
HOUSE BILL 2425

State of Washington 59th Legislature 2006 Regular Session

By Representatives Kirby, Morrell, Talcott, Darneille, Conway, Walsh, Grant, Green, Ericks, Campbell and O'Brien

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1 AN ACT Relating to requiring offenders to be released in the county
2 in which they were convicted; amending RCW 9.94A.545, 9.94A.712,
3 9.94A.712, 9.94A.715, 9.94A.720, 9.95.110, 9.94A.680, 9.94A.728,
4 9.94A.731, 9.94A.650, 9.94A.660, and 72.02.100; reenacting and amending
5 RCW 9.94A.505 and 9.94A.670; adding a new section to chapter 72.02 RCW;
6 providing an effective date; and providing an expiration date.

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

8 **Sec. 1.** RCW 9.94A.545 and 2003 c 379 s 8 are each amended to read
9 as follows:

10 Except as provided in RCW 9.94A.650, on all sentences of
11 confinement for one year or less, in which the offender is convicted of
12 a sex offense, a violent offense, a crime against a person under RCW
13 9.94A.411, or felony violation of chapter 69.50 or 69.52 RCW or an
14 attempt, conspiracy, or solicitation to commit such a crime, the court
15 may impose up to one year of community custody, subject to conditions
16 and sanctions as authorized in RCW 9.94A.715 and 9.94A.720. The
17 conditions of a term of community custody imposed under this section
18 shall include a requirement that the offender reside in the county in
19 which he or she was convicted. An offender shall be on community

1 custody as of the date of sentencing. However, during the time for
2 which the offender is in total or partial confinement pursuant to the
3 sentence or a violation of the sentence, the period of community
4 custody shall toll.

5 **Sec. 2.** RCW 9.94A.712 and 2005 c 436 s 2 are each amended to read
6 as follows:

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

9 (a) Is convicted of:

10 (i) Rape in the first degree, rape in the second degree, rape of a
11 child in the first degree, child molestation in the first degree, rape
12 of a child in the second degree, or indecent liberties by forcible
13 compulsion;

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

20 (iii) An attempt to commit any crime listed in this subsection
21 (1)(a);
22 committed on or after September 1, 2001; or

23 (b) Has a prior conviction for an offense listed in RCW
24 9.94A.030(33)(b), and is convicted of any sex offense which was
25 committed after September 1, 2001.

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

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

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

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

4 (5) When a court sentences a person to the custody of the
5 department under this section, the court shall, in addition to the
6 other terms of the sentence, sentence the offender to community custody
7 under the supervision of the department and the authority of the board
8 for any period of time the person is released from total confinement
9 before the expiration of the maximum sentence.

10 (6)(a)(i) Unless a condition is waived by the court, the conditions
11 of community custody shall include those provided for in RCW
12 9.94A.700(4). The conditions of community custody shall also include
13 a requirement that the offender reside in the county in which he or she
14 was convicted. The conditions may also include those provided for in
15 RCW 9.94A.700(5). The court may also order the offender to participate
16 in rehabilitative programs or otherwise perform affirmative conduct
17 reasonably related to the circumstances of the offense, the offender's
18 risk of reoffending, or the safety of the community, and the department
19 and the board shall enforce such conditions pursuant to RCW 9.94A.713,
20 9.95.425, and 9.95.430.

21 (ii) If the offense that caused the offender to be sentenced under
22 this section was an offense listed in subsection (1)(a) of this section
23 and the victim of the offense was under eighteen years of age at the
24 time of the offense, the court shall, as a condition of community
25 custody, prohibit the offender from residing in a community protection
26 zone.

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

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

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

34 (a) Is convicted of:

35 (i) Rape in the first degree, rape in the second degree, rape of a
36 child in the first degree, child molestation in the first degree, rape

1 of a child in the second degree, or indecent liberties by forcible
2 compulsion;

3 (ii) Any of the following offenses with a finding of sexual
4 motivation: Murder in the first degree, murder in the second degree,
5 homicide by abuse, kidnapping in the first degree, kidnapping in the
6 second degree, assault in the first degree, assault in the second
7 degree, assault of a child in the first degree, or burglary in the
8 first degree; or

9 (iii) An attempt to commit any crime listed in this subsection
10 (1)(a);
11 committed on or after September 1, 2001; or

12 (b) Has a prior conviction for an offense listed in RCW
13 9.94A.030(32)(b), and is convicted of any sex offense which was
14 committed after September 1, 2001.

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

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

21 (3) Upon a finding that the offender is subject to sentencing under
22 this section, the court shall impose a sentence to a maximum term
23 consisting of the statutory maximum sentence for the offense and a
24 minimum term either within the standard sentence range for the offense,
25 or outside the standard sentence range pursuant to RCW 9.94A.535, if
26 the offender is otherwise eligible for such a sentence.

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

30 (5) When a court sentences a person to the custody of the
31 department under this section, the court shall, in addition to the
32 other terms of the sentence, sentence the offender to community custody
33 under the supervision of the department and the authority of the board
34 for any period of time the person is released from total confinement
35 before the expiration of the maximum sentence.

36 (6)(a) Unless a condition is waived by the court, the conditions of
37 community custody shall include those provided for in RCW 9.94A.700(4).
38 The conditions of community custody shall also include a requirement

1 that the offender reside in the county in which he or she was
2 convicted. The conditions may also include those provided for in RCW
3 9.94A.700(5). The court may also order the offender to participate in
4 rehabilitative programs or otherwise perform affirmative conduct
5 reasonably related to the circumstances of the offense, the offender's
6 risk of reoffending, or the safety of the community, and the department
7 and the board shall enforce such conditions pursuant to RCW 9.94A.713,
8 9.95.425, and 9.95.430.

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

12 **Sec. 4.** RCW 9.94A.715 and 2003 c 379 s 6 are each amended to read
13 as follows:

14 (1) When a court sentences a person to the custody of the
15 department for a sex offense not sentenced under RCW 9.94A.712, a
16 violent offense, any crime against persons under RCW 9.94A.411(2), or
17 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
18 after July 1, 2000, the court shall in addition to the other terms of
19 the sentence, sentence the offender to community custody for the
20 community custody range established under RCW 9.94A.850 or up to the
21 period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2),
22 whichever is longer. The community custody shall begin: (a) Upon
23 completion of the term of confinement; (b) at such time as the offender
24 is transferred to community custody in lieu of earned release in
25 accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to
26 offenders sentenced under RCW 9.94A.660, upon failure to complete or
27 administrative termination from the special drug offender sentencing
28 alternative program. Except as provided in RCW 9.94A.501, the
29 department shall supervise any sentence of community custody imposed
30 under this section.

31 (2)(a) Unless a condition is waived by the court, the conditions of
32 community custody shall include those provided for in RCW 9.94A.700(4).
33 The conditions of community custody shall also include a requirement
34 that the offender reside in the county in which he or she was
35 convicted. The conditions may also include those provided for in RCW
36 9.94A.700(5). The court may also order the offender to participate in
37 rehabilitative programs or otherwise perform affirmative conduct

1 reasonably related to the circumstances of the offense, the offender's
2 risk of reoffending, or the safety of the community, and the department
3 shall enforce such conditions pursuant to subsection (6) of this
4 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. 5.** RCW 9.94A.720 and 2003 c 379 s 7 are each amended to read
20 as follows:

21 (1)(a) Except as provided in RCW 9.94A.501, all offenders sentenced
22 to terms involving community supervision, community restitution,
23 community placement, or community custody shall be under the
24 supervision of the department and shall follow explicitly the
25 instructions and conditions of the department. The department may
26 require an offender to perform affirmative acts it deems appropriate to
27 monitor compliance with the conditions of the sentence imposed. The
28 department may only supervise the offender's compliance with payment of
29 legal financial obligations during any period in which the department
30 is authorized to supervise the offender in the community under RCW
31 9.94A.501.

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. For an offender beginning his
37 or her term of community supervision, community placement, or community

1 custody on or after the effective date of this section, the
2 instructions shall include residing in the county in which the offender
3 was convicted unless such an instruction would contravene a condition
4 of the offender's sentence.

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

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

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

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

32 (2) No offender sentenced to terms involving community supervision,
33 community restitution, community custody, or community placement under
34 the supervision of the department may own, use, or possess firearms or
35 ammunition. Offenders who own, use, or are found to be in actual or
36 constructive possession of firearms or ammunition shall be subject to
37 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and

1 9.94A.740. "Constructive possession" as used in this subsection means
2 the power and intent to control the firearm or ammunition. "Firearm"
3 as used in this subsection has the same definition as in RCW 9.41.010.

4 **Sec. 6.** RCW 9.95.110 and 2003 c 218 s 7 are each amended to read
5 as follows:

6 (1) The board may permit an offender convicted of a crime committed
7 before July 1, 1984, to leave the buildings and enclosures of a state
8 correctional institution on parole, after such convicted person has
9 served the period of confinement fixed for him or her by the board,
10 less time credits for good behavior and diligence in work: PROVIDED,
11 That in no case shall an inmate be credited with more than one-third of
12 his or her sentence as fixed by the board.

13 The board may establish rules and regulations under which an
14 offender may be allowed to leave the confines of a state correctional
15 institution on parole, and may return such person to the confines of
16 the institution from which he or she was paroled, at its discretion.
17 The board shall require an offender paroled on or after the effective
18 date of this section to reside in the county in which he or she was
19 convicted unless to do so would contravene a condition of the
20 offender's sentence.

21 (2) The board may permit an offender convicted of a crime committed
22 on or after September 1, 2001, and sentenced under RCW 9.94A.712, to
23 leave a state correctional institution on community custody according
24 to the provisions of RCW 9.94A.712, 9.94A.713, 72.09.335, and 9.95.420
25 through 9.95.440. The person may be returned to the institution
26 following a violation of his or her conditions of release to community
27 custody pursuant to the hearing provisions of RCW 9.95.435.

28 **Sec. 7.** RCW 9.94A.505 and 2002 c 290 s 17, 2002 c 289 s 6, and
29 2002 c 175 s 6 are each reenacted and amended to read as follows:

30 (1) When a person is convicted of a felony, the court shall impose
31 punishment as provided in this chapter.

32 (2)(a) The court shall impose a sentence as provided in the
33 following sections and as applicable in the case:

34 (i) Unless another term of confinement applies, the court shall
35 impose a sentence within the standard sentence range established in RCW
36 9.94A.510 or 9.94A.517;

- 1 (ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;
2 (iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;
3 (iv) RCW 9.94A.545, relating to community custody for offenders
4 whose term of confinement is one year or less;
5 (v) RCW 9.94A.570, relating to persistent offenders;
6 (vi) RCW 9.94A.540, relating to mandatory minimum terms;
7 (vii) RCW 9.94A.650, relating to the first-time offender waiver;
8 (viii) RCW 9.94A.660, relating to the drug offender sentencing
9 alternative;
10 (ix) RCW 9.94A.670, relating to the special sex offender sentencing
11 alternative;
12 (x) RCW 9.94A.712, relating to certain sex offenses;
13 (xi) RCW 9.94A.535, relating to exceptional sentences;
14 (xii) RCW 9.94A.589, relating to consecutive and concurrent
15 sentences.

16 (b) If a standard sentence range has not been established for the
17 offender's crime, the court shall impose a determinate sentence which
18 may include not more than one year of confinement; community
19 restitution work; until July 1, 2000, a term of community supervision
20 not to exceed one year and on and after July 1, 2000, a term of
21 community custody not to exceed one year, subject to conditions and
22 sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other
23 legal financial obligations. The court may impose a sentence which
24 provides more than one year of confinement if the court finds reasons
25 justifying an exceptional sentence as provided in RCW 9.94A.535.

26 (3) If the court imposes a sentence requiring confinement of thirty
27 days or less, the court may, in its discretion, specify that the
28 sentence be served on consecutive or intermittent days. A sentence
29 requiring more than thirty days of confinement shall be served on
30 consecutive days. Local jail administrators may schedule court-ordered
31 intermittent sentences as space permits.

32 (4) If a sentence imposed includes payment of a legal financial
33 obligation, it shall be imposed as provided in RCW 9.94A.750,
34 9.94A.753, 9.94A.760, and 43.43.7541.

35 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
36 court may not impose a sentence providing for a term of confinement or
37 community supervision, community placement, or community custody which

1 exceeds the statutory maximum for the crime as provided in chapter
2 9A.20 RCW.

3 (6) The sentencing court shall give the offender credit for all
4 confinement time served before the sentencing if that confinement was
5 solely in regard to the offense for which the offender is being
6 sentenced.

7 (7) The court shall order restitution as provided in RCW 9.94A.750
8 and 9.94A.753.

9 (8) As a part of any sentence, the court may impose and enforce
10 crime-related prohibitions and affirmative conditions as provided in
11 this chapter.

12 (9) The court may order an offender whose sentence includes
13 community placement or community supervision to undergo a mental status
14 evaluation and to participate in available outpatient mental health
15 treatment, if the court finds that reasonable grounds exist to believe
16 that the offender is a mentally ill person as defined in RCW 71.24.025,
17 and that this condition is likely to have influenced the offense. An
18 order requiring mental status evaluation or treatment must be based on
19 a presentence report and, if applicable, mental status evaluations that
20 have been filed with the court to determine the offender's competency
21 or eligibility for a defense of insanity. The court may order
22 additional evaluations at a later date if deemed appropriate.

23 (10) In any sentence of partial confinement((τ)):

24 (a) The court may require the offender to serve the partial
25 confinement in work release, in a program of home detention, on work
26 crew, or in a combined program of work crew and home detention; and

27 (b) The court shall require that the work release, home detention,
28 work crew, or combined program of work crew and home detention be
29 served in the county in which the offender was convicted.

30 (11) In sentencing an offender convicted of a crime of domestic
31 violence, as defined in RCW 10.99.020, if the offender has a minor
32 child, or if the victim of the offense for which the offender was
33 convicted has a minor child, the court may, as part of any term of
34 community supervision, community placement, or community custody, order
35 the offender to participate in a domestic violence perpetrator program
36 approved under RCW 26.50.150.

1 **Sec. 8.** RCW 9.94A.680 and 2002 c 175 s 12 are each amended to read
2 as follows:

3 (1) Alternatives to total confinement are available for offenders
4 with sentences of one year or less. These alternatives include the
5 following sentence conditions that the court may order as substitutes
6 for total confinement:

7 ~~((1))~~ (a) One day of partial confinement may be substituted for
8 one day of total confinement;

9 ~~((2))~~ (b) In addition, for offenders convicted of nonviolent
10 offenses only, eight hours of community restitution may be substituted
11 for one day of total confinement, with a maximum conversion limit of
12 two hundred forty hours or thirty days. Community restitution hours
13 must be completed within the period of community supervision or a time
14 period specified by the court, which shall not exceed twenty-four
15 months, pursuant to a schedule determined by the department; and

16 ~~((3))~~ (c) For offenders convicted of nonviolent and nonsex
17 offenses, the court may authorize county jails to convert jail
18 confinement to an available county supervised community option and may
19 require the offender to perform affirmative conduct pursuant to RCW
20 9.94A.607.

21 (2) For sentences of nonviolent offenders for one year or less, the
22 court shall consider and give priority to available alternatives to
23 total confinement and shall state its reasons in writing on the
24 judgment and sentence form if the alternatives are not used.

25 (3) The court shall require that any alternative to total
26 confinement ordered under this section be served in the county in which
27 the offender was convicted.

28 **Sec. 9.** RCW 9.94A.728 and 2004 c 176 s 6 are each amended to read
29 as follows:

30 No person serving a sentence imposed pursuant to this chapter and
31 committed to the custody of the department shall leave the confines of
32 the correctional facility or be released prior to the expiration of the
33 sentence except as follows:

34 (1) Except as otherwise provided for in subsection (2) of this
35 section, the term of the sentence of an offender committed to a
36 correctional facility operated by the department may be reduced by
37 earned release time in accordance with procedures that shall be

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

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

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

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

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

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

34 (I) A sex offense;

35 (II) A violent offense;

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

37 (IV) A felony that is domestic violence as defined in RCW
38 10.99.020;

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

1 offenders serving terms of total confinement in a state correctional
2 facility as of July 1, 2003.

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

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

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

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

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

30 (d) The department may deny transfer to community custody status in
31 lieu of earned release time pursuant to subsection (1) of this section
32 if the department determines an offender's release plan, including
33 proposed residence location and living arrangements, may violate the
34 conditions of the sentence or conditions of supervision, place the
35 offender at risk to violate the conditions of the sentence, place the
36 offender at risk to reoffend, or present a risk to victim safety or
37 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 (e) An offender serving a term of confinement imposed under RCW
5 9.94A.670(4)(a) is not eligible for earned release credits under this
6 section;

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

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

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

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

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

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

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

30 (d) The secretary may revoke an extraordinary medical placement
31 under this subsection at any time;

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

36 (6) No more than the final six months of the sentence may be served
37 in partial confinement designed to aid the offender in finding work and
38 reestablishing himself or herself in the community. An offender

1 beginning a term of partial confinement authorized under this section
2 on or after the effective date of this section shall serve the partial
3 confinement in the county in which he or she was convicted;

4 (7) The governor may pardon any offender;

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

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

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

18 **Sec. 10.** RCW 9.94A.731 and 2003 c 254 s 2 are each amended to read
19 as follows:

20 (1) An offender sentenced to a term of partial confinement shall be
21 confined in the facility for at least eight hours per day or, if
22 serving a work crew sentence shall comply with the conditions of that
23 sentence as set forth in RCW 9.94A.030(31) and 9.94A.725. The offender
24 shall be required as a condition of partial confinement to report to
25 the facility at designated times. During the period of partial
26 confinement, an offender may be required to comply with crime-related
27 prohibitions and affirmative conditions imposed by the court or the
28 department pursuant to this chapter.

29 (2) An offender in a county jail ordered to serve all or part of a
30 term of less than one year in work release, work crew, or a program of
31 home detention who violates the rules of the work release facility,
32 work crew, or program of home detention or fails to remain employed or
33 enrolled in school may be transferred to the appropriate county
34 detention facility without further court order but shall, upon request,
35 be notified of the right to request an administrative hearing on the
36 issue of whether or not the offender failed to comply with the order
37 and relevant conditions. Pending such hearing, or in the absence of a

1 request for the hearing, the offender shall serve the remainder of the
2 term of confinement as total confinement. This subsection shall not
3 affect transfer or placement of offenders committed to the department.

4 (3) Participation in work release shall be conditioned upon the
5 offender attending work or school at regularly defined hours and
6 abiding by the rules of the work release facility.

7 (4) An offender beginning a term of partial confinement on or after
8 the effective date of this section shall serve the term of partial
9 confinement in the county in which he or she was convicted unless doing
10 so would contravene the conditions of the offender's sentence.

11 **Sec. 11.** RCW 9.94A.650 and 2002 c 175 s 9 are each amended to read
12 as follows:

13 (1) This section applies to offenders who have never been
14 previously convicted of a felony in this state, federal court, or
15 another state, and who have never participated in a program of deferred
16 prosecution for a felony, and who are convicted of a felony that is
17 not:

18 (a) Classified as a violent offense or a sex offense under this
19 chapter;

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

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

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

29 (2) In sentencing a first-time offender the court may waive the
30 imposition of a sentence within the standard sentence range and impose
31 a sentence which may include up to ninety days of confinement in a
32 facility operated or utilized under contract by the county and a
33 requirement that the offender refrain from committing new offenses.
34 The sentence may also include a term of community supervision or
35 community custody as specified in subsection (3) of this section,
36 which, in addition to crime-related prohibitions, may include

1 requirements that the offender perform any one or more of the
2 following:

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

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

7 (c) Pursue a prescribed, secular course of study or vocational
8 training;

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

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

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

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

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

22 (b) For crimes committed on or after July 1, 2000, up to one year
23 of community custody unless treatment is ordered, in which case the
24 period of community custody may include up to the period of treatment,
25 but shall not exceed two years. Any term of community custody imposed
26 under this section is subject to conditions and sanctions as authorized
27 in this section and in RCW 9.94A.715 (2) and (3). The conditions of
28 the community custody must include a requirement that the offender
29 reside in the county in which he or she was convicted.

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

34 **Sec. 12.** RCW 9.94A.670 and 2004 c 176 s 4 and 2004 c 38 s 9 are
35 each reenacted and amended to read as follows:

36 (1) Unless the context clearly requires otherwise, the definitions
37 in this subsection apply to this section only.

1 (a) "Sex offender treatment provider" or "treatment provider" means
2 a certified sex offender treatment provider or a certified affiliate
3 sex offender treatment provider as defined in RCW 18.155.020.

4 (b) "Substantial bodily harm" means bodily injury that involves a
5 temporary but substantial disfigurement, or that causes a temporary but
6 substantial loss or impairment of the function of any body part or
7 organ, or that causes a fracture of any body part or organ.

8 (c) "Victim" means any person who has sustained emotional,
9 psychological, physical, or financial injury to person or property as
10 a result of the crime charged. "Victim" also means a parent or
11 guardian of a victim who is a minor child unless the parent or guardian
12 is the perpetrator of the offense.

13 (2) An offender is eligible for the special sex offender sentencing
14 alternative if:

15 (a) The offender has been convicted of a sex offense other than a
16 violation of RCW 9A.44.050 or a sex offense that is also a serious
17 violent offense;

18 (b) The offender has no prior convictions for a sex offense as
19 defined in RCW 9.94A.030 or any other felony sex offenses in this or
20 any other state;

21 (c) The offender has no prior adult convictions for a violent
22 offense that was committed within five years of the date the current
23 offense was committed;

24 (d) The offense did not result in substantial bodily harm to the
25 victim;

26 (e) The offender had an established relationship with, or
27 connection to, the victim such that the sole connection with the victim
28 was not the commission of the crime; and

29 (f) The offender's standard sentence range for the offense includes
30 the possibility of confinement for less than eleven years.

31 (3) If the court finds the offender is eligible for this
32 alternative, the court, on its own motion or the motion of the state or
33 the offender, may order an examination to determine whether the
34 offender is amenable to treatment.

35 (a) The report of the examination shall include at a minimum the
36 following:

37 (i) The offender's version of the facts and the official version of
38 the facts;

1 (ii) The offender's offense history;

2 (iii) An assessment of problems in addition to alleged deviant
3 behaviors;

4 (iv) The offender's social and employment situation; and

5 (v) Other evaluation measures used.

6 The report shall set forth the sources of the examiner's
7 information.

8 (b) The examiner shall assess and report regarding the offender's
9 amenability to treatment and relative risk to the community. A
10 proposed treatment plan shall be provided and shall include, at a
11 minimum:

12 (i) Frequency and type of contact between offender and therapist;

13 (ii) Specific issues to be addressed in the treatment and
14 description of planned treatment modalities;

15 (iii) Monitoring plans, including any requirements regarding living
16 conditions, lifestyle requirements, and monitoring by family members
17 and others;

18 (iv) Anticipated length of treatment; and

19 (v) Recommended crime-related prohibitions and affirmative
20 conditions, which must include, to the extent known, an identification
21 of specific activities or behaviors that are precursors to the
22 offender's offense cycle, including, but not limited to, activities or
23 behaviors such as viewing or listening to pornography or use of alcohol
24 or controlled substances.

25 (c) The court on its own motion may order, or on a motion by the
26 state shall order, a second examination regarding the offender's
27 amenability to treatment. The examiner shall be selected by the party
28 making the motion. The offender shall pay the cost of any second
29 examination ordered unless the court finds the defendant to be indigent
30 in which case the state shall pay the cost.

31 (4) After receipt of the reports, the court shall consider whether
32 the offender and the community will benefit from use of this
33 alternative, consider whether the alternative is too lenient in light
34 of the extent and circumstances of the offense, consider whether the
35 offender has victims in addition to the victim of the offense, consider
36 whether the offender is amenable to treatment, consider the risk the
37 offender would present to the community, to the victim, or to persons
38 of similar age and circumstances as the victim, and consider the

1 victim's opinion whether the offender should receive a treatment
2 disposition under this section. The court shall give great weight to
3 the victim's opinion whether the offender should receive a treatment
4 disposition under this section. If the sentence imposed is contrary to
5 the victim's opinion, the court shall enter written findings stating
6 its reasons for imposing the treatment disposition. The fact that the
7 offender admits to his or her offense does not, by itself, constitute
8 amenability to treatment. If the court determines that this
9 alternative is appropriate, the court shall then impose a sentence or,
10 pursuant to RCW 9.94A.712, a minimum term of sentence, within the
11 standard sentence range. If the sentence imposed is less than eleven
12 years of confinement, the court may suspend the execution of the
13 sentence and impose the following conditions of suspension:

14 (a) The court shall order the offender to serve a term of
15 confinement of up to twelve months or the maximum term within the
16 standard range, whichever is less. The court may order the offender to
17 serve a term of confinement greater than twelve months or the maximum
18 term within the standard range based on the presence of an aggravating
19 circumstance listed in RCW 9.94A.535(~~(+2)~~) (3). In no case shall the
20 term of confinement exceed the statutory maximum sentence for the
21 offense. The court may order the offender to serve all or part of his
22 or her term of confinement in partial confinement. An offender
23 sentenced to a term of confinement under this subsection is not
24 eligible for earned release under RCW 9.92.151 or 9.94A.728.

25 (b) The court shall place the offender on community custody for the
26 length of the suspended sentence, the length of the maximum term
27 imposed pursuant to RCW 9.94A.712, or three years, whichever is
28 greater, and require the offender to comply with any conditions imposed
29 by the department under RCW 9.94A.720. The terms of the community
30 custody must include a requirement that the offender reside in the
31 county in which he or she was convicted.

32 (c) The court shall order treatment for any period up to five years
33 in duration. The court, in its discretion, shall order outpatient sex
34 offender treatment or inpatient sex offender treatment, if available.
35 A community mental health center may not be used for such treatment
36 unless it has an appropriate program designed for sex offender
37 treatment. The offender shall not change sex offender treatment
38 providers or treatment conditions without first notifying the

1 prosecutor, the community corrections officer, and the court. If any
2 party or the court objects to a proposed change, the offender shall not
3 change providers or conditions without court approval after a hearing.

4 (d) As conditions of the suspended sentence, the court shall impose
5 specific prohibitions and affirmative conditions relating to the known
6 precursor activities or behaviors identified in the proposed treatment
7 plan under subsection (3)(b)(v) of this section or identified in an
8 annual review under subsection (7)(b) of this section.

9 (5) As conditions of the suspended sentence, the court may impose
10 one or more of the following:

11 (a) Crime-related prohibitions;

12 (b) Require the offender to devote time to a specific employment or
13 occupation;

14 (c) Require the offender to remain within prescribed geographical
15 boundaries and notify the court or the community corrections officer
16 prior to any change in the offender's address or employment;

17 (d) Require the offender to report as directed to the court and a
18 community corrections officer;

19 (e) Require the offender to pay all court-ordered legal financial
20 obligations as provided in RCW 9.94A.030;

21 (f) Require the offender to perform community restitution work; or

22 (g) Require the offender to reimburse the victim for the cost of
23 any counseling required as a result of the offender's crime.

24 (6) At the time of sentencing, the court shall set a treatment
25 termination hearing for three months prior to the anticipated date for
26 completion of treatment.

27 (7)(a) The sex offender treatment provider shall submit quarterly
28 reports on the offender's progress in treatment to the court and the
29 parties. The report shall reference the treatment plan and include at
30 a minimum the following: Dates of attendance, offender's compliance
31 with requirements, treatment activities, the offender's relative
32 progress in treatment, and any other material specified by the court at
33 sentencing.

34 (b) The court shall conduct a hearing on the offender's progress in
35 treatment at least once a year. At least fourteen days prior to the
36 hearing, notice of the hearing shall be given to the victim. The
37 victim shall be given the opportunity to make statements to the court
38 regarding the offender's supervision and treatment. At the hearing,

1 the court may modify conditions of community custody including, but not
2 limited to, crime-related prohibitions and affirmative conditions
3 relating to activities and behaviors identified as part of, or relating
4 to precursor activities and behaviors in, the offender's offense cycle
5 or revoke the suspended sentence.

6 (8) At least fourteen days prior to the treatment termination
7 hearing, notice of the hearing shall be given to the victim. The
8 victim shall be given the opportunity to make statements to the court
9 regarding the offender's supervision and treatment. Prior to the
10 treatment termination hearing, the treatment provider and community
11 corrections officer shall submit written reports to the court and
12 parties regarding the offender's compliance with treatment and
13 monitoring requirements, and recommendations regarding termination from
14 treatment, including proposed community custody conditions. The court
15 may order an evaluation regarding the advisability of termination from
16 treatment by a sex offender treatment provider who may not be the same
17 person who treated the offender under subsection (4) of this section or
18 any person who employs, is employed by, or shares profits with the
19 person who treated the offender under subsection (4) of this section
20 unless the court has entered written findings that such evaluation is
21 in the best interest of the victim and that a successful evaluation of
22 the offender would otherwise be impractical. The offender shall pay
23 the cost of the evaluation. At the treatment termination hearing the
24 court may: (a) Modify conditions of community custody, and either (b)
25 terminate treatment, or (c) extend treatment in two-year increments for
26 up to the remaining period of community custody.

27 (9)(a) If a violation of conditions other than a second violation
28 of the prohibitions or affirmative conditions relating to precursor
29 behaviors or activities imposed under subsection (4)(d) or (7)(b) of
30 this section occurs during community custody, the department shall
31 either impose sanctions as provided for in RCW 9.94A.737(2)(a) or refer
32 the violation to the court and recommend revocation of the suspended
33 sentence as provided for in subsections (6) and (8) of this section.

34 (b) If a second violation of the prohibitions or affirmative
35 conditions relating to precursor behaviors or activities imposed under
36 subsection (4)(d) or (7)(b) of this section occurs during community
37 custody, the department shall refer the violation to the court and

1 recommend revocation of the suspended sentence as provided in
2 subsection (10) of this section.

3 (10) The court may revoke the suspended sentence at any time during
4 the period of community custody and order execution of the sentence if:
5 (a) The offender violates the conditions of the suspended sentence, or
6 (b) the court finds that the offender is failing to make satisfactory
7 progress in treatment. All confinement time served during the period
8 of community custody shall be credited to the offender if the suspended
9 sentence is revoked.

10 (11) The offender's sex offender treatment provider may not be the
11 same person who examined the offender under subsection (3) of this
12 section or any person who employs, is employed by, or shares profits
13 with the person who examined the offender under subsection (3) of this
14 section, unless the court has entered written findings that such
15 treatment is in the best interests of the victim and that successful
16 treatment of the offender would otherwise be impractical. Examinations
17 and treatment ordered pursuant to this subsection shall only be
18 conducted by certified sex offender treatment providers or certified
19 affiliate sex offender treatment providers under chapter 18.155 RCW
20 unless the court finds that:

21 (a) The offender has already moved to another state or plans to
22 move to another state for reasons other than circumventing the
23 certification requirements; or

24 (b)(i) No certified sex offender treatment providers or certified
25 affiliate sex offender treatment providers are available for treatment
26 within a reasonable geographical distance of the offender's home; and

27 (ii) The evaluation and treatment plan comply with this section and
28 the rules adopted by the department of health.

29 (12) If the offender is less than eighteen years of age when the
30 charge is filed, the state shall pay for the cost of initial evaluation
31 and treatment.

32 **Sec. 13.** RCW 9.94A.660 and 2005 c 460 s 1 are each amended to read
33 as follows:

34 (1) An offender is eligible for the special drug offender
35 sentencing alternative if:

36 (a) The offender is convicted of a felony that is not a violent

1 offense or sex offense and the violation does not involve a sentence
2 enhancement under RCW 9.94A.533 (3) or (4);

3 (b) The offender has no current or prior convictions for a sex
4 offense at any time or violent offense within ten years before
5 conviction of the current offense, in this state, another state, or the
6 United States;

7 (c) For a violation of the Uniform Controlled Substances Act under
8 chapter 69.50 RCW or a criminal solicitation to commit such a violation
9 under chapter 9A.28 RCW, the offense involved only a small quantity of
10 the particular controlled substance as determined by the judge upon
11 consideration of such factors as the weight, purity, packaging, sale
12 price, and street value of the controlled substance;

13 (d) The offender has not been found by the United States attorney
14 general to be subject to a deportation detainer or order and does not
15 become subject to a deportation order during the period of the
16 sentence;

17 (e) The standard sentence range for the current offense is greater
18 than one year; and

19 (f) The offender has not received a drug offender sentencing
20 alternative more than once in the prior ten years before the current
21 offense.

22 (2) A motion for a sentence under this section may be made by the
23 court, the offender, or the state. If the sentencing court determines
24 that the offender is eligible for this alternative, the court may order
25 an examination of the offender. The examination shall, at a minimum,
26 address the following issues:

27 (a) Whether the offender suffers from drug addiction;

28 (b) Whether the addiction is such that there is a probability that
29 criminal behavior will occur in the future;

30 (c) Whether effective treatment for the offender's addiction is
31 available from a provider that has been licensed or certified by the
32 division of alcohol and substance abuse of the department of social and
33 health services; and

34 (d) Whether the offender and the community will benefit from the
35 use of the alternative.

36 (3) The examination report must contain:

37 (a) Information on the issues required to be addressed in
38 subsection (2) of this section; and

1 (b) A proposed treatment plan that must, at a minimum, contain:

2 (i) A proposed treatment provider that has been licensed or
3 certified by the division of alcohol and substance abuse of the
4 department of social and health services;

5 (ii) The recommended frequency and length of treatment, including
6 both residential chemical dependency treatment and treatment in the
7 community;

8 (iii) A proposed monitoring plan, including any requirements
9 regarding living conditions, lifestyle requirements, and monitoring by
10 family members and others; and

11 (iv) Recommended crime-related prohibitions and affirmative
12 conditions.

13 (4) After receipt of the examination report, if the court
14 determines that a sentence under this section is appropriate, the court
15 shall waive imposition of a sentence within the standard sentence range
16 and impose a sentence consisting of either a prison-based alternative
17 under subsection (5) of this section or a residential chemical
18 dependency treatment-based alternative under subsection (6) of this
19 section. The residential chemical dependency treatment-based
20 alternative is only available if the midpoint of the standard range is
21 twenty-four months or less.

22 (5) The prison-based alternative shall include:

23 (a) A period of total confinement in a state facility for one-half
24 of the midpoint of the standard sentence range. During incarceration
25 in the state facility, offenders sentenced under this subsection shall
26 undergo a comprehensive substance abuse assessment and receive, within
27 available resources, treatment services appropriate for the offender.
28 The treatment services shall be designed by the division of alcohol and
29 substance abuse of the department of social and health services, in
30 cooperation with the department of corrections;

31 (b) The remainder of the midpoint of the standard range as a term
32 of community custody which must include appropriate substance abuse
33 treatment in a program that has been approved by the division of
34 alcohol and substance abuse of the department of social and health
35 services. If the department finds that conditions have been willfully
36 violated, the offender may be reclassified to serve the remaining
37 balance of the original sentence. An offender who fails to complete

1 the program or who is administratively terminated from the program
2 shall be reclassified to serve the unexpired term of his or her
3 sentence as ordered by the sentencing court;

4 (c) Crime-related prohibitions including a condition not to use
5 illegal controlled substances;

6 (d) A requirement to submit to urinalysis or other testing to
7 monitor that status; and

8 (e) A term of community custody pursuant to RCW 9.94A.715 to be
9 imposed upon failure to complete or administrative termination from the
10 special drug offender sentencing alternative program. The terms of any
11 period of community custody imposed under this section must include a
12 requirement that the offender reside in the county in which he or she
13 was convicted.

14 (6) The residential chemical dependency treatment-based alternative
15 shall include:

16 (a) A term of community custody equal to one-half of the midpoint
17 of the standard sentence range or two years, whichever is greater,
18 conditioned on the offender entering and remaining in residential
19 chemical dependency treatment certified under chapter 70.96A RCW for a
20 period set by the court between three and six months. If the court
21 imposes a term of community custody, the department shall, within
22 available resources, make chemical dependency assessment and treatment
23 services available to the offender during the term of community
24 custody. The court shall impose, as conditions of community custody,
25 treatment and other conditions as proposed in the plan under subsection
26 (3)(b) of this section. The department may impose conditions and
27 sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7),
28 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing
29 during the period of residential chemical dependency treatment, and
30 schedule a treatment termination hearing for three months before the
31 expiration of the term of community custody;

32 (b) Before the progress hearing and treatment termination hearing,
33 the treatment provider and the department shall submit written reports
34 to the court and parties regarding the offender's compliance with
35 treatment and monitoring requirements, and recommendations regarding
36 termination from treatment. At the hearing, the court may:

37 (i) Authorize the department to terminate the offender's community

1 custody status on the expiration date determined under (a) of this
2 subsection; or

3 (ii) Continue the hearing to a date before the expiration date of
4 community custody, with or without modifying the conditions of
5 community custody; or

6 (iii) Impose a term of total confinement equal to one-half the
7 midpoint of the standard sentence range, followed by a term of
8 community custody under RCW 9.94A.715;

9 (c) If the court imposes a term of total confinement under (b)(iii)
10 of this subsection, the department shall, within available resources,
11 make chemical dependency assessment and treatment services available to
12 the offender during the terms of total confinement and community
13 custody.

14 (7) If the court imposes a sentence under this section, the court
15 may prohibit the offender from using alcohol or controlled substances
16 and may require that the monitoring for controlled substances be
17 conducted by the department or by a treatment alternatives to street
18 crime program or a comparable court or agency-referred program. The
19 offender may be required to pay thirty dollars per month while on
20 community custody to offset the cost of monitoring. In addition, the
21 court may impose any of the following conditions:

- 22 (a) Devote time to a specific employment or training;
- 23 (b) Remain within prescribed geographical boundaries and notify the
24 court or the community corrections officer before any change in the
25 offender's address or employment;
- 26 (c) Report as directed to a community corrections officer;
- 27 (d) Pay all court-ordered legal financial obligations;
- 28 (e) Perform community restitution work;
- 29 (f) Stay out of areas designated by the sentencing court;
- 30 (g) Such other conditions as the court may require such as
31 affirmative conditions.

32 (8)(a) The court may bring any offender sentenced under this
33 section back into court at any time on its own initiative to evaluate
34 the offender's progress in treatment or to determine if any violations
35 of the conditions of the sentence have occurred.

36 (b) If the offender is brought back to court, the court may modify
37 the terms of the community custody or impose sanctions under (c) of
38 this subsection.

1 (c) The court may order the offender to serve a term of total
2 confinement within the standard range of the offender's current offense
3 at any time during the period of community custody if the offender
4 violates the conditions of the sentence or if the offender is failing
5 to make satisfactory progress in treatment.

6 (d) An offender ordered to serve a term of total confinement under
7 (c) of this subsection shall receive credit for any time previously
8 served under this section.

9 (9) If an offender sentenced to the prison-based alternative under
10 subsection (5) of this section is found by the United States attorney
11 general to be subject to a deportation order, a hearing shall be held
12 by the department unless waived by the offender, and, if the department
13 finds that the offender is subject to a valid deportation order, the
14 department may administratively terminate the offender from the program
15 and reclassify the offender to serve the remaining balance of the
16 original sentence.

17 (10) An offender sentenced under this section shall be subject to
18 all rules relating to earned release time with respect to any period
19 served in total confinement.

20 (11) Costs of examinations and preparing treatment plans under
21 subsections (2) and (3) of this section may be paid, at the option of
22 the county, from funds provided to the county from the criminal justice
23 treatment account under RCW 70.96A.350.

24 **Sec. 14.** RCW 72.02.100 and 1988 c 143 s 5 are each amended to read
25 as follows:

26 Any person serving a sentence for a term of confinement in a state
27 correctional facility for convicted felons, pursuant to court
28 commitment, who is thereafter released upon an order of parole of the
29 indeterminate (~~sentencing~~) sentence review board, or who is
30 discharged from custody upon expiration of sentence, or who is ordered
31 discharged from custody by a court of appropriate jurisdiction, shall
32 be entitled to retain his or her earnings from labor or employment
33 while in confinement and shall be supplied by the superintendent of the
34 state correctional facility with suitable and presentable clothing(~~(7)~~)
35 and the sum of forty dollars for subsistence(~~(7) and transportation by~~
36 ~~the least expensive method of public transportation not to exceed the~~
37 ~~cost of one hundred dollars to his place of residence or the place~~

1 ~~designated in his parole plan, or to the place from which committed if~~
2 ~~such person is being discharged on expiration of sentence, or~~
3 ~~discharged from custody by a court of appropriate jurisdiction)):~~
4 PROVIDED, That up to sixty additional dollars may be made available to
5 the parolee for necessary personal and living expenses upon application
6 to and approval by such person's community corrections officer. If in
7 the opinion of the superintendent suitable arrangements have been made
8 to provide the person to be released with suitable clothing (~~and/or~~
9 ~~the expenses of transportation~~), the superintendent may consent to
10 such arrangement. If the superintendent has reasonable cause to
11 believe that the person to be released has ample funds, with the
12 exception of earnings from labor or employment while in confinement, to
13 assume the expenses of clothing(~~, transportation,~~) or the expenses
14 for which payments made pursuant to RCW 72.02.100 or 72.02.110 or any
15 one or more of such expenses, the person released shall be required to
16 assume such expenses.

17 NEW SECTION. **Sec. 15.** A new section is added to chapter 72.02 RCW
18 to read as follows:

19 The department shall transport any adult offender released from
20 confinement in a state correctional facility to the county in which he
21 or she was convicted unless a court of competent jurisdiction has
22 ordered that the offender reside or be released in another county.

23 NEW SECTION. **Sec. 16.** Section 2 of this act expires July 1, 2006.

24 NEW SECTION. **Sec. 17.** Section 3 of this act takes effect July 1,
25 2006.

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