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SENATE BILL 6326

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State of Washington                      53rd Legislature                      1994 Regular Session

By Senators Fraser, A. Smith and Franklin

Read first time 01/19/94. Referred to Committee on Law & Justice.

1            AN ACT Relating to release of offenders; amending RCW 9.94A.150,  
2 9.92.151, 9.95.110, and 70.48.210; reenacting and amending RCW  
3 9.94A.120; and adding a new section to chapter 9.94A RCW.

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

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

7            At least three months prior to release of any offender serving a  
8 term of total confinement for a class A felony, the department shall  
9 provide written notice of the anticipated release date to the county  
10 prosecutor where the conviction occurred. The department shall also  
11 provide to the prosecutor any information relevant to a determination  
12 of the offender's mental state.

13            Upon receipt of the notice of release, the county prosecutor may  
14 request an evaluation and investigation of the offender by a mental  
15 health professional for purposes of determining whether proceedings for  
16 involuntary commitment of the offender under chapter 71.05 RCW are  
17 appropriate. Jurisdiction for an involuntary commitment proceeding in  
18 this situation shall be in either the jurisdiction where the original

1 conviction was obtained or the jurisdiction where the offender is  
2 located at the time the petition for involuntary commitment is filed.

3 **Sec. 2.** RCW 9.94A.120 and 1994 c 1 s 2 (Initiative Measure No.  
4 593) and 1993 c 31 s 3 are each reenacted and amended to read as  
5 follows:

6 When a person is convicted of a felony, the court shall impose  
7 punishment as provided in this section.

8 (1) Except as authorized in subsections (2), (4), (5), and (7) of  
9 this section, the court shall impose a sentence within the sentence  
10 range for the offense.

11 (2) The court may impose a sentence outside the standard sentence  
12 range for that offense if it finds, considering the purpose of this  
13 chapter, that there are substantial and compelling reasons justifying  
14 an exceptional sentence.

15 (3) Whenever a sentence outside the standard range is imposed, the  
16 court shall set forth the reasons for its decision in written findings  
17 of fact and conclusions of law. A sentence outside the standard range  
18 shall be a determinate sentence.

19 (4) A persistent offender shall be sentenced to a term of total  
20 confinement for life without the possibility of parole or, when  
21 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
22 first degree, sentenced to death, notwithstanding the maximum sentence  
23 under any other law. An offender convicted of the crime of murder in  
24 the first degree shall be sentenced to a term of total confinement not  
25 less than twenty years. An offender convicted of the crime of assault  
26 in the first degree or assault of a child in the first degree where the  
27 offender used force or means likely to result in death or intended to  
28 kill the victim shall be sentenced to a term of total confinement not  
29 less than five years. An offender convicted of the crime of rape in  
30 the first degree shall be sentenced to a term of total confinement not  
31 less than five years. The foregoing minimum terms of total confinement  
32 are mandatory and shall not be varied or modified as provided in  
33 subsection (2) of this section. In addition, all offenders subject to  
34 the provisions of this subsection shall not be eligible for community  
35 custody, earned early release time, furlough, home detention, partial  
36 confinement, work crew, work release, or any other form of early  
37 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
38 or any other form of authorized leave of absence from the correctional

1 facility while not in the direct custody of a corrections officer or  
2 officers during such minimum terms of total confinement except in the  
3 case of an offender in need of emergency medical treatment or for the  
4 purpose of commitment to an inpatient treatment facility in the case of  
5 an offender convicted of the crime of rape in the first degree.

6 (5) In sentencing a first-time offender the court may waive the  
7 imposition of a sentence within the sentence range and impose a  
8 sentence which may include up to ninety days of confinement in a  
9 facility operated or utilized under contract by the county and a  
10 requirement that the offender refrain from committing new offenses.  
11 The sentence may also include up to two years of community supervision,  
12 which, in addition to crime-related prohibitions, may include  
13 requirements that the offender perform any one or more of the  
14 following:

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

16 (b) Undergo available outpatient treatment for up to two years, or  
17 inpatient treatment not to exceed the standard range of confinement for  
18 that offense;

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

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

24 (e) Report as directed to the court and a community corrections  
25 officer; or

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

28 (6) If a sentence range has not been established for the  
29 defendant's crime, the court shall impose a determinate sentence which  
30 may include not more than one year of confinement, community service  
31 work, a term of community supervision not to exceed one year, and/or  
32 other legal financial obligations. The court may impose a sentence  
33 which provides more than one year of confinement if the court finds,  
34 considering the purpose of this chapter, that there are substantial and  
35 compelling reasons justifying an exceptional sentence.

36 (7)(a)(i) When an offender is convicted of a sex offense other than  
37 a violation of RCW 9A.44.050 or a sex offense that is also a serious  
38 violent offense and has no prior convictions for a sex offense or any  
39 other felony sex offenses in this or any other state, the sentencing

1 court, on its own motion or the motion of the state or the defendant,  
2 may order an examination to determine whether the defendant is amenable  
3 to treatment.

4 The report of the examination shall include at a minimum the  
5 following: The defendant's version of the facts and the official  
6 version of the facts, the defendant's offense history, an assessment of  
7 problems in addition to alleged deviant behaviors, the offender's  
8 social and employment situation, and other evaluation measures used.  
9 The report shall set forth the sources of the evaluator's information.

10 The examiner shall assess and report regarding the defendant's  
11 amenability to treatment and relative risk to the community. A  
12 proposed treatment plan shall be provided and shall include, at a  
13 minimum:

14 (A) Frequency and type of contact between offender and therapist;

15 (B) Specific issues to be addressed in the treatment and  
16 description of planned treatment modalities;

17 (C) Monitoring plans, including any requirements regarding living  
18 conditions, lifestyle requirements, and monitoring by family members  
19 and others;

20 (D) Anticipated length of treatment; and

21 (E) Recommended crime-related prohibitions.

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

28 (ii) After receipt of the reports, the court shall consider whether  
29 the offender and the community will benefit from use of this special  
30 sexual offender sentencing alternative and consider the victim's  
31 opinion whether the offender should receive a treatment disposition  
32 under this subsection. If the court determines that this special sex  
33 offender sentencing alternative is appropriate, the court shall then  
34 impose a sentence within the sentence range. If this sentence is less  
35 than eight years of confinement, the court may suspend the execution of  
36 the sentence and impose the following conditions of suspension:

37 (A) The court shall place the defendant on community supervision  
38 for the length of the suspended sentence or three years, whichever is  
39 greater; and

1 (B) The court shall order treatment for any period up to three  
2 years in duration. The court in its discretion shall order outpatient  
3 sex offender treatment or inpatient sex offender treatment, if  
4 available. A community mental health center may not be used for such  
5 treatment unless it has an appropriate program designed for sex  
6 offender treatment. The offender shall not change sex offender  
7 treatment providers or treatment conditions without first notifying the  
8 prosecutor, the community corrections officer, and the court, and shall  
9 not change providers without court approval after a hearing if the  
10 prosecutor or community corrections officer object to the change. In  
11 addition, as conditions of the suspended sentence, the court may impose  
12 other sentence conditions including up to six months of confinement,  
13 not to exceed the sentence range of confinement for that offense,  
14 crime-related prohibitions, and requirements that the offender perform  
15 any one or more of the following:

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

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

20 (III) Report as directed to the court and a community corrections  
21 officer;

22 (IV) Pay all court-ordered legal financial obligations as provided  
23 in RCW 9.94A.030, perform community service work, or any combination  
24 thereof; or

25 (V) Make recoupment to the victim for the cost of any counseling  
26 required as a result of the offender's crime.

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

34 (iv) At the time of sentencing, the court shall set a treatment  
35 termination hearing for three months prior to the anticipated date for  
36 completion of treatment. Prior to the treatment termination hearing,  
37 the treatment professional and community corrections officer shall  
38 submit written reports to the court and parties regarding the  
39 defendant's compliance with treatment and monitoring requirements, and

1 recommendations regarding termination from treatment, including  
2 proposed community supervision conditions. Either party may request  
3 and the court may order another evaluation regarding the advisability  
4 of termination from treatment. The defendant shall pay the cost of any  
5 additional evaluation ordered unless the court finds the defendant to  
6 be indigent in which case the state shall pay the cost. At the  
7 treatment termination hearing the court may: (A) Modify conditions of  
8 community supervision, and either (B) terminate treatment, or (C)  
9 extend treatment for up to the remaining period of community  
10 supervision.

11 (v) The court may revoke the suspended sentence at any time during  
12 the period of community supervision and order execution of the sentence  
13 if: (A) The defendant violates the conditions of the suspended  
14 sentence, or (B) the court finds that the defendant is failing to make  
15 satisfactory progress in treatment. All confinement time served during  
16 the period of community supervision shall be credited to the offender  
17 if the suspended sentence is revoked.

18 (vi) Except as provided in (a)(vii) of this subsection, after July  
19 1, 1991, examinations and treatment ordered pursuant to this subsection  
20 shall only be conducted by sex offender treatment providers certified  
21 by the department of health pursuant to chapter 18.155 RCW.

22 (vii) A sex offender therapist who examines or treats a sex  
23 offender pursuant to this subsection (7) does not have to be certified  
24 by the department of health pursuant to chapter 18.155 RCW if the court  
25 finds that: (A) The offender has already moved to another state or  
26 plans to move to another state for reasons other than circumventing the  
27 certification requirements; (B) no certified providers are available  
28 for treatment within a reasonable geographical distance of the  
29 offender's home; and (C) the evaluation and treatment plan comply with  
30 this subsection (7) and the rules adopted by the department of health.

31 For purposes of this subsection, "victim" means any person who has  
32 sustained emotional, psychological, physical, or financial injury to  
33 person or property as a result of the crime charged. "Victim" also  
34 means a parent or guardian of a victim who is a minor child unless the  
35 parent or guardian is the perpetrator of the offense.

36 (b) When an offender is convicted of any felony sex offense  
37 committed before July 1, 1987, and is sentenced to a term of  
38 confinement of more than one year but less than six years, the  
39 sentencing court may, on its own motion or on the motion of the

1 offender or the state, order the offender committed for up to thirty  
2 days to the custody of the secretary of social and health services for  
3 evaluation and report to the court on the offender's amenability to  
4 treatment at these facilities. If the secretary of social and health  
5 services cannot begin the evaluation within thirty days of the court's  
6 order of commitment, the offender shall be transferred to the state for  
7 confinement pending an opportunity to be evaluated at the appropriate  
8 facility. The court shall review the reports and may order that the  
9 term of confinement imposed be served in the sexual offender treatment  
10 program at the location determined by the secretary of social and  
11 health services or the secretary's designee, only if the report  
12 indicates that the offender is amenable to the treatment program  
13 provided at these facilities. The offender shall be transferred to the  
14 state pending placement in the treatment program. Any offender who has  
15 escaped from the treatment program shall be referred back to the  
16 sentencing court.

17 If the offender does not comply with the conditions of the  
18 treatment program, the secretary of social and health services may  
19 refer the matter to the sentencing court. The sentencing court shall  
20 commit the offender to the department of corrections to serve the  
21 balance of the term of confinement.

22 If the offender successfully completes the treatment program before  
23 the expiration of the term of confinement, the court may convert the  
24 balance of confinement to community supervision and may place  
25 conditions on the offender including crime-related prohibitions and  
26 requirements that the offender perform any one or more of the  
27 following:

- 28 (i) Devote time to a specific employment or occupation;
- 29 (ii) Remain within prescribed geographical boundaries and notify  
30 the court or the community corrections officer prior to any change in  
31 the offender's address or employment;
- 32 (iii) Report as directed to the court and a community corrections  
33 officer;
- 34 (iv) Undergo available outpatient treatment.

35 If the offender violates any of the terms of community supervision,  
36 the court may order the offender to serve out the balance of the  
37 community supervision term in confinement in the custody of the  
38 department of corrections.

1 After June 30, 1993, this subsection (b) shall cease to have  
2 effect.

3 (c) When an offender commits any felony sex offense on or after  
4 July 1, 1987, and is sentenced to a term of confinement of more than  
5 one year but less than six years, the sentencing court may, on its own  
6 motion or on the motion of the offender or the state, request the  
7 department of corrections to evaluate whether the offender is amenable  
8 to treatment and the department may place the offender in a treatment  
9 program within a correctional facility operated by the department.

10 Except for an offender who has been convicted of a violation of RCW  
11 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
12 before the expiration of his or her term of confinement, the department  
13 of corrections may request the court to convert the balance of  
14 confinement to community supervision and to place conditions on the  
15 offender including crime-related prohibitions and requirements that the  
16 offender perform any one or more of the following:

- 17 (i) Devote time to a specific employment or occupation;
- 18 (ii) Remain within prescribed geographical boundaries and notify  
19 the court or the community corrections officer prior to any change in  
20 the offender's address or employment;
- 21 (iii) Report as directed to the court and a community corrections  
22 officer;
- 23 (iv) Undergo available outpatient treatment.

24 If the offender violates any of the terms of his or her community  
25 supervision, the court may order the offender to serve out the balance  
26 of his or her community supervision term in confinement in the custody  
27 of the department of corrections.

28 Nothing in (c) of this subsection shall confer eligibility for such  
29 programs for offenders convicted and sentenced for a sex offense  
30 committed prior to July 1, 1987. This subsection (c) does not apply to  
31 any crime committed after July 1, 1990.

32 (d) Offenders convicted and sentenced for a sex offense committed  
33 prior to July 1, 1987, may, subject to available funds, request an  
34 evaluation by the department of corrections to determine whether they  
35 are amenable to treatment. If the offender is determined to be  
36 amenable to treatment, the offender may request placement in a  
37 treatment program within a correctional facility operated by the  
38 department. Placement in such treatment program is subject to  
39 available funds.

1 (8)(a) When a court sentences a person to a term of total  
2 confinement to the custody of the department of corrections for an  
3 offense categorized as a sex offense or a serious violent offense  
4 committed after July 1, 1988, but before July 1, 1990, assault in the  
5 second degree, assault of a child in the second degree, any crime  
6 against a person where it is determined in accordance with RCW  
7 9.94A.125 that the defendant or an accomplice was armed with a deadly  
8 weapon at the time of commission, or any felony offense under chapter  
9 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall  
10 in addition to the other terms of the sentence, sentence the offender  
11 to a one-year term of community placement beginning either upon  
12 completion of the term of confinement or at such time as the offender  
13 is transferred to community custody in lieu of earned early release in  
14 accordance with RCW 9.94A.150 (1) and (2). When a court sentences any  
15 offender convicted of a class A felony, the court shall in addition to  
16 the other terms of the sentence, provide that the offender shall be  
17 subject to postrelease supervision until expiration of the statutory  
18 maximum period of confinement for that crime. When the court sentences  
19 an offender under this subsection to the statutory maximum period of  
20 confinement then the community placement portion of the sentence shall  
21 consist entirely of such community custody to which the offender may  
22 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any  
23 period of community custody actually served shall be credited against  
24 the community placement portion of the sentence.

25 (b) When a court sentences a person to a term of total confinement  
26 to the custody of the department of corrections for an offense  
27 categorized as a sex offense or serious violent offense committed on or  
28 after July 1, 1990, the court shall in addition to other terms of the  
29 sentence, sentence the offender to community placement for two years or  
30 up to the period of earned early release awarded pursuant to RCW  
31 9.94A.150 (1) and (2), whichever is longer. The community placement  
32 shall begin either upon completion of the term of confinement or at  
33 such time as the offender is transferred to community custody in lieu  
34 of earned early release in accordance with RCW 9.94A.150 (1) and (2).  
35 When the court sentences an offender under this subsection to the  
36 statutory maximum period of confinement then the community placement  
37 portion of the sentence shall consist entirely of the community custody  
38 to which the offender may become eligible, in accordance with RCW  
39 9.94A.150 (1) and (2). Any period of community custody actually served

1 shall be credited against the community placement portion of the  
2 sentence. Unless a condition is waived by the court, the terms of  
3 community placement for offenders sentenced pursuant to this section  
4 shall include the following conditions:

5 (i) The offender shall report to and be available for contact with  
6 the assigned community corrections officer as directed;

7 (ii) The offender shall work at department of corrections-approved  
8 education, employment, and/or community service;

9 (iii) The offender shall not consume controlled substances except  
10 pursuant to lawfully issued prescriptions;

11 (iv) An offender in community custody shall not unlawfully possess  
12 controlled substances;

13 (v) The offender shall pay supervision fees as determined by the  
14 department of corrections; and

15 (vi) The residence location and living arrangements are subject to  
16 the prior approval of the department of corrections during the period  
17 of community placement.

18 (c) The court may also order any of the following special  
19 conditions:

20 (i) The offender shall remain within, or outside of, a specified  
21 geographical boundary;

22 (ii) The offender shall not have direct or indirect contact with  
23 the victim of the crime or a specified class of individuals;

24 (iii) The offender shall participate in crime-related treatment or  
25 counseling services;

26 (iv) The offender shall not consume alcohol; or

27 (v) The offender shall comply with any crime-related prohibitions.

28 (d) Prior to transfer to, or during, community placement, any  
29 conditions of community placement may be removed or modified so as not  
30 to be more restrictive by the sentencing court, upon recommendation of  
31 the department of corrections.

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

38 (10) If a sentence imposed includes payment of a legal financial  
39 obligation, the sentence shall specify the total amount of the legal

1 financial obligation owed, and shall require the offender to pay a  
2 specified monthly sum toward that legal financial obligation.  
3 Restitution to victims shall be paid prior to any other payments of  
4 monetary obligations. Any legal financial obligation that is imposed  
5 by the court may be collected by the department, which shall deliver  
6 the amount paid to the county clerk for credit. The offender's  
7 compliance with payment of legal financial obligations shall be  
8 supervised by the department. All monetary payments ordered shall be  
9 paid no later than ten years after the last date of release from  
10 confinement pursuant to a felony conviction or the date the sentence  
11 was entered. Independent of the department, the party or entity to  
12 whom the legal financial obligation is owed shall have the authority to  
13 utilize any other remedies available to the party or entity to collect  
14 the legal financial obligation. Nothing in this section makes the  
15 department, the state, or any of its employees, agents, or other  
16 persons acting on their behalf liable under any circumstances for the  
17 payment of these legal financial obligations. If an order includes  
18 restitution as one of the monetary assessments, the county clerk shall  
19 make disbursements to victims named in the order.

20 (11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a  
21 court may not impose a sentence providing for a term of confinement or  
22 community supervision or community placement which exceeds the  
23 statutory maximum for the crime as provided in chapter 9A.20 RCW.

24 (12) All offenders sentenced to terms involving community  
25 supervision, community service, community placement, or legal financial  
26 obligation shall be under the supervision of the secretary of the  
27 department of corrections or such person as the secretary may designate  
28 and shall follow explicitly the instructions of the secretary including  
29 reporting as directed to a community corrections officer, remaining  
30 within prescribed geographical boundaries, notifying the community  
31 corrections officer of any change in the offender's address or  
32 employment, and paying the supervision fee assessment. The department  
33 may require offenders to pay for special services rendered on or after  
34 July 25, 1993, including electronic monitoring, day reporting, and  
35 telephone reporting, dependent upon the offender's ability to pay. The  
36 department may pay for these services for offenders who are not able to  
37 pay.

38 (13) All offenders sentenced to terms involving community  
39 supervision, community service, or community placement under the

1 supervision of the department of corrections shall not own, use, or  
2 possess firearms or ammunition. Offenders who own, use, or are found  
3 to be in actual or constructive possession of firearms or ammunition  
4 shall be subject to the appropriate violation process and sanctions.  
5 "Constructive possession" as used in this subsection means the power  
6 and intent to control the firearm or ammunition. "Firearm" as used in  
7 this subsection means a weapon or device from which a projectile may be  
8 fired by an explosive such as gunpowder.

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

13 (15) A departure from the standards in RCW 9.94A.400 (1) and (2)  
14 governing whether sentences are to be served consecutively or  
15 concurrently is an exceptional sentence subject to the limitations in  
16 subsections (2) and (3) of this section, and may be appealed by the  
17 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

18 (16) The court shall order restitution whenever the offender is  
19 convicted of a felony that results in injury to any person or damage to  
20 or loss of property, whether the offender is sentenced to confinement  
21 or placed under community supervision, unless extraordinary  
22 circumstances exist that make restitution inappropriate in the court's  
23 judgment. The court shall set forth the extraordinary circumstances in  
24 the record if it does not order restitution.

25 (17) As a part of any sentence, the court may impose and enforce an  
26 order that relates directly to the circumstances of the crime for which  
27 the offender has been convicted, prohibiting the offender from having  
28 any contact with other specified individuals or a specific class of  
29 individuals for a period not to exceed the maximum allowable sentence  
30 for the crime, regardless of the expiration of the offender's term of  
31 community supervision or community placement.

32 (18) In any sentence of partial confinement, the court may require  
33 the defendant to serve the partial confinement in work release, in a  
34 program of home detention, on work crew, or in a combined program of  
35 work crew and home detention.

36 (19) All court-ordered legal financial obligations collected by the  
37 department and remitted to the county clerk shall be credited and paid  
38 where restitution is ordered. Restitution shall be paid prior to any  
39 other payments of monetary obligations.

1       **Sec. 3.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read  
2 as follows:

3       No person serving a sentence imposed pursuant to this chapter and  
4 committed to the custody of the department shall leave the confines of  
5 the correctional facility or be released prior to the expiration of the  
6 sentence except as follows:

7       (1) Except as otherwise provided for in subsection (2) of this  
8 section, the term of the sentence of an offender committed to a  
9 correctional facility operated by the department, may be reduced by  
10 earned early release time in accordance with procedures that shall be  
11 developed and promulgated by the correctional agency having  
12 jurisdiction in which the offender is confined. The earned early  
13 release time shall be for good behavior and good performance, as  
14 determined by the correctional agency having jurisdiction. The  
15 correctional agency shall not credit the offender with earned early  
16 release credits in advance of the offender actually earning the  
17 credits. Any program established pursuant to this section shall allow  
18 an offender to earn early release credits for presentence  
19 incarceration. If an offender is transferred from a county jail to the  
20 department of corrections, the county jail facility shall certify to  
21 the department the amount of time spent in custody at the facility and  
22 the amount of earned early release time. In the case of an offender  
23 convicted of a serious violent offense or a sex offense that is a class  
24 A felony committed on or after July 1, 1990, the aggregate earned early  
25 release time may not exceed fifteen percent of the sentence. In no  
26 other case shall the aggregate earned early release time exceed one-  
27 third of the total sentence. The sentence of an offender may not be  
28 reduced by earned early release time for any periods of time during  
29 which the offender is using psychotropic drugs;

30       (2) A person convicted of a sex offense or an offense categorized  
31 as a serious violent offense, assault in the second degree, assault of  
32 a child in the second degree, any crime against a person where it is  
33 determined in accordance with RCW 9.94A.125 that the defendant or an  
34 accomplice was armed with a deadly weapon at the time of commission, or  
35 any felony offense under chapter 69.50 or 69.52 RCW may become  
36 eligible, in accordance with a program developed by the department, for  
37 transfer to community custody status in lieu of earned early release  
38 time pursuant to subsection (1) of this section;

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

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

9 (5) No more than the final six months of the sentence may be served  
10 in partial confinement designed to aid the offender in finding work and  
11 reestablishing ((him)) himself or herself in the community;

12 (6) The governor may pardon any offender;

13 (7) The department of corrections may release an offender from  
14 confinement any time within ten days before a release date calculated  
15 under this section; and

16 (8) An offender may leave a correctional facility prior to  
17 completion of his or her sentence if the sentence has been reduced as  
18 provided in RCW 9.94A.160.

19 **Sec. 4.** RCW 9.92.151 and 1990 c 3 s 201 are each amended to read  
20 as follows:

21 The sentence of a prisoner confined in a county jail facility for  
22 a felony, gross misdemeanor, or misdemeanor conviction may be reduced  
23 by earned release credits in accordance with procedures that shall be  
24 developed and promulgated by the correctional agency having  
25 jurisdiction. The earned early release time shall be for good behavior  
26 and good performance as determined by the correctional agency having  
27 jurisdiction. Any program established pursuant to this section shall  
28 allow an offender to earn early release credits for presentence  
29 incarceration. The correctional agency shall not credit the offender  
30 with earned early release credits in advance of the offender actually  
31 earning the credits. In the case of an offender convicted of a serious  
32 violent offense or a sex offense that is a class A felony committed on  
33 or after July 1, 1990, the aggregate earned early release time may not  
34 exceed fifteen percent of the sentence. In no other case may the  
35 aggregate earned early release time exceed one-third of the total  
36 sentence. The sentence of an offender may not be reduced by earned  
37 early release time for any periods of time during which the offender is  
38 using psychotropic drugs.

1       **Sec. 5.** RCW 9.95.110 and 1955 c 133 s 12 are each amended to read  
2 as follows:

3       The indeterminate sentence review board (~~((of prison terms and~~  
4 ~~paroles))~~) may permit a convicted person to leave the buildings and  
5 enclosures of the penitentiary or the reformatory on parole, after such  
6 convicted person has served the period of confinement fixed for him or  
7 her by the board, less time credits for good behavior and diligence in  
8 work: PROVIDED, That in no case shall an inmate be credited with more  
9 than one-third of his or her sentence as fixed by the board. The  
10 sentence of an offender may not be reduced by earned early release time  
11 for any periods of time during which the offender is using psychotropic  
12 drugs.

13       The indeterminate sentence review board (~~((of prison terms and~~  
14 ~~paroles))~~) may establish rules and regulations under which a convicted  
15 person may be allowed to leave the confines of the penitentiary or the  
16 reformatory on parole, and may return such person to the confines of  
17 the institution from which he or she was paroled, at its discretion.

18       **Sec. 6.** RCW 70.48.210 and 1990 c 3 s 203 are each amended to read  
19 as follows:

20       (1) All cities and counties are authorized to establish and  
21 maintain farms, camps, and work release programs and facilities, as  
22 well as special detention facilities. The facilities shall meet the  
23 requirements of this chapter (~~((70.48—RCW))~~) and any rules adopted  
24 (~~((thereunder))~~) under this chapter.

25       (2) Farms and camps may be established either inside or outside the  
26 territorial limits of a city or county. A sentence of confinement in  
27 a city or county jail may include placement in a farm or camp. Unless  
28 directed otherwise by court order, the chief law enforcement officer or  
29 department of corrections, may transfer the prisoner to a farm or camp.  
30 The sentencing court, chief law enforcement officer, or department of  
31 corrections may not transfer to a farm or camp a greater number of  
32 prisoners than can be furnished with constructive employment and can be  
33 reasonably accommodated.

34       (3) The city or county may establish a city or county work release  
35 program and housing facilities for the prisoners in the program. In  
36 such regard, factors such as employment conditions and the condition of  
37 jail facilities should be considered. When a work release program is  
38 established the following provisions apply:

1 (a) A person convicted of a felony and placed in a city or county  
2 jail is eligible for the work release program. A person sentenced to  
3 a city or county jail is eligible for the work release program. The  
4 program may be used as a condition of probation for a criminal offense.  
5 Good conduct is a condition of participation in the program.

6 (b) The court may permit a person who is currently, regularly  
7 employed to continue his or her employment. The chief law enforcement  
8 officer or department of corrections shall make all necessary  
9 arrangements if possible. The court may authorize the person to seek  
10 suitable employment and may authorize the chief law enforcement officer  
11 or department of corrections to make reasonable efforts to find  
12 suitable employment for the person. A person participating in the work  
13 release program may not work in an establishment where there is a labor  
14 dispute.

15 (c) The work release prisoner shall be confined in a work release  
16 facility or jail unless authorized to be absent from the facility for  
17 program-related purposes, unless the court directs otherwise.

18 (d) Each work release prisoner's earnings may be collected by the  
19 chief law enforcement officer or a designee. The chief law enforcement  
20 officer or a designee may deduct from the earnings moneys for the  
21 payments for the prisoner's board, personal expenses inside and outside  
22 the jail, a share of the administrative expenses of this section,  
23 court-ordered victim compensation, and court-ordered restitution.  
24 Support payments for the prisoner's dependents, if any, shall be made  
25 as directed by the court. With the prisoner's consent, the remaining  
26 funds may be used to pay the prisoner's preexisting debts. Any  
27 remaining balance shall be returned to the prisoner.

28 (e) The prisoner's sentence may be reduced by earned early release  
29 time in accordance with procedures that shall be developed and  
30 promulgated by the work release facility. The earned early release  
31 time shall be for good behavior and good performance as determined by  
32 the facility. The facility shall not credit the offender with earned  
33 early release credits in advance of the offender actually earning the  
34 credits. In the case of an offender convicted of a serious violent  
35 offense or a sex offense that is a class A felony committed on or after  
36 July 1, 1990, the aggregate earned early release time may not exceed  
37 fifteen percent of the sentence. In no other case may the aggregate  
38 earned early release time exceed one-third of the total sentence. The  
39 sentence of an offender may not be reduced by earned early release time

1 for any periods of time during which the offender is using psychotropic  
2 drugs.

3 (f) If the work release prisoner violates the conditions of custody  
4 or employment, the prisoner shall be returned to the sentencing court.  
5 The sentencing court may require the prisoner to spend the remainder of  
6 the sentence in actual confinement and may cancel any earned reduction  
7 of the sentence.

8 (4) A special detention facility may be operated by a  
9 noncorrectional agency or by noncorrectional personnel by contract with  
10 the governing unit. The employees shall meet the standards of training  
11 and education established by the criminal justice training commission  
12 as authorized by RCW 43.101.080. The special detention facility may  
13 use combinations of features including, but not limited to, low-  
14 security or honor prisoner status, work farm, work release, community  
15 review, prisoner facility maintenance and food preparation, training  
16 programs, or alcohol or drug rehabilitation programs. Special  
17 detention facilities may establish a reasonable fee schedule to cover  
18 the cost of facility housing and programs. The schedule shall be on a  
19 sliding basis that reflects the person's ability to pay.

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