

SHB 1791 - S COMM AMD

By Committee on Human Services & Corrections

NOT ADOPTED 04/14/2009

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

3 "Sec. 1. RCW 9.94A.505 and 2008 c 231 s 25 are each amended to  
4 read as follows:

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

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

9 (i) Unless another term of confinement applies, a sentence within  
10 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

11 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

12 (iii) RCW 9.94A.570, relating to persistent offenders;

13 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

14 (v) RCW 9.94A.650, relating to the first-time offender waiver;

15 (vi) RCW 9.94A.660, relating to the drug offender sentencing  
16 alternative;

17 (vii) RCW 9.94A.670, relating to the special sex offender  
18 sentencing alternative;

19 (viii) RCW ((~~9.94A.712~~)) 9.94A.507, relating to certain sex  
20 offenses;

21 (ix) RCW 9.94A.535, relating to exceptional sentences;

22 (x) RCW 9.94A.589, relating to consecutive and concurrent  
23 sentences;

24 (xi) RCW 9.94A.603, relating to felony driving while under the  
25 influence of intoxicating liquor or any drug and felony physical  
26 control of a vehicle while under the influence of intoxicating liquor  
27 or any drug.

28 (b) If a standard sentence range has not been established for the  
29 offender's crime, the court shall impose a determinate sentence which  
30 may include not more than one year of confinement; community

1 restitution work; a term of community custody under RCW 9.94A.702 not  
2 to exceed one year; and/or other legal financial obligations. The  
3 court may impose a sentence which provides more than one year of  
4 confinement and a community custody term under RCW 9.94A.701 if the  
5 court finds reasons justifying an exceptional sentence as provided in  
6 RCW 9.94A.535.

7 (3) If the court imposes a sentence requiring confinement of thirty  
8 days or less, the court may, in its discretion, specify that the  
9 sentence be served on consecutive or intermittent days. A sentence  
10 requiring more than thirty days of confinement shall be served on  
11 consecutive days. Local jail administrators may schedule court-ordered  
12 intermittent sentences as space permits.

13 (4) If a sentence imposed includes payment of a legal financial  
14 obligation, it shall be imposed as provided in RCW 9.94A.750,  
15 9.94A.753, 9.94A.760, and 43.43.7541.

16 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
17 court may not impose a sentence providing for a term of confinement or  
18 community custody that exceeds the statutory maximum for the crime as  
19 provided in chapter 9A.20 RCW.

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

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

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

29 (9) In any sentence of partial confinement, the court may require  
30 the offender to serve the partial confinement in work release, in a  
31 program of home detention, on work crew, or in a combined program of  
32 work crew and home detention.

33 **Sec. 2.** RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are  
34 each reenacted and amended to read as follows:

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

1 (a) The offender is convicted of a felony that is not a violent  
2 offense or sex offense and the violation does not involve a sentence  
3 enhancement under RCW 9.94A.533 (3) or (4);

4 (b) The offender is convicted of a felony that is not a felony  
5 driving while under the influence of intoxicating liquor or any drug  
6 under RCW 46.61.502(6) or felony physical control of a vehicle while  
7 under the influence of intoxicating liquor or any drug under RCW  
8 46.61.504(6);

9 (c) The offender has no current or prior convictions for a sex  
10 offense at any time or violent offense within ten years before  
11 conviction of the current offense, in this state, another state, or the  
12 United States;

13 (d) For a violation of the Uniform Controlled Substances Act under  
14 chapter 69.50 RCW or a criminal solicitation to commit such a violation  
15 under chapter 9A.28 RCW, the offense involved only a small quantity of  
16 the particular controlled substance as determined by the judge upon  
17 consideration of such factors as the weight, purity, packaging, sale  
18 price, and street value of the controlled substance;

19 (e) The offender has not been found by the United States attorney  
20 general to be subject to a deportation detainer or order and does not  
21 become subject to a deportation order during the period of the  
22 sentence;

23 (f) The end of the standard sentence range for the current offense  
24 is greater than one year; and

25 (g) The offender has not received a drug offender sentencing  
26 alternative more than once in the prior ten years before the current  
27 offense.

28 (2) A motion for a sentence under this section may be made by the  
29 court, the offender, or the state. ~~((If the sentencing court  
30 determines that the offender is eligible for this alternative, the  
31 court may order an examination of the offender. The examination shall,  
32 at a minimum, address the following issues:~~

33 ~~(a) Whether the offender suffers from drug addiction;~~

34 ~~(b) Whether the addiction is such that there is a probability that  
35 criminal behavior will occur in the future;~~

36 ~~(c) Whether effective treatment for the offender's addiction is  
37 available from a provider that has been licensed or certified by the~~

1 ~~division of alcohol and substance abuse of the department of social and~~  
2 ~~health services; and~~

3 ~~(d) Whether the offender and the community will benefit from the~~  
4 ~~use of the alternative.~~

5 ~~(3) The examination report must contain:~~

6 ~~(a) Information on the issues required to be addressed in~~  
7 ~~subsection (2) of this section; and~~

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

9 ~~(i) A proposed treatment provider that has been licensed or~~  
10 ~~certified by the division of alcohol and substance abuse of the~~  
11 ~~department of social and health services;~~

12 ~~(ii) The recommended frequency and length of treatment, including~~  
13 ~~both residential chemical dependency treatment and treatment in the~~  
14 ~~community;~~

15 ~~(iii) A proposed monitoring plan, including any requirements~~  
16 ~~regarding living conditions, lifestyle requirements, and monitoring by~~  
17 ~~family members and others; and~~

18 ~~(iv) Recommended crime-related prohibitions and affirmative~~  
19 ~~conditions.~~

20 ~~(4) After receipt of the examination report,))~~ (3) If the  
21 sentencing court determines that the offender is eligible for this  
22 alternative and that a sentence under this section is appropriate, the  
23 court shall waive imposition of a sentence within the standard sentence  
24 range and impose a sentence consisting of either a prison-based  
25 alternative under subsection ((+5+)) (4) of this section or a  
26 residential chemical dependency treatment-based alternative under  
27 subsection ((+6+)) (5) of this section. If the court is considering  
28 the residential chemical dependency treatment-based alternative under  
29 subsection (5) of this section, then the court may order an examination  
30 of the offender as described in subsection (5) of this section. If the  
31 court is considering the prison-based alternative under subsection (4)  
32 of this section, the court may order a presentence chemical dependency  
33 screening that will inform the court of the offender's likelihood to be  
34 chemically dependent. The residential chemical dependency treatment-  
35 based alternative is only available if the midpoint of the standard  
36 range is twenty-four months or less.

37 ((+5+)) (4) The prison-based alternative shall include:

1 (a) A period of total confinement in a state facility for one-half  
2 of the midpoint of the standard sentence range or twelve months,  
3 whichever is greater. During incarceration in the state facility,  
4 offenders sentenced under this subsection shall undergo a comprehensive  
5 substance abuse assessment and receive, within available resources,  
6 treatment services appropriate for the offender. The treatment  
7 services shall be designed by the division of alcohol and substance  
8 abuse of the department of social and health services, in cooperation  
9 with the department of corrections;

10 (b) (~~The remainder of~~) One-half the midpoint of the standard  
11 range as a term of community custody which must include appropriate  
12 substance abuse treatment in a program that has been approved by the  
13 division of alcohol and substance abuse of the department of social and  
14 health services. If the department finds that conditions have been  
15 willfully violated, the offender may be reclassified to serve the  
16 remaining balance of the original sentence. An offender who fails to  
17 complete the program or who is administratively terminated from the  
18 program shall be reclassified to serve the unexpired term of his or her  
19 sentence as ordered by the sentencing court;

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

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

24 (e) A term of community custody pursuant to RCW 9.94A.715 to be  
25 imposed upon failure to complete or administrative termination from the  
26 special drug offender sentencing alternative program.

27 ~~((+6))~~ (5)(a) If the court is considering imposing a sentence  
28 under the residential chemical dependency treatment-based alternative  
29 in this subsection, then the court may order an examination of the  
30 offender. The examination shall, at a minimum, address the following  
31 issues:

32 (i) Whether the offender suffers from drug addiction;

33 (ii) Whether the addiction is such that there is a probability that  
34 criminal behavior will occur in the future;

35 (iii) Whether effective treatment for the offender's addiction is  
36 available from a provider that has been licensed or certified by the  
37 division of alcohol and substance abuse of the department of social and  
38 health services; and

1 (iv) Whether the offender and the community will benefit from the  
2 use of the alternative.

3 (b) The examination report must also contain:

4 (i) A proposed monitoring plan, including any requirements  
5 regarding living conditions, lifestyle requirements, and monitoring by  
6 family members and others; and

7 (ii) Recommended crime-related prohibitions and affirmative  
8 conditions.

9 (c) The residential chemical dependency treatment-based alternative  
10 shall include:

11 ~~((a))~~ (i) A term of community custody equal to one-half of the  
12 midpoint of the standard sentence range or two years, whichever is  
13 greater, conditioned on the offender entering and remaining in  
14 residential chemical dependency treatment certified under chapter  
15 70.96A RCW for a period set by the court between three and six months.  
16 If the court imposes a term of community custody, the department shall,  
17 within available resources, make chemical dependency assessment and  
18 treatment services available to the offender during the term of  
19 community custody. The court shall impose, as conditions of community  
20 custody, treatment and other conditions as proposed in the plan under  
21 ~~((subsection 3))~~ (b) of this ~~((section))~~ subsection. The department  
22 may impose conditions and sanctions as authorized in RCW 9.94A.715 (2),  
23 (3), (6), and (7), 9.94A.737, and 9.94A.740. If the court imposes a  
24 sentence under this subsection, then the treatment provider will be  
25 required to send the treatment plan to the court within thirty days of  
26 the offender's arrival to the residential chemical dependency treatment  
27 program. The court shall schedule a progress hearing during the period  
28 of residential chemical dependency treatment, and schedule a treatment  
29 termination hearing for three months before the expiration of the term  
30 of community custody;

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

36 ~~((i))~~ (A) Authorize the department to terminate the offender's  
37 community custody status on the expiration date determined under ~~((a)~~  
38 ~~of this))~~ subsection (5)(c)(i) of this section; or

1       (~~(+ii)~~) (B) Continue the hearing to a date before the expiration  
2 date of community custody, with or without modifying the conditions of  
3 community custody; or

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

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

12       (~~(+7)~~) (6) If the court imposes a sentence under this section, the  
13 court may prohibit the offender from using alcohol or controlled  
14 substances and may require that the monitoring for controlled  
15 substances be conducted by the department or by a treatment  
16 alternatives to street crime program or a comparable court or agency-  
17 referred program. The offender may be required to pay thirty dollars  
18 per month while on community custody to offset the cost of monitoring.  
19 In addition, the court may impose any of the following conditions:

20       (a) Devote time to a specific employment or training;

21       (b) Remain within prescribed geographical boundaries and notify the  
22 court or the community corrections officer before any change in the  
23 offender's address or employment;

24       (c) Report as directed to a community corrections officer;

25       (d) Pay all court-ordered legal financial obligations;

26       (e) Perform community restitution work;

27       (f) Stay out of areas designated by the sentencing court;

28       (g) Such other conditions as the court may require such as  
29 affirmative conditions.

30       (~~(+8)~~) (7)(a) The court may bring any offender sentenced under  
31 this section back into court at any time on its own initiative to  
32 evaluate the offender's progress in treatment or to determine if any  
33 violations of the conditions of the sentence have occurred.

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

37       (c) The court may order the offender to serve a term of total  
38 confinement within the standard range of the offender's current offense

1 at any time during the period of community custody if the offender  
2 violates the conditions of the sentence or if the offender is failing  
3 to make satisfactory progress in treatment.

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

7 ~~((+9))~~ (8) If an offender sentenced to the prison-based  
8 alternative under subsection ~~((+5))~~ (4) of this section is found by  
9 the United States attorney general to be subject to a deportation  
10 order, a hearing shall be held by the department unless waived by the  
11 offender, and, if the department finds that the offender is subject to  
12 a valid deportation order, the department may administratively  
13 terminate the offender from the program and reclassify the offender to  
14 serve the remaining balance of the original sentence.

15 ~~((+10))~~ (9) An offender sentenced under this section shall be  
16 subject to all rules relating to earned release time with respect to  
17 any period served in total confinement.

18 ~~((+11))~~ (10) Costs of examinations and preparing treatment plans  
19 under ~~((subsections (2) and (3) of))~~ this section may be paid, at the  
20 option of the county, from funds provided to the county from the  
21 criminal justice treatment account under RCW 70.96A.350.

22 **Sec. 3.** RCW 9.94A.660 and 2008 c 231 s 30 are each amended to read  
23 as follows:

24 (1) An offender is eligible for the special drug offender  
25 sentencing alternative if:

26 (a) The offender is convicted of a felony that is not a violent  
27 offense or sex offense and the violation does not involve a sentence  
28 enhancement under RCW 9.94A.533 (3) or (4);

29 (b) The offender is convicted of a felony that is not a felony  
30 driving while under the influence of intoxicating liquor or any drug  
31 under RCW 46.61.502(6) or felony physical control of a vehicle while  
32 under the influence of intoxicating liquor or any drug under RCW  
33 46.61.504(6);

34 (c) The offender has no current or prior convictions for a sex  
35 offense at any time or violent offense within ten years before  
36 conviction of the current offense, in this state, another state, or the  
37 United States;



1 (d) For a violation of the Uniform Controlled Substances Act under  
2 chapter 69.50 RCW or a criminal solicitation to commit such a violation  
3 under chapter 9A.28 RCW, the offense involved only a small quantity of  
4 the particular controlled substance as determined by the judge upon  
5 consideration of such factors as the weight, purity, packaging, sale  
6 price, and street value of the controlled substance;

7 (e) The offender has not been found by the United States attorney  
8 general to be subject to a deportation detainer or order and does not  
9 become subject to a deportation order during the period of the  
10 sentence;

11 (f) The end of the standard sentence range for the current offense  
12 is greater than one year; and

13 (g) The offender has not received a drug offender sentencing  
14 alternative more than once in the prior ten years before the current  
15 offense.

16 (2) A motion for a (~~sentence under this section~~) special drug  
17 offender sentencing alternative may be made by the court, the offender,  
18 or the state.

19 (3) If the sentencing court determines that the offender is  
20 eligible for (~~this~~) an alternative sentence under this section and  
21 that the alternative sentence is appropriate, the court shall waive  
22 imposition of a sentence within the standard sentence range and impose  
23 a sentence consisting of either a prison-based alternative under  
24 section 4 of this act or a residential chemical dependency treatment-  
25 based alternative under section 5 of this act. The residential  
26 chemical dependency treatment-based alternative is only available if  
27 the midpoint of the standard range is twenty-four months or less.

28 (4) If the court is considering the prison-based alternative under  
29 section 4 of this act, the court may order a presentence chemical  
30 dependency screening that will inform the court of the offender's  
31 likelihood to be chemically dependent.

32 (5)(a) If the court is considering imposing a sentence under the  
33 residential chemical dependency treatment-based alternative, the court  
34 may order an examination of the offender. The examination shall, at a  
35 minimum, address the following issues:

36 ((+a)) (i) Whether the offender suffers from drug addiction;

37 ((+b)) (ii) Whether the addiction is such that there is a  
38 probability that criminal behavior will occur in the future;

1       ~~((c))~~ (iii) Whether effective treatment for the offender's  
2 addiction is available from a 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; and

5       ~~((d))~~ (iv) Whether the offender and the community will benefit  
6 from the use of the alternative.

7       ~~((3))~~ (b) The examination report must contain:

8       ~~((a) Information on the issues required to be addressed in  
9 subsection (2) of this section; and~~

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

11       ~~(i) A proposed treatment provider that has been licensed or  
12 certified by the division of alcohol and substance abuse of the  
13 department of social and health services;~~

14       ~~(ii) The recommended frequency and length of treatment, including  
15 both residential chemical dependency treatment and treatment in the  
16 community;~~

17       ~~((iii))~~ (i) A proposed monitoring plan, including any requirements  
18 regarding living conditions, lifestyle requirements, and monitoring by  
19 family members and others; and

20       ~~((iv))~~ (ii) Recommended crime-related prohibitions and  
21 affirmative conditions.

22       ~~((4) After receipt of the examination report, if the court  
23 determines that a sentence under this section is appropriate, the court  
24 shall waive imposition of a sentence within the standard sentence range  
25 and impose a sentence consisting of either a prison-based alternative  
26 under subsection (5) of this section or a residential chemical  
27 dependency treatment-based alternative under subsection (6) of this  
28 section. The residential chemical dependency treatment-based  
29 alternative is only available if the midpoint of the standard range is  
30 twenty-four months or less.~~

31       ~~(5) The prison-based alternative shall include:~~

32       ~~(a) A period of total confinement in a state facility for one-half  
33 of the midpoint of the standard sentence range or twelve months,  
34 whichever is greater. During incarceration in the state facility,  
35 offenders sentenced under this subsection shall undergo a comprehensive  
36 substance abuse assessment and receive, within available resources,  
37 treatment services appropriate for the offender. The treatment~~

1 ~~services shall be designed by the division of alcohol and substance~~  
2 ~~abuse of the department of social and health services, in cooperation~~  
3 ~~with the department of corrections;~~

4 ~~(b) The remainder of the midpoint of the standard range as a term~~  
5 ~~of community custody which must include appropriate substance abuse~~  
6 ~~treatment in a program that has been approved by the division of~~  
7 ~~alcohol and substance abuse of the department of social and health~~  
8 ~~services. If the department finds that conditions of community custody~~  
9 ~~have been willfully violated, the offender may be reclassified to serve~~  
10 ~~the remaining balance of the original sentence. An offender who fails~~  
11 ~~to complete the program or who is administratively terminated from the~~  
12 ~~program shall be reclassified to serve the unexpired term of his or her~~  
13 ~~sentence as ordered by the sentencing court;~~

14 ~~(c) Crime related prohibitions including a condition not to use~~  
15 ~~illegal controlled substances;~~

16 ~~(d) A requirement to submit to urinalysis or other testing to~~  
17 ~~monitor that status; and~~

18 ~~(e) A term of community custody pursuant to RCW 9.94A.701 to be~~  
19 ~~imposed upon failure to complete or administrative termination from the~~  
20 ~~special drug offender sentencing alternative program.~~

21 ~~(6) The residential chemical dependency treatment based alternative~~  
22 ~~shall include:~~

23 ~~(a) A term of community custody equal to one half of the midpoint~~  
24 ~~of the standard sentence range or two years, whichever is greater,~~  
25 ~~conditioned on the offender entering and remaining in residential~~  
26 ~~chemical dependency treatment certified under chapter 70.96A RCW for a~~  
27 ~~period set by the court between three and six months. If the court~~  
28 ~~imposes a term of community custody, the department shall, within~~  
29 ~~available resources, make chemical dependency assessment and treatment~~  
30 ~~services available to the offender during the term of community~~  
31 ~~custody. The court shall impose, as conditions of community custody,~~  
32 ~~treatment and other conditions as proposed in the plan under subsection~~  
33 ~~(3)(b) of this section. The court shall schedule a progress hearing~~  
34 ~~during the period of residential chemical dependency treatment, and~~  
35 ~~schedule a treatment termination hearing for three months before the~~  
36 ~~expiration of the term of community custody;~~

37 ~~(b) Before the progress hearing and treatment termination hearing,~~  
38 ~~the treatment provider and the department shall submit written reports~~

1 to the court and parties regarding the offender's compliance with  
2 treatment and monitoring requirements, and recommendations regarding  
3 termination from treatment. At the hearing, the court may:

4 (i) Authorize the department to terminate the offender's community  
5 custody status on the expiration date determined under (a) of this  
6 subsection; or

7 (ii) Continue the hearing to a date before the expiration date of  
8 community custody, with or without modifying the conditions of  
9 community custody; or

10 (iii) Impose a term of total confinement equal to one-half the  
11 midpoint of the standard sentence range, followed by a term of  
12 community custody under RCW 9.94A.701;

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

18 ~~(7) The~~) (6) When a court imposes a sentence of community custody  
19 under this section:

20 (a) The court may impose conditions as provided in RCW 9.94A.703  
21 and may impose other affirmative conditions as the court considers  
22 appropriate. In addition, an offender may be required to pay thirty  
23 dollars per month while on community custody to offset the cost of  
24 monitoring for alcohol or controlled substances.

25 ~~((8) The court may impose any of the following conditions:~~

26 ~~(a) Pay all court-ordered legal financial obligations; or~~

27 ~~(b) Perform community restitution work.~~

28 ~~(9)(a))~~ (b) The department may impose conditions and sanctions as  
29 authorized in RCW 9.94A.704 and RCW 9.94A.737.

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

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

37 (c) The court may order the offender to serve a term of total  
38 confinement within the standard range of the offender's current offense

1 at any time during the period of community custody if the offender  
2 violates the conditions or requirements of the sentence or if the  
3 offender is failing to make satisfactory progress in treatment.

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

7 ~~((+10+))~~ (8) In serving a term of community custody imposed upon  
8 failure to complete, or administrative termination from, the special  
9 drug offender sentencing alternative program, the offender shall  
10 receive no credit for time served in community custody prior to  
11 termination of the offender's participation in the program.

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

20 ~~(+12+))~~ (9) An offender sentenced under this section shall be  
21 subject to all rules relating to earned release time with respect to  
22 any period served in total confinement.

23 ~~((+13+))~~ (10) Costs of examinations and preparing treatment plans  
24 under ~~((subsections (2) and (3) of this section))~~ a special drug  
25 offender sentencing alternative may be paid, at the option of the  
26 county, from funds provided to the county from the criminal justice  
27 treatment account under RCW 70.96A.350.

28 NEW SECTION. Sec. 4. (1) A sentence for a prison-based special  
29 drug offender sentencing alternative shall include:

30 (a) A period of total confinement in a state facility for one-half  
31 the midpoint of the standard sentence range or twelve months, whichever  
32 is greater;

33 (b) One-half the midpoint of the standard sentence range as a term  
34 of community custody, which must include appropriate substance abuse  
35 treatment in a program that has been approved by the division of  
36 alcohol and substance abuse of the department of social and health  
37 services;

1 (c) Crime-related prohibitions, including a condition not to use  
2 illegal controlled substances;

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

5 (e) A term of community custody pursuant to RCW 9.94A.701 to be  
6 imposed upon the failure to complete or administrative termination from  
7 the special drug offender sentencing alternative program.

8 (2) During incarceration in the state facility, offenders sentenced  
9 under this section shall undergo a comprehensive substance abuse  
10 assessment and receive, within available resources, treatment services  
11 appropriate for the offender. The treatment services shall be designed  
12 by the division of alcohol and substance abuse of the department of  
13 social and health services, in cooperation with the department of  
14 corrections.

15 (3) If the department finds that conditions of community custody  
16 have been willfully violated, the offender may be reclassified to serve  
17 the remaining balance of the original sentence. An offender who fails  
18 to complete the program or who is administratively terminated from the  
19 program shall be reclassified to serve the unexpired term of his or her  
20 sentence as ordered by the sentencing court.

21 (4) If an offender sentenced to the prison-based alternative under  
22 this section is found by the United States attorney general to be  
23 subject to a deportation order, a hearing shall be held by the  
24 department unless waived by the offender, and, if the department finds  
25 that the offender is subject to a valid deportation order, the  
26 department may administratively terminate the offender from the program  
27 and reclassify the offender to serve the remaining balance of the  
28 original sentence.

29 NEW SECTION. **Sec. 5.** (1) A sentence for a residential chemical  
30 dependency treatment-based alternative shall include a term of  
31 community custody equal to one-half the midpoint of the standard  
32 sentence range or two years, whichever is greater, conditioned on the  
33 offender entering and remaining in residential chemical dependency  
34 treatment certified under chapter 70.96A RCW for a period set by the  
35 court between three and six months.

36 (2)(a) The court shall impose, as conditions of community custody,

1 treatment and other conditions as proposed in the examination report  
2 completed pursuant to RCW 9.94A.660.

3 (b) If the court imposes a term of community custody, the  
4 department shall, within available resources, make chemical dependency  
5 assessment and treatment services available to the offender during the  
6 term of community custody.

7 (3)(a) If the court imposes a sentence under this section, the  
8 treatment provider must send the treatment plan to the court within  
9 thirty days of the offender's arrival to the residential chemical  
10 dependency treatment program.

11 (b) Upon receipt of the plan, the court shall schedule a progress  
12 hearing during the period of residential chemical dependency treatment,  
13 and schedule a treatment termination hearing for three months before  
14 the expiration of the term of community custody;

15 (c) Before the progress hearing and treatment termination hearing,  
16 the treatment provider and the department shall submit written reports  
17 to the court and parties regarding the offender's compliance with  
18 treatment and monitoring requirements, and recommendations regarding  
19 termination from treatment.

20 (4) At a progress hearing or treatment termination hearing, the  
21 court may:

22 (a) Authorize the department to terminate the offender's community  
23 custody status on the expiration date determined under subsection (1)  
24 of this section;

25 (b) Continue the hearing to a date before the expiration date of  
26 community custody, with or without modifying the conditions of  
27 community custody; or

28 (c) Impose a term of total confinement equal to one-half the  
29 midpoint of the standard sentence range, followed by a term of  
30 community custody under RCW 9.94A.701.

31 (5) If the court imposes a term of total confinement, the  
32 department shall, within available resources, make chemical dependency  
33 assessment and treatment services available to the offender during the  
34 term of total confinement and subsequent term of community custody.

35 NEW SECTION. **Sec. 6.** Sections 4 and 5 of this act are each added  
36 to chapter 9.94A RCW.

1        NEW SECTION.    **Sec. 7.**    Section 2 of this act is necessary for the  
2 immediate preservation of the public peace, health, or safety, or  
3 support of the state government and its existing public institutions,  
4 and takes effect immediately.

5        NEW SECTION.    **Sec. 8.**    Sections 1 and 3 through 5 of this act take  
6 effect August 1, 2009.

7        NEW SECTION.    **Sec. 9.**    Section 2 of this act expires August 1,  
8 2009."

**SHB 1791** - S COMM AMD

By Committee on Human Services & Corrections

**NOT ADOPTED 04/14/2009**

9        On page 1, line 2 of the title, after "provisions;" strike the  
10 remainder of the title and insert "amending RCW 9.94A.505 and  
11 9.94A.660; reenacting and amending RCW 9.94A.660; adding new sections  
12 to chapter 9.94A RCW; providing an effective date; providing an  
13 expiration date; and declaring an emergency."

--- END ---