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**SUBSTITUTE HOUSE BILL 1147**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Clements, O'Brien, Skinner, Woods, Pearson, Simpson, Lovick, Tom and B. Sullivan)

READ FIRST TIME 02/24/05.

1       AN ACT Relating to protecting communities from sex offenders  
2 through the establishment of community protection zones; amending RCW  
3 9.94A.030, 9.94A.712, and 72.09.340; and adding a new section to  
4 chapter 9.94A RCW.

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

6       **Sec. 1.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read  
7 as follows:

8       Unless the context clearly requires otherwise, the definitions in  
9 this section apply throughout this chapter.

10       (1) "Board" means the indeterminate sentence review board created  
11 under chapter 9.95 RCW.

12       (2) "Collect," or any derivative thereof, "collect and remit," or  
13 "collect and deliver," when used with reference to the department,  
14 means that the department, either directly or through a collection  
15 agreement authorized by RCW 9.94A.760, is responsible for monitoring  
16 and enforcing the offender's sentence with regard to the legal  
17 financial obligation, receiving payment thereof from the offender, and,  
18 consistent with current law, delivering daily the entire payment to the  
19 superior court clerk without depositing it in a departmental account.

1 (3) "Commission" means the sentencing guidelines commission.

2 (4) "Community corrections officer" means an employee of the  
3 department who is responsible for carrying out specific duties in  
4 supervision of sentenced offenders and monitoring of sentence  
5 conditions.

6 (5) "Community custody" means that portion of an offender's  
7 sentence of confinement in lieu of earned release time or imposed  
8 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,  
9 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the  
10 community subject to controls placed on the offender's movement and  
11 activities by the department. For offenders placed on community  
12 custody for crimes committed on or after July 1, 2000, the department  
13 shall assess the offender's risk of reoffense and may establish and  
14 modify conditions of community custody, in addition to those imposed by  
15 the court, based upon the risk to community safety.

16 (6) "Community custody range" means the minimum and maximum period  
17 of community custody included as part of a sentence under RCW  
18 9.94A.715, as established by the commission or the legislature under  
19 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

20 (7) "Community placement" means that period during which the  
21 offender is subject to the conditions of community custody and/or  
22 postrelease supervision, which begins either upon completion of the  
23 term of confinement (postrelease supervision) or at such time as the  
24 offender is transferred to community custody in lieu of earned release.  
25 Community placement may consist of entirely community custody, entirely  
26 postrelease supervision, or a combination of the two.

27 (8) "Community protection zone" means the area within eight hundred  
28 eighty feet of the facilities and grounds of a public or private  
29 school.

30 (9) "Community restitution" means compulsory service, without  
31 compensation, performed for the benefit of the community by the  
32 offender.

33 ((+9)) (10) "Community supervision" means a period of time during  
34 which a convicted offender is subject to crime-related prohibitions and  
35 other sentence conditions imposed by a court pursuant to this chapter  
36 or RCW 16.52.200(6) or 46.61.524. Where the court finds that any  
37 offender has a chemical dependency that has contributed to his or her  
38 offense, the conditions of supervision may, subject to available

1 resources, include treatment. For purposes of the interstate compact  
2 for out-of-state supervision of parolees and probationers, RCW  
3 9.95.270, community supervision is the functional equivalent of  
4 probation and should be considered the same as probation by other  
5 states.

6 ~~((+10+))~~ (11) "Confinement" means total or partial confinement.

7 ~~((+11+))~~ (12) "Conviction" means an adjudication of guilt pursuant  
8 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of  
9 guilty, and acceptance of a plea of guilty.

10 ~~((+12+))~~ (13) "Crime-related prohibition" means an order of a court  
11 prohibiting conduct that directly relates to the circumstances of the  
12 crime for which the offender has been convicted, and shall not be  
13 construed to mean orders directing an offender affirmatively to  
14 participate in rehabilitative programs or to otherwise perform  
15 affirmative conduct. However, affirmative acts necessary to monitor  
16 compliance with the order of a court may be required by the department.

17 ~~((+13+))~~ (14) "Criminal history" means the list of a defendant's  
18 prior convictions and juvenile adjudications, whether in this state, in  
19 federal court, or elsewhere.

20 (a) The history shall include, where known, for each conviction (i)  
21 whether the defendant has been placed on probation and the length and  
22 terms thereof; and (ii) whether the defendant has been incarcerated and  
23 the length of incarceration.

24 (b) A conviction may be removed from a defendant's criminal history  
25 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or  
26 a similar out-of-state statute, or if the conviction has been vacated  
27 pursuant to a governor's pardon.

28 (c) The determination of a defendant's criminal history is distinct  
29 from the determination of an offender score. A prior conviction that  
30 was not included in an offender score calculated pursuant to a former  
31 version of the sentencing reform act remains part of the defendant's  
32 criminal history.

33 ~~((+14+))~~ (15) "Day fine" means a fine imposed by the sentencing  
34 court that equals the difference between the offender's net daily  
35 income and the reasonable obligations that the offender has for the  
36 support of the offender and any dependents.

37 ~~((+15+))~~ (16) "Day reporting" means a program of enhanced  
38 supervision designed to monitor the offender's daily activities and

1 compliance with sentence conditions, and in which the offender is  
2 required to report daily to a specific location designated by the  
3 department or the sentencing court.

4 ~~((+16+))~~ (17) "Department" means the department of corrections.

5 ~~((+17+))~~ (18) "Determinate sentence" means a sentence that states  
6 with exactitude the number of actual years, months, or days of total  
7 confinement, of partial confinement, of community supervision, the  
8 number of actual hours or days of community restitution work, or  
9 dollars or terms of a legal financial obligation. The fact that an  
10 offender through earned release can reduce the actual period of  
11 confinement shall not affect the classification of the sentence as a  
12 determinate sentence.

13 ~~((+18+))~~ (19) "Disposable earnings" means that part of the earnings  
14 of an offender remaining after the deduction from those earnings of any  
15 amount required by law to be withheld. For the purposes of this  
16 definition, "earnings" means compensation paid or payable for personal  
17 services, whether denominated as wages, salary, commission, bonuses, or  
18 otherwise, and, notwithstanding any other provision of law making the  
19 payments exempt from garnishment, attachment, or other process to  
20 satisfy a court-ordered legal financial obligation, specifically  
21 includes periodic payments pursuant to pension or retirement programs,  
22 or insurance policies of any type, but does not include payments made  
23 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
24 or Title 74 RCW.

25 ~~((+19+))~~ (20) "Drug offender sentencing alternative" is a  
26 sentencing option available to persons convicted of a felony offense  
27 other than a violent offense or a sex offense and who are eligible for  
28 the option under RCW 9.94A.660.

29 ~~((+20+))~~ (21) "Drug offense" means:

30 (a) Any felony violation of chapter 69.50 RCW except possession of  
31 a controlled substance (RCW 69.50.4013) or forged prescription for a  
32 controlled substance (RCW 69.50.403);

33 (b) Any offense defined as a felony under federal law that relates  
34 to the possession, manufacture, distribution, or transportation of a  
35 controlled substance; or

36 (c) Any out-of-state conviction for an offense that under the laws  
37 of this state would be a felony classified as a drug offense under (a)  
38 of this subsection.

1        ~~((21))~~ (22) "Earned release" means earned release from  
2 confinement as provided in RCW 9.94A.728.

3        ~~((22))~~ (23) "Escape" means:

4        (a) Sexually violent predator escape (RCW 9A.76.115), escape in the  
5 first degree (RCW 9A.76.110), escape in the second degree (RCW  
6 9A.76.120), willful failure to return from furlough (RCW 72.66.060),  
7 willful failure to return from work release (RCW 72.65.070), or willful  
8 failure to be available for supervision by the department while in  
9 community custody (RCW 72.09.310); or

10        (b) Any federal or out-of-state conviction for an offense that  
11 under the laws of this state would be a felony classified as an escape  
12 under (a) of this subsection.

13        ~~((23))~~ (24) "Felony traffic offense" means:

14        (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
15 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
16 and-run injury-accident (RCW 46.52.020(4)); or

17        (b) Any federal or out-of-state conviction for an offense that  
18 under the laws of this state would be a felony classified as a felony  
19 traffic offense under (a) of this subsection.

20        ~~((24))~~ (25) "Fine" means a specific sum of money ordered by the  
21 sentencing court to be paid by the offender to the court over a  
22 specific period of time.

23        ~~((25))~~ (26) "First-time offender" means any person who has no  
24 prior convictions for a felony and is eligible for the first-time  
25 offender waiver under RCW 9.94A.650.

26        ~~((26))~~ (27) "Home detention" means a program of partial  
27 confinement available to offenders wherein the offender is confined in  
28 a private residence subject to electronic surveillance.

29        ~~((27))~~ (28) "Legal financial obligation" means a sum of money  
30 that is ordered by a superior court of the state of Washington for  
31 legal financial obligations which may include restitution to the  
32 victim, statutorily imposed crime victims' compensation fees as  
33 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
34 drug funds, court-appointed attorneys' fees, and costs of defense,  
35 fines, and any other financial obligation that is assessed to the  
36 offender as a result of a felony conviction. Upon conviction for  
37 vehicular assault while under the influence of intoxicating liquor or  
38 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the

1 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
2 legal financial obligations may also include payment to a public agency  
3 of the expense of an emergency response to the incident resulting in  
4 the conviction, subject to RCW 38.52.430.

5 ~~((+28+))~~ (29) "Most serious offense" means any of the following  
6 felonies or a felony attempt to commit any of the following felonies:

7 (a) Any felony defined under any law as a class A felony or  
8 criminal solicitation of or criminal conspiracy to commit a class A  
9 felony;

10 (b) Assault in the second degree;

11 (c) Assault of a child in the second degree;

12 (d) Child molestation in the second degree;

13 (e) Controlled substance homicide;

14 (f) Extortion in the first degree;

15 (g) Incest when committed against a child under age fourteen;

16 (h) Indecent liberties;

17 (i) Kidnapping in the second degree;

18 (j) Leading organized crime;

19 (k) Manslaughter in the first degree;

20 (l) Manslaughter in the second degree;

21 (m) Promoting prostitution in the first degree;

22 (n) Rape in the third degree;

23 (o) Robbery in the second degree;

24 (p) Sexual exploitation;

25 (q) Vehicular assault, when caused by the operation or driving of  
26 a vehicle by a person while under the influence of intoxicating liquor  
27 or any drug or by the operation or driving of a vehicle in a reckless  
28 manner;

29 (r) Vehicular homicide, when proximately caused by the driving of  
30 any vehicle by any person while under the influence of intoxicating  
31 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
32 any vehicle in a reckless manner;

33 (s) Any other class B felony offense with a finding of sexual  
34 motivation;

35 (t) Any other felony with a deadly weapon verdict under RCW  
36 9.94A.602;

37 (u) Any felony offense in effect at any time prior to December 2,  
38 1993, that is comparable to a most serious offense under this

1 subsection, or any federal or out-of-state conviction for an offense  
2 that under the laws of this state would be a felony classified as a  
3 most serious offense under this subsection;

4 (v)(i) A prior conviction for indecent liberties under RCW  
5 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
6 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
7 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
8 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

9 (ii) A prior conviction for indecent liberties under RCW  
10 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
11 if: (A) The crime was committed against a child under the age of  
12 fourteen; or (B) the relationship between the victim and perpetrator is  
13 included in the definition of indecent liberties under RCW  
14 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
15 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
16 through July 27, 1997.

17 ~~((+29+))~~ (30) "Nonviolent offense" means an offense which is not a  
18 violent offense.

19 ~~((+30+))~~ (31) "Offender" means a person who has committed a felony  
20 established by state law and is eighteen years of age or older or is  
21 less than eighteen years of age but whose case is under superior court  
22 jurisdiction under RCW 13.04.030 or has been transferred by the  
23 appropriate juvenile court to a criminal court pursuant to RCW  
24 13.40.110. Throughout this chapter, the terms "offender" and  
25 "defendant" are used interchangeably.

26 ~~((+31+))~~ (32) "Partial confinement" means confinement for no more  
27 than one year in a facility or institution operated or utilized under  
28 contract by the state or any other unit of government, or, if home  
29 detention or work crew has been ordered by the court, in an approved  
30 residence, for a substantial portion of each day with the balance of  
31 the day spent in the community. Partial confinement includes work  
32 release, home detention, work crew, and a combination of work crew and  
33 home detention.

34 ~~((+32+))~~ (33) "Persistent offender" is an offender who:

35 (a)(i) Has been convicted in this state of any felony considered a  
36 most serious offense; and

37 (ii) Has, before the commission of the offense under (a) of this  
38 subsection, been convicted as an offender on at least two separate

1 occasions, whether in this state or elsewhere, of felonies that under  
2 the laws of this state would be considered most serious offenses and  
3 would be included in the offender score under RCW 9.94A.525; provided  
4 that of the two or more previous convictions, at least one conviction  
5 must have occurred before the commission of any of the other most  
6 serious offenses for which the offender was previously convicted; or

7 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
8 of a child in the first degree, child molestation in the first degree,  
9 rape in the second degree, rape of a child in the second degree, or  
10 indecent liberties by forcible compulsion; (B) any of the following  
11 offenses with a finding of sexual motivation: Murder in the first  
12 degree, murder in the second degree, homicide by abuse, kidnapping in  
13 the first degree, kidnapping in the second degree, assault in the first  
14 degree, assault in the second degree, assault of a child in the first  
15 degree, or burglary in the first degree; or (C) an attempt to commit  
16 any crime listed in this subsection (~~((+32+))~~) (33)(b)(i); and

17 (ii) Has, before the commission of the offense under (b)(i) of this  
18 subsection, been convicted as an offender on at least one occasion,  
19 whether in this state or elsewhere, of an offense listed in (b)(i) of  
20 this subsection or any federal or out-of-state offense or offense under  
21 prior Washington law that is comparable to the offenses listed in  
22 (b)(i) of this subsection. A conviction for rape of a child in the  
23 first degree constitutes a conviction under (b)(i) of this subsection  
24 only when the offender was sixteen years of age or older when the  
25 offender committed the offense. A conviction for rape of a child in  
26 the second degree constitutes a conviction under (b)(i) of this  
27 subsection only when the offender was eighteen years of age or older  
28 when the offender committed the offense.

29 (~~((+33+))~~) (34) "Postrelease supervision" is that portion of an  
30 offender's community placement that is not community custody.

31 (~~((+34+))~~) (35) "Private school" means a school regulated under  
32 chapter 28A.195 or 28A.205 RCW.

33 (36) "Public school" has the same meaning as in RCW 28A.150.010.

34 (37) "Restitution" means a specific sum of money ordered by the  
35 sentencing court to be paid by the offender to the court over a  
36 specified period of time as payment of damages. The sum may include  
37 both public and private costs.



1       (~~(35)~~) (38) "Risk assessment" means the application of an  
2 objective instrument supported by research and adopted by the  
3 department for the purpose of assessing an offender's risk of  
4 reoffense, taking into consideration the nature of the harm done by the  
5 offender, place and circumstances of the offender related to risk, the  
6 offender's relationship to any victim, and any information provided to  
7 the department by victims. The results of a risk assessment shall not  
8 be based on unconfirmed or unconfirmable allegations.

9       (~~(36)~~) (39) "Serious traffic offense" means:

10       (a) Driving while under the influence of intoxicating liquor or any  
11 drug (RCW 46.61.502), actual physical control while under the influence  
12 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
13 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
14 or

15       (b) Any federal, out-of-state, county, or municipal conviction for  
16 an offense that under the laws of this state would be classified as a  
17 serious traffic offense under (a) of this subsection.

18       (~~(37)~~) (40) "Serious violent offense" is a subcategory of violent  
19 offense and means:

20       (a)(i) Murder in the first degree;

21       (ii) Homicide by abuse;

22       (iii) Murder in the second degree;

23       (iv) Manslaughter in the first degree;

24       (v) Assault in the first degree;

25       (vi) Kidnapping in the first degree;

26       (vii) Rape in the first degree;

27       (viii) Assault of a child in the first degree; or

28       (ix) An attempt, criminal solicitation, or criminal conspiracy to  
29 commit one of these felonies; or

30       (b) Any federal or out-of-state conviction for an offense that  
31 under the laws of this state would be a felony classified as a serious  
32 violent offense under (a) of this subsection.

33       (~~(38)~~) (41) "Sex offense" means:

34       (a)(i) A felony that is a violation of chapter 9A.44 RCW other than  
35 RCW 9A.44.130(11);

36       (ii) A violation of RCW 9A.64.020;

37       (iii) A felony that is a violation of chapter 9.68A RCW other than  
38 RCW 9.68A.070 or 9.68A.080; or

1 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,  
2 criminal solicitation, or criminal conspiracy to commit such crimes;

3 (b) Any conviction for a felony offense in effect at any time prior  
4 to July 1, 1976, that is comparable to a felony classified as a sex  
5 offense in (a) of this subsection;

6 (c) A felony with a finding of sexual motivation under RCW  
7 9.94A.835 or 13.40.135; or

8 (d) Any federal or out-of-state conviction for an offense that  
9 under the laws of this state would be a felony classified as a sex  
10 offense under (a) of this subsection.

11 (~~(39)~~) (42) "Sexual motivation" means that one of the purposes  
12 for which the defendant committed the crime was for the purpose of his  
13 or her sexual gratification.

14 (~~(40)~~) (43) "Standard sentence range" means the sentencing  
15 court's discretionary range in imposing a nonappealable sentence.

16 (~~(41)~~) (44) "Statutory maximum sentence" means the maximum length  
17 of time for which an offender may be confined as punishment for a crime  
18 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining  
19 the crime, or other statute defining the maximum penalty for a crime.

20 (~~(42)~~) (45) "Total confinement" means confinement inside the  
21 physical boundaries of a facility or institution operated or utilized  
22 under contract by the state or any other unit of government for twenty-  
23 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

24 (~~(43)~~) (46) "Transition training" means written and verbal  
25 instructions and assistance provided by the department to the offender  
26 during the two weeks prior to the offender's successful completion of  
27 the work ethic camp program. The transition training shall include  
28 instructions in the offender's requirements and obligations during the  
29 offender's period of community custody.

30 (~~(44)~~) (47) "Victim" means any person who has sustained  
31 emotional, psychological, physical, or financial injury to person or  
32 property as a direct result of the crime charged.

33 (~~(45)~~) (48) "Violent offense" means:

34 (a) Any of the following felonies:

35 (i) Any felony defined under any law as a class A felony or an  
36 attempt to commit a class A felony;

37 (ii) Criminal solicitation of or criminal conspiracy to commit a  
38 class A felony;

1 (iii) Manslaughter in the first degree;  
2 (iv) Manslaughter in the second degree;  
3 (v) Indecent liberties if committed by forcible compulsion;  
4 (vi) Kidnapping in the second degree;  
5 (vii) Arson in the second degree;  
6 (viii) Assault in the second degree;  
7 (ix) Assault of a child in the second degree;  
8 (x) Extortion in the first degree;  
9 (xi) Robbery in the second degree;  
10 (xii) Drive-by shooting;  
11 (xiii) Vehicular assault, when caused by the operation or driving  
12 of a vehicle by a person while under the influence of intoxicating  
13 liquor or any drug or by the operation or driving of a vehicle in a  
14 reckless manner; and  
15 (xiv) Vehicular homicide, when proximately caused by the driving of  
16 any vehicle by any person while under the influence of intoxicating  
17 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
18 any vehicle in a reckless manner;  
19 (b) Any conviction for a felony offense in effect at any time prior  
20 to July 1, 1976, that is comparable to a felony classified as a violent  
21 offense in (a) of this subsection; and  
22 (c) Any federal or out-of-state conviction for an offense that  
23 under the laws of this state would be a felony classified as a violent  
24 offense under (a) or (b) of this subsection.  
25 (~~(46)~~) (49) "Work crew" means a program of partial confinement  
26 consisting of civic improvement tasks for the benefit of the community  
27 that complies with RCW 9.94A.725.  
28 (~~(47)~~) (50) "Work ethic camp" means an alternative incarceration  
29 program as provided in RCW 9.94A.690 designed to reduce recidivism and  
30 lower the cost of corrections by requiring offenders to complete a  
31 comprehensive array of real-world job and vocational experiences,  
32 character-building work ethics training, life management skills  
33 development, substance abuse rehabilitation, counseling, literacy  
34 training, and basic adult education.  
35 (~~(48)~~) (51) "Work release" means a program of partial confinement  
36 available to offenders who are employed or engaged as a student in a  
37 regular course of study at school.

1       **Sec. 2.** RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read  
2 as follows:

3       (1) An offender who is not a persistent offender shall be sentenced  
4 under this section if the offender:

5       (a) Is convicted of:

6       (i) Rape in the first degree, rape in the second degree, rape of a  
7 child in the first degree, child molestation in the first degree, rape  
8 of a child in the second degree, or indecent liberties by forcible  
9 compulsion;

10       (ii) Any of the following offenses with a finding of sexual  
11 motivation: Murder in the first degree, murder in the second degree,  
12 homicide by abuse, kidnapping in the first degree, kidnapping in the  
13 second degree, assault in the first degree, assault in the second  
14 degree, assault of a child in the first degree, or burglary in the  
15 first degree; or

16       (iii) An attempt to commit any crime listed in this subsection  
17 (1)(a);  
18 committed on or after September 1, 2001; or

19       (b) Has a prior conviction for an offense listed in RCW  
20 9.94A.030(~~(+32+)~~) (33)(b), and is convicted of any sex offense which  
21 was committed after September 1, 2001.

22       For purposes of this subsection (1)(b), failure to register is not  
23 a sex offense.

24       (2) An offender convicted of rape of a child in the first or second  
25 degree or child molestation in the first degree who was seventeen years  
26 of age or younger at the time of the offense shall not be sentenced  
27 under this section.

28       (3) Upon a finding that the offender is subject to sentencing under  
29 this section, the court shall impose a sentence to a maximum term  
30 consisting of the statutory maximum sentence for the offense and a  
31 minimum term either within the standard sentence range for the offense,  
32 or outside the standard sentence range pursuant to RCW 9.94A.535, if  
33 the offender is otherwise eligible for such a sentence.

34       (4) A person sentenced under subsection (3) of this section shall  
35 serve the sentence in a facility or institution operated, or utilized  
36 under contract, by the state.

37       (5) When a court sentences a person to the custody of the  
38 department under this section, the court shall, in addition to the

1 other terms of the sentence, sentence the offender to community custody  
2 under the supervision of the department and the authority of the board  
3 for any period of time the person is released from total confinement  
4 before the expiration of the maximum sentence.

5 (6)(a)(i) Unless a condition is waived by the court, the conditions  
6 of community custody shall include those provided for in RCW  
7 9.94A.700(4). The conditions may also include those provided for in  
8 RCW 9.94A.700(5). The court may also order the offender to participate  
9 in rehabilitative programs or otherwise perform affirmative conduct  
10 reasonably related to the circumstances of the offense, the offender's  
11 risk of reoffending, or the safety of the community, and the department  
12 and the board shall enforce such conditions pursuant to RCW 9.94A.713,  
13 9.95.425, and 9.95.430.

14 (ii) If the offense that caused the offender to be sentenced under  
15 this section was an offense listed in subsection (1)(a) of this section  
16 and the victim of the offense was under eighteen years of age at the  
17 time of the offense, the court shall, as a condition of community  
18 custody, prohibit the offender from residing in a community protection  
19 zone.

20 (b) As part of any sentence under this section, the court shall  
21 also require the offender to comply with any conditions imposed by the  
22 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

23 **Sec. 3.** RCW 72.09.340 and 1996 c 215 s 3 are each amended to read  
24 as follows:

25 (1) In making all discretionary decisions regarding release plans  
26 for and supervision of sex offenders, the department shall set  
27 priorities and make decisions based on an assessment of public safety  
28 risks.

29 (2) The department shall, no later than September 1, 1996,  
30 implement a policy governing the department's evaluation and approval  
31 of release plans for sex offenders. The policy shall include, at a  
32 minimum, a formal process by which victims, witnesses, and other  
33 interested people may provide information and comments to the  
34 department on potential safety risks to specific individuals or classes  
35 of individuals posed by a specific sex offender. The department shall  
36 make all reasonable efforts to publicize the availability of this  
37 process through currently existing mechanisms and shall seek the

1 assistance of courts, prosecutors, law enforcement, and victims'  
2 advocacy groups in doing so. Notice of an offender's proposed  
3 residence shall be provided to all people registered to receive notice  
4 of an offender's release under RCW 9.94A.612(2), except that in no case  
5 may this notification requirement be construed to require an extension  
6 of an offender's release date.

7 (3)(a) For any offender convicted of a felony sex offense against  
8 a minor victim after June 6, 1996, the department shall not approve a  
9 residence location if the proposed residence: ~~((+a))~~ (i) Includes a  
10 minor victim or child of similar age or circumstance as a previous  
11 victim who the department determines may be put at substantial risk of  
12 harm by the offender's residence in the household; or ~~((+b))~~ (ii) is  
13 within close proximity of the current residence of a minor victim,  
14 unless the whereabouts of the minor victim cannot be determined or  
15 unless such a restriction would impede family reunification efforts  
16 ordered by the court or directed by the department of social and health  
17 services. The department ~~((is further authorized to))~~ shall reject a  
18 residence location if the proposed residence is within ~~((close~~  
19 ~~proximity to))~~ eight hundred eighty feet of schools, child care  
20 centers, playgrounds, or other grounds or facilities where children of  
21 similar age or circumstance as a previous victim are present who the  
22 department determines may be put at substantial risk of harm by the sex  
23 offender's residence at that location.

24 (b) In addition, for any offender prohibited from living in a  
25 community protection zone under RCW 9.94A.712(6)(a)(ii), the department  
26 may not approve a residence location if the proposed residence is in a  
27 community protection zone.

28 (4) When the department requires supervised visitation as a term or  
29 condition of a sex offender's community placement under RCW  
30 9.94A.700(6), the department shall, prior to approving a supervisor,  
31 consider the following:

32 (a) The relationships between the proposed supervisor, the  
33 offender, and the minor; (b) the proposed supervisor's acknowledgment  
34 and understanding of the offender's prior criminal conduct, general  
35 knowledge of the dynamics of child sexual abuse, and willingness and  
36 ability to protect the minor from the potential risks posed by contact  
37 with the offender; and (c) recommendations made by the department of  
38 social and health services about the best interests of the child.

1        NEW SECTION.   **Sec. 4.**   A new section is added to chapter 9.94A RCW  
2   to read as follows:

3        Law enforcement agencies and the department of corrections are  
4   immune from civil liability for damages from discretionary decisions  
5   made under this act if they make a good faith effort to comply with  
6   this act.

--- END ---