

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5990

58th Legislature
2003 Regular Session

Passed by the Senate April 25, 2003
YEAS 43 NAYS 4

President of the Senate

Passed by the House April 24, 2003
YEAS 84 NAYS 13

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr.,
Secretary of the Senate of the
State of Washington, do hereby
certify that the attached is
**ENGROSSED SUBSTITUTE SENATE BILL
5990** as passed by the Senate and
the House of Representatives on
the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5990

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

State of Washington 58th Legislature 2003 Regular Session

By Senate Committee on Children & Family Services & Corrections
(originally sponsored by Senators Hargrove, Stevens, McAuliffe,
Carlson, Regala, Parlette, Rasmussen and Winsley)

READ FIRST TIME 03/03/03.

1 AN ACT Relating to times and supervision standards for release of
2 offenders; amending RCW 9.94A.700, 9.94A.705, 9.94A.715, 9.94A.720,
3 9.94A.545, 70.96A.350, 9.94A.760, 9.94A.750, 9.94A.780, 9.94A.637,
4 4.56.100, 72.09.111, and 51.32.040; amending 2002 c 290 s 30
5 (uncodified); amending 2002 c 290 s 31 (uncodified); reenacting and
6 amending RCW 9.94A.728 and 9.94A.753; adding new sections to chapter
7 9.94A RCW; adding a new section to chapter 36.23 RCW; adding a new
8 section to chapter 2.56 RCW; adding a new section to chapter 51.32 RCW;
9 creating new sections; prescribing penalties; providing effective
10 dates; providing an expiration date; and declaring an emergency.

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

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

14 No person serving a sentence imposed pursuant to this chapter and
15 committed to the custody of the department shall leave the confines of
16 the correctional facility or be released prior to the expiration of the
17 sentence except as follows:

18 (1) Except as otherwise provided for in subsection (2) of this
19 section, the term of the sentence of an offender committed to a

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

19 (a) In the case of an offender convicted of a serious violent
20 offense, or a sex offense that is a class A felony, committed on or
21 after July 1, 1990, and before July 1, 2003, the aggregate earned
22 release time may not exceed fifteen percent of the sentence. In the
23 case of an offender convicted of a serious violent offense, or a sex
24 offense that is a class A felony, committed on or after July 1, 2003,
25 the aggregate earned release time may not exceed ten percent of the
26 sentence.

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

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

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

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

36 (I) A sex offense;

37 (II) A violent offense;

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

1 (IV) A felony that is domestic violence as defined in RCW
2 10.99.020;
3 (V) A violation of RCW 9A.52.025 (residential burglary);
4 (VI) A violation of, or an attempt, solicitation, or conspiracy to
5 violate, RCW 69.50.401 by manufacture or delivery or possession with
6 intent to deliver methamphetamine; or
7 (VII) A violation of, or an attempt, solicitation, or conspiracy to
8 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
9 and
10 (C) Has no prior conviction for:
11 (I) A sex offense;
12 (II) A violent offense;
13 (III) A crime against persons as defined in RCW 9.94A.411;
14 (IV) A felony that is domestic violence as defined in RCW
15 10.99.020;
16 (V) A violation of RCW 9A.52.025 (residential burglary);
17 (VI) A violation of, or an attempt, solicitation, or conspiracy to
18 violate, RCW 69.50.401 by manufacture or delivery or possession with
19 intent to deliver methamphetamine; or
20 (VII) A violation of, or an attempt, solicitation, or conspiracy to
21 violate, RCW 69.50.406 (delivery of a controlled substance to a minor).
22 (iii) For purposes of determining an offender's eligibility under
23 this subsection (1)(b), the department shall perform a risk assessment
24 of every offender committed to a correctional facility operated by the
25 department who has no current or prior conviction for a sex offense, a
26 violent offense, a crime against persons as defined in RCW 9.94A.411,
27 a felony that is domestic violence as defined in RCW 10.99.020, a
28 violation of RCW 9A.52.025 (residential burglary), a violation of, or
29 an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by
30 manufacture or delivery or possession with intent to deliver
31 methamphetamine, or a violation of, or an attempt, solicitation, or
32 conspiracy to violate, RCW 69.50.406 (delivery of a controlled
33 substance to a minor). The department must classify each assessed
34 offender in one of four risk categories between highest and lowest
35 risk.
36 (iv) The department shall recalculate the earned release time and
37 reschedule the expected release dates for each qualified offender under
38 this subsection (1)(b).

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

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

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

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

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

24 (c) The department shall, as a part of its program for release to
25 the community in lieu of earned release, require the offender to
26 propose a release plan that includes an approved residence and living
27 arrangement. All offenders with community placement or community
28 custody terms eligible for release to community custody status in lieu
29 of earned release shall provide an approved residence and living
30 arrangement prior to release to the community;

31 (d) The department may deny transfer to community custody status in
32 lieu of earned release time pursuant to subsection (1) of this section
33 if the department determines an offender's release plan, including
34 proposed residence location and living arrangements, may violate the
35 conditions of the sentence or conditions of supervision, place the
36 offender at risk to violate the conditions of the sentence, place the
37 offender at risk to reoffend, or present a risk to victim safety or
38 community safety. The department's authority under this section is

1 independent of any court-ordered condition of sentence or statutory
2 provision regarding conditions for community custody or community
3 placement;

4 (3) An offender may leave a correctional facility pursuant to an
5 authorized furlough or leave of absence. In addition, offenders may
6 leave a correctional facility when in the custody of a corrections
7 officer or officers;

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

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

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

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

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

20 (c) The secretary shall require electronic monitoring for all
21 offenders in extraordinary medical placement unless the electronic
22 monitoring equipment interferes with the function of the offender's
23 medical equipment or results in the loss of funding for the offender's
24 medical care. The secretary shall specify who shall provide the
25 monitoring services and the terms under which the monitoring shall be
26 performed.

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

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

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

36 (7) The governor may pardon any offender;

37 (8) The department may release an offender from confinement any

1 time within ten days before a release date calculated under this
2 section; and

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

6 Notwithstanding any other provisions of this section, an offender
7 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
8 mandatory minimum sentence of total confinement shall not be released
9 from total confinement before the completion of the listed mandatory
10 minimum sentence for that felony crime of conviction unless allowed
11 under RCW 9.94A.540, however persistent offenders are not eligible for
12 extraordinary medical placement.

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

15 The legislature declares that the changes to the maximum
16 percentages of earned release time in this act do not create any
17 expectation that the percentage of earned release time cannot be
18 revised and offenders have no reason to conclude that the maximum
19 percentage of earned release time is an entitlement or creates any
20 liberty interest. The legislature retains full control over the right
21 to revise the percentages of earned release time available to offenders
22 at any time. This section applies to persons convicted on or after the
23 effective date of this section.

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

26 (1) When the department performs a risk assessment pursuant to RCW
27 9.94A.500, or to determine a person's conditions of supervision, the
28 risk assessment shall classify the offender into one of at least four
29 risk categories.

30 (2) The department shall supervise every offender sentenced to a
31 term of community custody, community placement, or community
32 supervision:

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

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

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

- 1 (A) A sex offense;
- 2 (B) A violent offense;
- 3 (C) A crime against persons as defined in RCW 9.94A.411;
- 4 (D) A felony that is domestic violence as defined in RCW 10.99.020;
- 5 (E) A violation of RCW 9A.52.025 (residential burglary);
- 6 (F) A violation of, or an attempt, solicitation, or conspiracy to
- 7 violate, RCW 69.50.401 by manufacture or delivery or possession with
- 8 intent to deliver methamphetamine; or
- 9 (G) A violation of, or an attempt, solicitation, or conspiracy to
- 10 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
- 11 (ii) The offender has a prior conviction for:
- 12 (A) A sex offense;
- 13 (B) A violent offense;
- 14 (C) A crime against persons as defined in RCW 9.94A.411;
- 15 (D) A felony that is domestic violence as defined in RCW 10.99.020;
- 16 (E) A violation of RCW 9A.52.025 (residential burglary);
- 17 (F) A violation of, or an attempt, solicitation, or conspiracy to
- 18 violate, RCW 69.50.401 by manufacture or delivery or possession with
- 19 intent to deliver methamphetamine; or
- 20 (G) A violation of, or an attempt, solicitation, or conspiracy to
- 21 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);
- 22 (iii) The conditions of the offender's community custody, community
- 23 placement, or community supervision include chemical dependency
- 24 treatment;
- 25 (iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670;
- 26 or
- 27 (v) The offender is subject to supervision pursuant to RCW
- 28 9.94A.745.
- 29 (3) The department is not authorized to, and may not, supervise any
- 30 offender sentenced to a term of community custody, community placement,
- 31 or community supervision unless the offender is one for whom
- 32 supervision is required under subsection (2) of this section.
- 33 (4) This section expires July 1, 2010.

34 **Sec. 4.** RCW 9.94A.700 and 2002 c 175 s 13 are each amended to read

35 as follows:

36 When a court sentences an offender to a term of total confinement

37 in the custody of the department for any of the offenses specified in

1 this section, the court shall also sentence the offender to a term of
2 community placement as provided in this section. Except as provided in
3 section 3 of this act, the department shall supervise any sentence of
4 community placement imposed under this section.

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

7 (a) A sex offense or a serious violent offense committed after July
8 1, 1988, but before July 1, 1990; or

9 (b) An offense committed on or after July 1, 1988, but before July
10 25, 1999, that is:

11 (i) Assault in the second degree;

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

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

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

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

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

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

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

28 (3) The community placement ordered under this section shall begin
29 either upon completion of the term of confinement or at such time as
30 the offender is transferred to community custody in lieu of earned
31 release. When the court sentences an offender to the statutory maximum
32 sentence then the community placement portion of the sentence shall
33 consist entirely of the community custody to which the offender may
34 become eligible. Any period of community custody actually served shall
35 be credited against the community placement portion of the sentence.

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

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

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

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

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

9 (e) The residence location and living arrangements shall be subject
10 to the prior approval of the department during the period of community
11 placement.

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

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

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

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

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

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

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

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

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

33 Except for persons sentenced under RCW 9.94A.700(2) or 9.94A.710,
34 when a court sentences a person to a term of total confinement to the
35 custody of the department for a violent offense, any crime against
36 persons under RCW 9.94A.411(2), or any felony offense under chapter
37 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660, committed on or

1 after July 25, 1999, but before July 1, 2000, the court shall in
2 addition to the other terms of the sentence, sentence the offender to
3 a one-year term of community placement beginning either upon completion
4 of the term of confinement or at such time as the offender is
5 transferred to community custody in lieu of earned release in
6 accordance with RCW 9.94A.728 (1) and (2). When the court sentences
7 the offender under this section to the statutory maximum period of
8 confinement, then the community placement portion of the sentence shall
9 consist entirely of such community custody to which the offender may
10 become eligible, in accordance with RCW 9.94A.728 (1) and (2). Any
11 period of community custody actually served shall be credited against
12 the community placement portion of the sentence. Except as provided in
13 section 3 of this act, the department shall supervise any sentence of
14 community placement or community custody imposed under this section.

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

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

34 (2)(a) Unless a condition is waived by the court, the conditions of
35 community custody shall include those provided for in RCW 9.94A.700(4).
36 The conditions may also include those provided for in RCW 9.94A.700(5).
37 The court may also order the offender to participate in rehabilitative

1 programs or otherwise perform affirmative conduct reasonably related to
2 the circumstances of the offense, the offender's risk of reoffending,
3 or the safety of the community, and the department shall enforce such
4 conditions pursuant to subsection (6) of this section.

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

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

20 (3) If an offender violates conditions imposed by the court or the
21 department pursuant to this section during community custody, the
22 department may transfer the offender to a more restrictive confinement
23 status and impose other available sanctions as provided in RCW
24 9.94A.737 and 9.94A.740.

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

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

1 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
2 contempt of court as provided for in RCW 7.21.040. If the court
3 extends a condition beyond the expiration of the term of community
4 custody, the department is not responsible for supervision of the
5 offender's compliance with the condition.

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

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

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

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

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

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

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

10 The conditions authorized under (c) of this subsection may be
11 imposed by the department prior to or during an offender's community
12 custody term. If a violation of conditions imposed by the court or the
13 department pursuant to RCW 9.94A.710 occurs during community custody,
14 it shall be deemed a violation of community placement for the purposes
15 of RCW 9.94A.740 and shall authorize the department to transfer an
16 offender to a more restrictive confinement status as provided in RCW
17 9.94A.737. At any time prior to the completion of an offender's term
18 of community custody, the department may recommend to the court that
19 any or all of the conditions imposed by the court or the department
20 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
21 expiration of the offender's term of community custody as authorized in
22 RCW 9.94A.715 (3) or (5).

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

28 (2) No offender sentenced to terms involving community supervision,
29 community restitution, community custody, or community placement under
30 the supervision of the department may own, use, or possess firearms or
31 ammunition. Offenders who own, use, or are found to be in actual or
32 constructive possession of firearms or ammunition shall be subject to
33 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
34 9.94A.740. "Constructive possession" as used in this subsection means
35 the power and intent to control the firearm or ammunition. "Firearm"
36 as used in this subsection has the same definition as in RCW 9.41.010.

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

3 Except as provided in RCW 9.94A.650, on all sentences of
4 confinement for one year or less, in which the offender is convicted of
5 a sex offense, a violent offense, a crime against a person under RCW
6 9.94A.411, or felony violation of chapter 69.50 or 69.52 RCW or an
7 attempt, conspiracy, or solicitation to commit such a crime, the court
8 may impose up to one year of community custody, subject to conditions
9 and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An
10 offender shall be on community custody as of the date of sentencing.
11 However, during the time for which the offender is in total or partial
12 confinement pursuant to the sentence or a violation of the sentence,
13 the period of community custody shall toll.

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

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

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

20 Sections 7 through 11 and 14 through 23 of this act take effect
21 (~~July 1, 2004, and apply to crimes committed on or after July 1,~~
22 ~~2004~~) on the effective date of section 9, chapter . . . , Laws of 2003
23 (section 9 of this act).

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

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

35 (2) For purposes of this section:

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

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

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

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

25 (b) ~~When the department of corrections submits its biennial budget~~
26 ~~request to the governor in 2002 and in each even-numbered year~~
27 ~~thereafter, the department of corrections shall use the methodology~~
28 ~~approved in (a) of this subsection to calculate savings to the state~~
29 ~~general fund for the ensuing fiscal biennium resulting from reductions~~
30 ~~in drug offender sentencing as a result of sections 2 and 3, chapter~~
31 ~~290, Laws of 2002 and sections 7, 8, and 9, chapter 290, Laws of 2002.~~
32 ~~The department shall report the dollar amount of the savings to the~~
33 ~~state treasurer, the office of financial management, and the fiscal~~
34 ~~committees of the legislature.~~

35 (c)) For the fiscal biennium beginning July 1, 2003, (~~and each~~
36 ~~fiscal biennium thereafter,~~) the state treasurer shall transfer
37 (~~seventy five percent of the amount reported in (b) of this~~
38 ~~subsection~~) eight million nine hundred fifty thousand dollars from the

1 general fund into the criminal justice treatment account, divided into
2 eight equal quarterly payments. (~~However, the amount transferred to~~
3 ~~the criminal justice treatment account shall not exceed the limit of~~
4 ~~eight million two hundred fifty thousand dollars per fiscal year.~~
5 ~~After the first fiscal year in which the amount to be transferred~~
6 ~~equals or exceeds eight million two hundred fifty thousand dollars,~~
7 ~~this limit)) For the fiscal year beginning July 1, 2005, and each
8 subsequent fiscal year, the state treasurer shall transfer eight
9 million two hundred fifty thousand dollars from the general fund to the
10 criminal justice treatment account, divided into four equal quarterly
11 payments. For the fiscal year beginning July 1, 2006, and each
12 subsequent fiscal year, the amount transferred shall be increased on an
13 annual basis by the implicit price deflator as published by the federal
14 bureau of labor statistics.~~

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

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

36 (5) Moneys appropriated to the division of alcohol and substance
37 abuse from the criminal justice treatment account shall be distributed
38 as specified in this subsection. The department shall serve as the

1 fiscal agent for purposes of distribution. Until July 1, 2004, the
2 department may not use moneys appropriated from the criminal justice
3 treatment account for administrative expenses and shall distribute all
4 amounts appropriated under subsection (4)((+e+)) (c) of this section in
5 accordance with this subsection. Beginning in July 1, 2004, the
6 department may retain up to three percent of the amount appropriated
7 under subsection (4)((+e+)) (c) of this section for its administrative
8 costs.

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

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

37 (6) The county alcohol and drug coordinator, county prosecutor,
38 county sheriff, county superior court, a substance abuse treatment

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

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

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

20 (9) Counties must meet the criteria established in RCW
21 2.28.170(3)(b).

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

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

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

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

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

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

36 (3) The court may add to the judgment and sentence or subsequent
37 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
38 later. Prior to the expiration of the initial ten-year period, the

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

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

34 (6) After completing the investigation, the department shall make
35 a report to the court on the amount of the monthly payment that the
36 offender should be required to make towards a satisfied legal financial
37 obligation.

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

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

30 (8) After the judgment and sentence or payment order is entered,
31 the department is authorized, for any period of supervision, to collect
32 the legal financial obligation from the offender. Subsequent to any
33 period of supervision or, if the department is not authorized to
34 supervise the offender in the community, the county clerk is authorized
35 to collect unpaid legal financial obligations from the offender. Any
36 amount collected by the department shall be remitted daily to the
37 county clerk for the purpose of disbursements. The department (~~is~~)
38 and the county clerks are authorized, but not required, to accept

1 credit cards as payment for a legal financial obligation, and any costs
2 incurred related to accepting credit card payments shall be the
3 responsibility of the offender.

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

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

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

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

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

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

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

34 (12) The department ~~((may))~~ shall arrange for the collection of
35 unpaid legal financial obligations during any period of supervision in
36 the community through the county clerk~~((, or))~~. The department shall
37 either collect unpaid legal financial obligations or arrange for
38 collections through another entity if the clerk does not assume

1 responsibility for collection pursuant to subsection (4) of this
2 section. The costs for collection services shall be paid by the
3 offender.

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

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

14 This section applies to offenses committed on or before July 1,
15 1985.

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

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

33 (3) Except as provided in subsection (6) of this section,
34 restitution ordered by a court pursuant to a criminal conviction shall
35 be based on easily ascertainable damages for injury to or loss of
36 property, actual expenses incurred for treatment for injury to persons,
37 and lost wages resulting from injury. Restitution shall not include

1 reimbursement for damages for mental anguish, pain and suffering, or
2 other intangible losses, but may include the costs of counseling
3 reasonably related to the offense. The amount of restitution shall not
4 exceed double the amount of the offender's gain or the victim's loss
5 from the commission of the offense.

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

35 (5) Restitution may be ordered whenever the offender is convicted
36 of an offense which results in injury to any person or damage to or
37 loss of property or as provided in subsection (6) of this section. In
38 addition, restitution may be ordered to pay for an injury, loss, or

1 damage if the offender pleads guilty to a lesser offense or fewer
2 offenses and agrees with the prosecutor's recommendation that the
3 offender be required to pay restitution to a victim of an offense or
4 offenses which are not prosecuted pursuant to a plea agreement.

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

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

35 (8) This section does not limit civil remedies or defenses
36 available to the victim or offender including support enforcement
37 remedies for support ordered under subsection (6) of this section for
38 a child born as a result of a rape of a child victim. The court shall

1 identify in the judgment and sentence the victim or victims entitled to
2 restitution and what amount is due each victim. The state or victim
3 may enforce the court-ordered restitution in the same manner as a
4 judgment in a civil action. Restitution collected through civil
5 enforcement must be paid through the registry of the court and must be
6 distributed proportionately according to each victim's loss when there
7 is more than one victim.

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

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

11 (1) When restitution is ordered, the court shall determine the
12 amount of restitution due at the sentencing hearing or within one
13 hundred eighty days except as provided in subsection (7) of this
14 section. The court may continue the hearing beyond the one hundred
15 eighty days for good cause. The court shall then set a minimum monthly
16 payment that the offender is required to make towards the restitution
17 that is ordered. The court should take into consideration the total
18 amount of the restitution owed, the offender's present, past, and
19 future ability to pay, as well as any assets that the offender may
20 have.

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

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

1 exceed double the amount of the offender's gain or the victim's loss
2 from the commission of the crime.

3 (4) For the purposes of this section, for an offense committed
4 prior to July 1, 2000, the offender shall remain under the court's
5 jurisdiction for a term of ten years following the offender's release
6 from total confinement or ten years subsequent to the entry of the
7 judgment and sentence, whichever period ends later. Prior to the
8 expiration of the initial ten-year period, the superior court may
9 extend jurisdiction under the criminal judgment an additional ten years
10 for payment of restitution. For an offense committed on or after July
11 1, 2000, the offender shall remain under the court's jurisdiction until
12 the obligation is completely satisfied, regardless of the statutory
13 maximum for the crime. The portion of the sentence concerning
14 restitution may be modified as to amount, terms, and conditions during
15 any period of time the offender remains under the court's jurisdiction,
16 regardless of the expiration of the offender's term of community
17 supervision and regardless of the statutory maximum sentence for the
18 crime. The court may not reduce the total amount of restitution
19 ordered because the offender may lack the ability to pay the total
20 amount. The offender's compliance with the restitution shall be
21 supervised by the department (~~for ten years following the entry of the~~
22 ~~judgment and sentence or ten years following the offender's release~~
23 ~~from total confinement. The department is not responsible for~~
24 ~~supervision of the offender during any subsequent period of time the~~
25 ~~offender remains under the court's jurisdiction)) only during any
26 period which the department is authorized to supervise the offender in
27 the community under RCW 9.94A.728, section 3 of this act, or in which
28 the offender is in confinement in a state correctional institution or
29 a correctional facility pursuant to a transfer agreement with the
30 department, and the department shall supervise the offender's
31 compliance during any such period. The department is responsible for
32 supervision of the offender only during confinement and authorized
33 supervision and not during any subsequent period in which the offender
34 remains under the court's jurisdiction. The county clerk is authorized
35 to collect unpaid restitution at any time the offender remains under
36 the jurisdiction of the court for purposes of his or her legal
37 financial obligations.~~

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

12 (6) Restitution for the crime of rape of a child in the first,
13 second, or third degree, in which the victim becomes pregnant, shall
14 include: (a) All of the victim's medical expenses that are associated
15 with the rape and resulting pregnancy; and (b) child support for any
16 child born as a result of the rape if child support is ordered pursuant
17 to a civil superior court or administrative order for support for that
18 child. The clerk must forward any restitution payments made on behalf
19 of the victim's child to the Washington state child support registry
20 under chapter 26.23 RCW. Identifying information about the victim and
21 child shall not be included in the order. The offender shall receive
22 a credit against any obligation owing under the administrative or
23 superior court order for support of the victim's child. For the
24 purposes of this subsection, the offender shall remain under the
25 court's jurisdiction until the offender has satisfied support
26 obligations under the superior court or administrative order for the
27 period provided in RCW 4.16.020 or a maximum term of twenty-five years
28 following the offender's release from total confinement or twenty-five
29 years subsequent to the entry of the judgment and sentence, whichever
30 period is longer. The court may not reduce the total amount of
31 restitution ordered because the offender may lack the ability to pay
32 the total amount. The department shall supervise the offender's
33 compliance with the restitution ordered under this subsection.

34 (7) Regardless of the provisions of subsections (1) through (6) of
35 this section, the court shall order restitution in all cases where the
36 victim is entitled to benefits under the crime victims' compensation
37 act, chapter 7.68 RCW. If the court does not order restitution and the
38 victim of the crime has been determined to be entitled to benefits

1 under the crime victims' compensation act, the department of labor and
2 industries, as administrator of the crime victims' compensation
3 program, may petition the court within one year of entry of the
4 judgment and sentence for entry of a restitution order. Upon receipt
5 of a petition from the department of labor and industries, the court
6 shall hold a restitution hearing and shall enter a restitution order.

7 (8) In addition to any sentence that may be imposed, an offender
8 who has been found guilty of an offense involving fraud or other
9 deceptive practice or an organization which has been found guilty of
10 any such offense may be ordered by the sentencing court to give notice
11 of the conviction to the class of persons or to the sector of the
12 public affected by the conviction or financially interested in the
13 subject matter of the offense by mail, by advertising in designated
14 areas or through designated media, or by other appropriate means.

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

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

28 If an offender with an unsatisfied legal financial obligation is
29 not subject to supervision by the department for a term of community
30 placement, community custody, or community supervision, or has not
31 completed payment of all legal financial obligations included in the
32 sentence at the expiration of his or her term of community placement,
33 community custody, or community supervision, the department shall
34 notify the administrative office of the courts of the termination of
35 the offender's supervision and provide information to the
36 administrative office of the courts to enable the county clerk to
37 monitor payment of the remaining obligations. The county clerk is

1 authorized to monitor payment after such notification. The secretary
2 of corrections and the administrator for the courts shall enter into an
3 interagency agreement to facilitate the electronic transfer of
4 information about offenders, unpaid obligations, and payees to carry
5 out the purposes of this section.

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

8 (1) Whenever a punishment imposed under this chapter requires
9 supervision services to be provided, the offender shall pay to the
10 department of corrections the monthly assessment, prescribed under
11 subsection (2) of this section, which shall be for the duration of the
12 terms of supervision and which shall be considered as payment or part
13 payment of the cost of providing supervision to the offender. The
14 department may exempt or defer a person from the payment of all or any
15 part of the assessment based upon any of the following factors:

16 (a) The offender has diligently attempted but has been unable to
17 obtain employment that provides the offender sufficient income to make
18 such payments.

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

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

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

26 (e) The offender is responsible for the support of dependents and
27 the payment of the assessment constitutes an undue hardship on the
28 offender.

29 (f) Other extenuating circumstances as determined by the
30 department.

31 (2) The department of corrections shall adopt a rule prescribing
32 the amount of the assessment. The department may, if it finds it
33 appropriate, prescribe a schedule of assessments that shall vary in
34 accordance with the intensity or cost of the supervision. The
35 department may not prescribe any assessment that is less than ten
36 dollars nor more than fifty dollars.

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

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

8 (5) If a county clerk assumes responsibility for collection of
9 unpaid legal financial obligations under RCW 9.94A.760, or under any
10 agreement with the department under that section, whether before or
11 after the completion of any period of community placement, community
12 custody, or community supervision, the clerk may impose a monthly or
13 annual assessment for the cost of collections. The amount of the
14 assessment shall not exceed the actual cost of collections. The county
15 clerk may exempt or defer payment of all or part of the assessment
16 based upon any of the factors listed in subsection (1) of this section.
17 The offender shall pay the assessment under this subsection to the
18 county clerk who shall apply it to the cost of collecting legal
19 financial obligations under RCW 9.94A.760.

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

22 (1)(a) When an offender has completed all requirements of the
23 sentence, including any and all legal financial obligations, and while
24 under the custody and supervision of the department, the secretary or
25 the secretary's designee shall notify the sentencing court, which shall
26 discharge the offender and provide the offender with a certificate of
27 discharge by issuing the certificate to the offender in person or by
28 mailing the certificate to the offender's last known address.

29 (b)(i) When an offender has reached the end of his or her
30 supervision with the department and has completed all the requirements
31 of the sentence except his or her legal financial obligations, the
32 secretary's designee shall provide the county clerk with a notice that
33 the offender has completed all nonfinancial requirements of the
34 sentence.

35 (ii) When the department has provided the county clerk with notice
36 that an offender has completed all the requirements of the sentence and
37 the offender subsequently satisfies all legal financial obligations

1 under the sentence, the county clerk shall notify the sentencing court,
2 including the notice from the department, which shall discharge the
3 offender and provide the offender with a certificate of discharge by
4 issuing the certificate to the offender in person or by mailing the
5 certificate to the offender's last known address.

6 (2) The court shall send a copy of every signed certificate of
7 discharge to the auditor for the county in which the court resides and
8 to the department. The department shall create and maintain a data
9 base containing the names of all felons who have been issued
10 certificates of discharge, the date of discharge, and the date of
11 conviction and offense.

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

18 (4) Except as provided in subsection (5) of this section, the
19 discharge shall have the effect of restoring all civil rights lost by
20 operation of law upon conviction, and the certificate of discharge
21 shall so state. Nothing in this section prohibits the use of an
22 offender's prior record for purposes of determining sentences for later
23 offenses as provided in this chapter. Nothing in this section affects
24 or prevents use of the offender's prior conviction in a later criminal
25 prosecution either as an element of an offense or for impeachment
26 purposes. A certificate of discharge is not based on a finding of
27 rehabilitation.

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

37 (6) Upon release from custody, the offender may apply to the

1 department for counseling and help in adjusting to the community. This
2 voluntary help may be provided for up to one year following the release
3 from custody.

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

6 The Washington association of county officials, in consultation
7 with county clerks, shall determine a funding formula for allocation of
8 moneys to counties for purposes of collecting legal financial
9 obligations, and report this formula to the legislature and the
10 administrative office of the courts by September 1, 2003. The
11 Washington association of county officials shall report on the amounts
12 of legal financial obligations collected by the county clerks to the
13 appropriate committees of the legislature no later than December 1,
14 2004, and annually thereafter.

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

17 By October 1, 2003, and annually thereafter, the administrative
18 office of the courts shall distribute such funds to counties for county
19 clerk collection budgets as are appropriated by the legislature for
20 this purpose, using the funding formula recommended by the Washington
21 association of county officials. The administrative office of the
22 courts shall not deduct any amount for indirect or direct costs, and
23 shall distribute the entire amount appropriated by the legislature to
24 the counties for county clerk collection budgets. The administrative
25 office of the courts shall report on the amounts distributed to
26 counties to the appropriate committees of the legislature no later than
27 December 1, 2003, and annually thereafter.

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

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

33 Notwithstanding any other provision of state law, monthly payment
34 or starting dates set by the court or the department before or after
35 the effective date of this section shall not be construed as a

1 limitation on the due date or amount of legal financial obligations,
2 which may be immediately collected by civil means. Monthly payments
3 and commencement dates are to be construed to be applicable solely as
4 a limitation upon the deprivation of an offender's liberty for
5 nonpayment.

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

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

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

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

1 NEW SECTION. **Sec. 24.** A new section is added to chapter 9.94A RCW
2 to read as follows:

3 The provisions of sections 13 through 27 of this act apply to all
4 offenders currently, or in the future, subject to sentences with
5 unsatisfied legal financial obligations. The provisions of sections 13
6 through 27 of this act do not change the amount of any legal financial
7 obligation or the maximum term for which any offender is, or may be,
8 under the jurisdiction of the court for collection of legal financial
9 obligations.

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

12 (1) The secretary shall deduct taxes and legal financial
13 obligations from the gross wages (~~(or)~~), gratuities, or workers'
14 compensation benefits payable directly to the inmate under chapter
15 51.32 RCW, of each inmate working in correctional industries work
16 programs, (~~(taxes and legal financial obligations)~~) or otherwise
17 receiving such wages, gratuities, or benefits. The secretary shall
18 develop a formula for the distribution of offender wages (~~(and)~~),
19 gratuities, and benefits. The formula shall not reduce the inmate
20 account below the indigency level, as defined in RCW 72.09.015.

21 (a) The formula shall include the following minimum deductions from
22 class I gross wages and from all others earning at least minimum wage:

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) Twenty percent for payment of legal financial obligations for
29 all inmates who have legal financial obligations owing in any
30 Washington state superior court.

31 (b) The formula shall include the following minimum deductions from
32 class II gross gratuities:

33 (i) Five percent to the public safety and education account for the
34 purpose of crime victims' compensation;

35 (ii) Ten percent to a department personal inmate savings account;

36 (iii) Fifteen percent to the department to contribute to the cost
37 of incarceration; and

1 (iv) Twenty percent for payment of legal financial obligations for
2 all inmates who have legal financial obligations owing in any
3 Washington state superior court.

4 (c) The formula shall include the following minimum deductions from
5 any workers' compensation benefits paid pursuant to RCW 51.32.080:

6 (i) Five percent to the public safety and education account for the
7 purpose of crime victims' compensation;

8 (ii) Ten percent to a department personal inmate savings account;

9 (iii) Twenty percent to the department to contribute to the cost of
10 incarceration; and

11 (iv) An amount equal to any legal financial obligations owed by the
12 inmate established by an order of any Washington state superior court
13 up to the total amount of the award.

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

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

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

24 (3) The department personal inmate savings account, together with
25 any accrued interest, shall only be available to an inmate at the time
26 of his or her release from confinement, unless the secretary determines
27 that an emergency exists for the inmate, at which time the funds can be
28 made available to the inmate in an amount determined by the secretary.
29 The management of classes I, II, and IV correctional industries may
30 establish an incentive payment for offender workers based on
31 productivity criteria. This incentive shall be paid separately from
32 the hourly wage/gratuity rate and shall not be subject to the specified
33 deduction for cost of incarceration.

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

1 (~~(+2)~~) (5) The department shall explore other methods of
2 recovering a portion of the cost of the inmate's incarceration and for
3 encouraging participation in work programs, including development of
4 incentive programs that offer inmates benefits and amenities paid for
5 only from wages earned while working in a correctional industries work
6 program.

7 (~~(+3)~~) (6) The department shall develop the necessary
8 administrative structure to recover inmates' wages and keep records of
9 the amount inmates pay for the costs of incarceration and amenities.
10 All funds deducted from inmate wages under subsection (1) of this
11 section for the purpose of contributions to the cost of incarceration
12 shall be deposited in a dedicated fund with the department and shall be
13 used only for the purpose of enhancing and maintaining correctional
14 industries work programs.

15 (~~(+4)~~) (7) The expansion of inmate employment in class I and class
16 II correctional industries shall be implemented according to the
17 following schedule:

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

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

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

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

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

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

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

8 NEW SECTION. **Sec. 26.** A new section is added to chapter 51.32 RCW
9 to read as follows:

10 If the department of labor and industries has received notice that
11 an injured worker entitled to benefits payable under this chapter is in
12 the custody of the department of corrections pursuant to a conviction
13 and sentence, the department shall send all such benefits to the worker
14 in care of the department of corrections, except those benefits payable
15 to a beneficiary as provided in RCW 51.32.040 (3)(c) and (4). Failure
16 of the department to send such benefits to the department of
17 corrections shall not result in liability to any party for either
18 department.

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

21 (1) Except as provided in RCW 43.20B.720 ~~((and))~~, 72.09.111,
22 74.20A.260, and section 26 of this act, no money paid or payable under
23 this title shall, before the issuance and delivery of the check or
24 warrant, be assigned, charged, or taken in execution, attached,
25 garnished, or pass or be paid to any other person by operation of law,
26 any form of voluntary assignment, or power of attorney. Any such
27 assignment or charge is void unless the transfer is to a financial
28 institution at the request of a worker or other beneficiary and made in
29 accordance with RCW 51.32.045.

30 (2)(a) If any worker suffers (i) a permanent partial injury and
31 dies from some other cause than the accident which produced the injury
32 before he or she receives payment of the award for the permanent
33 partial injury or (ii) any other injury before he or she receives
34 payment of any monthly installment covering any period of time before
35 his or her death, the amount of the permanent partial disability award
36 or the monthly payment, or both, shall be paid to the surviving spouse

1 or the child or children if there is no surviving spouse. If there is
2 no surviving spouse and no child or children, the award or the amount
3 of the monthly payment shall be paid by the department or self-insurer
4 and distributed consistent with the terms of the decedent's will or, if
5 the decedent dies intestate, consistent with the terms of RCW
6 11.04.015.

7 (b) If any worker suffers an injury and dies from it before he or
8 she receives payment of any monthly installment covering time loss for
9 any period of time before his or her death, the amount of the monthly
10 payment shall be paid to the surviving spouse or the child or children
11 if there is no surviving spouse. If there is no surviving spouse and
12 no child or children, the amount of the monthly payment shall be paid
13 by the department or self-insurer and distributed consistent with the
14 terms of the decedent's will or, if the decedent dies intestate,
15 consistent with the terms of RCW 11.04.015.

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

22 (3)(a) Any worker or beneficiary receiving benefits under this
23 title who is subsequently confined in, or who subsequently becomes
24 eligible for benefits under this title while confined in, any
25 institution under conviction and sentence shall have all payments of
26 the compensation canceled during the period of confinement. After
27 discharge from the institution, payment of benefits due afterward shall
28 be paid if the worker or beneficiary would, except for the provisions
29 of this subsection (3), otherwise be entitled to them.

30 (b) If any prisoner is injured in the course of his or her
31 employment while participating in a work or training release program
32 authorized by chapter 72.65 RCW and is subject to the provisions of
33 this title, he or she is entitled to payments under this title, subject
34 to the requirements of chapter 72.65 RCW, unless his or her
35 participation in the program has been canceled, or unless he or she is
36 returned to a state correctional institution, as defined in RCW
37 72.65.010(3), as a result of revocation of parole or new sentence.

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

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

9 NEW SECTION. **Sec. 28.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

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

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

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