

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6627**

Chapter 175, Laws of 2002

(partial veto)

57th Legislature  
2002 Regular Session

COMMUNITY RESTITUTION

EFFECTIVE DATE: 7/1/02

Passed by the Senate February 13, 2002  
YEAS 43 NAYS 0

BRAD OWEN

**President of the Senate**

Passed by the House March 6, 2002  
YEAS 93 NAYS 0

FRANK CHOPP

**Speaker of the  
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6627** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

**Secretary**

Approved March 27, 2002, with the exception of section 34, which is vetoed.

FILED

March 27, 2002 - 8:55 a.m.

GARY LOCKE

**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SENATE BILL 6627**

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Passed Legislature - 2002 Regular Session

**State of Washington**

**57th Legislature**

**2002 Regular Session**

**By** Senators Costa, Long, Hargrove, Kline, Kohl-Welles and Winsley

Read first time 01/23/2002. Referred to Committee on Human Services & Corrections.

1       AN ACT Relating to community service; amending RCW 7.80.130,  
2 7.80.160, 7.84.110, 7.84.130, 9.94A.505, 9.94A.589, 9.94A.634,  
3 9.94A.650, 9.94A.660, 9.94A.670, 9.94A.680, 9.94A.700, 9.94A.720,  
4 9.94A.737, 9.94A.850, 9.95.435, 10.98.040, 13.40.020, 13.40.0357,  
5 13.40.080, 13.40.160, 13.40.165, 13.40.180, 13.40.200, 13.40.205,  
6 13.40.250, 35.21.209, 35A.21.220, 36.16.139, 46.16.381, 46.20.031,  
7 46.30.020, 46.63.110, 46.63.120, 46.64.055, 51.12.035, 51.12.045,  
8 66.20.200, 66.44.291, 66.44.325, 69.50.425, 70.93.060, 70.155.080,  
9 72.09.060, 72.09.100, 72.09.260, and 79A.05.050; amending 1990 c 66 s  
10 1 (uncodified); reenacting and amending RCW 9.94A.030, 13.40.210,  
11 28A.225.090, and 70.93.250; and providing an effective date.

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

13       **Sec. 1.** RCW 7.80.130 and 1987 c 456 s 21 are each amended to read  
14 as follows:

15       (1) An order entered after the receipt of a response which does not  
16 contest the determination, or after it has been established at a  
17 hearing that the civil infraction was committed, or after a hearing for  
18 the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may waive, reduce, or suspend the monetary penalty prescribed for the civil infraction. If the court determines that a person has insufficient funds to pay the monetary penalty, the court may order performance of a number of hours of community ((service)) restitution in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

**Sec. 2.** RCW 7.80.160 and 1989 c 373 s 12 are each amended to read as follows:

(1) A person who fails to sign a notice of civil infraction is guilty of a misdemeanor.

(2) Any person willfully violating his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A written promise to appear in court or a written promise to respond to a notice of civil infraction may be complied with by an appearance by counsel.

(3) A person who willfully fails to pay a monetary penalty or to perform community ((service)) restitution as required by a court under this chapter may be found in contempt of court as provided in chapter 7.21 RCW.

**Sec. 3.** RCW 7.84.110 and 1987 c 380 s 11 are each amended to read as follows:

(1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances, is civil in nature.

(2) The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request, the court may order performance of a number of hours of community ((service)) restitution in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

**Sec. 4.** RCW 7.84.130 and 1987 c 380 s 13 are each amended to read as follows:

(1) Failure to pay a monetary penalty assessed by a court under the provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

(2) Failure to complete community ((service)) restitution ordered by a court under the provisions of this chapter is a misdemeanor under chapter 9A.20 RCW.

**Sec. 5.** RCW 9.94A.030 and 2001 2nd sp.s. c 12 s 301, 2001 c 300 s 3, and 2001 c 7 s 2 are each reenacted and amended to read as follows:

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

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

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

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

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

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

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

(7) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or

1 postrelease supervision, which begins either upon completion of the  
2 term of confinement (postrelease supervision) or at such time as the  
3 offender is transferred to community custody in lieu of earned release.  
4 Community placement may consist of entirely community custody, entirely  
5 postrelease supervision, or a combination of the two.

6 (8) "Community (~~(service))~~ restitution" means compulsory service,  
7 without compensation, performed for the benefit of the community by the  
8 offender.

9 (9) "Community supervision" means a period of time during which a  
10 convicted offender is subject to crime-related prohibitions and other  
11 sentence conditions imposed by a court pursuant to this chapter or RCW  
12 16.52.200(6) or 46.61.524. Where the court finds that any offender has  
13 a chemical dependency that has contributed to his or her offense, the  
14 conditions of supervision may, subject to available resources, include  
15 treatment. For purposes of the interstate compact for out-of-state  
16 supervision of parolees and probationers, RCW 9.95.270, community  
17 supervision is the functional equivalent of probation and should be  
18 considered the same as probation by other states.

19 (10) "Confinement" means total or partial confinement.

20 (11) "Conviction" means an adjudication of guilt pursuant to Titles  
21 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
22 acceptance of a plea of guilty.

23 (12) "Crime-related prohibition" means an order of a court  
24 prohibiting conduct that directly relates to the circumstances of the  
25 crime for which the offender has been convicted, and shall not be  
26 construed to mean orders directing an offender affirmatively to  
27 participate in rehabilitative programs or to otherwise perform  
28 affirmative conduct. However, affirmative acts necessary to monitor  
29 compliance with the order of a court may be required by the department.

30 (13) "Criminal history" means the list of a defendant's prior  
31 convictions and juvenile adjudications, whether in this state, in  
32 federal court, or elsewhere. The history shall include, where known,  
33 for each conviction (a) whether the defendant has been placed on  
34 probation and the length and terms thereof; and (b) whether the  
35 defendant has been incarcerated and the length of incarceration.

36 (14) "Day fine" means a fine imposed by the sentencing court that  
37 equals the difference between the offender's net daily income and the  
38 reasonable obligations that the offender has for the support of the  
39 offender and any dependents.

1 (15) "Day reporting" means a program of enhanced supervision  
2 designed to monitor the offender's daily activities and compliance with  
3 sentence conditions, and in which the offender is required to report  
4 daily to a specific location designated by the department or the  
5 sentencing court.

6 (16) "Department" means the department of corrections.

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

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

27 (19) "Drug offender sentencing alternative" is a sentencing option  
28 available to persons convicted of a felony offense other than a violent  
29 offense or a sex offense and who are eligible for the option under RCW  
30 9.94A.660.

31 (20) "Drug offense" means:

32 (a) Any felony violation of chapter 69.50 RCW except possession of  
33 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
34 controlled substance (RCW 69.50.403);

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

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

4 (21) "Earned release" means earned release from confinement as  
5 provided in RCW 9.94A.728.

6 (22) "Escape" means:

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

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

16 (23) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
18 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
19 and-run injury-accident (RCW 46.52.020(4)); or

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

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

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

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

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

1 under the influence of intoxicating liquor or any drug, RCW  
2 46.61.522(1)(b), or vehicular homicide while under the influence of  
3 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial  
4 obligations may also include payment to a public agency of the expense  
5 of an emergency response to the incident resulting in the conviction,  
6 subject to RCW 38.52.430.

7 (28) "Most serious offense" means any of the following felonies or  
8 a felony attempt to commit any of the following felonies:

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

12 (b) Assault in the second degree;

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

14 (d) Child molestation in the second degree;

15 (e) Controlled substance homicide;

16 (f) Extortion in the first degree;

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

18 (h) Indecent liberties;

19 (i) Kidnapping in the second degree;

20 (j) Leading organized crime;

21 (k) Manslaughter in the first degree;

22 (l) Manslaughter in the second degree;

23 (m) Promoting prostitution in the first degree;

24 (n) Rape in the third degree;

25 (o) Robbery in the second degree;

26 (p) Sexual exploitation;

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

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

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

37 (t) Any other felony with a deadly weapon verdict under RCW  
38 9.94A.602;

1 (u) Any felony offense in effect at any time prior to December 2,  
2 1993, that is comparable to a most serious offense under this  
3 subsection, or any federal or out-of-state conviction for an offense  
4 that under the laws of this state would be a felony classified as a  
5 most serious offense under this subsection;

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

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

19 (29) "Nonviolent offense" means an offense which is not a violent  
20 offense.

21 (30) "Offender" means a person who has committed a felony  
22 established by state law and is eighteen years of age or older or is  
23 less than eighteen years of age but whose case is under superior court  
24 jurisdiction under RCW 13.04.030 or has been transferred by the  
25 appropriate juvenile court to a criminal court pursuant to RCW  
26 13.40.110. Throughout this chapter, the terms "offender" and  
27 "defendant" are used interchangeably.

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

36 (32) "Persistent offender" is an offender who:

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

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

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

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

31 (33) "Postrelease supervision" is that portion of an offender's  
32 community placement that is not community custody.

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

37 (35) "Risk assessment" means the application of an objective  
38 instrument supported by research and adopted by the department for the  
39 purpose of assessing an offender's risk of reoffense, taking into

1 consideration the nature of the harm done by the offender, place and  
2 circumstances of the offender related to risk, the offender's  
3 relationship to any victim, and any information provided to the  
4 department by victims. The results of a risk assessment shall not be  
5 based on unconfirmed or unconfirmable allegations.

6 (36) "Serious traffic offense" means:

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

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

15 (37) "Serious violent offense" is a subcategory of violent offense  
16 and means:

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

18 (ii) Homicide by abuse;

19 (iii) Murder in the second degree;

20 (iv) Manslaughter in the first degree;

21 (v) Assault in the first degree;

22 (vi) Kidnapping in the first degree;

23 (vii) Rape in the first degree;

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

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

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

30 (38) "Sex offense" means:

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

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

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

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

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

4 (c) A felony with a finding of sexual motivation under RCW  
5 9.94A.835 or 13.40.135; or

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

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

12 (40) "Standard sentence range" means the sentencing court's  
13 discretionary range in imposing a nonappealable sentence.

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

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

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

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

31 (45) "Violent offense" means:

32 (a) Any of the following felonies:

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

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

37 (iii) Manslaughter in the first degree;

38 (iv) Manslaughter in the second degree;

39 (v) Indecent liberties if committed by forcible compulsion;

(vi) Kidnapping in the second degree;  
(vii) Arson in the second degree;  
(viii) Assault in the second degree;  
(ix) Assault of a child in the second degree;  
(x) Extortion in the first degree;  
(xi) Robbery in the second degree;  
(xii) Drive-by shooting;  
(xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and  
(xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;  
(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and  
(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.  
(46) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community that complies with RCW 9.94A.725.  
(47) "Work ethic camp" means an alternative incarceration program as provided in RCW 9.94A.690 designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.  
(48) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school.

**Sec. 6.** RCW 9.94A.505 and 2001 2nd sp.s. c 12 s 312 are each amended to read as follows:

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

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

3 (i) Unless another term of confinement applies, the court shall  
4 impose a sentence within the standard sentence range established in RCW  
5 9.94A.510;

6 (ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

7 (iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

8 (iv) RCW 9.94A.545, relating to community custody for offenders  
9 whose term of confinement is one year or less;

10 (v) RCW 9.94A.570, relating to persistent offenders;

11 (vi) RCW 9.94A.540, relating to mandatory minimum terms;

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

13 (viii) RCW 9.94A.660, relating to the drug offender sentencing  
14 alternative;

15 (ix) RCW 9.94A.670, relating to the special sex offender sentencing  
16 alternative;

17 (x) RCW 9.94A.712, relating to certain sex offenses;

18 (xi) RCW 9.94A.535, relating to exceptional sentences;

19 (xii) RCW 9.94A.589, relating to consecutive and concurrent  
20 sentences.

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

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

37 (4) If a sentence imposed includes payment of a legal financial  
38 obligation, it shall be imposed as provided in RCW 9.94A.750,  
39 9.94A.753, and 9.94A.760.

1 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
2 court may not impose a sentence providing for a term of confinement or  
3 community supervision, community placement, or community custody which  
4 exceeds the statutory maximum for the crime as provided in chapter  
5 9A.20 RCW.

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

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

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

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

26 (10) In any sentence of partial confinement, the court may require  
27 the offender to serve the partial confinement in work release, in a  
28 program of home detention, on work crew, or in a combined program of  
29 work crew and home detention.

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.

37 **Sec. 7.** RCW 9.94A.589 and 2000 c 28 s 14 are each amended to read  
38 as follows:

1       (1)(a) Except as provided in (b) or (c) of this subsection,  
2 whenever a person is to be sentenced for two or more current offenses,  
3 the sentence range for each current offense shall be determined by  
4 using all other current and prior convictions as if they were prior  
5 convictions for the purpose of the offender score: PROVIDED, That if  
6 the court enters a finding that some or all of the current offenses  
7 encompass the same criminal conduct then those current offenses shall  
8 be counted as one crime. Sentences imposed under this subsection shall  
9 be served concurrently. Consecutive sentences may only be imposed  
10 under the exceptional sentence provisions of RCW 9.94A.535. "Same  
11 criminal conduct," as used in this subsection, means two or more crimes  
12 that require the same criminal intent, are committed at the same time  
13 and place, and involve the same victim. This definition applies in  
14 cases involving vehicular assault or vehicular homicide even if the  
15 victims occupied the same vehicle.

16       (b) Whenever a person is convicted of two or more serious violent  
17 offenses arising from separate and distinct criminal conduct, the  
18 standard sentence range for the offense with the highest seriousness  
19 level under RCW 9.94A.515 shall be determined using the offender's  
20 prior convictions and other current convictions that are not serious  
21 violent offenses in the offender score and the standard sentence range  
22 for other serious violent offenses shall be determined by using an  
23 offender score of zero. The standard sentence range for any offenses  
24 that are not serious violent offenses shall be determined according to  
25 (a) of this subsection. All sentences imposed under (b) of this  
26 subsection shall be served consecutively to each other and concurrently  
27 with sentences imposed under (a) of this subsection.

28       (c) If an offender is convicted under RCW 9.41.040 for unlawful  
29 possession of a firearm in the first or second degree and for the  
30 felony crimes of theft of a firearm or possession of a stolen firearm,  
31 or both, the standard sentence range for each of these current offenses  
32 shall be determined by using all other current and prior convictions,  
33 except other current convictions for the felony crimes listed in this  
34 subsection (1)(c), as if they were prior convictions. The offender  
35 shall serve consecutive sentences for each conviction of the felony  
36 crimes listed in this subsection (1)(c), and for each firearm  
37 unlawfully possessed.

38       (2)(a) Except as provided in (b) of this subsection, whenever a  
39 person while under sentence for conviction of a felony commits another

1 felony and is sentenced to another term of confinement, the latter term  
2 shall not begin until expiration of all prior terms.

3 (b) Whenever a second or later felony conviction results in  
4 community supervision with conditions not currently in effect, under  
5 the prior sentence or sentences of community supervision the court may  
6 require that the conditions of community supervision contained in the  
7 second or later sentence begin during the immediate term of community  
8 supervision and continue throughout the duration of the consecutive  
9 term of community supervision.

10 (3) Subject to subsections (1) and (2) of this section, whenever a  
11 person is sentenced for a felony that was committed while the person  
12 was not under sentence for conviction of a felony, the sentence shall  
13 run concurrently with any felony sentence which has been imposed by any  
14 court in this or another state or by a federal court subsequent to the  
15 commission of the crime being sentenced unless the court pronouncing  
16 the current sentence expressly orders that they be served  
17 consecutively.

18 (4) Whenever any person granted probation under RCW 9.95.210 or  
19 9.92.060, or both, has the probationary sentence revoked and a prison  
20 sentence imposed, that sentence shall run consecutively to any sentence  
21 imposed pursuant to this chapter, unless the court pronouncing the  
22 subsequent sentence expressly orders that they be served concurrently.

23 (5) In the case of consecutive sentences, all periods of total  
24 confinement shall be served before any partial confinement, community  
25 ((service)) restitution, community supervision, or any other  
26 requirement or conditions of any of the sentences. Except for  
27 exceptional sentences as authorized under RCW 9.94A.535, if two or more  
28 sentences that run consecutively include periods of community  
29 supervision, the aggregate of the community supervision period shall  
30 not exceed twenty-four months.

31 **Sec. 8.** RCW 9.94A.634 and 1998 c 260 s 4 are each amended to read  
32 as follows:

33 (1) If an offender violates any condition or requirement of a  
34 sentence, the court may modify its order of judgment and sentence and  
35 impose further punishment in accordance with this section.

36 (2) In cases where conditions from a second or later sentence of  
37 community supervision begin prior to the term of the second or later  
38 sentence, the court shall treat a violation of such conditions as a

1 violation of the sentence of community supervision currently being  
2 served.

3 (3) If an offender fails to comply with any of the requirements or  
4 conditions of a sentence the following provisions apply:

5 (a)(i) Following the violation, if the offender and the department  
6 make a stipulated agreement, the department may impose sanctions such  
7 as work release, home detention with electronic monitoring, work crew,  
8 community ((service)) restitution, inpatient treatment, daily  
9 reporting, curfew, educational or counseling sessions, supervision  
10 enhanced through electronic monitoring, jail time, or other sanctions  
11 available in the community.

12 (ii) Within seventy-two hours of signing the stipulated agreement,  
13 the department shall submit a report to the court and the prosecuting  
14 attorney outlining the violation or violations, and sanctions imposed.  
15 Within fifteen days of receipt of the report, if the court is not  
16 satisfied with the sanctions, the court may schedule a hearing and may  
17 modify the department's sanctions. If this occurs, the offender may  
18 withdraw from the stipulated agreement.

19 (iii) If the offender fails to comply with the sanction  
20 administratively imposed by the department, the court may take action  
21 regarding the original noncompliance. Offender failure to comply with  
22 the sanction administratively imposed by the department may be  
23 considered an additional violation.

24 (b) In the absence of a stipulated agreement, or where the court is  
25 not satisfied with the department's sanctions as provided in (a) of  
26 this subsection, the court, upon the motion of the state, or upon its  
27 own motion, shall require the offender to show cause why the offender  
28 should not be punished for the noncompliance. The court may issue a  
29 summons or a warrant of arrest for the offender's appearance;

30 (c) The state has the burden of showing noncompliance by a  
31 preponderance of the evidence. If the court finds that the violation  
32 has occurred, it may order the offender to be confined for a period not  
33 to exceed sixty days for each violation, and may (i) convert a term of  
34 partial confinement to total confinement, (ii) convert community  
35 ((service)) restitution obligation to total or partial confinement,  
36 (iii) convert monetary obligations, except restitution and the crime  
37 victim penalty assessment, to community ((service)) restitution hours  
38 at the rate of the state minimum wage as established in RCW 49.46.020  
39 for each hour of community ((service)) restitution, or (iv) order one

1 or more of the penalties authorized in (a)(i) of this subsection. Any  
2 time served in confinement awaiting a hearing on noncompliance shall be  
3 credited against any confinement order by the court;

4 (d) If the court finds that the violation was not willful, the  
5 court may modify its previous order regarding payment of legal  
6 financial obligations and regarding community ~~((service))~~ restitution  
7 obligations; and

8 (e) If the violation involves a failure to undergo or comply with  
9 mental status evaluation and/or outpatient mental health treatment, the  
10 community corrections officer shall consult with the treatment provider  
11 or proposed treatment provider. Enforcement of orders concerning  
12 outpatient mental health treatment must reflect the availability of  
13 treatment and must pursue the least restrictive means of promoting  
14 participation in treatment. If the offender's failure to receive care  
15 essential for health and safety presents a risk of serious physical  
16 harm or probable harmful consequences, the civil detention and  
17 commitment procedures of chapter 71.05 RCW shall be considered in  
18 preference to incarceration in a local or state correctional facility.

19 (4) The community corrections officer may obtain information from  
20 the offender's mental health treatment provider on the offender's  
21 status with respect to evaluation, application for services,  
22 registration for services, and compliance with the supervision plan,  
23 without the offender's consent, as described under RCW 71.05.630.

24 (5) An offender under community placement or community supervision  
25 who is civilly detained under chapter 71.05 RCW, and subsequently  
26 discharged or conditionally released to the community, shall be under  
27 the supervision of the department of corrections for the duration of  
28 his or her period of community placement or community supervision.  
29 During any period of inpatient mental health treatment that falls  
30 within the period of community placement or community supervision, the  
31 inpatient treatment provider and the supervising community corrections  
32 officer shall notify each other about the offender's discharge,  
33 release, and legal status, and shall share other relevant information.

34 (6) Nothing in this section prohibits the filing of escape charges  
35 if appropriate.

36 **Sec. 9.** RCW 9.94A.650 and 2000 c 28 s 18 are each amended to read  
37 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) For crimes committed on or after July 1, 2000, up to one year of community custody unless treatment is ordered, in which case the period of community custody may include up to the period of treatment, but shall not exceed two years. Any term of community custody imposed under this section is subject to conditions and sanctions as authorized in this section and in RCW 9.94A.715 (2) and (3).

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

**Sec. 10.** RCW 9.94A.660 and 2001 c 10 s 4 are each amended to read as follows:

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

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under RCW 9.94A.510 (3) or (4);

(b) The offender has no current or prior convictions for a sex offense or violent offense in this state, another state, or the United States;

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

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

(2) If the standard sentence range is greater than one year and the sentencing court determines that the offender is eligible for this alternative and that the offender and the community will benefit from the use of the alternative, the judge may waive imposition of a sentence within the standard sentence range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard sentence range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections.

The court shall also impose:

(a) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services;

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

(c) A requirement to submit to urinalysis or other testing to monitor that status; and

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

The court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring. In addition, the court shall impose three or more of the following conditions:

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

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

(iii) Report as directed to a community corrections officer;

1 (iv) Pay all court-ordered legal financial obligations;  
2 (v) Perform community ((service)) restitution work;  
3 (vi) Stay out of areas designated by the sentencing court;  
4 (vii) Such other conditions as the court may require such as  
5 affirmative conditions.

6 (3) If the offender violates any of the sentence conditions in  
7 subsection (2) of this section or is found by the United States  
8 attorney general to be subject to a deportation order, a violation  
9 hearing shall be held by the department unless waived by the offender.

10 (a) If the department finds that conditions have been willfully  
11 violated, the offender may be reclassified to serve the remaining  
12 balance of the original sentence.

13 (b) If the department finds that the offender is subject to a valid  
14 deportation order, the department may administratively terminate the  
15 offender from the program and reclassify the offender to serve the  
16 remaining balance of the original sentence.

17 (4) The department shall determine the rules for calculating the  
18 value of a day fine based on the offender's income and reasonable  
19 obligations which the offender has for the support of the offender and  
20 any dependents. These rules shall be developed in consultation with  
21 the administrator for the courts, the office of financial management,  
22 and the commission.

23 (5) An offender who fails to complete the special drug offender  
24 sentencing alternative program or who is administratively terminated  
25 from the program shall be reclassified to serve the unexpired term of  
26 his or her sentence as ordered by the sentencing court and shall be  
27 subject to all rules relating to earned release time. An offender who  
28 violates any conditions of supervision as defined by the department  
29 shall be sanctioned. Sanctions may include, but are not limited to,  
30 reclassifying the offender to serve the unexpired term of his or her  
31 sentence as ordered by the sentencing court. If an offender is  
32 reclassified to serve the unexpired term of his or her sentence, the  
33 offender shall be subject to all rules relating to earned release time.

34 **Sec. 11.** RCW 9.94A.670 and 2001 2nd sp.s. c 12 s 316 are each  
35 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 as defined in RCW  
3 18.155.020.

4 (b) "Victim" means any person who has sustained emotional,  
5 psychological, physical, or financial injury to person or property as  
6 a result of the crime charged. "Victim" also means a parent or  
7 guardian of a victim who is a minor child unless the parent or guardian  
8 is the perpetrator of the offense.

9 (2) An offender is eligible for the special sex offender sentencing  
10 alternative if:

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

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

17 (c) The offender's standard sentence range for the offense includes  
18 the possibility of confinement for less than eleven years.

19 (3) If the court finds the offender is eligible for this  
20 alternative, the court, on its own motion or the motion of the state or  
21 the offender, may order an examination to determine whether the  
22 offender is amenable to treatment.

23 (a) The report of the examination shall include at a minimum the  
24 following:

25 (i) The offender's version of the facts and the official version of  
26 the facts;

27 (ii) The offender's offense history;

28 (iii) An assessment of problems in addition to alleged deviant  
29 behaviors;

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

31 (v) Other evaluation measures used.

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

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

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

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

1 (iii) Monitoring plans, including any requirements regarding living  
2 conditions, lifestyle requirements, and monitoring by family members  
3 and others;

4 (iv) Anticipated length of treatment; and

5 (v) Recommended crime-related prohibitions.

6 (c) The court on its own motion may order, or on a motion by the  
7 state shall order, a second examination regarding the offender's  
8 amenability to treatment. The examiner shall be selected by the party  
9 making the motion. The offender shall pay the cost of any second  
10 examination ordered unless the court finds the defendant to be indigent  
11 in which case the state shall pay the cost.

12 (4) After receipt of the reports, the court shall consider whether  
13 the offender and the community will benefit from use of this  
14 alternative and consider the victim's opinion whether the offender  
15 should receive a treatment disposition under this section. If the  
16 court determines that this alternative is appropriate, the court shall  
17 then impose a sentence or, pursuant to RCW 9.94A.712, a minimum term of  
18 sentence, within the standard sentence range. If the sentence imposed  
19 is less than eleven years of confinement, the court may suspend the  
20 execution of the sentence and impose the following conditions of  
21 suspension:

22 (a) The court shall place the offender on community custody for the  
23 length of the suspended sentence, the length of the maximum term  
24 imposed pursuant to RCW 9.94A.712, or three years, whichever is  
25 greater, and require the offender to comply with any conditions imposed  
26 by the department under RCW 9.94A.720.

27 (b) The court shall order treatment for any period up to three  
28 years in duration. The court, in its discretion, shall order  
29 outpatient sex offender treatment or inpatient sex offender treatment,  
30 if available. A community mental health center may not be used for  
31 such treatment unless it has an appropriate program designed for sex  
32 offender treatment. The offender shall not change sex offender  
33 treatment providers or treatment conditions without first notifying the  
34 prosecutor, the community corrections officer, and the court. If any  
35 party or the court objects to a proposed change, the offender shall not  
36 change providers or conditions without court approval after a hearing.

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

1 (a) Up to six months of confinement, not to exceed the sentence  
2 range of confinement for that offense;

3 (b) Crime-related prohibitions;

4 (c) Require the offender to devote time to a specific employment or  
5 occupation;

6 (d) Remain within prescribed geographical boundaries and notify the  
7 court or the community corrections officer prior to any change in the  
8 offender's address or employment;

9 (e) Report as directed to the court and a community corrections  
10 officer;

11 (f) Pay all court-ordered legal financial obligations as provided  
12 in RCW 9.94A.030;

13 (g) Perform community ((service)) restitution work; or

14 (h) Reimburse the victim for the cost of any counseling required as  
15 a result of the offender's crime.

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

19 (7) The sex offender treatment provider shall submit quarterly  
20 reports on the offender's progress in treatment to the court and the  
21 parties. The report shall reference the treatment plan and include at  
22 a minimum the following: Dates of attendance, offender's compliance  
23 with requirements, treatment activities, the offender's relative  
24 progress in treatment, and any other material specified by the court at  
25 sentencing.

26 (8) Prior to the treatment termination hearing, the treatment  
27 provider and community corrections officer shall submit written reports  
28 to the court and parties regarding the offender's compliance with  
29 treatment and monitoring requirements, and recommendations regarding  
30 termination from treatment, including proposed community custody  
31 conditions. Either party may request, and the court may order, another  
32 evaluation regarding the advisability of termination from treatment.  
33 The offender shall pay the cost of any additional evaluation ordered  
34 unless the court finds the offender to be indigent in which case the  
35 state shall pay the cost. At the treatment termination hearing the  
36 court may: (a) Modify conditions of community custody, and either (b)  
37 terminate treatment, or (c) extend treatment for up to the remaining  
38 period of community custody.

(9) If a violation of conditions occurs during community custody, the department shall either impose sanctions as provided for in RCW 9.94A.737(2)(a) or refer the violation to the court and recommend revocation of the suspended sentence as provided for in subsections (6) and (8) of this section.

(10) The court may revoke the suspended sentence at any time during the period of community custody and order execution of the sentence if:

- (a) The offender violates the conditions of the suspended sentence, or
- (b) the court finds that the offender is failing to make satisfactory progress in treatment. All confinement time served during the period of community custody shall be credited to the offender if the suspended sentence is revoked.

(11) Examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW unless the court finds that:

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

- (b)(i) No certified providers are available for treatment within a reasonable geographical distance of the offender's home; and

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

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

**Sec. 12.** RCW 9.94A.680 and 1999 c 197 s 6 are each amended to read as follows:

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

- (1) One day of partial confinement may be substituted for one day of total confinement;

- (2) In addition, for offenders convicted of nonviolent offenses only, eight hours of community ~~((service))~~ restitution may be substituted for one day of total confinement, with a maximum conversion limit of two hundred forty hours or thirty days. Community ~~((service))~~

1 restitution hours must be completed within the period of community  
2 supervision or a time period specified by the court, which shall not  
3 exceed twenty-four months, pursuant to a schedule determined by the  
4 department; and

5 (3) For offenders convicted of nonviolent and nonsex offenses, the  
6 court may authorize county jails to convert jail confinement to an  
7 available county supervised community option and may require the  
8 offender to perform affirmative conduct pursuant to RCW 9.94A.607.

9 For sentences of nonviolent offenders for one year or less, the  
10 court shall consider and give priority to available alternatives to  
11 total confinement and shall state its reasons in writing on the  
12 judgment and sentence form if the alternatives are not used.

13 **Sec. 13.** RCW 9.94A.700 and 2000 c 28 s 22 are each amended to read  
14 as follows:

15 When a court sentences an offender to a term of total confinement  
16 in the custody of the department for any of the offenses specified in  
17 this section, the court shall also sentence the offender to a term of  
18 community placement as provided in this section.

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

21 (a) A sex offense or a serious violent offense committed after July  
22 1, 1988, but before July 1, 1990; or

23 (b) An offense committed on or after July 1, 1988, but before July  
24 25, 1999, that is:

25 (i) Assault in the second degree;

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

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

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

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

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

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

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

5 (3) The community placement ordered under this section shall begin  
6 either upon completion of the term of confinement or at such time as  
7 the offender is transferred to community custody in lieu of earned  
8 release. When the court sentences an offender to the statutory maximum  
9 sentence then the community placement portion of the sentence shall  
10 consist entirely of the community custody to which the offender may  
11 become eligible. Any period of community custody actually served shall  
12 be credited against the community placement portion of the sentence.

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

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

18 (b) The offender shall work at department-approved education,  
19 employment, or community ((service)) restitution, or any combination  
20 thereof;

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

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

25 (e) The residence location and living arrangements shall be subject  
26 to the prior approval of the department during the period of community  
27 placement.

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

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

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

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

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

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

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

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

**Sec. 14.** RCW 9.94A.720 and 2000 c 28 s 26 are each amended to read as follows:

(1)(a) All offenders sentenced to terms involving community supervision, community ((service)) restitution, community placement, community custody, or legal financial obligation shall be under the supervision of the department and shall follow explicitly the instructions and conditions of the department. The department may require an offender to perform affirmative acts it deems appropriate to monitor compliance with the conditions of the sentence imposed.

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

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

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

The conditions authorized under (c) of this subsection may be imposed by the department prior to or during an offender's community custody term. If a violation of conditions imposed by the court or the department pursuant to RCW 9.94A.710 occurs during community custody, it shall be deemed a violation of community placement for the purposes of RCW 9.94A.740 and shall authorize the department to transfer an offender to a more restrictive confinement status as provided in RCW

1 9.94A.737. At any time prior to the completion of an offender's term  
2 of community custody, the department may recommend to the court that  
3 any or all of the conditions imposed by the court or the department  
4 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the  
5 expiration of the offender's term of community custody as authorized in  
6 RCW 9.94A.715 (3) or (5).

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

12 (2) No offender sentenced to terms involving community supervision,  
13 community ((service)) restitution, community custody, or community  
14 placement under the supervision of the department may own, use, or  
15 possess firearms or ammunition. Offenders who own, use, or are found  
16 to be in actual or constructive possession of firearms or ammunition  
17 shall be subject to the violation process and sanctions under RCW  
18 9.94A.634, 9.94A.737, and 9.94A.740. "Constructive possession" as used  
19 in this subsection means the power and intent to control the firearm or  
20 ammunition. "Firearm" as used in this subsection has the same  
21 definition as in RCW 9.41.010.

22 **Sec. 15.** RCW 9.94A.737 and 1999 c 196 s 8 are each amended to read  
23 as follows:

24 (1) If an offender violates any condition or requirement of  
25 community custody, the department may transfer the offender to a more  
26 restrictive confinement status to serve up to the remaining portion of  
27 the sentence, less credit for any period actually spent in community  
28 custody or in detention awaiting disposition of an alleged violation  
29 and subject to the limitations of subsection (2) of this section.

30 (2)(a) For a sex offender sentenced to a term of community custody  
31 under RCW 9.94A.505(8) who violates any condition of community custody,  
32 the department may impose a sanction of up to sixty days' confinement  
33 in a local correctional facility for each violation. If the department  
34 imposes a sanction, the department shall submit within seventy-two  
35 hours a report to the court and the prosecuting attorney outlining the  
36 violation or violations and the sanctions imposed.

37 (b) For a sex offender sentenced to a term of community custody  
38 under RCW 9.94A.505(10) who violates any condition of community custody

1 after having completed his or her maximum term of total confinement,  
2 including time served on community custody in lieu of earned release,  
3 the department may impose a sanction of up to sixty days in a local  
4 correctional facility for each violation.

5 (c) For an offender sentenced to a term of community custody under  
6 RCW 9.94A.505 (2)(b), (5), ~~((+7),)~~ or (11), or under RCW 9.94A.545,  
7 for a crime committed on or after July 1, 2000, who violates any  
8 condition of community custody after having completed his or her  
9 maximum term of total confinement, including time served on community  
10 custody in lieu of earned release, the department may impose a sanction  
11 of up to sixty days in total confinement for each violation. The  
12 department may impose sanctions such as work release, home detention  
13 with electronic monitoring, work crew, community ~~((service))~~  
14 restitution, inpatient treatment, daily reporting, curfew, educational  
15 or counseling sessions, supervision enhanced through electronic  
16 monitoring, or any other sanctions available in the community.

17 (d) For an offender sentenced to a term of community placement  
18 under RCW 9.94A.505(9)(a)(ii) who violates any condition of community  
19 placement after having completed his or her maximum term of total  
20 confinement, including time served on community custody in lieu of  
21 earned release, the department may impose a sanction of up to sixty  
22 days in total confinement for each violation. The department may  
23 impose sanctions such as work release, home detention with electronic  
24 monitoring, work crew, community ~~((service))~~ restitution, inpatient  
25 treatment, daily reporting, curfew, educational or counseling sessions,  
26 supervision enhanced through electronic monitoring, or any other  
27 sanctions available in the community.

28 (3) If an offender is accused of violating any condition or  
29 requirement of community custody, he or she is entitled to a hearing  
30 before the department prior to the imposition of sanctions. The  
31 hearing shall be considered as offender disciplinary proceedings and  
32 shall not be subject to chapter 34.05 RCW. The department shall  
33 develop hearing procedures and a structure of graduated sanctions.

34 (4) The hearing procedures required under subsection (3) of this  
35 section shall be developed by rule and include the following:

36 (a) Hearing officers shall report through a chain of command  
37 separate from that of community corrections officers;

38 (b) The department shall provide the offender with written notice  
39 of the violation, the evidence relied upon, and the reasons the

1 particular sanction was imposed. The notice shall include a statement  
2 of the rights specified in this subsection, and the offender's right to  
3 file a personal restraint petition under court rules after the final  
4 decision of the department;

5 (c) The hearing shall be held unless waived by the offender, and  
6 shall be electronically recorded. For offenders not in total  
7 confinement, the hearing shall be held within fifteen working days, but  
8 not less than twenty-four hours, after notice of the violation. For  
9 offenders in total confinement, the hearing shall be held within five  
10 working days, but not less than twenty-four hours, after notice of the  
11 violation;

12 (d) The offender shall have the right to: (i) Be present at the  
13 hearing; (ii) have the assistance of a person qualified to assist the  
14 offender in the hearing, appointed by the hearing officer if the  
15 offender has a language or communications barrier; (iii) testify or  
16 remain silent; (iv) call witnesses and present documentary evidence;  
17 and (v) question witnesses who appear and testify; and

18 (e) The sanction shall take effect if affirmed by the hearing  
19 officer. Within seven days after the hearing officer's decision, the  
20 offender may appeal the decision to a panel of three reviewing officers  
21 designated by the secretary or by the secretary's designee. The  
22 sanction shall be reversed or modified if a majority of the panel finds  
23 that the sanction was not reasonably related to any of the following:  
24 (i) The crime of conviction; (ii) the violation committed; (iii) the  
25 offender's risk of reoffending; or (iv) the safety of the community.

26 (5) For purposes of this section, no finding of a violation of  
27 conditions may be based on unconfirmed or unconfirmable allegations.

28 **Sec. 16.** RCW 9.94A.850 and 2000 c 28 s 41 are each amended to read  
29 as follows:

30 (1) A sentencing guidelines commission is established as an agency  
31 of state government.

32 (2) The legislature finds that the commission, having accomplished  
33 its original statutory directive to implement this chapter, and having  
34 expertise in sentencing practice and policies, shall:

35 (a) Evaluate state sentencing policy, to include whether the  
36 sentencing ranges and standards are consistent with and further:

37 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

1 (ii) The intent of the legislature to emphasize confinement for the  
2 violent offender and alternatives to confinement for the nonviolent  
3 offender.

4 The commission shall provide the governor and the legislature with  
5 its evaluation and recommendations under this subsection not later than  
6 December 1, 1996, and every two years thereafter;

7 (b) Recommend to the legislature revisions or modifications to the  
8 standard sentence ranges, state sentencing policy, prosecuting  
9 standards, and other standards. If implementation of the revisions or  
10 modifications would result in exceeding the capacity of correctional  
11 facilities, then the commission shall accompany its recommendation with  
12 an additional list of standard sentence ranges which are consistent  
13 with correction capacity;

14 (c) Study the existing criminal code and from time to time make  
15 recommendations to the legislature for modification;

16 (d)(i) Serve as a clearinghouse and information center for the  
17 collection, preparation, analysis, and dissemination of information on  
18 state and local adult and juvenile sentencing practices; (ii) develop  
19 and maintain a computerized adult and juvenile sentencing information  
20 system by individual superior court judge consisting of offender,  
21 offense, history, and sentence information entered from judgment and  
22 sentence forms for all adult felons; and (iii) conduct ongoing research  
23 regarding adult and juvenile sentencing guidelines, use of total  
24 confinement and alternatives to total confinement, plea bargaining, and  
25 other matters relating to the improvement of the adult criminal justice  
26 system and the juvenile justice system;

27 (e) Assume the powers and duties of the juvenile disposition  
28 standards commission after June 30, 1996;

29 (f) Evaluate the effectiveness of existing disposition standards  
30 and related statutes in implementing policies set forth in RCW  
31 13.40.010 generally, specifically review the guidelines relating to the  
32 confinement of minor and first-time offenders as well as the use of  
33 diversion, and review the application of current and proposed juvenile  
34 sentencing standards and guidelines for potential adverse impacts on  
35 the sentencing outcomes of racial and ethnic minority youth;

36 (g) Solicit the comments and suggestions of the juvenile justice  
37 community concerning disposition standards, and make recommendations to  
38 the legislature regarding revisions or modifications of the standards.  
39 The evaluations shall be submitted to the legislature on December 1 of

1 each odd-numbered year. The department of social and health services  
2 shall provide the commission with available data concerning the  
3 implementation of the disposition standards and related statutes and  
4 their effect on the performance of the department's responsibilities  
5 relating to juvenile offenders, and with recommendations for  
6 modification of the disposition standards. The office of the  
7 administrator for the courts shall provide the commission with  
8 available data on diversion and dispositions of juvenile offenders  
9 under chapter 13.40 RCW; and

10 (h) Not later than December 1, 1997, and at least every two years  
11 thereafter, based on available information, report to the governor and  
12 the legislature on:

13 (i) Racial disproportionality in juvenile and adult sentencing;

14 (ii) The capacity of state and local juvenile and adult facilities  
15 and resources; and

16 (iii) Recidivism information on adult and juvenile offenders.

17 (3) Each of the commission's recommended standard sentence ranges  
18 shall include one or more of the following: Total confinement, partial  
19 confinement, community supervision, community ~~((service))~~ restitution,  
20 and a fine.

21 (4) The standard sentence ranges of total and partial confinement  
22 under this chapter are subject to the following limitations:

23 (a) If the maximum term in the range is one year or less, the  
24 minimum term in the range shall be no less than one-third of the  
25 maximum term in the range, except that if the maximum term in the range  
26 is ninety days or less, the minimum term may be less than one-third of  
27 the maximum;

28 (b) If the maximum term in the range is greater than one year, the  
29 minimum term in the range shall be no less than seventy-five percent of  
30 the maximum term in the range, except that for murder in the second  
31 degree in seriousness level XIV under RCW 9.94A.510, the minimum term  
32 in the range shall be no less than fifty percent of the maximum term in  
33 the range; and

34 (c) The maximum term of confinement in a range may not exceed the  
35 statutory maximum for the crime as provided in RCW 9A.20.021.

36 (5)(a) Not later than December 31, 1999, the commission shall  
37 propose to the legislature the initial community custody ranges to be  
38 included in sentences under RCW 9.94A.715 for crimes committed on or  
39 after July 1, 2000. Not later than December 31 of each year, the

1 commission may propose modifications to the ranges. The ranges shall  
2 be based on the principles in RCW 9.94A.010, and shall take into  
3 account the funds available to the department for community custody.  
4 The minimum term in each range shall not be less than one-half of the  
5 maximum term.

6 (b) The legislature may, by enactment of a legislative bill, adopt  
7 or modify the community custody ranges proposed by the commission. If  
8 the legislature fails to adopt or modify the initial ranges in its next  
9 regular session after they are proposed, the proposed ranges shall take  
10 effect without legislative approval for crimes committed on or after  
11 July 1, 2000.

12 (c) When the commission proposes modifications to ranges pursuant  
13 to this subsection, the legislature may, by enactment of a bill, adopt  
14 or modify the ranges proposed by the commission for crimes committed on  
15 or after July 1 of the year after they were proposed. Unless the  
16 legislature adopts or modifies the commission's proposal in its next  
17 regular session, the proposed ranges shall not take effect.

18 (6) The commission shall exercise its duties under this section in  
19 conformity with chapter 34.05 RCW.

20 **Sec. 17.** RCW 9.95.435 and 2001 2nd sp.s. c 12 s 309 are each  
21 amended to read as follows:

22 (1) If an offender released by the board under RCW 9.95.420  
23 violates any condition or requirement of community custody, the board  
24 may transfer the offender to a more restrictive confinement status to  
25 serve up to the remaining portion of the sentence, less credit for any  
26 period actually spent in community custody or in detention awaiting  
27 disposition of an alleged violation and subject to the limitations of  
28 subsection (2) of this section.

29 (2) Following the hearing specified in subsection (3) of this  
30 section, the board may impose sanctions such as work release, home  
31 detention with electronic monitoring, work crew, community ((service))  
32 restitution, inpatient treatment, daily reporting, curfew, educational  
33 or counseling sessions, supervision enhanced through electronic  
34 monitoring, or any other sanctions available in the community, or may  
35 suspend or revoke the release to community custody whenever an offender  
36 released by the board under RCW 9.95.420 violates any condition or  
37 requirement of community custody.

1 (3) If an offender released by the board under RCW 9.95.420 is  
2 accused of violating any condition or requirement of community custody,  
3 he or she is entitled to a hearing before the board prior to the  
4 imposition of sanctions. The hearing shall be considered as offender  
5 disciplinary proceedings and shall not be subject to chapter 34.05 RCW.  
6 The board shall develop hearing procedures and a structure of graduated  
7 sanctions consistent with the hearing procedures and graduated  
8 sanctions developed pursuant to RCW 9.94A.737. The board may suspend  
9 the offender's release to community custody and confine the offender in  
10 a correctional institution owned, operated by, or operated under  
11 contract with the state prior to the hearing unless the offender has  
12 been arrested and confined for a new criminal offense.

13 (4) The hearing procedures required under subsection (3) of this  
14 section shall be developed by rule and include the following:

15 (a) Hearings shall be conducted by members of the board unless the  
16 board enters into an agreement with the department to use the hearing  
17 officers established under RCW 9.94A.737;

18 (b) The board shall provide the offender with written notice of the  
19 violation, the evidence relied upon, and the reasons the particular  
20 sanction was imposed. The notice shall include a statement of the  
21 rights specified in this subsection, and the offender's right to file  
22 a personal restraint petition under court rules after the final  
23 decision of the board;

24 (c) The hearing shall be held unless waived by the offender, and  
25 shall be electronically recorded. For offenders not in total  
26 confinement, the hearing shall be held within fifteen working days, but  
27 not less than twenty-four hours after notice of the violation. For  
28 offenders in total confinement, the hearing shall be held within five  
29 working days, but not less than twenty-four hours after notice of the  
30 violation;

31 (d) The offender shall have the right to: (i) Be present at the  
32 hearing; (ii) have the assistance of a person qualified to assist the  
33 offender in the hearing, appointed by the hearing examiner if the  
34 offender has a language or communications barrier; (iii) testify or  
35 remain silent; (iv) call witnesses and present documentary evidence;  
36 (v) question witnesses who appear and testify; and (vi) be represented  
37 by counsel if revocation of the release to community custody is a  
38 possible sanction for the violation; and

(e) The sanction shall take effect if affirmed by the hearing examiner. Within seven days after the hearing examiner's decision, the offender may appeal the decision to a panel of three reviewing examiners designated by the chair of the board or by the chair's designee. The sanction shall be reversed or modified if a majority of the panel finds that the sanction was not reasonably related to any of the following: (i) The crime of conviction; (ii) the violation committed; (iii) the offender's risk of reoffending; or (iv) the safety of the community.

(5) For purposes of this section, no finding of a violation of conditions may be based on unconfirmed or unconfirmable allegations.

**Sec. 18.** RCW 10.98.040 and 1999 c 143 s 51 are each amended to read as follows:

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

(1) "Arrest and fingerprint form" means the reporting form prescribed by the identification, child abuse, and criminal history section to initiate compiling arrest and identification information.

(2) "Chief law enforcement officer" includes the sheriff or director of public safety of a county, the chief of police of a city or town, and chief officers of other law enforcement agencies operating within the state.

(3) "Department" means the department of corrections.

(4) "Disposition" means the conclusion of a criminal proceeding at any stage it occurs in the criminal justice system. Disposition includes but is not limited to temporary or permanent outcomes such as charges dropped by police, charges not filed by the prosecuting attorney, deferred prosecution, defendant absconded, charges filed by the prosecuting attorney pending court findings such as not guilty, dismissed, guilty, or guilty--case appealed to higher court.

(5) "Disposition report" means the reporting form prescribed by the identification, child abuse, and criminal history section to report the legal procedures taken after completing an arrest and fingerprint form. The disposition report shall include but not be limited to the following types of information:

(a) The type of disposition;

(b) The statutory citation for the arrests;

1 (c) The sentence structure if the defendant was convicted of a  
2 felony;

3 (d) The state identification number; and

4 (e) Identification information and other information that is  
5 prescribed by the identification, child abuse, and criminal history  
6 section.

7 (6) "Fingerprints" means the fingerprints taken from arrested or  
8 charged persons under the procedures prescribed by the Washington state  
9 patrol identification, child abuse, and criminal history section.

10 (7) "Prosecuting attorney" means the public or private attorney  
11 prosecuting a criminal case.

12 (8) "Section" refers to the Washington state patrol section on  
13 identification, child abuse, and criminal history.

14 (9) "Sentence structure" means itemizing the components of the  
15 felony sentence. The sentence structure shall include but not be  
16 limited to the total or partial confinement sentenced, and whether the  
17 sentence is prison or jail, community supervision, fines, restitution,  
18 or community ((service)) restitution.

19 **Sec. 19.** RCW 13.40.020 and 1997 c 338 s 10 are each amended to  
20 read as follows:

21 For the purposes of this chapter:

22 (1) "Community-based rehabilitation" means one or more of the  
23 following: Employment; attendance of information classes; literacy  
24 classes; counseling, outpatient substance abuse treatment programs,  
25 outpatient mental health programs, anger management classes, education  
26 or outpatient treatment programs to prevent animal cruelty, or other  
27 services; or attendance at school or other educational programs  
28 appropriate for the juvenile as determined by the school district.  
29 Placement in community-based rehabilitation programs is subject to  
30 available funds;

31 (2) Community-based sanctions may include one or more of the  
32 following:

33 (a) A fine, not to exceed five hundred dollars;

34 (b) Community ((service)) restitution not to exceed one hundred  
35 fifty hours of ((service)) community restitution;

36 (3) "Community ((service)) restitution" means compulsory service,  
37 without compensation, performed for the benefit of the community by the  
38 offender as punishment for committing an offense. Community

1 ((service)) restitution may be performed through public or private  
2 organizations or through work crews;

3 (4) "Community supervision" means an order of disposition by the  
4 court of an adjudicated youth not committed to the department or an  
5 order granting a deferred disposition. A community supervision order  
6 for a single offense may be for a period of up to two years for a sex  
7 offense as defined by RCW 9.94A.030 and up to one year for other  
8 offenses. As a mandatory condition of any term of community  
9 supervision, the court shall order the juvenile to refrain from  
10 committing new offenses. As a mandatory condition of community  
11 supervision, the court shall order the juvenile to comply with the  
12 mandatory school attendance provisions of chapter 28A.225 RCW and to  
13 inform the school of the existence of this requirement. Community  
14 supervision is an individualized program comprised of one or more of  
15 the following:

- 16 (a) Community-based sanctions;
- 17 (b) Community-based rehabilitation;
- 18 (c) Monitoring and reporting requirements;
- 19 (d) Posting of a probation bond;

20 (5) "Confinement" means physical custody by the department of  
21 social and health services in a facility operated by or pursuant to a  
22 contract with the state, or physical custody in a detention facility  
23 operated by or pursuant to a contract with any county. The county may  
24 operate or contract with vendors to operate county detention  
25 facilities. The department may operate or contract to operate  
26 detention facilities for juveniles committed to the department.  
27 Pretrial confinement or confinement of less than thirty-one days  
28 imposed as part of a disposition or modification order may be served  
29 consecutively or intermittently, in the discretion of the court;

30 (6) "Court," when used without further qualification, means the  
31 juvenile court judge(s) or commissioner(s);

32 (7) "Criminal history" includes all criminal complaints against the  
33 respondent for which, prior to the commission of a current offense:

34 (a) The allegations were found correct by a court. If a respondent  
35 is convicted of two or more charges arising out of the same course of  
36 conduct, only the highest charge from among these shall count as an  
37 offense for the purposes of this chapter; or

38 (b) The criminal complaint was diverted by a prosecutor pursuant to  
39 the provisions of this chapter on agreement of the respondent and after

1 an advisement to the respondent that the criminal complaint would be  
2 considered as part of the respondent's criminal history. A  
3 successfully completed deferred adjudication that was entered before  
4 July 1, 1998, or a deferred disposition shall not be considered part of  
5 the respondent's criminal history;

6 (8) "Department" means the department of social and health  
7 services;

8 (9) "Detention facility" means a county facility, paid for by the  
9 county, for the physical confinement of a juvenile alleged to have  
10 committed an offense or an adjudicated offender subject to a  
11 disposition or modification order. "Detention facility" includes  
12 county group homes, inpatient substance abuse programs, juvenile basic  
13 training camps, and electronic monitoring;

14 (10) "Diversion unit" means any probation counselor who enters into  
15 a diversion agreement with an alleged youthful offender, or any other  
16 person, community accountability board, or other entity except a law  
17 enforcement official or entity, with whom the juvenile court  
18 administrator has contracted to arrange and supervise such agreements  
19 pursuant to RCW 13.40.080, or any person, community accountability  
20 board, or other entity specially funded by the legislature to arrange  
21 and supervise diversion agreements in accordance with the requirements  
22 of this chapter. For purposes of this subsection, "community  
23 accountability board" means a board comprised of members of the local  
24 community in which the juvenile offender resides. The superior court  
25 shall appoint the members. The boards shall consist of at least three  
26 and not more than seven members. If possible, the board should include  
27 a variety of representatives from the community, such as a law  
28 enforcement officer, teacher or school administrator, high school  
29 student, parent, and business owner, and should represent the cultural  
30 diversity of the local community;

31 (11) "Foster care" means temporary physical care in a foster family  
32 home or group care facility as defined in RCW 74.15.020 and licensed by  
33 the department, or other legally authorized care;

34 (12) "Institution" means a juvenile facility established pursuant  
35 to chapters 72.05 and 72.16 through 72.20 RCW;

36 (13) "Intensive supervision program" means a parole program that  
37 requires intensive supervision and monitoring, offers an array of  
38 individualized treatment and transitional services, and emphasizes

1 community involvement and support in order to reduce the likelihood a  
2 juvenile offender will commit further offenses;

3 (14) "Juvenile," "youth," and "child" mean any individual who is  
4 under the chronological age of eighteen years and who has not been  
5 previously transferred to adult court pursuant to RCW 13.40.110 or who  
6 is otherwise under adult court jurisdiction;

7 (15) "Juvenile offender" means any juvenile who has been found by  
8 the juvenile court to have committed an offense, including a person  
9 eighteen years of age or older over whom jurisdiction has been extended  
10 under RCW 13.40.300;

11 (16) "Local sanctions" means one or more of the following: (a)  
12 0-30 days of confinement; (b) 0-12 months of community supervision; (c)  
13 0-150 hours of community ((service)) restitution; or (d) \$0-\$500 fine;

14 (17) "Manifest injustice" means a disposition that would either  
15 impose an excessive penalty on the juvenile or would impose a serious,  
16 and clear danger to society in light of the purposes of this chapter;

17 (18) "Monitoring and reporting requirements" means one or more of  
18 the following: Curfews; requirements to remain at home, school, work,  
19 or court-ordered treatment programs during specified hours;  
20 restrictions from leaving or entering specified geographical areas;  
21 requirements to report to the probation officer as directed and to  
22 remain under the probation officer's supervision; and other conditions  
23 or limitations as the court may require which may not include  
24 confinement;

25 (19) "Offense" means an act designated a violation or a crime if  
26 committed by an adult under the law of this state, under any ordinance  
27 of any city or county of this state, under any federal law, or under  
28 the law of another state if the act occurred in that state;

29 (20) "Probation bond" means a bond, posted with sufficient security  
30 by a surety justified and approved by the court, to secure the  
31 offender's appearance at required court proceedings and compliance with  
32 court-ordered community supervision or conditions of release ordered  
33 pursuant to RCW 13.40.040 or 13.40.050. It also means a deposit of  
34 cash or posting of other collateral in lieu of a bond if approved by  
35 the court;

36 (21) "Respondent" means a juvenile who is alleged or proven to have  
37 committed an offense;

38 (22) "Restitution" means financial reimbursement by the offender to  
39 the victim, and shall be limited to easily ascertainable damages for

injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(23) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

(24) "Services" means services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(25) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(26) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(27) "Surety" means an entity licensed under state insurance laws or by the state department of licensing, to write corporate, property, or probation bonds within the state, and justified and approved by the superior court of the county having jurisdiction of the case;

(28) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(29) "Violent offense" means a violent offense as defined in RCW 9.94A.030.

**Sec. 20.** RCW 13.40.0357 and 2001 c 217 s 13 are each amended to read as follows:

#### DESCRIPTION AND OFFENSE CATEGORY

| JUVENILE<br>DISPOSITION | JUVENILE DISPOSITION<br>CATEGORY FOR ATTEMPT,<br>BAILJUMP, CONSPIRACY,<br>OR SOLICITATION |
|-------------------------|---|
| OFFENSE                 |   |
| CATEGORY                | DESCRIPTION (RCW CITATION)  |
| .....                   |   |

|    |    |                                     |    |
|----|----|-------------------------------------|----|
| 1  |    | <b>Arson and Malicious Mischief</b> |    |
| 2  | A  | Arson 1 (9A.48.020)                 | B+ |
| 3  | B  | Arson 2 (9A.48.030)                 | C  |
| 4  | C  | Reckless Burning 1 (9A.48.040)      | D  |
| 5  | D  | Reckless Burning 2 (9A.48.050)      | E  |
| 6  | B  | Malicious Mischief 1 (9A.48.070)    | C  |
| 7  | C  | Malicious Mischief 2 (9A.48.080)    | D  |
| 8  | D  | Malicious Mischief 3 (<\$50 is      |    |
| 9  |    | E class) (9A.48.090)                | E  |
| 10 | E  | Tampering with Fire Alarm           |    |
| 11 |    | Apparatus (9.40.100)                | E  |
| 12 | A  | Possession of Incendiary Device     |    |
| 13 |    | (9.40.120)                          | B+ |
| 14 |    | <b>Assault and Other Crimes</b>     |    |
| 15 |    | <b>Involving Physical Harm</b>      |    |
| 16 | A  | Assault 1 (9A.36.011)               | B+ |
| 17 | B+ | Assault 2 (9A.36.021)               | C+ |
| 18 | C+ | Assault 3 (9A.36.031)               | D+ |
| 19 | D+ | Assault 4 (9A.36.041)               | E  |
| 20 | B+ | Drive-By Shooting                   |    |
| 21 |    | (9A.36.045)                         | C+ |
| 22 | D+ | Reckless Endangerment               |    |
| 23 |    | (9A.36.050)                         | E  |
| 24 | C+ | Promoting Suicide Attempt           |    |
| 25 |    | (9A.36.060)                         | D+ |
| 26 | D+ | Coercion (9A.36.070)                | E  |
| 27 | C+ | Custodial Assault (9A.36.100)       | D+ |
| 28 |    | <b>Burglary and Trespass</b>        |    |
| 29 | B+ | Burglary 1 (9A.52.020)              | C+ |
| 30 | B  | Residential Burglary                |    |
| 31 |    | (9A.52.025)                         | C  |
| 32 | B  | Burglary 2 (9A.52.030)              | C  |
| 33 | D  | Burglary Tools (Possession of)      |    |
| 34 |    | (9A.52.060)                         | E  |
| 35 | D  | Criminal Trespass 1 (9A.52.070)     | E  |
| 36 | E  | Criminal Trespass 2 (9A.52.080)     | E  |
| 37 | C  | Vehicle Prowling 1 (9A.52.095)      | D  |
| 38 | D  | Vehicle Prowling 2 (9A.52.100)      | E  |

|    |    |                                      |    |
|----|----|--------------------------------------|----|
| 1  |    | <b>Drugs</b>                         |    |
| 2  | E  | Possession/Consumption of Alcohol    |    |
| 3  |    | (66.44.270)                          | E  |
| 4  | C  | Illegally Obtaining Legend Drug      |    |
| 5  |    | (69.41.020)                          | D  |
| 6  | C+ | Sale, Delivery, Possession of Legend |    |
| 7  |    | Drug with Intent to Sell             |    |
| 8  |    | (69.41.030)                          | D+ |
| 9  | E  | Possession of Legend Drug            |    |
| 10 |    | (69.41.030)                          | E  |
| 11 | B+ | Violation of Uniform Controlled      |    |
| 12 |    | Substances Act - Narcotic,           |    |
| 13 |    | Methamphetamine, or Flunitrazepam    |    |
| 14 |    | Sale (69.50.401(a)(1) (i) or (ii))   | B+ |
| 15 | C  | Violation of Uniform Controlled      |    |
| 16 |    | Substances Act - Nonnarcotic Sale    |    |
| 17 |    | (69.50.401(a)(1)(iii))               | C  |
| 18 | E  | Possession of Marihuana <40 grams    |    |
| 19 |    | (69.50.401(e))                       | E  |
| 20 | C  | Fraudulently Obtaining Controlled    |    |
| 21 |    | Substance (69.50.403)                | C  |
| 22 | C+ | Sale of Controlled Substance         |    |
| 23 |    | for Profit (69.50.410)               | C+ |
| 24 | E  | Unlawful Inhalation (9.47A.020)      | E  |
| 25 | B  | Violation of Uniform Controlled      |    |
| 26 |    | Substances Act - Narcotic,           |    |
| 27 |    | Methamphetamine, or Flunitrazepam    |    |
| 28 |    | Counterfeit Substances               |    |
| 29 |    | (69.50.401(b)(1) (i) or (ii))        | B  |
| 30 | C  | Violation of Uniform Controlled      |    |
| 31 |    | Substances Act - Nonnarcotic         |    |
| 32 |    | Counterfeit Substances               |    |
| 33 |    | (69.50.401(b)(1) (iii), (iv), (v))   | C  |
| 34 | C  | Violation of Uniform Controlled      |    |
| 35 |    | Substances Act - Possession of a     |    |
| 36 |    | Controlled Substance                 |    |
| 37 |    | (69.50.401(d))                       | C  |
| 38 | C  | Violation of Uniform Controlled      |    |
| 39 |    | Substances Act - Possession of a     |    |

|    |    |   |    |
|----|----|---|----|
| 1  |    | Controlled Substance                      |    |
| 2  |    | (69.50.401(c))                            | C  |
| 3  |    | <b>Firearms and Weapons</b>               |    |
| 4  | B  | Theft of Firearm (9A.56.300)              | C  |
| 5  | B  | Possession of Stolen Firearm              |    |
| 6  |    | (9A.56.310)                               | C  |
| 7  | E  | Carrying Loaded Pistol Without            |    |
| 8  |    | Permit (9.41.050)                         | E  |
| 9  | C  | Possession of Firearms by Minor (<18)     |    |
| 10 |    | (9.41.040(1)(b)(iii))                     | C  |
| 11 | D+ | Possession of Dangerous Weapon            |    |
| 12 |    | (9.41.250)                                | E  |
| 13 | D  | Intimidating Another Person by use        |    |
| 14 |    | of Weapon (9.41.270)                      | E  |
| 15 |    | <b>Homicide</b>                           |    |
| 16 | A+ | Murder 1 (9A.32.030)                      | A  |
| 17 | A+ | Murder 2 (9A.32.050)                      | B+ |
| 18 | B+ | Manslaughter 1 (9A.32.060)                | C+ |
| 19 | C+ | Manslaughter 2 (9A.32.070)                | D+ |
| 20 | B+ | Vehicular Homicide (46.61.520)            | C+ |
| 21 |    | <b>Kidnapping</b>                         |    |
| 22 | A  | Kidnap 1 (9A.40.020)                      | B+ |
| 23 | B+ | Kidnap 2 (9A.40.030)                      | C+ |
| 24 | C+ | Unlawful Imprisonment                     |    |
| 25 |    | (9A.40.040)                               | D+ |
| 26 |    | <b>Obstructing Governmental Operation</b> |    |
| 27 | D  | Obstructing a Law Enforcement             |    |
| 28 |    | Officer (9A.76.020)                       | E  |
| 29 | E  | Resisting Arrest (9A.76.040)              | E  |
| 30 | B  | Introducing Contraband 1                  |    |
| 31 |    | (9A.76.140)                               | C  |
| 32 | C  | Introducing Contraband 2                  |    |
| 33 |    | (9A.76.150)                               | D  |
| 34 | E  | Introducing Contraband 3                  |    |
| 35 |    | (9A.76.160)                               | E  |
| 36 | B+ | Intimidating a Public Servant             |    |
| 37 |    | (9A.76.180)                               | C+ |

|    |    |   |    |
|----|----|---|----|
| 1  | B+ | Intimidating a Witness                        |    |
| 2  |    | (9A.72.110)                                   | C+ |
| 3  |    | <b>Public Disturbance</b>                     |    |
| 4  | C+ | Riot with Weapon (9A.84.010)                  | D+ |
| 5  | D+ | Riot Without Weapon                           |    |
| 6  |    | (9A.84.010)                                   | E  |
| 7  | E  | Failure to Disperse (9A.84.020)               | E  |
| 8  | E  | Disorderly Conduct (9A.84.030)                | E  |
| 9  |    | <b>Sex Crimes</b>                             |    |
| 10 | A  | Rape 1 (9A.44.040)                            | B+ |
| 11 | A- | Rape 2 (9A.44.050)                            | B+ |
| 12 | C+ | Rape 3 (9A.44.060)                            | D+ |
| 13 | A- | Rape of a Child 1 (9A.44.073)                 | B+ |
| 14 | B+ | Rape of a Child 2 (9A.44.076)                 | C+ |
| 15 | B  | Incest 1 (9A.64.020(1))                       | C  |
| 16 | C  | Incest 2 (9A.64.020(2))                       | D  |
| 17 | D+ | Indecent Exposure                             |    |
| 18 |    | (Victim <14) (9A.88.010)                      | E  |
| 19 | E  | Indecent Exposure                             |    |
| 20 |    | (Victim 14 or over) (9A.88.010)               | E  |
| 21 | B+ | Promoting Prostitution 1                      |    |
| 22 |    | (9A.88.070)                                   | C+ |
| 23 | C+ | Promoting Prostitution 2                      |    |
| 24 |    | (9A.88.080)                                   | D+ |
| 25 | E  | O & A (Prostitution) (9A.88.030)              | E  |
| 26 | B+ | Indecent Liberties (9A.44.100)                | C+ |
| 27 | A- | Child Molestation 1 (9A.44.083)               | B+ |
| 28 | B  | Child Molestation 2 (9A.44.086)               | C+ |
| 29 |    | <b>Theft, Robbery, Extortion, and Forgery</b> |    |
| 30 | B  | Theft 1 (9A.56.030)                           | C  |
| 31 | C  | Theft 2 (9A.56.040)                           | D  |
| 32 | D  | Theft 3 (9A.56.050)                           | E  |
| 33 | B  | Theft of Livestock (9A.56.080)                | C  |
| 34 | C  | Forgery (9A.60.020)                           | D  |
| 35 | A  | Robbery 1 (9A.56.200)                         | B+ |
| 36 | B+ | Robbery 2 (9A.56.210)                         | C+ |
| 37 | B+ | Extortion 1 (9A.56.120)                       | C+ |
| 38 | C+ | Extortion 2 (9A.56.130)                       | D+ |

|    |    |   |    |
|----|----|---|----|
| 1  | C  | Identity Theft 1 (9.35.020(2)(a))       | D  |
| 2  | D  | Identity Theft 2 (9.35.020(2)(b))       | E  |
| 3  | D  | Improperly Obtaining Financial          |    |
| 4  |    | Information ( <del>((9.35.010))</del> ) |    |
| 5  |    | <u>(9.35.010)</u>                       | E  |
| 6  | B  | Possession of Stolen Property 1         |    |
| 7  |    | (9A.56.150)                             | C  |
| 8  | C  | Possession of Stolen Property 2         |    |
| 9  |    | (9A.56.160)                             | D  |
| 10 | D  | Possession of Stolen Property 3         |    |
| 11 |    | (9A.56.170)                             | E  |
| 12 | C  | Taking Motor Vehicle Without            |    |
| 13 |    | Owner's Permission (9A.56.070)          | D  |
| 14 |    | <b>Motor Vehicle Related Crimes</b>     |    |
| 15 | E  | Driving Without a License               |    |
| 16 |    | (46.20.005)                             | E  |
| 17 | B+ | Hit and Run - Death                     |    |
| 18 |    | (46.52.020(4)(a))                       | C+ |
| 19 | C  | Hit and Run - Injury                    |    |
| 20 |    | (46.52.020(4)(b))                       | D  |
| 21 | D  | Hit and Run-Attended                    |    |
| 22 |    | (46.52.020(5))                          | E  |
| 23 | E  | Hit and Run-Unattended                  |    |
| 24 |    | (46.52.010)                             | E  |
| 25 | C  | Vehicular Assault (46.61.522)           | D  |
| 26 | C  | Attempting to Elude Pursuing            |    |
| 27 |    | Police Vehicle (46.61.024)              | D  |
| 28 | E  | Reckless Driving (46.61.500)            | E  |
| 29 | D  | Driving While Under the Influence       |    |
| 30 |    | (46.61.502 and 46.61.504)               | E  |
| 31 |    | <b>Other</b>                            |    |
| 32 | B  | Bomb Threat (9.61.160)                  | C  |
| 33 | C  | Escape 1 (9A.76.110)                    | C  |
| 34 | C  | Escape 2 (9A.76.120)                    | C  |
| 35 | D  | Escape 3 (9A.76.130)                    | E  |
| 36 | E  | Obscene, Harassing, Etc.,               |    |
| 37 |    | Phone Calls (9.61.230)                  | E  |

|    |   |                                    |    |
|----|---|------------------------------------|----|
| 1  | A | Other Offense Equivalent to an     |    |
| 2  |   | Adult Class A Felony               | B+ |
| 3  | B | Other Offense Equivalent to an     |    |
| 4  |   | Adult Class B Felony               | C  |
| 5  | C | Other Offense Equivalent to an     |    |
| 6  |   | Adult Class C Felony               | D  |
| 7  | D | Other Offense Equivalent to an     |    |
| 8  |   | Adult Gross Misdemeanor            | E  |
| 9  | E | Other Offense Equivalent to an     |    |
| 10 |   | Adult Misdemeanor                  | E  |
| 11 | V | Violation of Order of Restitution, |    |
| 12 |   | Community Supervision, or          |    |
| 13 |   | Confinement (13.40.200)            | V  |

14 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
15 and the standard range is established as follows:

16 1st escape or attempted escape during 12-month period - 4 weeks  
17 confinement

18 2nd escape or attempted escape during 12-month period - 8 weeks  
19 confinement

20 3rd and subsequent escape or attempted escape during 12-month  
21 period - 12 weeks confinement

22 If the court finds that a respondent has violated terms of an order,  
23 it may impose a penalty of up to 30 days of confinement.

## 24 JUVENILE SENTENCING STANDARDS

25 This schedule must be used for juvenile offenders. The court may  
26 select sentencing option A, B, or C.

**OPTION A**  
**JUVENILE OFFENDER SENTENCING GRID**  
**STANDARD RANGE**

|                                |    |  |   |                 |                  |   |           |
|--------------------------------|----|--|---|-----------------|------------------|---|-----------|
|                                | A+ | 180 WEEKS TO AGE 21 YEARS  |   |                 |                  |   |           |
|                                | A  | 103 WEEKS TO 129 WEEKS   |   |                 |                  |   |           |
|                                | A- | 15-36<br>WEEKS<br>EXCEPT<br>30-40<br>WEEKS FOR<br>15-17<br>YEAR OLDS | 52-65<br>WEEKS  | 80-100<br>WEEKS | 103-129<br>WEEKS |   |           |
| Current<br>Offense<br>Category | B+ | 15-36<br>WEEKS   | 52-65<br>WEEKS  | 80-100<br>WEEKS | 103-129<br>WEEKS |   |           |
|                                | B  | LOCAL<br>SANCTIONS (LS)  | 15-36 WEEKS   |                 | 52-65<br>WEEKS   |   |           |
|                                | C+ | LS   |   | 15-36 WEEKS     |                  |   |           |
|                                | C  | LS   |   |                 | 15-36 WEEKS      |   |           |
|                                |    |  | Local Sanctions:  |                 |                  |   |           |
|                                |    |  | 0 to 30 Days  |                 |                  |   |           |
|                                | D+ | LS   | 0 to 12 Months Community Supervision                    |                 |                  |   |           |
|                                |    |  | 0 to 150 Hours Community ((Service)) <u>Restitution</u> |                 |                  |   |           |
|                                | D  | LS   | \$0 to \$500 Fine                                       |                 |                  |   |           |
|                                | E  | LS   |   |                 |                  |   |           |
|                                |    |  | 0   | 1               | 2                | 3 | 4 or more |
|                                |    |  | PRIOR ADJUDICATIONS                                     |                 |                  |   |           |

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile's criminal history. Each prior felony adjudication shall count as one point. Each prior violation,

1 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
2 point. Fractional points shall be rounded down.

3 (3) The standard range disposition for each offense is determined  
4 by the intersection of the column defined by the prior adjudications  
5 and the row defined by the current offense category.

6 (4) RCW 13.40.180 applies if the offender is being sentenced for  
7 more than one offense.

8 (5) A current offense that is a violation is equivalent to an  
9 offense category of E. However, a disposition for a violation shall  
10 not include confinement.

11 OR

12 OPTION B

13 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

14 If the juvenile offender is subject to a standard range disposition  
15 of local sanctions or 15 to 36 weeks of confinement and has not  
16 committed an A- or B+ offense, the court may impose a disposition under  
17 RCW 13.40.160(4) and 13.40.165.

18 OR

19 OPTION C

20 MANIFEST INJUSTICE

21 If the court determines that a disposition under option A or B would  
22 effectuate a manifest injustice, the court shall impose a disposition  
23 outside the standard range under RCW 13.40.160(2).

24 **Sec. 21.** RCW 13.40.080 and 1999 c 91 s 1 are each amended to read  
25 as follows:

26 (1) A diversion agreement shall be a contract between a juvenile  
27 accused of an offense and a diversionary unit whereby the juvenile  
28 agrees to fulfill certain conditions in lieu of prosecution. Such  
29 agreements may be entered into only after the prosecutor, or probation  
30 counselor pursuant to this chapter, has determined that probable cause  
31 exists to believe that a crime has been committed and that the juvenile  
32 committed it. Such agreements shall be entered into as expeditiously  
33 as possible.

34 (2) A diversion agreement shall be limited to one or more of the  
35 following:

1 (a) Community ((~~service~~)) restitution not to exceed one hundred  
2 fifty hours, not to be performed during school hours if the juvenile is  
3 attending school;

4 (b) Restitution limited to the amount of actual loss incurred by  
5 the victim;

6 (c) Attendance at up to ten hours of counseling and/or up to twenty  
7 hours of educational or informational sessions at a community agency.  
8 The educational or informational sessions may include sessions relating  
9 to respect for self, others, and authority; victim awareness;  
10 accountability; self-worth; responsibility; work ethics; good  
11 citizenship; literacy; and life skills. For purposes of this section,  
12 "community agency" may also mean a community-based nonprofit  
13 organization, if approved by the diversion unit. The state shall not  
14 be liable for costs resulting from the diversionary unit exercising the  
15 option to permit diversion agreements to mandate attendance at up to  
16 ten hours of counseling and/or up to twenty hours of educational or  
17 informational sessions;

18 (d) A fine, not to exceed one hundred dollars. In determining the  
19 amount of the fine, the diversion unit shall consider only the  
20 juvenile's financial resources and whether the juvenile has the means  
21 to pay the fine. The diversion unit shall not consider the financial  
22 resources of the juvenile's parents, guardian, or custodian in  
23 determining the fine to be imposed;

24 (e) Requirements to remain during specified hours at home, school,  
25 or work, and restrictions on leaving or entering specified geographical  
26 areas; and

27 (f) Upon request of the victim or witness, requirements to refrain  
28 from any contact with victims or witnesses of offenses committed by the  
29 juvenile.

30 (3) In assessing periods of community ((~~service~~)) restitution to be  
31 performed and restitution to be paid by a juvenile who has entered into  
32 a diversion agreement, the court officer to whom this task is assigned  
33 shall consult with the juvenile's custodial parent or parents or  
34 guardian and victims who have contacted the diversionary unit and, to  
35 the extent possible, involve members of the community. Such members of  
36 the community shall meet with the juvenile and advise the court officer  
37 as to the terms of the diversion agreement and shall supervise the  
38 juvenile in carrying out its terms.

1 (4)(a) A diversion agreement may not exceed a period of six months  
2 and may include a period extending beyond the eighteenth birthday of  
3 the diverttee.

4 (b) If additional time is necessary for the juvenile to complete  
5 restitution to the victim, the time period limitations of this  
6 subsection may be extended by an additional six months.

7 (c) If the juvenile has not paid the full amount of restitution by  
8 the end of the additional six-month period, then the juvenile shall be  
9 referred to the juvenile court for entry of an order establishing the  
10 amount of restitution still owed to the victim. In this order, the  
11 court shall also determine the terms and conditions of the restitution,  
12 including a payment plan extending up to ten years if the court  
13 determines that the juvenile does not have the means to make full  
14 restitution over a shorter period. For the purposes of this subsection  
15 (4)(c), the juvenile shall remain under the court's jurisdiction for a  
16 maximum term of ten years after the juvenile's eighteenth birthday.  
17 Prior to the expiration of the initial ten-year period, the juvenile  
18 court may extend the judgment for restitution an additional ten years.  
19 The court may not require the juvenile to pay full or partial  
20 restitution if the juvenile reasonably satisfies the court that he or  
21 she does not have the means to make full or partial restitution and  
22 could not reasonably acquire the means to pay the restitution over a  
23 ten-year period. The county clerk shall make disbursements to victims  
24 named in the order. The restitution to victims named in the order  
25 shall be paid prior to any payment for other penalties or monetary  
26 assessments. A juvenile under obligation to pay restitution may  
27 petition the court for modification of the restitution order.

28 (5) The juvenile shall retain the right to be referred to the court  
29 at any time prior to the signing of the diversion agreement.

30 (6) Diverttees and potential diverttees shall be afforded due process  
31 in all contacts with a diversionary unit regardless of whether the  
32 juveniles are accepted for diversion or whether the diversion program  
33 is successfully completed. Such due process shall include, but not be  
34 limited to, the following:

35 (a) A written diversion agreement shall be executed stating all  
36 conditions in clearly understandable language;

37 (b) Violation of the terms of the agreement shall be the only  
38 grounds for termination;

1 (c) No divertee may be terminated from a diversion program without  
2 being given a court hearing, which hearing shall be preceded by:

3 (i) Written notice of alleged violations of the conditions of the  
4 diversion program; and

5 (ii) Disclosure of all evidence to be offered against the divertee;

6 (d) The hearing shall be conducted by the juvenile court and shall  
7 include:

8 (i) Opportunity to be heard in person and to present evidence;

9 (ii) The right to confront and cross-examine all adverse witnesses;

10 (iii) A written statement by the court as to the evidence relied on  
11 and the reasons for termination, should that be the decision; and

12 (iv) Demonstration by evidence that the divertee has substantially  
13 violated the terms of his or her diversion agreement.

14 (e) The prosecutor may file an information on the offense for which  
15 the divertee was diverted:

16 (i) In juvenile court if the divertee is under eighteen years of  
17 age; or

18 (ii) In superior court or the appropriate court of limited  
19 jurisdiction if the divertee is eighteen years of age or older.

20 (7) The diversion unit shall, subject to available funds, be  
21 responsible for providing interpreters when juveniles need interpreters  
22 to effectively communicate during diversion unit hearings or  
23 negotiations.

24 (8) The diversion unit shall be responsible for advising a divertee  
25 of his or her rights as provided in this chapter.

26 (9) The diversion unit may refer a juvenile to community-based  
27 counseling or treatment programs.

28 (10) The right to counsel shall inure prior to the initial  
29 interview for purposes of advising the juvenile as to whether he or she  
30 desires to participate in the diversion process or to appear in the  
31 juvenile court. The juvenile may be represented by counsel at any  
32 critical stage of the diversion process, including intake interviews  
33 and termination hearings. The juvenile shall be fully advised at the  
34 intake of his or her right to an attorney and of the relevant services  
35 an attorney can provide. For the purpose of this section, intake  
36 interviews mean all interviews regarding the diversion agreement  
37 process.

38 The juvenile shall be advised that a diversion agreement shall  
39 constitute a part of the juvenile's criminal history as defined by RCW

1 13.40.020(7). A signed acknowledgment of such advisement shall be  
2 obtained from the juvenile, and the document shall be maintained by the  
3 diversionary unit together with the diversion agreement, and a copy of  
4 both documents shall be delivered to the prosecutor if requested by the  
5 prosecutor. The supreme court shall promulgate rules setting forth the  
6 content of such advisement in simple language.

7 (11) When a juvenile enters into a diversion agreement, the  
8 juvenile court may receive only the following information for  
9 dispositional purposes:

10 (a) The fact that a charge or charges were made;

11 (b) The fact that a diversion agreement was entered into;

12 (c) The juvenile's obligations under such agreement;

13 (d) Whether the alleged offender performed his or her obligations  
14 under such agreement; and

15 (e) The facts of the alleged offense.

16 (12) A diversionary unit may refuse to enter into a diversion  
17 agreement with a juvenile. When a diversionary unit refuses to enter  
18 a diversion agreement with a juvenile, it shall immediately refer such  
19 juvenile to the court for action and shall forward to the court the  
20 criminal complaint and a detailed statement of its reasons for refusing  
21 to enter into a diversion agreement. The diversionary unit shall also  
22 immediately refer the case to the prosecuting attorney for action if  
23 such juvenile violates the terms of the diversion agreement.

24 (13) A diversionary unit may, in instances where it determines that  
25 the act or omission of an act for which a juvenile has been referred to  
26 it involved no victim, or where it determines that the juvenile  
27 referred to it has no prior criminal history and is alleged to have  
28 committed an illegal act involving no threat of or instance of actual  
29 physical harm and involving not more than fifty dollars in property  
30 loss or damage and that there is no loss outstanding to the person or  
31 firm suffering such damage or loss, counsel and release or release such  
32 a juvenile without entering into a diversion agreement. A diversion  
33 unit's authority to counsel and release a juvenile under this  
34 subsection shall include the authority to refer the juvenile to  
35 community-based counseling or treatment programs. Any juvenile  
36 released under this subsection shall be advised that the act or  
37 omission of any act for which he or she had been referred shall  
38 constitute a part of the juvenile's criminal history as defined by RCW  
39 13.40.020(7). A signed acknowledgment of such advisement shall be

1 obtained from the juvenile, and the document shall be maintained by the  
2 unit, and a copy of the document shall be delivered to the prosecutor  
3 if requested by the prosecutor. The supreme court shall promulgate  
4 rules setting forth the content of such advisement in simple language.  
5 A juvenile determined to be eligible by a diversionary unit for release  
6 as provided in this subsection shall retain the same right to counsel  
7 and right to have his or her case referred to the court for formal  
8 action as any other juvenile referred to the unit.

9 (14) A diversion unit may supervise the fulfillment of a diversion  
10 agreement entered into before the juvenile's eighteenth birthday and  
11 which includes a period extending beyond the diverttee's eighteenth  
12 birthday.

13 (15) If a fine required by a diversion agreement cannot reasonably  
14 be paid due to a change of circumstance, the diversion agreement may be  
15 modified at the request of the diverttee and with the concurrence of the  
16 diversion unit to convert an unpaid fine into community ((service))  
17 restitution. The modification of the diversion agreement shall be in  
18 writing and signed by the diverttee and the diversion unit. The number  
19 of hours of community ((service)) restitution in lieu of a monetary  
20 penalty shall be converted at the rate of the prevailing state minimum  
21 wage per hour.

22 (16) Fines imposed under this section shall be collected and paid  
23 into the county general fund in accordance with procedures established  
24 by the juvenile court administrator under RCW 13.04.040 and may be used  
25 only for juvenile services. In the expenditure of funds for juvenile  
26 services, there shall be a maintenance of effort whereby counties  
27 exhaust existing resources before using amounts collected under this  
28 section.

29 **Sec. 22.** RCW 13.40.160 and 1999 c 91 s 2 are each amended to read  
30 as follows:

31 (1) The standard range disposition for a juvenile adjudicated of an  
32 offense is determined according to RCW 13.40.0357.

33 (a) When the court sentences an offender to a local sanction as  
34 provided in RCW 13.40.0357 option A, the court shall impose a  
35 determinate disposition within the standard ranges, except as provided  
36 in subsections (2), (3), and (4) of this section. The disposition may  
37 be comprised of one or more local sanctions.

1 (b) When the court sentences an offender to a standard range as  
2 provided in RCW 13.40.0357 option A that includes a term of confinement  
3 exceeding thirty days, commitment shall be to the department for the  
4 standard range of confinement, except as provided in subsections (2),  
5 (3), and (4) of this section.

6 (2) If the court concludes, and enters reasons for its conclusion,  
7 that disposition within the standard range would effectuate a manifest  
8 injustice the court shall impose a disposition outside the standard  
9 range, as indicated in option C of RCW 13.40.0357. The court's finding  
10 of manifest injustice shall be supported by clear and convincing  
11 evidence.

12 A disposition outside the standard range shall be determinate and  
13 shall be comprised of confinement or community supervision, or a  
14 combination thereof. When a judge finds a manifest injustice and  
15 imposes a sentence of confinement exceeding thirty days, the court  
16 shall sentence the juvenile to a maximum term, and the provisions of  
17 RCW 13.40.030(2) shall be used to determine the range. A disposition  
18 outside the standard range is appealable under RCW 13.40.230 by the  
19 state or the respondent. A disposition within the standard range is  
20 not appealable under RCW 13.40.230.

21 (3) When a juvenile offender is found to have committed a sex  
22 offense, other than a sex offense that is also a serious violent  
23 offense as defined by RCW 9.94A.030, and has no history of a prior sex  
24 offense, the court, on its own motion or the motion of the state or the  
25 respondent, may order an examination to determine whether the  
26 respondent is amenable to treatment.

27 The report of the examination shall include at a minimum the  
28 following: The respondent's version of the facts and the official  
29 version of the facts, the respondent's offense history, an assessment  
30 of problems in addition to alleged deviant behaviors, the respondent's  
31 social, educational, and employment situation, and other evaluation  
32 measures used. The report shall set forth the sources of the  
33 evaluator's information.

34 The examiner shall assess and report regarding the respondent's  
35 amenability to treatment and relative risk to the community. A  
36 proposed treatment plan shall be provided and shall include, at a  
37 minimum:

38 (a)(i) Frequency and type of contact between the offender and  
39 therapist;

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

3 (iii) Monitoring plans, including any requirements regarding living  
4 conditions, lifestyle requirements, and monitoring by family members,  
5 legal guardians, or others;

6 (iv) Anticipated length of treatment; and

7 (v) Recommended crime-related prohibitions.

8 The court on its own motion may order, or on a motion by the state  
9 shall order, a second examination regarding the offender's amenability  
10 to treatment. The evaluator shall be selected by the party making the  
11 motion. The defendant shall pay the cost of any second examination  
12 ordered unless the court finds the defendant to be indigent in which  
13 case the state shall pay the cost.

14 After receipt of reports of the examination, the court shall then  
15 consider whether the offender and the community will benefit from use  
16 of this special sex offender disposition alternative and consider the  
17 victim's opinion whether the offender should receive a treatment  
18 disposition under this section. If the court determines that this  
19 special sex offender disposition alternative is appropriate, then the  
20 court shall impose a determinate disposition within the standard range  
21 for the offense, or if the court concludes, and enters reasons for its  
22 conclusions, that such disposition would cause a manifest injustice,  
23 the court shall impose a disposition under option C, and the court may  
24 suspend the execution of the disposition and place the offender on  
25 community supervision for at least two years. As a condition of the  
26 suspended disposition, the court may impose the conditions of community  
27 supervision and other conditions, including up to thirty days of  
28 confinement and requirements that the offender do any one or more of  
29 the following:

30 (b)(i) Devote time to a specific education, employment, or  
31 occupation;

32 (ii) Undergo available outpatient sex offender treatment for up to  
33 two years, or inpatient sex offender treatment not to exceed the  
34 standard range of confinement for that offense. A community mental  
35 health center may not be used for such treatment unless it has an  
36 appropriate program designed for sex offender treatment. The  
37 respondent shall not change sex offender treatment providers or  
38 treatment conditions without first notifying the prosecutor, the  
39 probation counselor, and the court, and shall not change providers

1 without court approval after a hearing if the prosecutor or probation  
2 counselor object to the change;

3 (iii) Remain within prescribed geographical boundaries and notify  
4 the court or the probation counselor prior to any change in the  
5 offender's address, educational program, or employment;

6 (iv) Report to the prosecutor and the probation counselor prior to  
7 any change in a sex offender treatment provider. This change shall  
8 have prior approval by the court;

9 (v) Report as directed to the court and a probation counselor;

10 (vi) Pay all court-ordered legal financial obligations, perform  
11 community ((service)) restitution, or any combination thereof;

12 (vii) Make restitution to the victim for the cost of any counseling  
13 reasonably related to the offense;

14 (viii) Comply with the conditions of any court-ordered probation  
15 bond; or

16 (ix) The court shall order that the offender may not attend the  
17 public or approved private elementary, middle, or high school attended  
18 by the victim or the victim's siblings. The parents or legal guardians  
19 of the offender are responsible for transportation or other costs  
20 associated with the offender's change of school that would otherwise be  
21 paid by the school district. The court shall send notice of the  
22 disposition and restriction on attending the same school as the victim  
23 or victim's siblings to the public or approved private school the  
24 juvenile will attend, if known, or if unknown, to the approved private  
25 schools and the public school district board of directors of the  
26 district in which the juvenile resides or intends to reside. This  
27 notice must be sent at the earliest possible date but not later than  
28 ten calendar days after entry of the disposition.

29 The sex offender treatment provider shall submit quarterly reports  
30 on the respondent's progress in treatment to the court and the parties.  
31 The reports shall reference the treatment plan and include at a minimum  
32 the following: Dates of attendance, respondent's compliance with  
33 requirements, treatment activities, the respondent's relative progress  
34 in treatment, and any other material specified by the court at the time  
35 of the disposition.

36 At the time of the disposition, the court may set treatment review  
37 hearings as the court considers appropriate.

38 Except as provided in this subsection (3), after July 1, 1991,  
39 examinations and treatment ordered pursuant to this subsection shall

1 only be conducted by sex offender treatment providers certified by the  
2 department of health pursuant to chapter 18.155 RCW. A sex offender  
3 therapist who examines or treats a juvenile sex offender pursuant to  
4 this subsection does not have to be certified by the department of  
5 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
6 offender has already moved to another state or plans to move to another  
7 state for reasons other than circumventing the certification  
8 requirements; (B) no certified providers are available for treatment  
9 within a reasonable geographical distance of the offender's home; and  
10 (C) the evaluation and treatment plan comply with this subsection (~~((4)~~  
11 ~~{(3)}~~)) (3) and the rules adopted by the department of health.

12 If the offender violates any condition of the disposition or the  
13 court finds that the respondent is failing to make satisfactory  
14 progress in treatment, the court may revoke the suspension and order  
15 execution of the disposition or the court may impose a penalty of up to  
16 thirty days' confinement for violating conditions of the disposition.  
17 The court may order both execution of the disposition and up to thirty  
18 days' confinement for the violation of the conditions of the  
19 disposition. The court shall give credit for any confinement time  
20 previously served if that confinement was for the offense for which the  
21 suspension is being revoked.

22 For purposes of this section, "victim" means any person who has  
23 sustained emotional, psychological, physical, or financial injury to  
24 person or property as a direct result of the crime charged. "Victim"  
25 may also include a known parent or guardian of a victim who is a minor  
26 child unless the parent or guardian is the perpetrator of the offense.

27 A disposition entered under this subsection (3) is not appealable  
28 under RCW 13.40.230.

29 (4) If the juvenile offender is subject to a standard range  
30 disposition of local sanctions or 15 to 36 weeks of confinement and has  
31 not committed an A- or B+ offense, the court may impose the disposition  
32 alternative under RCW 13.40.165.

33 (5) RCW 13.40.193 shall govern the disposition of any juvenile  
34 adjudicated of possessing a firearm in violation of RCW  
35 9.41.040(1)(b)(iii) or any crime in which a special finding is entered  
36 that the juvenile was armed with a firearm.

37 (6) Whenever a juvenile offender is entitled to credit for time  
38 spent in detention prior to a dispositional order, the dispositional

1 order shall specifically state the number of days of credit for time  
2 served.

3 (7) Except as provided under subsection (3) or (4) of this section  
4 or RCW 13.40.127, the court shall not suspend or defer the imposition  
5 or the execution of the disposition.

6 (8) In no case shall the term of confinement imposed by the court  
7 at disposition exceed that to which an adult could be subjected for the  
8 same offense.

9 **Sec. 23.** RCW 13.40.165 and 2001 c 164 s 1 are each amended to read  
10 as follows:

11 (1) The purpose of this disposition alternative is to ensure that  
12 successful treatment options to reduce recidivism are available to  
13 eligible youth, pursuant to RCW 70.96A.520. The court must consider  
14 eligibility for the chemical dependency disposition alternative when a  
15 juvenile offender is subject to a standard range disposition of local  
16 sanctions or 15 to 36 weeks of confinement and has not committed an A-  
17 or B+ offense, other than a first time B+ offense under chapter 69.50  
18 RCW. The court, on its own motion or the motion of the state or the  
19 respondent if the evidence shows that the offender may be chemically  
20 dependent or substance abusing, may order an examination by a chemical  
21 dependency counselor from a chemical dependency treatment facility  
22 approved under chapter 70.96A RCW to determine if the youth is  
23 chemically dependent or substance abusing. The offender shall pay the  
24 cost of any examination ordered under this subsection unless the court  
25 finds that the offender is indigent and no third party insurance  
26 coverage is available, in which case the state shall pay the cost.

27 (2) The report of the examination shall include at a minimum the  
28 following: The respondent's version of the facts and the official  
29 version of the facts, the respondent's offense history, an assessment  
30 of drug-alcohol problems and previous treatment attempts, the  
31 respondent's social, educational, and employment situation, and other  
32 evaluation measures used. The report shall set forth the sources of  
33 the examiner's information.

34 (3) The examiner shall assess and report regarding the respondent's  
35 relative risk to the community. A proposed treatment plan shall be  
36 provided and shall include, at a minimum:

- 37 (a) Whether inpatient and/or outpatient treatment is recommended;  
38 (b) Availability of appropriate treatment;

1 (c) Monitoring plans, including any requirements regarding living  
2 conditions, lifestyle requirements, and monitoring by family members,  
3 legal guardians, or others;

4 (d) Anticipated length of treatment; and

5 (e) Recommended crime-related prohibitions.

6 (4) The court on its own motion may order, or on a motion by the  
7 state or the respondent shall order, a second examination. The  
8 evaluator shall be selected by the party making the motion. The  
9 requesting party shall pay the cost of any examination ordered under  
10 this subsection unless the requesting party is the offender and the  
11 court finds that the offender is indigent and no third party insurance  
12 coverage is available, in which case the state shall pay the cost.

13 (5)(a) After receipt of reports of the examination, the court shall  
14 then consider whether the offender and the community will benefit from  
15 use of this chemical dependency disposition alternative and consider  
16 the victim's opinion whether the offender should receive a treatment  
17 disposition under this section.

18 (b) If the court determines that this chemical dependency  
19 disposition alternative is appropriate, then the court shall impose the  
20 standard range for the offense, suspend execution of the disposition,  
21 and place the offender on community supervision for up to one year. As  
22 a condition of the suspended disposition, the court shall require the  
23 offender to undergo available outpatient drug/alcohol treatment and/or  
24 inpatient drug/alcohol treatment. For purposes of this section,  
25 inpatient treatment may not exceed ninety days. As a condition of the  
26 suspended disposition, the court may impose conditions of community  
27 supervision and other sanctions, including up to thirty days of  
28 confinement, one hundred fifty hours of community ((service))  
29 restitution, and payment of legal financial obligations and  
30 restitution.

31 (6) The drug/alcohol treatment provider shall submit monthly  
32 reports on the respondent's progress in treatment to the court and the  
33 parties. The reports shall reference the treatment plan and include at  
34 a minimum the following: Dates of attendance, respondent's compliance  
35 with requirements, treatment activities, the respondent's relative  
36 progress in treatment, and any other material specified by the court at  
37 the time of the disposition.

38 At the time of the disposition, the court may set treatment review  
39 hearings as the court considers appropriate.

1 If the offender violates any condition of the disposition or the  
2 court finds that the respondent is failing to make satisfactory  
3 progress in treatment, the court may impose sanctions pursuant to RCW  
4 13.40.200 or revoke the suspension and order execution of the  
5 disposition. The court shall give credit for any confinement time  
6 previously served if that confinement was for the offense for which the  
7 suspension is being revoked.

8 (7) For purposes of this section, "victim" means any person who has  
9 sustained emotional, psychological, physical, or financial injury to  
10 person or property as a direct result of the offense charged.

11 (8) Whenever a juvenile offender is entitled to credit for time  
12 spent in detention prior to a dispositional order, the dispositional  
13 order shall specifically state the number of days of credit for time  
14 served.

15 (9) In no case shall the term of confinement imposed by the court  
16 at disposition exceed that to which an adult could be subjected for the  
17 same offense.

18 (10) A disposition under this section is not appealable under RCW  
19 13.40.230.

20 **Sec. 24.** RCW 13.40.180 and 1981 c 299 s 14 are each amended to  
21 read as follows:

22 Where a disposition is imposed on a youth for two or more offenses,  
23 the terms shall run consecutively, subject to the following  
24 limitations:

25 (1) Where the offenses were committed through a single act or  
26 omission, omission, or through an act or omission which in itself  
27 constituted one of the offenses and also was an element of the other,  
28 the aggregate of all the terms shall not exceed one hundred fifty  
29 percent of the term imposed for the most serious offense;

30 (2) The aggregate of all consecutive terms shall not exceed three  
31 hundred percent of the term imposed for the most serious offense; and

32 (3) The aggregate of all consecutive terms of community supervision  
33 shall not exceed two years in length, or require payment of more than  
34 two hundred dollars in fines or the performance of more than two  
35 hundred hours of community ((service)) restitution.

36 **Sec. 25.** RCW 13.40.200 and 1997 c 338 s 31 are each amended to  
37 read as follows:

1 (1) When a respondent fails to comply with an order of restitution,  
2 community supervision, penalty assessments, or confinement of less than  
3 thirty days, the court upon motion of the prosecutor or its own motion,  
4 may modify the order after a hearing on the violation.

5 (2) The hearing shall afford the respondent the same due process of  
6 law as would be afforded an adult probationer. The court may issue a  
7 summons or a warrant to compel the respondent's appearance. The state  
8 shall have the burden of proving by a preponderance of the evidence the  
9 fact of the violation. The respondent shall have the burden of showing  
10 that the violation was not a willful refusal to comply with the terms  
11 of the order. If a respondent has failed to pay a fine, penalty  
12 assessments, or restitution or to perform community ~~((service))~~  
13 restitution hours, as required by the court, it shall be the  
14 respondent's burden to show that he or she did not have the means and  
15 could not reasonably have acquired the means to pay the fine, penalty  
16 assessments, or restitution or perform community ~~((service))~~  
17 restitution.

18 (3) If the court finds that a respondent has willfully violated the  
19 terms of an order pursuant to subsections (1) and (2) of this section,  
20 it may impose a penalty of up to thirty days' confinement. Penalties  
21 for multiple violations occurring prior to the hearing shall not be  
22 aggregated to exceed thirty days' confinement. Regardless of the  
23 number of times a respondent is brought to court for violations of the  
24 terms of a single disposition order, the combined total number of days  
25 spent by the respondent in detention shall never exceed the maximum  
26 term to which an adult could be sentenced for the underlying offense.

27 (4) If a respondent has been ordered to pay a fine or monetary  
28 penalty and due to a change of circumstance cannot reasonably comply  
29 with the order, the court, upon motion of the respondent, may order  
30 that the unpaid fine or monetary penalty be converted to community  
31 ~~((service))~~ restitution. The number of hours of community ~~((service))~~  
32 restitution in lieu of a monetary penalty or fine shall be converted at  
33 the rate of the prevailing state minimum wage per hour. The monetary  
34 penalties or fines collected shall be deposited in the county general  
35 fund. A failure to comply with an order under this subsection shall be  
36 deemed a failure to comply with an order of community supervision and  
37 may be proceeded against as provided in this section.

(5) When a respondent has willfully violated the terms of a probation bond, the court may modify, revoke, or retain the probation bond as provided in RCW 13.40.054.

**Sec. 26.** RCW 13.40.205 and 1990 c 3 s 103 are each amended to read as follows:

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all pre-minimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

1       (5) Upon authorizing a leave, the secretary shall issue to the  
2 juvenile an authorized leave order which shall contain the name of the  
3 juvenile, the fact that the juvenile is on leave from a designated  
4 facility, the time period of the leave, and the identity of an  
5 appropriate official of the department to contact when necessary. The  
6 authorized leave order shall be carried by the juvenile at all times  
7 while on leave.

8       (6) Prior to the commencement of any authorized leave, the  
9 secretary shall give notice of the leave to the appropriate law  
10 enforcement agency in the jurisdiction in which the juvenile will  
11 reside during the leave period. The notice shall include the identity  
12 of the juvenile, the time period of the leave, the residence of the  
13 juvenile during the leave, and the identity of the person responsible  
14 for supervising the juvenile during the leave.

15       (7) The secretary may authorize a leave, which shall not exceed  
16 forty-eight hours plus travel time, to meet an emergency situation such  
17 as a death or critical illness of a member of the juvenile's family.  
18 The secretary may authorize a leave, which shall not exceed the period  
19 of time medically necessary, to obtain medical care not available in a  
20 juvenile facility maintained by the department. In cases of emergency  
21 or medical leave the secretary may waive all or any portions of  
22 subsections (2)(a), (3), (4), (5), and (6) of this section.

23       (8) If requested by the juvenile's victim or the victim's immediate  
24 family, the secretary shall give notice of any leave to the victim or  
25 the victim's immediate family.

26       (9) A juvenile who violates any condition of an authorized leave  
27 plan may be taken into custody and returned to the department in the  
28 same manner as an adult in identical circumstances.

29       (10) Notwithstanding the provisions of this section, a juvenile  
30 placed in minimum security status may participate in work, educational,  
31 community ((~~service~~)) restitution, or treatment programs in the  
32 community up to twelve hours a day if approved by the secretary. Such  
33 a release shall not be deemed a leave of absence.

34       (11) Subsections (6), (7), and (8) of this section do not apply to  
35 juveniles covered by RCW 13.40.215.

36       **Sec. 27.** RCW 13.40.210 and 2001 c 137 s 2 and 2001 c 51 s 1 are  
37 each reenacted and amended to read as follows:

1       (1) The secretary shall set a release date for each juvenile  
2 committed to its custody. The release date shall be within the  
3 prescribed range to which a juvenile has been committed under RCW  
4 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning  
5 offenders the department determines are eligible for the juvenile  
6 offender basic training camp program. Such dates shall be determined  
7 prior to the expiration of sixty percent of a juvenile's minimum term  
8 of confinement included within the prescribed range to which the  
9 juvenile has been committed. The secretary shall release any juvenile  
10 committed to the custody of the department within four calendar days  
11 prior to the juvenile's release date or on the release date set under  
12 this chapter. Days spent in the custody of the department shall be  
13 tolled by any period of time during which a juvenile has absented  
14 himself or herself from the department's supervision without the prior  
15 approval of the secretary or the secretary's designee.

16       (2) The secretary shall monitor the average daily population of the  
17 state's juvenile residential facilities. When the secretary concludes  
18 that in-residence population of residential facilities exceeds one  
19 hundred five percent of the rated bed capacity specified in statute, or  
20 in absence of such specification, as specified by the department in  
21 rule, the secretary may recommend reductions to the governor. On  
22 certification by the governor that the recommended reductions are  
23 necessary, the secretary has authority to administratively release a  
24 sufficient number of offenders to reduce in-residence population to one  
25 hundred percent of rated bed capacity. The secretary shall release  
26 those offenders who have served the greatest proportion of their  
27 sentence. However, the secretary may deny release in a particular case  
28 at the request of an offender, or if the secretary finds that there is  
29 no responsible custodian, as determined by the department, to whom to  
30 release the offender, or if the release of the offender would pose a  
31 clear danger to society. The department shall notify the committing  
32 court of the release at the time of release if any such early releases  
33 have occurred as a result of excessive in-residence population. In no  
34 event shall an offender adjudicated of a violent offense be granted  
35 release under the provisions of this subsection.

36       (3)(a) Following the release of any juvenile under subsection (1)  
37 of this section, the secretary may require the juvenile to comply with  
38 a program of parole to be administered by the department in his or her  
39 community which shall last no longer than eighteen months, except that

1 in the case of a juvenile sentenced for rape in the first or second  
2 degree, rape of a child in the first or second degree, child  
3 molestation in the first degree, or indecent liberties with forcible  
4 compulsion, the period of parole shall be twenty-four months and, in  
5 the discretion of the secretary, may be up to thirty-six months when  
6 the secretary finds that an additional period of parole is necessary  
7 and appropriate in the interests of public safety or to meet the  
8 ongoing needs of the juvenile. A parole program is mandatory for  
9 offenders released under subsection (2) of this section. The decision  
10 to place an offender on parole shall be based on an assessment by the  
11 department of the offender's risk for reoffending upon release. The  
12 department shall prioritize available parole resources to provide  
13 supervision and services to offenders at moderate to high risk for  
14 reoffending.

15 (b) The secretary shall, for the period of parole, facilitate the  
16 juvenile's reintegration into his or her community and to further this  
17 goal shall require the juvenile to refrain from possessing a firearm or  
18 using a deadly weapon and refrain from committing new offenses and may  
19 require the juvenile to: (i) Undergo available medical, psychiatric,  
20 drug and alcohol, sex offender, mental health, and other offense-  
21 related treatment services; (ii) report as directed to a parole officer  
22 and/or designee; (iii) pursue a course of study, vocational training,  
23 or employment; (iv) notify the parole officer of the current address  
24 where he or she resides; (v) be present at a particular address during  
25 specified hours; (vi) remain within prescribed geographical boundaries;  
26 (vii) submit to electronic monitoring; (viii) refrain from using  
27 illegal drugs and alcohol, and submit to random urinalysis when  
28 requested by the assigned parole officer; (ix) refrain from contact  
29 with specific individuals or a specified class of individuals; (x) meet  
30 other conditions determined by the parole officer to further enhance  
31 the juvenile's reintegration into the community; (xi) pay any court-  
32 ordered fines or restitution; and (xii) perform community ((service))  
33 restitution. Community ((service)) restitution for the purpose of this  
34 section means compulsory service, without compensation, performed for  
35 the benefit of the community by the offender. Community ((service))  
36 restitution may be performed through public or private organizations or  
37 through work crews.

38 (c) The secretary may further require up to twenty-five percent of  
39 the highest risk juvenile offenders who are placed on parole to

1 participate in an intensive supervision program. Offenders  
2 participating in an intensive supervision program shall be required to  
3 comply with all terms and conditions listed in (b) of this subsection  
4 and shall also be required to comply with the following additional  
5 terms and conditions: (i) Obey all laws and refrain from any conduct  
6 that threatens public safety; (ii) report at least once a week to an  
7 assigned community case manager; and (iii) meet all other requirements  
8 imposed by the community case manager related to participating in the  
9 intensive supervision program. As a part of the intensive supervision  
10 program, the secretary may require day reporting.

11 (d) After termination of the parole period, the juvenile shall be  
12 discharged from the department's supervision.

13 (4)(a) The department may also modify parole for violation thereof.  
14 If, after affording a juvenile all of the due process rights to which  
15 he or she would be entitled if the juvenile were an adult, the  
16 secretary finds that a juvenile has violated a condition of his or her  
17 parole, the secretary shall order one of the following which is  
18 reasonably likely to effectuate the purpose of the parole and to  
19 protect the public: (i) Continued supervision under the same  
20 conditions previously imposed; (ii) intensified supervision with  
21 increased reporting requirements; (iii) additional conditions of  
22 supervision authorized by this chapter; (iv) except as provided in  
23 (a)(v) and (vi) of this subsection, imposition of a period of  
24 confinement not to exceed thirty days in a facility operated by or  
25 pursuant to a contract with the state of Washington or any city or  
26 county for a portion of each day or for a certain number of days each  
27 week with the balance of the days or weeks spent under supervision; (v)  
28 the secretary may order any of the conditions or may return the  
29 offender to confinement for the remainder of the sentence range if the  
30 offense for which the offender was sentenced is rape in the first or  
31 second degree, rape of a child in the first or second degree, child  
32 molestation in the first degree, indecent liberties with forcible  
33 compulsion, or a sex offense that is also a serious violent offense as  
34 defined by RCW 9.94A.030; and (vi) the secretary may order any of the  
35 conditions or may return the offender to confinement for the remainder  
36 of the sentence range if the youth has completed the basic training  
37 camp program as described in RCW 13.40.320.

38 (b) If the department finds that any juvenile in a program of  
39 parole has possessed a firearm or used a deadly weapon during the

1 program of parole, the department shall modify the parole under (a) of  
2 this subsection and confine the juvenile for at least thirty days.  
3 Confinement shall be in a facility operated by or pursuant to a  
4 contract with the state or any county.

5 (5) A parole officer of the department of social and health  
6 services shall have the power to arrest a juvenile under his or her  
7 supervision on the same grounds as a law enforcement officer would be  
8 authorized to arrest the person.

9 (6) If so requested and approved under chapter 13.06 RCW, the  
10 secretary shall permit a county or group of counties to perform  
11 functions under subsections (3) through (5) of this section.

12 **Sec. 28.** RCW 13.40.250 and 1997 c 338 s 36 are each amended to  
13 read as follows:

14 A traffic or civil infraction case involving a juvenile under the  
15 age of sixteen may be diverted in accordance with the provisions of  
16 this chapter or filed in juvenile court.

17 (1) If a notice of a traffic or civil infraction is filed in  
18 juvenile court, the juvenile named in the notice shall be afforded the  
19 same due process afforded to adult defendants in traffic infraction  
20 cases.

21 (2) A monetary penalty imposed upon a juvenile under the age of  
22 sixteen who is found to have committed a traffic or civil infraction  
23 may not exceed one hundred dollars. At the juvenile's request, the  
24 court may order performance of a number of hours of community  
25 ~~((service))~~ restitution in lieu of a monetary penalty, at the rate of  
26 the prevailing state minimum wage per hour.

27 (3) A diversion agreement entered into by a juvenile referred  
28 pursuant to this section shall be limited to thirty hours of community  
29 ~~((service))~~ restitution, or educational or informational sessions.

30 (4) If a case involving the commission of a traffic or civil  
31 infraction or offense by a juvenile under the age of sixteen has been  
32 referred to a diversion unit, an abstract of the action taken by the  
33 diversion unit may be forwarded to the department of licensing in the  
34 manner provided for in RCW 46.20.270(2).

35 **Sec. 29.** RCW 28A.225.090 and 2000 c 162 s 15 and 2000 c 61 s 1 are  
36 each reenacted and amended to read as follows:

1 (1) A court may order a child subject to a petition under RCW  
2 28A.225.035 to do one or more of the following:

3 (a) Attend the child's current school, and set forth minimum  
4 attendance requirements, including suspensions;

5 (b) If there is space available and the program can provide  
6 educational services appropriate for the child, order the child to  
7 attend another public school, an alternative education program, center,  
8 a skill center, dropout prevention program, or another public  
9 educational program;

10 (c) Attend a private nonsectarian school or program including an  
11 education center. Before ordering a child to attend an approved or  
12 certified private nonsectarian school or program, the court shall: (i)  
13 Consider the public and private programs available; (ii) find that  
14 placement is in the best interest of the child; and (iii) find that the  
15 private school or program is willing to accept the child and will not  
16 charge any fees in addition to those established by contract with the  
17 student's school district. If the court orders the child to enroll in  
18 a private school or program, the child's school district shall contract  
19 with the school or program to provide educational services for the  
20 child. The school district shall not be required to contract for a  
21 weekly rate that exceeds the state general apportionment dollars  
22 calculated on a weekly basis generated by the child and received by the  
23 district. A school district shall not be required to enter into a  
24 contract that is longer than the remainder of the school year. A  
25 school district shall not be required to enter into or continue a  
26 contract if the child is no longer enrolled in the district;

27 (d) Be referred to a community truancy board, if available; or

28 (e) Submit to testing for the use of controlled substances or  
29 alcohol based on a determination that such testing is appropriate to  
30 the circumstances and behavior of the child and will facilitate the  
31 child's compliance with the mandatory attendance law and, if any test  
32 ordered under this subsection indicates the use of controlled  
33 substances or alcohol, order the minor to abstain from the unlawful  
34 consumption of controlled substances or alcohol and adhere to the  
35 recommendations of the drug assessment at no expense to the school.

36 (2) If the child fails to comply with the court order, the court  
37 may order the child to be subject to detention, as provided in RCW  
38 7.21.030(2)(e), or may impose alternatives to detention such as  
39 community ((service)) restitution. Failure by a child to comply with

1 an order issued under this subsection shall not be subject to detention  
2 for a period greater than that permitted pursuant to a civil contempt  
3 proceeding against a child under chapter 13.32A RCW.

4 (3) Any parent violating any of the provisions of either RCW  
5 28A.225.010, 28A.225.015, or 28A.225.080 shall be fined not more than  
6 twenty-five dollars for each day of unexcused absence from school. It  
7 shall be a defense for a parent charged with violating RCW 28A.225.010  
8 to show that he or she exercised reasonable diligence in attempting to  
9 cause a child in his or her custody to attend school or that the  
10 child's school did not perform its duties as required in RCW  
11 28A.225.020. The court may order the parent to provide community  
12 ((service)) restitution instead of imposing a fine. Any fine imposed  
13 pursuant to this section may be suspended upon the condition that a  
14 parent charged with violating RCW 28A.225.010 shall participate with  
15 the school and the child in a supervised plan for the child's  
16 attendance at school or upon condition that the parent attend a  
17 conference or conferences scheduled by a school for the purpose of  
18 analyzing the causes of a child's absence.

19 (4) If a child continues to be truant after entering into a court-  
20 approved order with the truancy board under RCW 28A.225.035, the  
21 juvenile court shall find the child in contempt, and the court may  
22 order the child to be subject to detention, as provided in RCW  
23 7.21.030(2)(e), or may impose alternatives to detention such as  
24 meaningful community ((service)) restitution. Failure by a child to  
25 comply with an order issued under this subsection may not subject a  
26 child to detention for a period greater than that permitted under a  
27 civil contempt proceeding against a child under chapter 13.32A RCW.

28 (5) Subsections (1), (2), and (4) of this section shall not apply  
29 to a six or seven year-old child required to attend public school under  
30 RCW 28A.225.015.

31 **Sec. 30.** RCW 35.21.209 and 1984 c 24 s 1 are each amended to read  
32 as follows:

33 The legislative authority of a city or town may purchase liability  
34 insurance in an amount it deems reasonable to protect the city or town,  
35 its officers, and employees against liability for the wrongful acts of  
36 offenders or injury or damage incurred by offenders in the course of  
37 court-ordered community ((service)) restitution, and may elect to treat  
38 offenders as employees and/or workers under Title 51 RCW.

1       **Sec. 31.** RCW 35A.21.220 and 1984 c 24 s 2 are each amended to read  
2 as follows:

3       The legislative authority of a code city may purchase liability  
4 insurance in an amount it deems reasonable to protect the code city,  
5 its officers, and employees against liability for the wrongful acts of  
6 offenders or injury or damage incurred by offenders in the course of  
7 court-ordered community ((~~service~~)) restitution, and may elect to treat  
8 offenders as employees and/or workers under Title 51 RCW.

9       **Sec. 32.** RCW 36.16.139 and 1984 c 24 s 3 are each amended to read  
10 as follows:

11       The legislative authority of a county may purchase liability  
12 insurance in an amount it deems reasonable to protect the county, its  
13 officers, and employees against liability for the wrongful acts of  
14 offenders or injury or damage incurred by offenders in the course of  
15 community ((~~service~~)) restitution imposed by court order or pursuant to  
16 RCW 13.40.080. The legislative authority of a county may elect to  
17 treat offenders as employees and/or workers under Title 51 RCW.

18       **Sec. 33.** RCW 46.16.381 and 2001 c 67 s 1 are each amended to read  
19 as follows:

20       (1) The director shall grant special parking privileges to any  
21 person who has a disability that limits or impairs the ability to walk  
22 and meets one of the following criteria, as determined by a licensed  
23 physician:

24       (a) Cannot walk two hundred feet without stopping to rest;

25       (b) Is severely limited in ability to walk due to arthritic,  
26 neurological, or orthopedic condition;

27       (c) Is so severely disabled, that the person cannot walk without  
28 the use of or assistance from a brace, cane, another person, prosthetic  
29 device, wheelchair, or other assistive device;

30       (d) Uses portable oxygen;

31       (e) Is restricted by lung disease to such an extent that forced  
32 expiratory respiratory volume, when measured by spirometry is less than  
33 one liter per second or the arterial oxygen tension is less than sixty  
34 mm/hg on room air at rest;

35       (f) Impairment by cardiovascular disease or cardiac condition to  
36 the extent that the person's functional limitations are classified as

1 class III or IV under standards accepted by the American Heart  
2 Association; or

3 (g) Has a disability resulting from an acute sensitivity to  
4 automobile emissions which limits or impairs the ability to walk. The  
5 personal physician of the applicant shall document that the disability  
6 is comparable in severity to the others listed in this subsection.

7 (2) The applications for disabled parking permits and temporary  
8 disabled parking permits are official state documents. Knowingly  
9 providing false information in conjunction with the application is a  
10 gross misdemeanor punishable under chapter 9A.20 RCW. The following  
11 statement must appear on each application form immediately below the  
12 physician's signature and immediately below the applicant's signature:  
13 "A disabled parking permit may be issued only for a medical necessity  
14 that severely affects mobility (RCW 46.16.381). Knowingly providing  
15 false information on this application is a gross misdemeanor. The  
16 penalty is up to one year in jail and a fine of up to \$5,000 or both."

17 (3) Persons who qualify for special parking privileges are entitled  
18 to receive from the department of licensing a removable windshield  
19 placard bearing the international symbol of access and an individual  
20 serial number, along with a special identification card bearing the  
21 name and date of birth of the person to whom the placard is issued, and  
22 the placard's serial number. The special identification card shall be  
23 issued no later than January 1, 2000, to all persons who are issued  
24 parking placards, including those issued for temporary disabilities,  
25 and special disabled parking license plates. The department shall  
26 design the placard to be displayed when the vehicle is parked by  
27 suspending it from the rearview mirror, or in the absence of a rearview  
28 mirror the card may be displayed on the dashboard of any vehicle used  
29 to transport the disabled person. Instead of regular motor vehicle  
30 license plates, disabled persons are entitled to receive special  
31 license plates bearing the international symbol of access for one  
32 vehicle registered in the disabled person's name. Disabled persons who  
33 are not issued the special license plates are entitled to receive a  
34 second special placard upon submitting a written request to the  
35 department. Persons who have been issued the parking privileges and  
36 who are using a vehicle or are riding in a vehicle displaying the  
37 special license plates or placard may park in places reserved for  
38 mobility disabled persons. The director shall adopt rules providing  
39 for the issuance of special placards and license plates to public

1 transportation authorities, nursing homes licensed under chapter 18.51  
2 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen  
3 centers, private nonprofit agencies as defined in chapter 24.03 RCW,  
4 and vehicles registered with the department as cabulances that  
5 regularly transport disabled persons who have been determined eligible  
6 for special parking privileges provided under this section. The  
7 director may issue special license plates for a vehicle registered in  
8 the name of the public transportation authority, nursing home, boarding  
9 homes, senior citizen center, private nonprofit agency, or cabulance  
10 service if the vehicle is primarily used to transport persons with  
11 disabilities described in this section. Public transportation  
12 authorities, nursing homes, boarding homes, senior citizen centers,  
13 private nonprofit agencies, and cabulance services are responsible for  
14 insuring that the special placards and license plates are not used  
15 improperly and are responsible for all fines and penalties for improper  
16 use.

17 (4) Whenever the disabled person transfers or assigns his or her  
18 interest in the vehicle, the special license plates shall be removed  
19 from the motor vehicle. If another vehicle is acquired by the disabled  
20 person and the vehicle owner qualifies for a special plate, the plate  
21 shall be attached to the vehicle, and the director shall be immediately  
22 notified of the transfer of the plate. If another vehicle is not  
23 acquired by the disabled person, the removed plate shall be immediately  
24 surrendered to the director.

25 (5) The special license plate shall be renewed in the same manner  
26 and at the time required for the renewal of regular motor vehicle  
27 license plates under this chapter. No special license plate may be  
28 issued to a person who is temporarily disabled. A person who has a  
29 condition expected to improve within six months may be issued a  
30 temporary placard for a period not to exceed six months. If the  
31 condition exists after six months a new temporary placard shall be  
32 issued upon receipt of a new certification from the disabled person's  
33 physician. The permanent parking placard and identification card of a  
34 disabled person shall be renewed at least every five years, as required  
35 by the director, by satisfactory proof of the right to continued use of  
36 the privileges. In the event of the permit holder's death, the parking  
37 placard and identification card must be immediately surrendered to the  
38 department. The department shall match and purge its disabled permit

1 data base with available death record information at least every twelve  
2 months.

3 (6) Each person who has been issued a permanent disabled parking  
4 permit on or before July 1, 1998, must renew the permit no later than  
5 July 1, 2003, subject to a schedule to be set by the department, or the  
6 permit will expire.

7 (7) Additional fees shall not be charged for the issuance of the  
8 special placards or the identification cards. No additional fee may be  
9 charged for the issuance of the special license plates except the  
10 regular motor vehicle registration fee and any other fees and taxes  
11 required to be paid upon registration of a motor vehicle.

12 (8) Any unauthorized use of the special placard, special license  
13 plate, or identification card is a traffic infraction with a monetary  
14 penalty of two hundred fifty dollars.

15 (9) It is a parking infraction, with a monetary penalty of two  
16 hundred fifty dollars for a person to make inaccessible the access  
17 aisle located next to a space reserved for physically disabled persons.  
18 The clerk of the court shall report all violations related to this  
19 subsection to the department.

20 (10) It is a parking infraction, with a monetary penalty of two  
21 hundred fifty dollars for any person to park a vehicle in a parking  
22 place provided on private property without charge or on public property  
23 reserved for physically disabled persons without a special license  
24 plate or placard. If a person is charged with a violation, the person  
25 shall not be determined to have committed an infraction if the person  
26 produces in court or before the court appearance the special license  
27 plate or placard required under this section. A local jurisdiction  
28 providing nonmetered, on-street parking places reserved for physically  
29 disabled persons may impose by ordinance time restrictions of no less  
30 than four hours on the use of these parking places. A local  
31 jurisdiction may impose by ordinance time restrictions of no less than  
32 four hours on the use of nonreserved, on-street parking spaces by  
33 vehicles displaying the special parking placards. All time  
34 restrictions must be clearly posted.

35 (11) The penalties imposed under subsections (9) and (10) of this  
36 section shall be used by that local jurisdiction exclusively for law  
37 enforcement. The court may also impose an additional penalty  
38 sufficient to reimburse the local jurisdiction for any costs it may  
39 have incurred in removal and storage of the improperly parked vehicle.

1 (12) Except as provided by subsection (2) of this section, it is a  
2 traffic infraction with a monetary penalty of two hundred fifty dollars  
3 for any person willfully to obtain a special license plate, placard, or  
4 identification card in a manner other than that established under this  
5 section.

6 (13)(a) A law enforcement agency authorized to enforce parking laws  
7 may appoint volunteers, with a limited commission, to issue notices of  
8 infractions for violations of this section or RCW 46.61.581.  
9 Volunteers must be at least twenty-one years of age. The law  
10 enforcement agency appointing volunteers may establish any other  
11 qualifications the agency deems desirable.

12 (b) An agency appointing volunteers under this section must provide  
13 training to the volunteers before authorizing them to issue notices of  
14 infractions.

15 (c) A notice of infraction issued by a volunteer appointed under  
16 this subsection has the same force and effect as a notice of infraction  
17 issued by a police officer for the same offense.

18 (d) A police officer or a volunteer may request a person to show  
19 the person's identification card or special parking placard when  
20 investigating the possibility of a violation of this section. If the  
21 request is refused, the person in charge of the vehicle may be issued  
22 a notice of infraction for a violation of this section.

23 (14) For second or subsequent violations of this section, in  
24 addition to a monetary fine, the violator must complete a minimum of  
25 forty hours of:

26 (a) Community ((service)) restitution for a nonprofit organization  
27 that serves the disabled community or persons having disabling  
28 diseases; or

29 (b) Any other community ((service)) restitution that may sensitize  
30 the violator to the needs and obstacles faced by persons who have  
31 disabilities.

32 (15) The court may not suspend more than one-half of any fine  
33 imposed under subsection (8), (9), (10), or (12) of this section.

34 ***\*Sec. 34. RCW 46.20.031 and 1999 c 6 s 7 are each amended to read***  
35 ***as follows:***

36 ***The department shall not issue a driver's license to a person:***

37 ***(1) Who is under the age of sixteen years;***

1       (2) Whose driving privilege has been withheld unless and until the  
2 department may authorize the driving privilege under RCW 46.20.311;

3       (3) Who has been classified as an alcoholic, drug addict, alcohol  
4 abuser, or drug abuser by a program approved by the department of  
5 social and health services. The department may, however, issue a  
6 license if the person:

7       (a) Has been granted a deferred prosecution under chapter 10.05  
8 RCW; or

9       (b) Is satisfactorily participating in or has successfully  
10 completed an alcohol or drug abuse treatment program approved by the  
11 department of social and health services and has established control of  
12 his or her alcohol or drug abuse problem;

13       (4) Who has previously been adjudged to be mentally ill or insane,  
14 or to be incompetent due to a mental disability or disease. The  
15 department shall, however, issue a license to the person if he or she  
16 otherwise qualifies and:

17       (a) Has been restored to competency by the methods provided by law;  
18 or

19       (b) The superior court finds the person able to operate a motor  
20 vehicle with safety upon the highways during such incompetency;

21       (5) Who has not passed the driver's licensing examination required  
22 by RCW 46.20.120 and 46.20.305, if applicable;

23       (6) Who is required under the laws of this state to deposit proof  
24 of financial responsibility and who has not deposited such proof;

25       (7) Who is unable to safely operate a motor vehicle upon the  
26 highways due to a physical or mental disability. The department's  
27 conclusion that a person is barred from licensing under this subsection  
28 must be reasonable and be based upon good and substantial evidence.  
29 This determination is subject to review by a court of competent  
30 jurisdiction;

31       (8) Who has violated his or her written promise to appear, respond,  
32 or comply regarding a notice of infraction issued for abandonment of a  
33 vehicle in violation of RCW 46.55.105, unless:

34       (a) The court has not notified the department of the violation;

35       (b) The department has received notice from the court showing that  
36 the person has been found not to have committed the violation of RCW  
37 46.55.105; or

38       (c) The person has paid all monetary penalties owing, including  
39 completion of community ((service)) restitution, and the court is

1 *satisfied that the person has made restitution as provided by RCW*  
2 *46.55.105(2).*

3 *\*Sec. 34 was vetoed. See message at end of chapter.*

4 **Sec. 35.** RCW 46.30.020 and 1991 sp.s. c 25 s 1 are each amended to  
5 read as follows:

6 (1)(a) No person may operate a motor vehicle subject to  
7 registration under chapter 46.16 RCW in this state unless the person is  
8 insured under a motor vehicle liability policy with liability limits of  
9 at least the amounts provided in RCW 46.29.090, is self-insured as  
10 provided in RCW 46.29.630, is covered by a certificate of deposit in  
11 conformance with RCW 46.29.550, or is covered by a liability bond of at  
12 least the amounts provided in RCW 46.29.090. Written proof of  
13 financial responsibility for motor vehicle operation must be provided  
14 on the request of a law enforcement officer in the format specified  
15 under RCW 46.30.030.

16 (b) A person who drives a motor vehicle that is required to be  
17 registered in another state that requires drivers and owners of  
18 vehicles in that state to maintain insurance or financial  
19 responsibility shall, when requested by a law enforcement officer,  
20 provide evidence of financial responsibility or insurance as is  
21 required by the laws of the state in which the vehicle is registered.

22 (c) When asked to do so by a law enforcement officer, failure to  
23 display an insurance identification card as specified under RCW  
24 46.30.030 creates a presumption that the person does not have motor  
25 vehicle insurance.

26 (d) Failure to provide proof of motor vehicle insurance is a  
27 traffic infraction and is subject to penalties as set by the supreme  
28 court under RCW 46.63.110 or community (~~service~~) restitution.

29 (2) If a person cited for a violation of subsection (1) of this  
30 section appears in person before the court and provides written  
31 evidence that at the time the person was cited, he or she was in  
32 compliance with the financial responsibility requirements of subsection  
33 (1) of this section, the citation shall be dismissed. In lieu of  
34 personal appearance, a person cited for a violation of subsection (1)  
35 of this section may, before the date scheduled for the person's  
36 appearance before the court, submit by mail to the court written  
37 evidence that at the time the person was cited, he or she was in  
38 compliance with the financial responsibility requirements of subsection

(1) of this section, in which case the citation shall be dismissed without cost, except that the court may assess court administrative costs of twenty-five dollars at the time of dismissal.

(3) The provisions of this chapter shall not govern:

(a) The operation of a motor vehicle registered under RCW 46.16.305(1), governed by RCW 46.16.020, or registered with the Washington utilities and transportation commission as common or contract carriers; or

(b) The operation of a motorcycle as defined in RCW 46.04.330, a motor-driven cycle as defined in RCW 46.04.332, or a moped as defined in RCW 46.04.304.

(4) RCW 46.29.490 shall not be deemed to govern all motor vehicle liability policies required by this chapter but only those certified for the purposes stated in chapter 46.29 RCW.

**Sec. 36.** RCW 46.63.110 and 2001 c 289 s 2 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of

chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection (3) of this section has been paid.

(6) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

(7)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of ten dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a community ((service)) restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection (7) by participation in the community ((service)) restitution program.

(b) Revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

**Sec. 37.** RCW 46.63.120 and 1979 ex.s. c 136 s 14 are each amended to read as follows:

(1) An order entered after the receipt of a response which does not contest the determination, or after it has been established at a hearing that the infraction was committed, or after a hearing for the purpose of explaining mitigating circumstances is civil in nature.

(2) The court may include in the order the imposition of any penalty authorized by the provisions of this chapter for the commission of an infraction. The court may, in its discretion, waive, reduce, or suspend the monetary penalty prescribed for the infraction. At the person's request the court may order performance of a number of hours of community ((service)) restitution in lieu of a monetary penalty, at the rate of the then state minimum wage per hour.

**Sec. 38.** RCW 46.64.055 and 2001 c 289 s 3 are each amended to read as follows:

(1) In addition to any other penalties imposed for conviction of a violation of this title that is a misdemeanor, gross misdemeanor, or felony, the court shall impose an additional penalty of fifty dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a community ((service)) restitution program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this section by participation in the community ((service)) restitution program.

(2) Revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this section to the state treasurer must be deposited as provided in RCW 43.08.250. The balance of the revenue received by the county or city treasurer under this section must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

**Sec. 39.** RCW 51.12.035 and 2001 c 138 s 3 are each amended to read as follows:

(1) Volunteers shall be deemed employees and/or workers, as the case may be, for all purposes relating to medical aid benefits under chapter 51.36 RCW.

1 A "volunteer" shall mean a person who performs any assigned or  
2 authorized duties for the state or any agency thereof, except emergency  
3 services workers as described by chapter 38.52 RCW, brought about by  
4 one's own free choice, receives no wages, and is registered and  
5 accepted as a volunteer by the state or any agency thereof, prior to  
6 the occurrence of the injury or the contraction of an occupational  
7 disease, for the purpose of engaging in authorized volunteer service:  
8 PROVIDED, That such person shall be deemed to be a volunteer although  
9 he or she may be granted maintenance and reimbursement for actual  
10 expenses necessarily incurred in performing his or her assigned or  
11 authorized duties.

12 Any and all premiums or assessments due under this title on account  
13 of such volunteer service shall be the obligation of and be paid by the  
14 state or any agency thereof which has registered and accepted the  
15 services of volunteers.

16 (2) Except as provided in RCW 51.12.050, volunteers may be deemed  
17 employees and/or workers, as the case may be, for all purposes relating  
18 to medical aid benefits under chapter 51.36 RCW at the option of any  
19 city, county, town, special district, municipal corporation, or  
20 political subdivision of any type, or any private nonprofit charitable  
21 organization, when any such unit of local government or any such  
22 nonprofit organization has given notice of covering all of its  
23 volunteers to the director prior to the occurrence of the injury or  
24 contraction of an occupational disease.

25 A "volunteer" shall mean a person who performs any assigned or  
26 authorized duties for any such unit of local government, or any such  
27 organization, except emergency services workers as described by chapter  
28 38.52 RCW, or fire fighters covered by chapter 41.24 RCW, brought about  
29 by one's own free choice, receives no wages, and is registered and  
30 accepted as a volunteer by any such unit of local government, or any  
31 such organization which has given such notice, for the purpose of  
32 engaging in authorized volunteer services: PROVIDED, That such person  
33 shall be deemed to be a volunteer although he or she may be granted  
34 maintenance and reimbursement for actual expenses necessarily incurred  
35 in performing his or her assigned or authorized duties: PROVIDED  
36 FURTHER, That juveniles performing community (~~services~~) restitution  
37 under chapter 13.40 RCW may not be granted coverage as volunteers under  
38 this section.

1 Any and all premiums or assessments due under this title on account  
2 of such volunteer service for any such unit of local government, or any  
3 such organization shall be the obligation of and be paid by such  
4 organization which has registered and accepted the services of  
5 volunteers and exercised its option to secure the medical aid benefits  
6 under chapter 51.36 RCW for such volunteers.

7 **Sec. 40.** RCW 51.12.045 and 1986 c 193 s 1 are each amended to read  
8 as follows:

9 Offenders performing community ((~~services~~)) restitution pursuant to  
10 court order or under RCW 13.40.080 may be deemed employees and/or  
11 workers under this title at the option of the state, county, city,  
12 town, or nonprofit organization under whose authorization the  
13 ((~~services are~~)) community restitution is performed. Any premiums or  
14 assessments due under this title for community ((~~services~~)) restitution  
15 work shall be the obligation of and be paid for by the state agency,  
16 county, city, town, or nonprofit organization for which the offender  
17 performed the community ((~~services~~)) restitution. Coverage commences  
18 when a state agency, county, city, town, or nonprofit organization has  
19 given notice to the director that it wishes to cover offenders  
20 performing community ((~~services~~)) restitution before the occurrence of  
21 an injury or contraction of an occupational disease.

22 **Sec. 41.** RCW 66.20.200 and 1994 c 201 s 1 are each amended to read  
23 as follows:

24 It shall be unlawful for the owner of a card of identification to  
25 transfer the card to any other person for the purpose of aiding such  
26 person to procure alcoholic beverages from any licensee or store  
27 employee. Any person who shall permit his or her card of  
28 identification to be used by another or transfer such card to another  
29 for the purpose of aiding such transferee to obtain alcoholic beverages  
30 from a licensee or store employee or gain admission to a premises or  
31 portion of a premises classified by the board as off-limits to persons  
32 under twenty-one years of age, shall be guilty of a misdemeanor  
33 punishable as provided by RCW 9A.20.021, except that a minimum fine of  
34 two hundred fifty dollars shall be imposed and any sentence requiring  
35 community ((~~service~~)) restitution shall require not fewer than twenty-  
36 five hours of ((~~such service~~)) community restitution. Any person not  
37 entitled thereto who unlawfully procures or has issued or transferred

1 to him or her a card of identification, and any person who possesses a  
2 card of identification not issued to him or her, and any person who  
3 makes any false statement on any certification card required by RCW  
4 66.20.190, as now or hereafter amended, to be signed by him or her,  
5 shall be guilty of a misdemeanor punishable as provided by RCW  
6 9A.20.021, except that a minimum fine of two hundred fifty dollars  
7 shall be imposed and any sentence requiring community ~~((service))~~  
8 restitution shall require not fewer than twenty-five hours of ~~((such~~  
9 ~~service))~~ community restitution.

10       **Sec. 42.** RCW 66.44.291 and 1987 c 101 s 1 are each amended to read  
11 as follows:

12       Every person between the ages of eighteen and twenty, inclusive,  
13 who is convicted of a violation of RCW 66.44.290 is guilty of a  
14 misdemeanor punishable as provided by RCW 9A.20.021, except that a  
15 minimum fine of two hundred fifty dollars shall be imposed and any  
16 sentence requiring community ~~((service))~~ restitution shall require not  
17 fewer than twenty-five hours of ~~((such-service))~~ community restitution.

18       **Sec. 43.** RCW 66.44.325 and 1987 c 101 s 2 are each amended to read  
19 as follows:

20       Any person who transfers in any manner an identification of age to  
21 a minor for the purpose of permitting such minor to obtain alcoholic  
22 beverages shall be guilty of a misdemeanor punishable as provided by  
23 RCW 9A.20.021, except that a minimum fine of two hundred fifty dollars  
24 shall be imposed and any sentence requiring community ~~((service))~~  
25 restitution shall require not fewer than twenty-five hours of ~~((such~~  
26 ~~service))~~ community restitution: PROVIDED, That corroborative  
27 testimony of a witness other than the minor shall be a condition  
28 precedent to conviction.

29       **Sec. 44.** RCW 69.50.425 and 1989 c 271 s 105 are each amended to  
30 read as follows:

31       A person who is convicted of a misdemeanor violation of any  
32 provision of this chapter shall be punished by imprisonment for not  
33 less than twenty-four consecutive hours, and by a fine of not less than  
34 two hundred fifty dollars. On a second or subsequent conviction, the  
35 fine shall not be less than five hundred dollars. These fines shall be

1 in addition to any other fine or penalty imposed. Unless the court  
2 finds that the imposition of the minimum imprisonment will pose a  
3 substantial risk to the defendant's physical or mental well-being or  
4 that local jail facilities are in an overcrowded condition, the minimum  
5 term of imprisonment shall not be suspended or deferred. If the court  
6 finds such risk or overcrowding exists, it shall sentence the defendant  
7 to a minimum of forty hours of community ((service)) restitution. If  
8 a minimum term of imprisonment is suspended or deferred, the court  
9 shall state in writing the reason for granting the suspension or  
10 deferral and the facts upon which the suspension or deferral is based.  
11 Unless the court finds the person to be indigent, the minimum fine  
12 shall not be suspended or deferred.

13 **Sec. 45.** RCW 70.93.060 and 2001 c 139 s 1 are each amended to read  
14 as follows:

15 (1) It is a violation of this section to abandon a junk vehicle  
16 upon any property. In addition, no person shall throw, drop, deposit,  
17 discard, or otherwise dispose of litter upon any public property in the  
18 state or upon private property in this state not owned by him or her or  
19 in the waters of this state whether from a vehicle or otherwise  
20 including but not limited to any public highway, public park, beach,  
21 campground, forest land, recreational area, trailer park, highway,  
22 road, street, or alley except:

23 (a) When the property is designated by the state or its agencies or  
24 political subdivisions for the disposal of garbage and refuse, and the  
25 person is authorized to use such property for that purpose;

26 (b) Into a litter receptacle in a manner that will prevent litter  
27 from being carried away or deposited by the elements upon any part of  
28 the private or public property or waters.

29 (2)(a) Except as provided in subsection (4) of this section, it is  
30 a class 3 civil infraction as provided in RCW 7.80.120 for a person to  
31 litter in an amount less than or equal to one cubic foot.

32 (b) It is a misdemeanor for a person to litter in an amount greater  
33 than one cubic foot but less than one cubic yard. The person shall  
34 also pay a litter cleanup restitution payment equal to twice the actual  
35 cost of cleanup, or fifty dollars per cubic foot of litter, whichever  
36 is greater. The court shall distribute one-half of the restitution  
37 payment to the landowner and one-half of the restitution payment to the  
38 law enforcement agency investigating the incident. The court may, in

1 addition to or in lieu of part or all of the cleanup restitution  
2 payment, order the person to pick up and remove litter from the  
3 property, with prior permission of the legal owner or, in the case of  
4 public property, of the agency managing the property. The court may  
5 suspend or modify the litter cleanup restitution payment for a first-  
6 time offender under this section, if the person cleans up and properly  
7 disposes of the litter.

8 (c) It is a gross misdemeanor for a person to litter in an amount  
9 of one cubic yard or more. The person shall also pay a litter cleanup  
10 restitution payment equal to twice the actual cost of cleanup, or one  
11 hundred dollars per cubic foot of litter, whichever is greater. The  
12 court shall distribute one-half of the restitution payment to the  
13 landowner and one-half of the restitution payment to the law  
14 enforcement agency investigating the incident. The court may, in  
15 addition to or in lieu of part or all of the cleanup restitution  
16 payment, order the person to pick up and remove litter from the  
17 property, with prior permission of the legal owner or, in the case of  
18 public property, of the agency managing the property. The court may  
19 suspend or modify the litter cleanup restitution payment for a first-  
20 time offender under this section, if the person cleans up and properly  
21 disposes of the litter.

22 (d) If a junk vehicle is abandoned in violation of this section,  
23 RCW 46.55.230 governs the vehicle's removal, disposal, and sale, and  
24 the penalties that may be imposed against the person who abandoned the  
25 vehicle.

26 (3) If the violation occurs in a state park, the court shall, in  
27 addition to any other penalties assessed, order the person to perform  
28 twenty-four hours of community ~~((service))~~ restitution in the state  
29 park where the violation occurred if the state park has stated an  
30 intent to participate as provided in RCW 79A.05.050.

31 (4) It is a class 1 civil infraction as provided in RCW 7.80.120  
32 for a person to discard, in violation of this section, a cigarette,  
33 cigar, or other tobacco product that is capable of starting a fire.

34 **Sec. 46.** RCW 70.93.250 and 1998 c 257 s 10 and 1998 c 245 s 128  
35 are each reenacted and amended to read as follows:

36 (1) The department shall provide funding to local units of  
37 government to establish, conduct, and evaluate community ~~((service))~~  
38 restitution and other programs for waste reduction, litter and illegal

1 dump cleanup, and recycling. Programs eligible for funding under this  
2 section shall include, but not be limited to, programs established  
3 pursuant to RCW 72.09.260.

4 (2) Funds may be offered for costs associated with community waste  
5 reduction, litter cleanup and prevention, and recycling activities.  
6 The funding program must be flexible, allowing local governments to use  
7 funds broadly to meet their needs to reduce waste, control litter and  
8 illegal dumping, and promote recycling. Local governments are required  
9 to contribute resources or in-kind services. The department shall  
10 evaluate funding requests from local government according to the same  
11 criteria as those developed in RCW 70.93.220, provide funds according  
12 to the effectiveness and efficiency of local government litter control  
13 programs, and monitor the results of all local government programs  
14 under this section.

15 (3) Local governments shall report information as requested by the  
16 department in funding agreements entered into by the department and a  
17 local government. The department shall report to the appropriate  
18 standing committees of the legislature by December of even-numbered  
19 years on the effectiveness of local government waste reduction, litter,  
20 and recycling programs funded under this section.

21 **Sec. 47.** RCW 70.155.080 and 1998 c 133 s 2 are each amended to  
22 read as follows:

23 (1) A person under the age of eighteen who purchases or attempts to  
24 purchase, possesses, or obtains or attempts to obtain cigarettes or  
25 tobacco products commits a class 3 civil infraction under chapter 7.80  
26 RCW and is subject to a fine as set out in chapter 7.80 RCW or  
27 participation in up to four hours of community ~~((service))~~ restitution,  
28 or both. The court may also require participation in a smoking  
29 cessation program. This provision does not apply if a person under the  
30 age of eighteen, with parental authorization, is participating in a  
31 controlled purchase as part of a liquor control board, law enforcement,  
32 or local health department activity.

33 (2) Municipal and district courts within the state have  
34 jurisdiction for enforcement of this section.

35 **Sec. 48.** RCW 72.09.060 and 1989 c 185 s 3 are each amended to read  
36 as follows:

1       The department of corrections may be organized into such divisions  
2 or offices as the secretary may determine, but shall include divisions  
3 for (1) correctional industries, (2) prisons and other custodial  
4 institutions and (3) probation, parole, community ~~((service))~~  
5 restitution, restitution, and other nonincarcerative sanctions. The  
6 secretary shall have at least one person on his or her staff who shall  
7 have the responsibility for developing a program which encourages the  
8 use of volunteers, for citizen advisory groups, and for similar public  
9 involvement programs in the corrections area. Minimum qualification  
10 for staff assigned to public involvement responsibilities shall include  
11 previous experience in working with volunteers or volunteer agencies.

12       **Sec. 49.** RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each  
13 amended to read as follows:

14       It is the intent of the legislature to vest in the department the  
15 power to provide for a comprehensive inmate work program and to remove  
16 statutory and other restrictions which have limited work programs in  
17 the past. For purposes of establishing such a comprehensive program,  
18 the legislature recommends that the department consider adopting any or  
19 all, or any variation of, the following classes of work programs:

20       (1) CLASS I: FREE VENTURE INDUSTRIES. The employer model  
21 industries in this class shall be operated and managed in total or in  
22 part by any profit or nonprofit organization pursuant to an agreement  
23 between the organization and the department. The organization shall  
24 produce goods or services for sale to both the public and private  
25 sector.

26       The customer model industries in this class shall be operated and  
27 managed by the department to provide Washington state manufacturers or  
28 businesses with products or services currently produced or provided by  
29 out-of-state or foreign suppliers. The correctional industries board  
30 of directors shall review these proposed industries before the  
31 department contracts to provide such products or services. The review  
32 shall include an analysis of the potential impact of the proposed  
33 products and services on the Washington state business community and  
34 labor market.

35       The department of corrections shall supply appropriate security and  
36 custody services without charge to the participating firms.

1 Inmates who work in free venture industries shall do so at their  
2 own choice. They shall be paid a wage comparable to the wage paid for  
3 work of a similar nature in the locality in which the industry is  
4 located, as determined by the director of correctional industries. If  
5 the director cannot reasonably determine the comparable wage, then the  
6 pay shall not be less than the federal minimum wage.

7 An inmate who is employed in the class I program of correctional  
8 industries shall not be eligible for unemployment compensation benefits  
9 pursuant to any of the provisions of Title 50 RCW until released on  
10 parole or discharged.

11 (2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class  
12 shall be state-owned and operated enterprises designed to reduce the  
13 costs for goods and services for tax-supported agencies and for  
14 nonprofit organizations. The industries selected for development  
15 within this class shall, as much as possible, match the available pool  
16 of inmate work skills and aptitudes with the work opportunities in the  
17 free community. The industries shall be closely patterned after  
18 private sector industries but with the objective of reducing public  
19 support costs rather than making a profit. The products and services  
20 of this industry, including purchased products and services necessary  
21 for a complete product line, may be sold to public agencies, to  
22 nonprofit organizations, and to private contractors when the goods  
23 purchased will be ultimately used by a public agency or a nonprofit  
24 organization. Clothing manufactured by an industry in this class may  
25 be donated to nonprofit organizations that provide clothing free of  
26 charge to low-income persons. Correctional industries products and  
27 services shall be reviewed by the correctional industries board of  
28 directors before offering such products and services for sale to  
29 private contractors. The board of directors shall conduct a yearly  
30 marketing review of the products and services offered under this  
31 subsection. Such review shall include an analysis of the potential  
32 impact of the proposed products and services on the Washington state  
33 business community. To avoid waste or spoilage and consequent loss to  
34 the state, when there is no public sector market for such goods,  
35 byproducts and surpluses of timber, agricultural, and animal husbandry  
36 enterprises may be sold to private persons, at private sale. Surplus  
37 byproducts and surpluses of timber, agricultural and animal husbandry  
38 enterprises that cannot be sold to public agencies or to private  
39 persons may be donated to nonprofit organizations. All sales of

1 surplus products shall be carried out in accordance with rules  
2 prescribed by the secretary.

3 Security and custody services shall be provided without charge by  
4 the department of corrections.

5 Inmates working in this class of industries shall do so at their  
6 own choice and shall be paid for their work on a gratuity scale which  
7 shall not exceed the wage paid for work of a similar nature in the  
8 locality in which the industry is located and which is approved by the  
9 director of correctional industries.

10 Subject to approval of the correctional industries board,  
11 provisions of RCW 41.06.380 prohibiting contracting out work performed  
12 by classified employees shall not apply to contracts with Washington  
13 state businesses entered into by the department of corrections through  
14 class II industries.

15 (3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in  
16 this class shall be operated by the department of corrections. They  
17 shall be designed and managed to accomplish the following objectives:

18 (a) Whenever possible, to provide basic work training and  
19 experience so that the inmate will be able to qualify for better work  
20 both within correctional industries and the free community. It is not  
21 intended that an inmate's work within this class of industries should  
22 be his or her final and total work experience as an inmate.

23 (b) Whenever possible, to provide forty hours of work or work  
24 training per week.

25 (c) Whenever possible, to offset tax and other public support  
26 costs.

27 Supervising, management, and custody staff shall be employees of  
28 the department.

29 All able and eligible inmates who are assigned work and who are not  
30 working in other classes of industries shall work in this class.

31 Except for inmates who work in work training programs, inmates in  
32 this class shall be paid for their work in accordance with an inmate  
33 gratuity scale. The scale shall be adopted by the secretary of  
34 corrections.

35 (4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class  
36 shall be operated by the department of corrections. They shall be  
37 designed and managed to provide services in the inmate's resident  
38 community at a reduced cost. The services shall be provided to public

1 agencies, to persons who are poor or infirm, or to nonprofit  
2 organizations.

3 Inmates in this program shall reside in facilities owned by,  
4 contracted for, or licensed by the department of corrections. A unit  
5 of local government shall provide work supervision services without  
6 charge to the state and shall pay the inmate's wage.

7 The department of corrections shall reimburse participating units  
8 of local government for liability and workers compensation insurance  
9 costs.

10 Inmates who work in this class of industries shall do so at their  
11 own choice and shall receive a gratuity which shall not exceed the wage  
12 paid for work of a similar nature in the locality in which the industry  
13 is located.

14 (5) CLASS V: COMMUNITY ((~~SERVICE~~)) RESTITUTION PROGRAMS. Programs  
15 in this class shall be subject to supervision by the department of  
16 corrections. The purpose of this class of industries is to enable an  
17 inmate, placed on community supervision, to work off all or part of a  
18 community ((~~service~~)) restitution order as ordered by the sentencing  
19 court.

20 Employment shall be in a community ((~~service~~)) restitution program  
21 operated by the state, local units of government, or a nonprofit  
22 agency.

23 To the extent that funds are specifically made available for such  
24 purposes, the department of corrections shall reimburse nonprofit  
25 agencies for workers compensation insurance costs.

26 **Sec. 50.** RCW 72.09.260 and 1990 c 66 s 2 are each amended to read  
27 as follows:

28 (1) The department shall assist local units of government in  
29 establishing community ((~~service~~)) restitution programs for litter  
30 cleanup. Community ((~~service~~)) restitution litter cleanup programs  
31 must include the following: (a) Procedures for documenting the number  
32 of community ((~~service~~)) restitution hours worked in litter cleanup by  
33 each offender; (b) plans to coordinate litter cleanup activities with  
34 local governmental entities responsible for roadside and park  
35 maintenance; (c) insurance coverage for offenders during litter cleanup  
36 activities pursuant to RCW 51.12.045; (d) provision of adequate safety  
37 equipment and, if needed, weather protection gear; and (e) provision  
38 for including felons and misdemeanants in the program.

(2) Community ((~~service~~)) restitution programs established under this section shall involve, but not be limited to, persons convicted of nonviolent, drug-related offenses.

(3) Nothing in this section shall diminish the department's authority to place offenders in community ((~~service~~)) restitution programs or to determine the suitability of offenders for specific programs.

(4) As used in this section, "litter cleanup" includes cleanup and removal of solid waste that is illegally dumped.

**Sec. 51.** 1990 c 66 s 1 (uncodified) is amended to read as follows:

The legislature finds that the amount of litter along the state's roadways is increasing at an alarming rate and that local governments often lack the human and fiscal resources to remove litter from public roads. The legislature also finds that persons committing nonviolent, drug-related offenses can often be productively engaged through programs to remove litter from county and municipal roads. It is therefore the intent of the legislature to assist local units of government in establishing community ((~~service~~)) restitution programs for litter cleanup and to establish a funding source for such programs.

**Sec. 52.** RCW 79A.05.050 and 1996 c 263 s 3 are each amended to read as follows:

(1) The commission shall establish a policy and procedures for supervising and evaluating community ((~~service~~)) restitution activities that may be imposed under RCW 70.93.060(3) including a description of what constitutes satisfactory completion of community ((~~service~~)) restitution.

(2) The commission shall inform each state park of the policy and procedures regarding community ((~~service~~)) restitution activities, and each state park shall then notify the commission as to whether or not the park elects to participate in the community ((~~service~~)) restitution program. The commission shall transmit a list notifying the district courts of each state park that elects to participate.

NEW SECTION. **Sec. 53.** This act takes effect July 1, 2002.

Passed the Senate February 13, 2002.

Passed the House March 6, 2002.

Approved by the Governor March 27, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State March 27, 2002.

1       Note: Governor's explanation of partial veto is as follows:

2       "I am returning herewith, without my approval as to section 34,  
3 Senate Bill No. 6627 entitled:

4       "AN ACT Relating to community service;"

5       Senate Bill No. 6627 changes references to "community service" in  
6 the criminal sentencing code to "community restitution."

7       Section 34 of this bill amends language that is repealed in section  
8 3 of another bill, Substitute Senate Bill No. 6748. The Code Reviser  
9 has informed my office that signing both sections into law would  
10 require publishing both in the Revised Code of Washington, causing  
11 confusion and making corrective legislation necessary. Section 34  
12 serves no purpose in light of the repeal of the affected language in  
13 the other bill.

14       For these reasons, I have vetoed section 34 of Senate Bill No.  
15 6627.

16       With the exception of section 34, Senate Bill No. 6627 is  
17 approved."