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HOUSE BILL 2892

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Green, Morrell and Linville

Read first time 01/16/2006.      Referred to Committee on Criminal Justice & Corrections.

1            AN ACT Relating to responding to drug crimes by providing increased  
2 support for enforcement and prosecution of drug crimes; authorizing the  
3 use of drug courts by juvenile courts; clarifying provisions related to  
4 sentence enhancements for certain drug crimes; modifying earned early  
5 release provisions related to offenders sentenced under RCW 9.94A.660;  
6 improving judges' abilities to make informed sentencing decisions; and  
7 undertaking studies related to criminal justice; amending RCW 2.28.170,  
8 9.94A.533, 9.94A.728, and 9.94A.500; creating new sections; and  
9 prescribing penalties.

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

11            NEW SECTION.    **Sec. 1.** It is the intent of the legislature to  
12 provide an annual combined level of state and federal funding for  
13 multijurisdictional drug task forces and local government drug  
14 prosecution assistance at a minimum of four million dollars.

15            NEW SECTION.    **Sec. 2.** (1) It is the intent of the legislature to  
16 provide assistance for jurisdictions enforcing illegal-drug laws who  
17 have historically been underserved by federally funded state narcotics

1 task forces and are considered to be major transport areas of narcotics  
2 traffickers.

3 (2) Three pilot enforcement areas shall be established for a period  
4 of four fiscal years, beginning on July 1, 2006, and ending on June 30,  
5 2010, with one in the southwestern region of the state, comprising of  
6 Pacific and Wahkiakum counties; one in the southeastern region of the  
7 state, comprising of Walla Walla, Columbia, Garfield, and Asotin  
8 counties; and one in the northeastern part of the state, comprising of  
9 Stevens, Ferry, and Pend Oreille counties.

10 (3) It is the legislature's intent to provide funding of no less  
11 than 1.125 million dollars annually. The funding is to be divided  
12 equally between the three pilot enforcement areas. This funding is  
13 intended to provide a minimum of three additional sheriff deputies for  
14 each pilot area, a deputy prosecutor who will support the counties who  
15 are included in the pilot area, and court clerk and clerical staff to  
16 serve the pilot area. Counties are encouraged to utilize drug courts  
17 and treatment programs and to share resources that operate in the  
18 region through the use of interlocal agreements. The funding  
19 appropriated for this purpose must not be used to supplant existing  
20 funding and cannot be used for any purpose other than the enforcement  
21 of illegal drug laws.

22 The criminal justice training commission shall allocate funds to  
23 the Washington association of prosecuting attorneys and the Washington  
24 association of sheriffs and police chiefs. The Washington association  
25 of prosecuting attorneys is responsible for administration of the  
26 funding and programs for the prosecution of crimes and court  
27 proceedings and the Washington association of sheriffs and police  
28 chiefs shall administer the funds provided for law enforcement.

29 (4) The Washington association of sheriffs and police chiefs, the  
30 Washington association of prosecuting attorneys, and the Washington  
31 association of county officials shall jointly develop measures to  
32 determine the efficacy of the programs in the pilot area. These  
33 measures will include comparison of arrest rates before the  
34 implementation of this act and after, reduction of recidivism, and any  
35 other factors that are determined to be relevant to evaluation of the  
36 programs. The organizations named in this section shall present their  
37 findings to the legislature by December 1, 2008.

1       **Sec. 3.** RCW 2.28.170 and 2005 c 504 s 504 are each amended to read  
2 as follows:

3       (1) Counties may establish and operate drug courts.

4       (2) For the purposes of this section, "drug court" means a court  
5 that has special calendars or dockets designed to achieve a reduction  
6 in recidivism and substance abuse among nonviolent, substance abusing  
7 felony and nonfelony offenders by increasing their likelihood for  
8 successful rehabilitation through early, continuous, and intense  
9 judicially supervised treatment; mandatory periodic drug testing; and  
10 the use of appropriate sanctions and other rehabilitation services.

11       "Drug court" also includes, but is not limited to, courts whose  
12 jurisdiction is conferred over juvenile offenders pursuant to chapter  
13 13.40 RCW.

14       (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
15 drug court program must first:

16       (i) Exhaust all federal funding that is available to support the  
17 operations of its drug court and associated services; and

18       (ii) Match, on a dollar-for-dollar basis, state moneys allocated  
19 for drug court programs with local cash or in-kind resources. Moneys  
20 allocated by the state must be used to supplement, not supplant, other  
21 federal, state, and local funds for drug court operations and  
22 associated services.

23       (b) Any county that establishes a drug court pursuant to this  
24 section shall establish minimum requirements for the participation of  
25 offenders in the program. The drug court may adopt local requirements  
26 that are more stringent than the minimum. The minimum requirements  
27 are:

28       (i) The offender would benefit from substance abuse treatment;

29       (ii) The offender has not previously been convicted of a serious  
30 violent offense or sex offense as defined in RCW 9.94A.030; and

31       (iii) Without regard to whether proof of any of these elements is  
32 required to convict, the offender is not currently charged with or  
33 convicted of an offense:

34       (A) That is a sex offense;

35       (B) That is a serious violent offense;

36       (C) During which the defendant used a firearm; or

37       (D) During which the defendant caused substantial or great bodily  
38 harm or death to another person.

1        NEW SECTION.    **Sec. 4.**    The department of community, trade, and  
2 economic development shall review federal, state, and local funding  
3 sources and funding levels available to local meth action teams through  
4 the Washington state methamphetamine initiative to determine whether  
5 funding is adequate to accomplish the mission of the meth action teams.  
6 The department shall also review the funding levels for drug task  
7 forces in the state of Washington to determine whether they may require  
8 additional resources to successfully interdict drug trafficking  
9 organizations and clandestine labs statewide.    The department shall  
10 report findings and recommendations to the legislature by November 1,  
11 2006.

12        **Sec. 5.**    RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read  
13 as follows:

14        (1) The provisions of this section apply to the standard sentence  
15 ranges determined by RCW 9.94A.510 or 9.94A.517.

16        (2) For persons convicted of the anticipatory offenses of criminal  
17 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
18 standard sentence range is determined by locating the sentencing grid  
19 sentence range defined by the appropriate offender score and the  
20 seriousness level of the completed crime, and multiplying the range by  
21 seventy-five percent.

22        (3) The following additional times shall be added to the standard  
23 sentence range for felony crimes committed after July 23, 1995, if the  
24 offender or an accomplice was armed with a firearm as defined in RCW  
25 9.41.010 and the offender is being sentenced for one of the crimes  
26 listed in this subsection as eligible for any firearm enhancements  
27 based on the classification of the completed felony crime.    If the  
28 offender is being sentenced for more than one offense, the firearm  
29 enhancement or enhancements must be added to the total period of  
30 confinement for all offenses, regardless of which underlying offense is  
31 subject to a firearm enhancement.    If the offender or an accomplice was  
32 armed with a firearm as defined in RCW 9.41.010 and the offender is  
33 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
34 commit one of the crimes listed in this subsection as eligible for any  
35 firearm enhancements, the following additional times shall be added to  
36 the standard sentence range determined under subsection (2) of this

1 section based on the felony crime of conviction as classified under RCW  
2 9A.28.020:

3 (a) Five years for any felony defined under any law as a class A  
4 felony or with a statutory maximum sentence of at least twenty years,  
5 or both, and not covered under (f) of this subsection;

6 (b) Three years for any felony defined under any law as a class B  
7 felony or with a statutory maximum sentence of ten years, or both, and  
8 not covered under (f) of this subsection;

9 (c) Eighteen months for any felony defined under any law as a class  
10 C felony or with a statutory maximum sentence of five years, or both,  
11 and not covered under (f) of this subsection;

12 (d) If the offender is being sentenced for any firearm enhancements  
13 under (a), (b), and/or (c) of this subsection and the offender has  
14 previously been sentenced for any deadly weapon enhancements after July  
15 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
16 (4)(a), (b), and/or (c) of this section, or both, all firearm  
17 enhancements under this subsection shall be twice the amount of the  
18 enhancement listed;

19 (e) Notwithstanding any other provision of law, all firearm  
20 enhancements under this section are mandatory, shall be served in total  
21 confinement, and shall run consecutively to all other sentencing  
22 provisions, including other firearm or deadly weapon enhancements, for  
23 all offenses sentenced under this chapter. However, whether or not a  
24 mandatory minimum term has expired, an offender serving a sentence  
25 under this subsection may be granted an extraordinary medical placement  
26 when authorized under RCW 9.94A.728(4);

27 (f) The firearm enhancements in this section shall apply to all  
28 felony crimes except the following: Possession of a machine gun,  
29 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
30 unlawful possession of a firearm in the first and second degree, and  
31 use of a machine gun in a felony;

32 (g) If the standard sentence range under this section exceeds the  
33 statutory maximum sentence for the offense, the statutory maximum  
34 sentence shall be the presumptive sentence unless the offender is a  
35 persistent offender. If the addition of a firearm enhancement  
36 increases the sentence so that it would exceed the statutory maximum  
37 for the offense, the portion of the sentence representing the  
38 enhancement may not be reduced.

1 (4) The following additional times shall be added to the standard  
2 sentence range for felony crimes committed after July 23, 1995, if the  
3 offender or an accomplice was armed with a deadly weapon other than a  
4 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
5 for one of the crimes listed in this subsection as eligible for any  
6 deadly weapon enhancements based on the classification of the completed  
7 felony crime. If the offender is being sentenced for more than one  
8 offense, the deadly weapon enhancement or enhancements must be added to  
9 the total period of confinement for all offenses, regardless of which  
10 underlying offense is subject to a deadly weapon enhancement. If the  
11 offender or an accomplice was armed with a deadly weapon other than a  
12 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
13 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
14 the crimes listed in this subsection as eligible for any deadly weapon  
15 enhancements, the following additional times shall be added to the  
16 standard sentence range determined under subsection (2) of this section  
17 based on the felony crime of conviction as classified under RCW  
18 9A.28.020:

19 (a) Two years for any felony defined under any law as a class A  
20 felony or with a statutory maximum sentence of at least twenty years,  
21 or both, and not covered under (f) of this subsection;

22 (b) One year for any felony defined under any law as a class B  
23 felony or with a statutory maximum sentence of ten years, or both, and  
24 not covered under (f) of this subsection;

25 (c) Six months for any felony defined under any law as a class C  
26 felony or with a statutory maximum sentence of five years, or both, and  
27 not covered under (f) of this subsection;

28 (d) If the offender is being sentenced under (a), (b), and/or (c)  
29 of this subsection for any deadly weapon enhancements and the offender  
30 has previously been sentenced for any deadly weapon enhancements after  
31 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
32 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly  
33 weapon enhancements under this subsection shall be twice the amount of  
34 the enhancement listed;

35 (e) Notwithstanding any other provision of law, all deadly weapon  
36 enhancements under this section are mandatory, shall be served in total  
37 confinement, and shall run consecutively to all other sentencing  
38 provisions, including other firearm or deadly weapon enhancements, for

1 all offenses sentenced under this chapter. However, whether or not a  
2 mandatory minimum term has expired, an offender serving a sentence  
3 under this subsection may be granted an extraordinary medical placement  
4 when authorized under RCW 9.94A.728(4);

5 (f) The deadly weapon enhancements in this section shall apply to  
6 all felony crimes except the following: Possession of a machine gun,  
7 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
8 unlawful possession of a firearm in the first and second degree, and  
9 use of a machine gun in a felony;

10 (g) If the standard sentence range under this section exceeds the  
11 statutory maximum sentence for the offense, the statutory maximum  
12 sentence shall be the presumptive sentence unless the offender is a  
13 persistent offender. If the addition of a deadly weapon enhancement  
14 increases the sentence so that it would exceed the statutory maximum  
15 for the offense, the portion of the sentence representing the  
16 enhancement may not be reduced.

17 (5) The following additional times shall be added to the standard  
18 sentence range if the offender or an accomplice committed the offense  
19 while in a county jail or state correctional facility and the offender  
20 is being sentenced for one of the crimes listed in this subsection. If  
21 the offender or an accomplice committed one of the crimes listed in  
22 this subsection while in a county jail or state correctional facility,  
23 and the offender is being sentenced for an anticipatory offense under  
24 chapter 9A.28 RCW to commit one of the crimes listed in this  
25 subsection, the following additional times shall be added to the  
26 standard sentence range determined under subsection (2) of this  
27 section:

28 (a) Eighteen months for offenses committed under RCW 69.50.401(2)

29 (a) or (b) or 69.50.410;

30 (b) Fifteen months for offenses committed under RCW 69.50.401(2)

31 (c), (d), or (e);

32 (c) Twelve months for offenses committed under RCW 69.50.4013.

33 For the purposes of this subsection, all of the real property of a  
34 state correctional facility or county jail shall be deemed to be part  
35 of that facility or county jail.

36 (6) An additional twenty-four months shall be added to the standard  
37 sentence range for any ranked offense involving a violation of chapter  
38 69.50 RCW if the offense was also a violation of RCW 69.50.435 or

1 9.94A.605. All enhancements under this subsection shall run  
2 consecutively to all other sentencing provisions, for all offenses  
3 sentenced under this chapter.

4 (7) An additional two years shall be added to the standard sentence  
5 range for vehicular homicide committed while under the influence of  
6 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
7 prior offense as defined in RCW 46.61.5055.

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

10 No person serving a sentence imposed pursuant to this chapter and  
11 committed to the custody of the department shall leave the confines of  
12 the correctional facility or be released prior to the expiration of the  
13 sentence except as follows:

14 (1) Except as otherwise provided for in subsection (2) of this  
15 section, the term of the sentence of an offender committed to a  
16 correctional facility operated by the department may be reduced by  
17 earned release time in accordance with procedures that shall be  
18 developed and promulgated by the correctional agency having  
19 jurisdiction in which the offender is confined. The earned release  
20 time shall be for good behavior and good performance, as determined by  
21 the correctional agency having jurisdiction. The correctional agency  
22 shall not credit the offender with earned release credits in advance of  
23 the offender actually earning the credits. Any program established  
24 pursuant to this section shall allow an offender to earn early release  
25 credits for presentence incarceration. If an offender is transferred  
26 from a county jail to the department, the administrator of a county  
27 jail facility shall certify to the department the amount of time spent  
28 in custody at the facility and the amount of earned release time. An  
29 offender who has been convicted of a felony committed after July 23,  
30 1995, that involves any applicable deadly weapon enhancements under RCW  
31 9.94A.533 (3) or (4), or both, shall not receive any good time credits  
32 or earned release time for that portion of his or her sentence that  
33 results from any deadly weapon enhancements.

34 (a) In the case of an offender convicted of a serious violent  
35 offense, or a sex offense that is a class A felony, committed on or  
36 after July 1, 1990, and before July 1, 2003, the aggregate earned  
37 release time may not exceed fifteen percent of the sentence. In the



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

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

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

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

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

14 (I) A sex offense;

15 (II) A violent offense;

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

17 (IV) A felony that is domestic violence as defined in RCW  
18 10.99.020;

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

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

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

26 (C) Is not confined pursuant to a sentence imposed under RCW  
27 9.94A.660; and

28 (D) Has no prior conviction for:

29 (I) A sex offense;

30 (II) A violent offense;

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

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

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

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

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

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

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

20 (v) This subsection (1)(b) applies retroactively to eligible  
21 offenders serving terms of total confinement in a state correctional  
22 facility as of July 1, 2003.

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

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

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

37 (b) A person convicted of a sex offense, a violent offense, any  
38 crime against persons under RCW 9.94A.411(2), or a felony offense under

1 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may  
2 become eligible, in accordance with a program developed by the  
3 department, for transfer to community custody status in lieu of earned  
4 release time pursuant to subsection (1) of this section;

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

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

23 (e) An offender serving a term of confinement imposed under RCW  
24 9.94A.670(4)(a) is not eligible for earned release credits under this  
25 section;

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

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

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

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

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

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

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

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

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

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

20 (7) The governor may pardon any offender;

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

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

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

34 **Sec. 7.** RCW 9.94A.500 and 2000 c 75 s 8 are each amended to read  
35 as follows:

36 (1) Before imposing a sentence upon a defendant, the court shall  
37 conduct a sentencing hearing. The sentencing hearing shall be held

1 within forty court days following conviction. Upon the motion of  
2 either party for good cause shown, or on its own motion, the court may  
3 extend the time period for conducting the sentencing hearing.

4 Except in cases where the defendant shall be sentenced to a term of  
5 total confinement for life without the possibility of release or, when  
6 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
7 first degree, sentenced to death, the court may order the department to  
8 complete a risk assessment report. If available before sentencing, the  
9 report shall be provided to the court.

10 Unless specifically waived by the court, the court shall order the  
11 department to complete a chemical dependency screening report before  
12 imposing a sentence upon a defendant who has been convicted of (~~a~~  
13 ~~violation of the uniform controlled substances act under chapter 69.50~~  
14 ~~RCW or a criminal solicitation to commit such a violation under chapter~~  
15 ~~9A.28 RCW~~) any felony where the court finds that the offender has a  
16 chemical dependency that has contributed to his or her offense. In  
17 addition, the court shall, at the time of plea or conviction, order the  
18 department to complete a presentence report before imposing a sentence  
19 upon a defendant who has been convicted of a felony (~~(sexual offense)~~).  
20 The department of corrections shall give priority to presentence  
21 investigations for sexual offenders. If the court determines that the  
22 defendant may be a mentally ill person as defined in RCW 71.24.025,  
23 although the defendant has not established that at the time of the  
24 crime he or she lacked the capacity to commit the crime, was  
25 incompetent to commit the crime, or was insane at the time of the  
26 crime, the court shall order the department to complete a presentence  
27 report before imposing a sentence.

28 The court shall consider the risk assessment report and presentence  
29 reports, if any, including any victim impact statement and criminal  
30 history, and allow arguments from the prosecutor, the defense counsel,  
31 the offender, the victim, the survivor of the victim, or a  
32 representative of the victim or survivor, and an investigative law  
33 enforcement officer as to the sentence to be imposed.

34 If the court is satisfied by a preponderance of the evidence that  
35 the defendant has a criminal history, the court shall specify the  
36 convictions it has found to exist. All of this information shall be  
37 part of the record. Copies of all risk assessment reports and  
38 presentence reports presented to the sentencing court and all written

1 findings of facts and conclusions of law as to sentencing entered by  
2 the court shall be sent to the department by the clerk of the court at  
3 the conclusion of the sentencing and shall accompany the offender if  
4 the offender is committed to the custody of the department. Court  
5 clerks shall provide, without charge, certified copies of documents  
6 relating to criminal convictions requested by prosecuting attorneys.

7 (2) To prevent wrongful disclosure of information related to mental  
8 health services, as defined in RCW 71.05.445 and ((71.34.225))  
9 71.34.345, a court may take only those steps necessary during a  
10 sentencing hearing or any hearing in which the department presents  
11 information related to mental health services to the court. The steps  
12 may be taken on motion of the defendant, the prosecuting attorney, or  
13 on the court's own motion. The court may seal the portion of the  
14 record relating to information relating to mental health services,  
15 exclude the public from the hearing during presentation or discussion  
16 of information relating to mental health services, or grant other  
17 relief to achieve the result intended by this subsection, but nothing  
18 in this subsection shall be construed to prevent the subsequent release  
19 of information related to mental health services as authorized by RCW  
20 71.05.445, ((71.34.225)) 71.34.345, or 72.09.585. Any person who  
21 otherwise is permitted to attend any hearing pursuant to chapter 7.69  
22 or 7.69A RCW shall not be excluded from the hearing solely because the  
23 department intends to disclose or discloses information related to  
24 mental health services.

25 NEW SECTION. **Sec. 8.** The Washington institute for public policy  
26 shall conduct a study of criminal sentencing provisions of neighboring  
27 states for all crimes involving methamphetamine. The institute shall  
28 report to the legislature on any criminal sentencing increases  
29 necessary under Washington law to reduce or remove any incentives  
30 methamphetamine traffickers and manufacturers may have to locate in  
31 Washington. The report shall be completed by January 1, 2007.

32 NEW SECTION. **Sec. 9.** The Washington institute for public policy  
33 shall conduct a study of the drug offender sentencing alternative to  
34 determine its impact on recidivism. The institute shall study the  
35 success rate of the sentencing alternative for different types of  
36 crimes and whether offenders who received substance abuse treatment

1 while in confinement were more or less successful than offenders who  
2 received treatment in the community or received no treatment. The  
3 institute shall report to the legislature by January 1, 2007.

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