, the court
3 shall add to the judgment and sentence or subsequent order to pay a
4 statement that a notice of payroll deduction may be issued or other
5 income-withholding action may be taken, without further notice to the
6 offender if a monthly court-ordered legal financial obligation payment
7 is not paid when due, and an amount equal to or greater than the amount
8 payable for one month is owed.

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

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

1 later. Prior to the expiration of the initial ten-year period, the
2 superior court may extend the criminal judgment an additional ten years
3 for payment of legal financial obligations including crime victims'
4 assessments. All other legal financial obligations for an offense
5 committed on or after July 1, 2000, may be enforced at any time the
6 offender remains under the court's jurisdiction. For an offense
7 committed on or after July 1, 2000, the court shall retain jurisdiction
8 over the offender, for purposes of the offender's compliance with
9 payment of the legal financial obligations, until the obligation is
10 completely satisfied, regardless of the statutory maximum for the
11 crime. The department (~~(of corrections shall)~~) may only supervise the
12 offender's compliance with payment of the legal financial obligations
13 (~~((for ten years following the entry of the judgment and sentence, or~~
14 ~~ten years following the offender's release from total confinement,~~
15 ~~whichever period ends later))~~) during any period in which the department
16 is authorized to supervise the offender in the community under RCW
17 9.94A.728, section 3 of this act, or in which the offender is confined
18 in a state correctional institution or a correctional facility pursuant
19 to a transfer agreement with the department, and the department shall
20 supervise the offender's compliance during any such period. The
21 department is not responsible for supervision of the offender during
22 any subsequent period of time the offender remains under the court's
23 jurisdiction. The county clerk is authorized to collect unpaid legal
24 financial obligations at any time the offender remains under the
25 jurisdiction of the court for purposes of his or her legal financial
26 obligations.

27 (5) In order to assist the court in setting a monthly sum that the
28 offender must pay during the period of supervision, the offender is
29 required to report to the department for purposes of preparing a
30 recommendation to the court. When reporting, the offender is required,
31 under oath, to respond truthfully and honestly to all questions
32 concerning present, past, and future earning capabilities and the
33 location and nature of all property or financial assets. The offender
34 is further required to bring all documents requested by the department.

35 (6) After completing the investigation, the department shall make
36 a report to the court on the amount of the monthly payment that the

1 offender should be required to make towards a satisfied legal financial
2 obligation.

3 (7)(a) During the period of supervision, the department may make a
4 recommendation to the court that the offender's monthly payment
5 schedule be modified so as to reflect a change in financial
6 circumstances. If the department sets the monthly payment amount, the
7 department may modify the monthly payment amount without the matter
8 being returned to the court. During the period of supervision, the
9 department may require the offender to report to the department for the
10 purposes of reviewing the appropriateness of the collection schedule
11 for the legal financial obligation. During this reporting, the
12 offender is required under oath to respond truthfully and honestly to
13 all questions concerning earning capabilities and the location and
14 nature of all property or financial assets. The offender shall bring
15 all documents requested by the department in order to prepare the
16 collection schedule.

17 (b) Subsequent to any period of supervision, or if the department
18 is not authorized to supervise the offender in the community, the
19 county clerk may make a recommendation to the court that the offender's
20 monthly payment schedule be modified so as to reflect a change in
21 financial circumstances. If the county clerk sets the monthly payment
22 amount, the clerk may modify the monthly payment amount without the
23 matter being returned to the court. During the period of repayment,
24 the county clerk may require the offender to report to the clerk for
25 the purpose of reviewing the appropriateness of the collection schedule
26 for the legal financial obligation. During this reporting, the
27 offender is required under oath to respond truthfully and honestly to
28 all questions concerning earning capabilities and the location and
29 nature of all property or financial assets. The offender shall bring
30 all documents requested by the county clerk in order to prepare the
31 collection schedule.

32 (8) After the judgment and sentence or payment order is entered,
33 the department is authorized, for any period of supervision, to collect
34 the legal financial obligation from the offender. Subsequent to any
35 period of supervision or, if the department is not authorized to
36 supervise the offender in the community, the county clerk is authorized
37 to collect unpaid legal financial obligations from the offender. Any

1 amount collected by the department shall be remitted daily to the
2 county clerk for the purpose of disbursements. The department (~~is~~)
3 and the county clerks are authorized, but not required, to accept
4 credit cards as payment for a legal financial obligation, and any costs
5 incurred related to accepting credit card payments shall be the
6 responsibility of the offender.

7 (9) The department or any obligee of the legal financial obligation
8 may seek a mandatory wage assignment for the purposes of obtaining
9 satisfaction for the legal financial obligation pursuant to RCW
10 9.94A.7701. Any party obtaining a wage assignment shall notify the
11 county clerk. The county clerks shall notify the department, or the
12 administrative office of the courts, whichever is providing the monthly
13 billing for the offender.

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

18 (11)(a) Until January 1, 2004, the department shall mail
19 individualized monthly billings to the address known by the department
20 for each offender with an unsatisfied legal financial obligation.

21 (b) Beginning January 1, 2004, the administrative office of the
22 courts shall mail individualized monthly billings to the address known
23 by the office for each offender with an unsatisfied legal financial
24 obligation.

25 (c) The billing shall direct payments, other than outstanding cost
26 of supervision assessments under RCW 9.94A.780, parole assessments
27 under RCW 72.04A.120, and cost of probation assessments under RCW
28 9.95.214, to the county clerk, and cost of supervision, parole, or
29 probation assessments to the department.

30 (d) The county clerk shall provide the (~~department with~~
31 ~~individualized monthly billings for each offender with an unsatisfied~~
32 ~~legal financial obligation and shall provide the department))
33 administrative office of the courts with notice of payments by such
34 offenders no less frequently than weekly.~~

35 (e) The county clerks, the administrative office of the courts, and
36 the department shall maintain agreements to implement this subsection.

1 (12) The department (~~may~~) shall arrange for the collection of
2 unpaid legal financial obligations during any period of supervision in
3 the community through the county clerk(~~, or~~). The department shall
4 either collect unpaid legal financial obligations or arrange for
5 collections through another entity if the clerk does not assume
6 responsibility for collection pursuant to subsection (4) of this
7 section. The costs for collection services shall be paid by the
8 offender.

9 (13) Nothing in this chapter makes the department, the state, the
10 counties, or any (~~of its~~) state or county employees, agents, or other
11 persons acting on their behalf liable under any circumstances for the
12 payment of these legal financial obligations or for the acts of any
13 offender who is no longer, or was not, subject to supervision by the
14 department for a term of community custody, community placement, or
15 community supervision, and who remains under the jurisdiction of the
16 court for payment of legal financial obligations.

17 **Sec. 15.** RCW 9.94A.750 and 2000 c 28 s 32 are each amended to read
18 as follows:

19 This section applies to offenses committed on or before July 1,
20 1985.

21 (1) If restitution is ordered, the court shall determine the amount
22 of restitution due at the sentencing hearing or within one hundred
23 eighty days. The court may continue the hearing beyond the one hundred
24 eighty days for good cause. The court shall then set a minimum monthly
25 payment that the offender is required to make towards the restitution
26 that is ordered. The court should take into consideration the total
27 amount of the restitution owed, the offender's present, past, and
28 future ability to pay, as well as any assets that the offender may
29 have.

30 (2) During the period of supervision, the community corrections
31 officer may examine the offender to determine if there has been a
32 change in circumstances that warrants an amendment of the monthly
33 payment schedule. The community corrections officer may recommend a
34 change to the schedule of payment and shall inform the court of the
35 recommended change and the reasons for the change. The sentencing

1 court may then reset the monthly minimum payments based on the report
2 from the community corrections officer of the change in circumstances.

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

13 (4) For the purposes of this section, the offender shall remain
14 under the court's jurisdiction for a term of ten years following the
15 offender's release from total confinement or ten years subsequent to
16 the entry of the judgment and sentence, whichever period is longer.
17 Prior to the expiration of the initial ten-year period, the superior
18 court may extend jurisdiction under the criminal judgment an additional
19 ten years for payment of restitution. (~~(If jurisdiction under the~~
20 ~~criminal judgment is extended, the department is not responsible for~~
21 ~~supervision of the offender during the subsequent period.)) The
22 portion of the sentence concerning restitution may be modified as to
23 amount, terms and conditions during either the initial ten-year period
24 or subsequent ten-year period if the criminal judgment is extended,
25 regardless of the expiration of the offender's term of community
26 supervision and regardless of the statutory maximum sentence for the
27 crime. The court may not reduce the total amount of restitution
28 ordered because the offender may lack the ability to pay the total
29 amount. The offender's compliance with the restitution shall be
30 supervised by the department only during any period which the
31 department is authorized to supervise the offender in the community
32 under RCW 9.94A.728, section 3 of this act, or in which the offender is
33 in confinement in a state correctional institution or a correctional
34 facility pursuant to a transfer agreement with the department, and the
35 department shall supervise the offender's compliance during any such
36 period. The department is responsible for supervision of the offender
37 only during confinement and authorized supervision and not during any~~

1 subsequent period in which the offender remains under the court's
2 jurisdiction. The county clerk is authorized to collect unpaid
3 restitution at any time the offender remains under the jurisdiction of
4 the court for purposes of his or her legal financial obligations.

5 (5) Restitution may be ordered whenever the offender is convicted
6 of an offense which results in injury to any person or damage to or
7 loss of property or as provided in subsection (6) of this section. In
8 addition, restitution may be ordered to pay for an injury, loss, or
9 damage if the offender pleads guilty to a lesser offense or fewer
10 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.

13 (6) Restitution for the crime of rape of a child in the first,
14 second, or third degree, in which the victim becomes pregnant, shall
15 include: (a) All of the victim's medical expenses that are associated
16 with the rape and resulting pregnancy; and (b) child support for any
17 child born as a result of the rape if child support is ordered pursuant
18 to a proceeding in superior court or administrative order for support
19 for that child. The clerk must forward any restitution payments made
20 on behalf of the victim's child to the Washington state child support
21 registry under chapter 26.23 RCW. Identifying information about the
22 victim and child shall not be included in the order. The offender
23 shall receive a credit against any obligation owing under the
24 administrative or superior court order for support of the victim's
25 child. For the purposes of this subsection, the offender shall remain
26 under the court's jurisdiction until the offender has satisfied support
27 obligations under the superior court or administrative order but not
28 longer than a maximum term of twenty-five years following the
29 offender's release from total confinement or twenty-five years
30 subsequent to the entry of the judgment and sentence, whichever period
31 is longer. The court may not reduce the total amount of restitution
32 ordered because the offender may lack the ability to pay the total
33 amount. The department shall supervise the offender's compliance with
34 the restitution ordered under this subsection.

35 (7) In addition to any sentence that may be imposed, an offender
36 who has been found guilty of an offense involving fraud or other
37 deceptive practice or an organization which has been found guilty of

1 any such offense may be ordered by the sentencing court to give notice
2 of the conviction to the class of persons or to the sector of the
3 public affected by the conviction or financially interested in the
4 subject matter of the offense by mail, by advertising in designated
5 areas or through designated media, or by other appropriate means.

6 (8) This section does not limit civil remedies or defenses
7 available to the victim or offender including support enforcement
8 remedies for support ordered under subsection (6) of this section for
9 a child born as a result of a rape of a child victim. The court shall
10 identify in the judgment and sentence the victim or victims entitled to
11 restitution and what amount is due each victim. The state or victim
12 may enforce the court-ordered restitution in the same manner as a
13 judgment in a civil action. Restitution collected through civil
14 enforcement must be paid through the registry of the court and must be
15 distributed proportionately according to each victim's loss when there
16 is more than one victim.

17 **Sec. 16.** RCW 9.94A.753 and 2000 c 226 s 3 and 2000 c 28 s 33 are
18 each reenacted and amended to read as follows:

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

20 (1) When restitution is ordered, the court shall determine the
21 amount of restitution due at the sentencing hearing or within one
22 hundred eighty days except as provided in subsection (7) of this
23 section. The court may continue the hearing beyond the one hundred
24 eighty days for good cause. The court shall then set a minimum monthly
25 payment that the offender is required to make towards the restitution
26 that is ordered. The court should take into consideration the total
27 amount of the restitution owed, the offender's present, past, and
28 future ability to pay, as well as any assets that the offender may
29 have.

30 (2) During the period of supervision, the community corrections
31 officer may examine the offender to determine if there has been a
32 change in circumstances that warrants an amendment of the monthly
33 payment schedule. The community corrections officer may recommend a
34 change to the schedule of payment and shall inform the court of the
35 recommended change and the reasons for the change. The sentencing

1 court may then reset the monthly minimum payments based on the report
2 from the community corrections officer of the change in circumstances.

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

13 (4) For the purposes of this section, for an offense committed
14 prior to July 1, 2000, the offender shall remain under the court's
15 jurisdiction for a term of ten years following the offender's release
16 from total confinement or ten years subsequent to the entry of the
17 judgment and sentence, whichever period ends later. Prior to the
18 expiration of the initial ten-year period, the superior court may
19 extend jurisdiction under the criminal judgment an additional ten years
20 for payment of restitution. For an offense committed on or after July
21 1, 2000, the offender shall remain under the court's jurisdiction until
22 the obligation is completely satisfied, regardless of the statutory
23 maximum for the crime. The portion of the sentence concerning
24 restitution may be modified as to amount, terms, and conditions during
25 any period of time the offender remains under the court's jurisdiction,
26 regardless of the expiration of the offender's term of community
27 supervision and regardless of the statutory maximum sentence for the
28 crime. The court may not reduce the total amount of restitution
29 ordered because the offender may lack the ability to pay the total
30 amount. The offender's compliance with the restitution shall be
31 supervised by the department (~~((for ten years following the entry of the
32 judgment and sentence or ten years following the offender's release
33 from total confinement. The department is not responsible for
34 supervision of the offender during any subsequent period of time the
35 offender remains under the court's jurisdiction))~~ only during any
36 period which the department is authorized to supervise the offender in
37 the community under RCW 9.94A.728, section 3 of this act, or in which

1 the offender is in confinement in a state correctional institution or
2 a correctional facility pursuant to a transfer agreement with the
3 department, and the department shall supervise the offender's
4 compliance during any such period. The department is responsible for
5 supervision of the offender only during confinement and authorized
6 supervision and not during any subsequent period in which the offender
7 remains under the court's jurisdiction. The county clerk is authorized
8 to collect unpaid restitution at any time the offender remains under
9 the jurisdiction of the court for purposes of his or her legal
10 financial obligations.

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

22 (6) Restitution for the crime of rape of a child in the first,
23 second, or third degree, in which the victim becomes pregnant, shall
24 include: (a) All of the victim's medical expenses that are associated
25 with the rape and resulting pregnancy; and (b) child support for any
26 child born as a result of the rape if child support is ordered pursuant
27 to a civil superior court or administrative order for support for that
28 child. The clerk must forward any restitution payments made on behalf
29 of the victim's child to the Washington state child support registry
30 under chapter 26.23 RCW. Identifying information about the victim and
31 child shall not be included in the order. The offender shall receive
32 a credit against any obligation owing under the administrative or
33 superior court order for support of the victim's child. For the
34 purposes of this subsection, the offender shall remain under the
35 court's jurisdiction until the offender has satisfied support
36 obligations under the superior court or administrative order for the
37 period provided in RCW 4.16.020 or a maximum term of twenty-five years

1 following the offender's release from total confinement or twenty-five
2 years subsequent to the entry of the judgment and sentence, whichever
3 period is longer. The court may not reduce the total amount of
4 restitution ordered because the offender may lack the ability to pay
5 the total amount. The department shall supervise the offender's
6 compliance with the restitution ordered under this subsection.

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

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

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

1 NEW SECTION. **Sec. 17.** A new section is added to chapter 9.94A RCW
2 to read as follows:

3 If an offender with an unsatisfied legal financial obligation is
4 not subject to supervision by the department for a term of community
5 placement, community custody, or community supervision, or has not
6 completed payment of all legal financial obligations included in the
7 sentence at the expiration of his or her term of community placement,
8 community custody, or community supervision, the department shall
9 notify the administrative office of the courts of the termination of
10 the offender's supervision and provide information to the
11 administrative office of the courts to enable the county clerk to
12 monitor payment of the remaining obligations. The county clerk is
13 authorized to monitor payment after such notification. The secretary
14 of corrections and the administrator for the courts shall enter into an
15 interagency agreement to facilitate the electronic transfer of
16 information about offenders, unpaid obligations, and payees to carry
17 out the purposes of this section.

18 **Sec. 18.** RCW 9.94A.780 and 1991 c 104 s 1 are each amended to read
19 as follows:

20 (1) Whenever a punishment imposed under this chapter requires
21 supervision services to be provided, the offender shall pay to the
22 department of corrections the monthly assessment, prescribed under
23 subsection (2) of this section, which shall be for the duration of the
24 terms of supervision and which shall be considered as payment or part
25 payment of the cost of providing supervision to the offender. The
26 department may exempt or defer a person from the payment of all or any
27 part of the assessment based upon any of the following factors:

28 (a) The offender has diligently attempted but has been unable to
29 obtain employment that provides the offender sufficient income to make
30 such payments.

31 (b) The offender is a student in a school, college, university, or
32 a course of vocational or technical training designed to fit the
33 student for gainful employment.

34 (c) The offender has an employment handicap, as determined by an
35 examination acceptable to or ordered by the department.

1 (d) The offender's age prevents him or her from obtaining
2 employment.

3 (e) The offender is responsible for the support of dependents and
4 the payment of the assessment constitutes an undue hardship on the
5 offender.

6 (f) Other extenuating circumstances as determined by the
7 department.

8 (2) The department of corrections shall adopt a rule prescribing
9 the amount of the assessment. The department may, if it finds it
10 appropriate, prescribe a schedule of assessments that shall vary in
11 accordance with the intensity or cost of the supervision. The
12 department may not prescribe any assessment that is less than ten
13 dollars nor more than fifty dollars.

14 (3) All amounts required to be paid under this section shall be
15 collected by the department of corrections and deposited by the
16 department in the dedicated fund established pursuant to RCW 72.11.040.

17 (4) This section shall not apply to probation services provided
18 under an interstate compact pursuant to chapter 9.95 RCW or to
19 probation services provided for persons placed on probation prior to
20 June 10, 1982.

21 (5) If a county clerk assumes responsibility for collection of
22 unpaid legal financial obligations under RCW 9.94A.760, or under any
23 agreement with the department under that section, whether before or
24 after the completion of any period of community placement, community
25 custody, or community supervision, the clerk may impose a monthly or
26 annual assessment for the cost of collections. The amount of the
27 assessment shall not exceed the actual cost of collections. The county
28 clerk may exempt or defer payment of all or part of the assessment
29 based upon any of the factors listed in subsection (1) of this section.
30 The offender shall pay the assessment under this subsection to the
31 county clerk who shall apply it to the cost of collecting legal
32 financial obligations under RCW 9.94A.760.

33 **Sec. 19.** RCW 9.94A.637 and 2002 c 16 s 2 are each amended to read
34 as follows:

35 (1)(a) When an offender has completed all requirements of the
36 sentence, including any and all legal financial obligations, and while

1 under the custody and supervision of the department, the secretary or
2 the secretary's designee shall notify the sentencing court, which shall
3 discharge the offender and provide the offender with a certificate of
4 discharge by issuing the certificate to the offender in person or by
5 mailing the certificate to the offender's last known address.

6 (b)(i) When an offender has reached the end of his or her
7 supervision with the department and has completed all the requirements
8 of the sentence except his or her legal financial obligations, the
9 secretary's designee shall provide the county clerk with a notice that
10 the offender has completed all nonfinancial requirements of the
11 sentence.

12 (ii) When the department has provided the county clerk with notice
13 that an offender has completed all the requirements of the sentence and
14 the offender subsequently satisfies all legal financial obligations
15 under the sentence, the county clerk shall notify the sentencing court,
16 including the notice from the department, which shall discharge the
17 offender and provide the offender with a certificate of discharge by
18 issuing the certificate to the offender in person or by mailing the
19 certificate to the offender's last known address.

20 (2) The court shall send a copy of every signed certificate of
21 discharge to the auditor for the county in which the court resides and
22 to the department. The department shall create and maintain a data
23 base containing the names of all felons who have been issued
24 certificates of discharge, the date of discharge, and the date of
25 conviction and offense.

26 (3) An offender who is not convicted of a violent offense or a sex
27 offense and is sentenced to a term involving community supervision may
28 be considered for a discharge of sentence by the sentencing court prior
29 to the completion of community supervision, provided that the offender
30 has completed at least one-half of the term of community supervision
31 and has met all other sentence requirements.

32 (4) Except as provided in subsection (5) of this section, the
33 discharge shall have the effect of restoring all civil rights lost by
34 operation of law upon conviction, and the certificate of discharge
35 shall so state. Nothing in this section prohibits the use of an
36 offender's prior record for purposes of determining sentences for later
37 offenses as provided in this chapter. Nothing in this section affects

1 or prevents use of the offender's prior conviction in a later criminal
2 prosecution either as an element of an offense or for impeachment
3 purposes. A certificate of discharge is not based on a finding of
4 rehabilitation.

5 (5) Unless otherwise ordered by the sentencing court, a certificate
6 of discharge shall not terminate the offender's obligation to comply
7 with an order issued under chapter 10.99 RCW that excludes or prohibits
8 the offender from having contact with a specified person or coming
9 within a set distance of any specified location that was contained in
10 the judgment and sentence. An offender who violates such an order
11 after a certificate of discharge has been issued shall be subject to
12 prosecution according to the chapter under which the order was
13 originally issued.

14 (6) Upon release from custody, the offender may apply to the
15 department for counseling and help in adjusting to the community. This
16 voluntary help may be provided for up to one year following the release
17 from custody.

18 NEW SECTION. **Sec. 20.** A new section is added to chapter 36.23 RCW
19 to read as follows:

20 The Washington association of county officials, in consultation
21 with county clerks, shall determine a funding formula for allocation of
22 moneys to counties for purposes of collecting legal financial
23 obligations, and report this formula to the legislature and the
24 administrative office of the courts by September 1, 2003. The
25 Washington association of county officials shall report on the amounts
26 of legal financial obligations collected by the county clerks to the
27 appropriate committees of the legislature no later than December 1,
28 2004, and annually thereafter.

29 NEW SECTION. **Sec. 21.** A new section is added to chapter 2.56 RCW
30 to read as follows:

31 By October 1, 2003, and annually thereafter, the administrative
32 office of the courts shall distribute such funds to counties for county
33 clerk collection budgets as are appropriated by the legislature for
34 this purpose, using the funding formula recommended by the Washington
35 association of county officials. The administrative office of the

1 courts shall not deduct any amount for indirect or direct costs, and
2 shall distribute the entire amount appropriated by the legislature to
3 the counties for county clerk collection budgets. The administrative
4 office of the courts shall report on the amounts distributed to
5 counties to the appropriate committees of the legislature no later than
6 December 1, 2003, and annually thereafter.

7 The administrative office of the courts may expend for the purposes
8 of billing for legal financial obligations, such funds as are
9 appropriated for the legislature for this purpose.

10 NEW SECTION. **Sec. 22.** A new section is added to chapter 9.94A RCW
11 to read as follows:

12 Notwithstanding any other provision of state law, monthly payment
13 or starting dates set by the court or the department before or after
14 the effective date of this section shall not be construed as a
15 limitation on the due date or amount of legal financial obligations,
16 which may be immediately collected by civil means. Monthly payments
17 and commencement dates are to be construed to be applicable solely as
18 a limitation upon the deprivation of an offender's liberty for
19 nonpayment.

20 **Sec. 23.** RCW 4.56.100 and 1997 c 358 s 4 are each amended to read
21 as follows:

22 (1) When any judgment for the payment of money only shall have been
23 paid or satisfied, the clerk of the court in which such judgment was
24 rendered shall note upon the record in the execution docket
25 satisfaction thereof giving the date of such satisfaction upon either
26 the payment to such clerk of the amount of such judgment, costs and
27 interest and any accrued costs by reason of the issuance of any
28 execution, or the filing with such clerk of a satisfaction entitled in
29 such action and identifying the same executed by the judgment creditor
30 or his or her attorney of record in such action or his or her assignee
31 acknowledged as deeds are acknowledged. The clerk has the authority to
32 note the satisfaction of judgments for criminal and juvenile legal
33 financial obligations when the clerk's record indicates payment in full
34 or as directed by the court. Every satisfaction of judgment and every
35 partial satisfaction of judgment which provides for the payment of

1 money shall clearly designate the judgment creditor and his or her
2 attorney if any, the judgment debtor, the amount or type of
3 satisfaction, whether the satisfaction is full or partial, the cause
4 number, and the date of entry of the judgment. A certificate by such
5 clerk of the entry of such satisfaction by him or her may be filed in
6 the office of the clerk of any county in which an abstract of such
7 judgment has been filed. When so satisfied by the clerk or the filing
8 of such certificate the lien of such judgment shall be discharged.

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

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

16 NEW SECTION. Sec. 24. A new section is added to chapter 9.94A RCW
17 to read as follows:

18 The provisions of sections 13 through 27 of this act apply to all
19 offenders currently, or in the future, subject to sentences with
20 unsatisfied legal financial obligations. The provisions of sections 13
21 through 27 of this act do not change the amount of any legal financial
22 obligation or the maximum term for which any offender is, or may be,
23 under the jurisdiction of the court for collection of legal financial
24 obligations.

25 **Sec. 25.** RCW 72.09.111 and 2002 c 126 s 2 are each amended to read
26 as follows:

27 (1) The secretary shall deduct taxes and legal financial
28 obligations from the gross wages ~~((or)),~~ gratuities, or workers'
29 compensation benefits payable directly to the inmate under chapter
30 51.32 RCW, of each inmate working in correctional industries work
31 programs, ~~((taxes and legal financial obligations))~~ or otherwise
32 receiving such wages, gratuities, or benefits. The secretary shall
33 develop a formula for the distribution of offender wages ~~((and)),~~
34 gratuities, and benefits. The formula shall not reduce the inmate
35 account below the indigency level, as defined in RCW 72.09.015.

1 (a) The formula shall include the following minimum deductions from
2 class I gross wages and from all others earning at least minimum wage:
3 (i) Five percent to the public safety and education account for the
4 purpose of crime victims' compensation;
5 (ii) Ten percent to a department personal inmate savings account;
6 (iii) Twenty percent to the department to contribute to the cost of
7 incarceration; and
8 (iv) Twenty percent for payment of legal financial obligations for
9 all inmates who have legal financial obligations owing in any
10 Washington state superior court.

11 (b) The formula shall include the following minimum deductions from
12 class II gross gratuities:
13 (i) Five percent to the public safety and education account for the
14 purpose of crime victims' compensation;
15 (ii) Ten percent to a department personal inmate savings account;
16 (iii) Fifteen percent to the department to contribute to the cost
17 of incarceration; and
18 (iv) Twenty percent for payment of legal financial obligations for
19 all inmates who have legal financial obligations owing in any
20 Washington state superior court.

21 (c) The formula shall include the following minimum deductions from
22 any workers' compensation benefits paid pursuant to RCW 51.32.080:
23 (i) Five percent to the public safety and education account for the
24 purpose of crime victims' compensation;
25 (ii) Ten percent to a department personal inmate savings account;
26 (iii) Twenty percent to the department to contribute to the cost of
27 incarceration; and
28 (iv) An amount equal to any legal financial obligations owed by the
29 inmate established by an order of any Washington state superior court
30 up to the total amount of the award.

31 (d) The formula shall include the following minimum deduction from
32 class IV gross gratuities: Five percent to the department to
33 contribute to the cost of incarceration.

34 ~~((d))~~ (e) The formula shall include the following minimum
35 deductions from class III gratuities: Five percent for the purpose of
36 crime victims' compensation.

1 (2) Any person sentenced to life imprisonment without possibility
2 of release or parole under chapter 10.95 RCW or sentenced to death
3 shall be exempt from the requirement under subsection (1)(a)(ii)
4 ~~((or))~~, (b)(ii) ~~((of this subsection))~~, or (c)(ii).

5 (3) The department personal inmate savings account, together with
6 any accrued interest, shall only be available to an inmate at the time
7 of his or her release from confinement, unless the secretary determines
8 that an emergency exists for the inmate, at which time the funds can be
9 made available to the inmate in an amount determined by the secretary.
10 The management of classes I, II, and IV correctional industries may
11 establish an incentive payment for offender workers based on
12 productivity criteria. This incentive shall be paid separately from
13 the hourly wage/gratuity rate and shall not be subject to the specified
14 deduction for cost of incarceration.

15 (4) In the event that the offender worker's wages ~~((or))~~ gratuity
16 or workers' compensation benefit is subject to garnishment for support
17 enforcement, the crime victims' compensation, savings, and cost of
18 incarceration deductions shall be calculated on the net wages after
19 taxes, legal financial obligations, and garnishment.

20 ~~((+2))~~ (5) The department shall explore other methods of
21 recovering a portion of the cost of the inmate's incarceration and for
22 encouraging participation in work programs, including development of
23 incentive programs that offer inmates benefits and amenities paid for
24 only from wages earned while working in a correctional industries work
25 program.

26 ~~((+3))~~ (6) The department shall develop the necessary
27 administrative structure to recover inmates' wages and keep records of
28 the amount inmates pay for the costs of incarceration and amenities.
29 All funds deducted from inmate wages under subsection (1) of this
30 section for the purpose of contributions to the cost of incarceration
31 shall be deposited in a dedicated fund with the department and shall be
32 used only for the purpose of enhancing and maintaining correctional
33 industries work programs.

34 ~~((+4))~~ (7) The expansion of inmate employment in class I and class
35 II correctional industries shall be implemented according to the
36 following schedule:

1 (a) Not later than June 30, 1995, the secretary shall achieve a net
2 increase of at least two hundred in the number of inmates employed in
3 class I or class II correctional industries work programs above the
4 number so employed on June 30, 1994;

5 (b) Not later than June 30, 1996, the secretary shall achieve a net
6 increase of at least four hundred in the number of inmates employed in
7 class I or class II correctional industries work programs above the
8 number so employed on June 30, 1994;

9 (c) Not later than June 30, 1997, the secretary shall achieve a net
10 increase of at least six hundred in the number of inmates employed in
11 class I or class II correctional industries work programs above the
12 number so employed on June 30, 1994;

13 (d) Not later than June 30, 1998, the secretary shall achieve a net
14 increase of at least nine hundred in the number of inmates employed in
15 class I or class II correctional industries work programs above the
16 number so employed on June 30, 1994;

17 (e) Not later than June 30, 1999, the secretary shall achieve a net
18 increase of at least one thousand two hundred in the number of inmates
19 employed in class I or class II correctional industries work programs
20 above the number so employed on June 30, 1994;

21 (f) Not later than June 30, 2000, the secretary shall achieve a net
22 increase of at least one thousand five hundred in the number of inmates
23 employed in class I or class II correctional industries work programs
24 above the number so employed on June 30, 1994.

25 ((+5)) (8) It shall be in the discretion of the secretary to
26 apportion the inmates between class I and class II depending on
27 available contracts and resources.

28 NEW SECTION. Sec. 26. A new section is added to chapter 51.32 RCW
29 to read as follows:

30 If the department of labor and industries has received notice that
31 an injured worker entitled to benefits payable under this chapter is in
32 the custody of the department of corrections pursuant to a conviction
33 and sentence, the department shall send all such benefits to the worker
34 in care of the department of corrections, except those benefits payable
35 to a beneficiary as provided in RCW 51.32.040 (3)(c) and (4). Failure

1 of the department to send such benefits to the department of
2 corrections shall not result in liability to any party for either
3 department.

4 **Sec. 27.** RCW 51.32.040 and 1999 c 185 s 1 are each amended to read
5 as follows:

6 (1) Except as provided in RCW 43.20B.720 (~~and~~), 72.09.111,
7 74.20A.260, and section 26 of this act, no money paid or payable under
8 this title shall, before the issuance and delivery of the check or
9 warrant, be assigned, charged, or taken in execution, attached,
10 garnished, or pass or be paid to any other person by operation of law,
11 any form of voluntary assignment, or power of attorney. Any such
12 assignment or charge is void unless the transfer is to a financial
13 institution at the request of a worker or other beneficiary and made in
14 accordance with RCW 51.32.045.

15 (2)(a) If any worker suffers (i) a permanent partial injury and
16 dies from some other cause than the accident which produced the injury
17 before he or she receives payment of the award for the permanent
18 partial injury or (ii) any other injury before he or she receives
19 payment of any monthly installment covering any period of time before
20 his or her death, the amount of the permanent partial disability award
21 or the monthly payment, or both, shall be paid to the surviving spouse
22 or the child or children if there is no surviving spouse. If there is
23 no surviving spouse and no child or children, the award or the amount
24 of the monthly payment shall be paid by the department or self-insurer
25 and distributed consistent with the terms of the decedent's will or, if
26 the decedent dies intestate, consistent with the terms of RCW
27 11.04.015.

28 (b) If any worker suffers an injury and dies from it before he or
29 she receives payment of any monthly installment covering time loss for
30 any period of time before his or her death, the amount of the monthly
31 payment shall be paid to the surviving spouse or the child or children
32 if there is no surviving spouse. If there is no surviving spouse and
33 no child or children, the amount of the monthly payment shall be paid
34 by the department or self-insurer and distributed consistent with the
35 terms of the decedent's will or, if the decedent dies intestate,
36 consistent with the terms of RCW 11.04.015.

1 (c) Any application for compensation under this subsection (2)
2 shall be filed with the department or self-insuring employer within one
3 year of the date of death. The department or self-insurer may satisfy
4 its responsibilities under this subsection (2) by sending any payment
5 due in the name of the decedent and to the last known address of the
6 decedent.

7 (3)(a) Any worker or beneficiary receiving benefits under this
8 title who is subsequently confined in, or who subsequently becomes
9 eligible for benefits under this title while confined in, any
10 institution under conviction and sentence shall have all payments of
11 the compensation canceled during the period of confinement. After
12 discharge from the institution, payment of benefits due afterward shall
13 be paid if the worker or beneficiary would, except for the provisions
14 of this subsection (3), otherwise be entitled to them.

15 (b) If any prisoner is injured in the course of his or her
16 employment while participating in a work or training release program
17 authorized by chapter 72.65 RCW and is subject to the provisions of
18 this title, he or she is entitled to payments under this title, subject
19 to the requirements of chapter 72.65 RCW, unless his or her
20 participation in the program has been canceled, or unless he or she is
21 returned to a state correctional institution, as defined in RCW
22 72.65.010(3), as a result of revocation of parole or new sentence.

23 (c) If the confined worker has any beneficiaries during the
24 confinement period during which benefits are canceled under (a) or (b)
25 of this subsection, they shall be paid directly the monthly benefits
26 which would have been paid to the worker for himself or herself and the
27 worker's beneficiaries had the worker not been confined.

28 (4) Any lump sum benefits to which a worker would otherwise be
29 entitled but for the provisions of this section shall be paid on a
30 monthly basis to his or her beneficiaries.

31 NEW SECTION. **Sec. 28.** If any provision of this act or its
32 application to any person or circumstance is held invalid, the
33 remainder of the act or the application of the provision to other
34 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 29.** (1) Sections 1 through 12, 20, and 28 of
2 this act are necessary for the immediate preservation of the public
3 peace, health, or safety, or support of the state government and its
4 existing public institutions, and take effect July 1, 2003.

5 (2) Sections 13 through 19 and 21 through 27 of this act take
6 effect October 1, 2003."

7 Correct the title.

--- END ---