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HOUSE BILL 2454

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State of Washington

55th Legislature

1998 Regular Session

By Representatives Carrell, Chandler, Mulliken, Boldt, Lambert, Mielke and Mitchell

Read first time . Referred to Committee on .

1 AN ACT Relating to offenders; amending RCW 13.40.160, 13.40.210,  
2 13.40.215, 28A.225.225, 28A.225.330, 28A.525.162, and 72.09.340;  
3 reenacting and amending RCW 9.94A.030, 9.94A.120, and 13.40.160; adding  
4 a new section to chapter 9A.44 RCW; adding new sections to chapter  
5 28A.225 RCW; adding a new section to chapter 28A.600 RCW; adding a new  
6 section to chapter 72.65 RCW; adding a new section to chapter 74.15  
7 RCW; creating a new section; prescribing penalties; providing an  
8 effective date; providing an expiration date; and declaring an  
9 emergency.

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

11 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.44 RCW  
12 to read as follows:

13 (1) As used in this section:

14 (a) "Known sex offender" means a person who has, within the  
15 knowledge of the arresting officer, been adjudicated or convicted  
16 within the last twenty years in any court of a sex offense.

17 (b) "School" means a school as defined in RCW 9.94A.030.

18 (c) "Sex offense" means a sex offense as defined in RCW 9.94A.030  
19 or any attempt to commit a sex offense.

1 (d) "Public place" is an area generally visible to public view and  
2 includes, but is not limited to, schools, playgrounds, streets,  
3 sidewalks, bridges, alleys, plazas, parks, driveways, parking lots,  
4 transit stations, shelters and tunnels, automobiles visible to public  
5 view whether moving or stationary, doorways and entrances to buildings  
6 or dwellings and the grounds enclosing them, and buildings open to the  
7 general public including those that serve food or drink, or provide  
8 entertainment.

9 (2) A person is guilty of sex offender loitering if he or she  
10 remains in a public place within one thousand feet of a school, or a  
11 park or playground where children are present and intentionally  
12 solicits, induces, entices, or procures another for the purpose of  
13 committing a sex offense.

14 (3) The following circumstances do not by themselves constitute the  
15 crime of sex offender loitering. Among the circumstances that may be  
16 considered in determining whether the defendant is engaging in sex  
17 offender loitering are that he or she:

18 (a) Is a known sex offender;

19 (b) Repeatedly beckons to, stops or attempts to stop children or  
20 other pedestrians, or engages them in a conversation;

21 (c) Circles an area in a motor vehicle and repeatedly beckons to,  
22 contacts, or attempts to stop children or pedestrians;

23 (d) Is the subject of any court order, which directs as a condition  
24 of release from custody, a condition of parole, community placement, or  
25 community supervision, the person to stay out of any specified area  
26 that explicitly or impliedly includes schools, playgrounds, or parks  
27 where children congregate;

28 (e) Is subject to conditions of release, supervision, community  
29 placement, or parole, as established by the department of corrections  
30 or the department of social and health services, that directs the  
31 person to stay out of any specified area that explicitly or impliedly  
32 includes schools, playgrounds, or parks where children congregate;

33 (f) In the case of a juvenile who is a known sex offender, does not  
34 attend the school or is on school premises after hours or after school  
35 functions;

36 (g) Is not an employee of the school; or

37 (h) Is on the grounds of the school, playground, or park when  
38 children are present.

1 (4) A person convicted of sex offender loitering is guilty of a  
2 gross misdemeanor if the trier of fact finds that the person has not  
3 been classified at risk level II or III under the risk assessment  
4 classification system under RCW 72.09.345, or is not subject to a court  
5 order or terms of parole, community placement, or supervision that  
6 directs the person to stay out of any specified area that explicitly or  
7 impliedly includes schools, or parks or playgrounds where children  
8 congregate. A person convicted of sex offender loitering is guilty of  
9 a class C felony if the trier of fact finds that the person has been  
10 classified at risk level II or III under RCW 72.09.345, and is subject  
11 to a court order or terms of parole, community placement, or  
12 supervision that directs the person to stay out of any specified area  
13 that explicitly or impliedly includes schools, or parks or playgrounds  
14 where children congregate.

15 (5) A law enforcement officer may not arrest a person for sex  
16 offender loitering unless probable cause exists to believe that the  
17 person has remained in a public place and has intentionally solicited,  
18 induced, enticed, or procured another for the purpose of committing a  
19 sex offense. Nothing in this subsection (5) prohibits a law  
20 enforcement or community corrections officer from detaining a known sex  
21 offender remaining within one thousand feet of a school, or a park or  
22 playground where children are present to determine whether the known  
23 sex offender is violating the terms of a court order or conditions of  
24 release, supervision, community placement, or parole.

25 **Sec. 2.** RCW 9.94A.030 and 1997 c 365 s 1, 1997 c 340 s 4, 1997 c  
26 339 s 1, 1997 c 338 s 2, 1997 c 144 s 1, and 1997 c 70 s 1 are each  
27 reenacted and amended to read as follows:

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

30 (1) "Collect," or any derivative thereof, "collect and remit," or  
31 "collect and deliver," when used with reference to the department of  
32 corrections, means that the department is responsible for monitoring  
33 and enforcing the offender's sentence with regard to the legal  
34 financial obligation, receiving payment thereof from the offender, and,  
35 consistent with current law, delivering daily the entire payment to the  
36 superior court clerk without depositing it in a departmental account.

37 (2) "Commission" means the sentencing guidelines commission.

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

5 (4) "Community custody" means that portion of an inmate's sentence  
6 of confinement in lieu of earned early release time or imposed pursuant  
7 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to  
8 controls placed on the inmate's movement and activities by the  
9 department of corrections.

10 (5) "Community placement" means that period during which the  
11 offender is subject to the conditions of community custody and/or  
12 postrelease supervision, which begins either upon completion of the  
13 term of confinement (postrelease supervision) or at such time as the  
14 offender is transferred to community custody in lieu of earned early  
15 release. Community placement may consist of entirely community  
16 custody, entirely postrelease supervision, or a combination of the two.

17 (6) "Community service" means compulsory service, without  
18 compensation, performed for the benefit of the community by the  
19 offender.

20 (7) "Community supervision" means a period of time during which a  
21 convicted offender is subject to crime-related prohibitions and other  
22 sentence conditions imposed by a court pursuant to this chapter or RCW  
23 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
24 may include crime-related prohibitions and other conditions imposed  
25 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
26 for out-of-state supervision of parolees and probationers, RCW  
27 9.95.270, community supervision is the functional equivalent of  
28 probation and should be considered the same as probation by other  
29 states.

30 (8) "Confinement" means total or partial confinement as defined in  
31 this section.

32 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
33 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
34 acceptance of a plea of guilty.

35 (10) "Court-ordered legal financial obligation" means a sum of  
36 money that is ordered by a superior court of the state of Washington  
37 for legal financial obligations which may include restitution to the  
38 victim, statutorily imposed crime victims' compensation fees as  
39 assessed pursuant to RCW 7.68.035, court costs, county or interlocal

1 drug funds, court-appointed attorneys' fees, and costs of defense,  
2 fines, and any other financial obligation that is assessed to the  
3 offender as a result of a felony conviction. Upon conviction for  
4 vehicular assault while under the influence of intoxicating liquor or  
5 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
6 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
7 legal financial obligations may also include payment to a public agency  
8 of the expense of an emergency response to the incident resulting in  
9 the conviction, subject to the provisions in RCW 38.52.430.

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

17 (12) "Criminal history" means the list of a defendant's prior  
18 convictions and juvenile adjudications, whether in this state, in  
19 federal court, or elsewhere. The history shall include, where known,  
20 for each conviction (a) whether the defendant has been placed on  
21 probation and the length and terms thereof; and (b) whether the  
22 defendant has been incarcerated and the length of incarceration.

23 (13) "Day fine" means a fine imposed by the sentencing judge that  
24 equals the difference between the offender's net daily income and the  
25 reasonable obligations that the offender has for the support of the  
26 offender and any dependents.

27 (14) "Day reporting" means a program of enhanced supervision  
28 designed to monitor the defendant's daily activities and compliance  
29 with sentence conditions, and in which the defendant is required to  
30 report daily to a specific location designated by the department or the  
31 sentencing judge.

32 (15) "Department" means the department of corrections.

33 (16) "Determinate sentence" means a sentence that states with  
34 exactitude the number of actual years, months, or days of total  
35 confinement, of partial confinement, of community supervision, the  
36 number of actual hours or days of community service work, or dollars or  
37 terms of a legal financial obligation. The fact that an offender  
38 through "earned early release" can reduce the actual period of

1 confinement shall not affect the classification of the sentence as a  
2 determinate sentence.

3 (17) "Disposable earnings" means that part of the earnings of an  
4 individual remaining after the deduction from those earnings of any  
5 amount required by law to be withheld. For the purposes of this  
6 definition, "earnings" means compensation paid or payable for personal  
7 services, whether denominated as wages, salary, commission, bonuses, or  
8 otherwise, and, notwithstanding any other provision of law making the  
9 payments exempt from garnishment, attachment, or other process to  
10 satisfy a court-ordered legal financial obligation, specifically  
11 includes periodic payments pursuant to pension or retirement programs,  
12 or insurance policies of any type, but does not include payments made  
13 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
14 or Title 74 RCW.

15 (18) "Drug offense" means:

16 (a) Any felony violation of chapter 69.50 RCW except possession of  
17 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
18 controlled substance (RCW 69.50.403);

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

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

25 (19) "Escape" means:

26 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
27 second degree (RCW 9A.76.120), willful failure to return from furlough  
28 (RCW 72.66.060), willful failure to return from work release (RCW  
29 72.65.070), or willful failure to be available for supervision by the  
30 department while in community custody (RCW 72.09.310); or

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

34 (20) "Felony traffic offense" means:

35 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
36 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
37 and-run injury-accident (RCW 46.52.020(4)); or

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

4 (21) "Fines" means the requirement that the offender pay a specific  
5 sum of money over a specific period of time to the court.

6 (22) "First-time offender" means any person who is convicted of a  
7 felony (a) not classified as a violent offense or a sex offense under  
8 this chapter, or (b) that is not the manufacture, delivery, or  
9 possession with intent to manufacture or deliver a controlled substance  
10 classified in schedule I or II that is a narcotic drug, nor the  
11 manufacture, delivery, or possession with intent to deliver  
12 methamphetamine, its salts, isomers, and salts of its isomers as  
13 defined in RCW 69.50.206(d)(2), nor the selling for profit of any  
14 controlled substance or counterfeit substance classified in schedule I,  
15 RCW 69.50.204, except leaves and flowering tops of marihuana, who  
16 previously has never been convicted of a felony in this state, federal  
17 court, or another state, and who has never participated in a program of  
18 deferred prosecution for a felony offense.

19 (23) "Most serious offense" means any of the following felonies or  
20 a felony attempt to commit any of the following felonies, as now  
21 existing or hereafter amended:

22 (a) Any felony defined under any law as a class A felony or  
23 criminal solicitation of or criminal conspiracy to commit a class A  
24 felony;

25 (b) Assault in the second degree;

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

27 (d) Child molestation in the second degree;

28 (e) Controlled substance homicide;

29 (f) Extortion in the first degree;

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

31 (h) Indecent liberties;

32 (i) Kidnapping in the second degree;

33 (j) Leading organized crime;

34 (k) Manslaughter in the first degree;

35 (l) Manslaughter in the second degree;

36 (m) Promoting prostitution in the first degree;

37 (n) Rape in the third degree;

38 (o) Robbery in the second degree;

39 (p) Sexual exploitation;

1 (q) Vehicular assault;

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

6 (s) Any other class B felony offense with a finding of sexual  
7 motivation, as "sexual motivation" is defined under this section;

8 (t) Any other felony with a deadly weapon verdict under RCW  
9 9.94A.125;

10 (u) Any felony offense in effect at any time prior to December 2,  
11 1993, that is comparable to a most serious offense under this  
12 subsection, or any federal or out-of-state conviction for an offense  
13 that under the laws of this state would be a felony classified as a  
14 most serious offense under this subsection;

15 (v)(i) A prior conviction for indecent liberties under RCW  
16 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.  
17 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as  
18 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)  
19 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

20 (ii) A prior conviction for indecent liberties under RCW  
21 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,  
22 if: (A) The crime was committed against a child under the age of  
23 fourteen; or (B) the relationship between the victim and perpetrator is  
24 included in the definition of indecent liberties under RCW  
25 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,  
26 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,  
27 through July 27, 1997.

28 (24) "Nonviolent offense" means an offense which is not a violent  
29 offense.

30 (25) "Offender" means a person who has committed a felony  
31 established by state law and is eighteen years of age or older or is  
32 less than eighteen years of age but whose case is under superior court  
33 jurisdiction under RCW 13.04.030 or has been transferred by the  
34 appropriate juvenile court to a criminal court pursuant to RCW  
35 13.40.110. Throughout this chapter, the terms "offender" and  
36 "defendant" are used interchangeably.

37 (26) "Partial confinement" means confinement for no more than one  
38 year in a facility or institution operated or utilized under contract  
39 by the state or any other unit of government, or, if home detention or

1 work crew has been ordered by the court, in an approved residence, for  
2 a substantial portion of each day with the balance of the day spent in  
3 the community. Partial confinement includes work release, home  
4 detention, work crew, and a combination of work crew and home detention  
5 as defined in this section.

6 (27) "Persistent offender" is an offender who:

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

9 (ii) Has, before the commission of the offense under (a) of this  
10 subsection, been convicted as an offender on at least two separate  
11 occasions, whether in this state or elsewhere, of felonies that under  
12 the laws of this state would be considered most serious offenses and  
13 would be included in the offender score under RCW 9.94A.360; provided  
14 that of the two or more previous convictions, at least one conviction  
15 must have occurred before the commission of any of the other most  
16 serious offenses for which the offender was previously convicted; or

17 (b)(i) Has been convicted of: (A) Rape in the first degree, rape  
18 of a child in the first degree, child molestation in the first degree,  
19 rape in the second degree, rape of a child in the second degree, or  
20 indecent liberties by forcible compulsion; (B) murder in the first  
21 degree, murder in the second degree, homicide by abuse, kidnapping in  
22 the first degree, kidnapping in the second degree, assault in the first  
23 degree, assault in the second degree, assault of a child in the first  
24 degree, or burglary in the first degree, with a finding of sexual  
25 motivation; or (C) an attempt to commit any crime listed in this  
26 subsection (27)(b)(i); and

27 (ii) Has, before the commission of the offense under (b)(i) of this  
28 subsection, been convicted as an offender on at least one occasion,  
29 whether in this state or elsewhere, of an offense listed in (b)(i) of  
30 this subsection. A conviction for rape of a child in the first degree  
31 constitutes a conviction under subsection (27)(b)(i) only when the  
32 offender was sixteen years of age or older when the offender committed  
33 the offense. A conviction for rape of a child in the second degree  
34 constitutes a conviction under subsection (27)(b)(i) only when the  
35 offender was eighteen years of age or older when the offender committed  
36 the offense.

37 (28) "Postrelease supervision" is that portion of an offender's  
38 community placement that is not community custody.

1 (29) "Restitution" means the requirement that the offender pay a  
2 specific sum of money over a specific period of time to the court as  
3 payment of damages. The sum may include both public and private costs.  
4 The imposition of a restitution order does not preclude civil redress.

5 (30) "School" has the meaning under RCW 28A.150.010, 28A.150.020,  
6 or 28A.195.010 and also means preschools. Any city, town, school  
7 district, or county may depict the location and boundaries of the area  
8 on or within the radius of one thousand feet of the perimeter of a  
9 school.

10 (31) "Serious traffic offense" means:

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

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

19 (~~(31)~~) (32) "Serious violent offense" is a subcategory of violent  
20 offense and means:

21 (a) Murder in the first degree, homicide by abuse, murder in the  
22 second degree, manslaughter in the first degree, assault in the first  
23 degree, kidnapping in the first degree, or rape in the first degree,  
24 assault of a child in the first degree, or an attempt, criminal  
25 solicitation, or criminal conspiracy to commit one of these felonies;  
26 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 (~~(32)~~) (33) "Sentence range" means the sentencing court's  
31 discretionary range in imposing a nonappealable sentence.

32 (~~(33)~~) (34) "Sex offense" means:

33 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
34 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a  
35 criminal attempt, criminal solicitation, or criminal conspiracy to  
36 commit such crimes;

37 (b) A felony with a finding of sexual motivation under RCW  
38 9.94A.127 or 13.40.135; or

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

4 (~~(34)~~) (35) "Sexual motivation" means that one of the purposes  
5 for which the defendant committed the crime was for the purpose of his  
6 or her sexual gratification.

7 (~~(35)~~) (36) "Total confinement" means confinement inside the  
8 physical boundaries of a facility or institution operated or utilized  
9 under contract by the state or any other unit of government for twenty-  
10 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

11 (~~(36)~~) (37) "Transition training" means written and verbal  
12 instructions and assistance provided by the department to the offender  
13 during the two weeks prior to the offender's successful completion of  
14 the work ethic camp program. The transition training shall include  
15 instructions in the offender's requirements and obligations during the  
16 offender's period of community custody.

17 (~~(37)~~) (38) "Victim" means any person who has sustained  
18 emotional, psychological, physical, or financial injury to person or  
19 property as a direct result of the crime charged.

20 (~~(38)~~) (39) "Violent offense" means:

21 (a) Any of the following felonies, as now existing or hereafter  
22 amended: Any felony defined under any law as a class A felony or an  
23 attempt to commit a class A felony, criminal solicitation of or  
24 criminal conspiracy to commit a class A felony, manslaughter in the  
25 first degree, manslaughter in the second degree, indecent liberties if  
26 committed by forcible compulsion, kidnapping in the second degree,  
27 arson in the second degree, assault in the second degree, assault of a  
28 child in the second degree, extortion in the first degree, robbery in  
29 the second degree, drive-by shooting, vehicular assault, and vehicular  
30 homicide, when proximately caused by the driving of any vehicle by any  
31 person while under the influence of intoxicating liquor or any drug as  
32 defined by RCW 46.61.502, or by the operation of any vehicle in a  
33 reckless manner;

34 (b) Any conviction for a felony offense in effect at any time prior  
35 to July 1, 1976, that is comparable to a felony classified as a violent  
36 offense in (a) of this subsection; and

37 (c) Any federal or out-of-state conviction for an offense that  
38 under the laws of this state would be a felony classified as a violent  
39 offense under (a) or (b) of this subsection.

1       (~~(39)~~) (40) "Work crew" means a program of partial confinement  
2 consisting of civic improvement tasks for the benefit of the community  
3 of not less than thirty-five hours per week that complies with RCW  
4 9.94A.135. The civic improvement tasks shall have minimal negative  
5 impact on existing private industries or the labor force in the county  
6 where the service or labor is performed. The civic improvement tasks  
7 shall not affect employment opportunities for people with developmental  
8 disabilities contracted through sheltered workshops as defined in RCW  
9 82.04.385. Only those offenders sentenced to a facility operated or  
10 utilized under contract by a county or the state are eligible to  
11 participate on a work crew. Offenders sentenced for a sex offense as  
12 defined in subsection (~~(33)~~) (34) of this section are not eligible  
13 for the work crew program.

14       (~~(40)~~) (41) "Work ethic camp" means an alternative incarceration  
15 program designed to reduce recidivism and lower the cost of corrections  
16 by requiring offenders to complete a comprehensive array of real-world  
17 job and vocational experiences, character-building work ethics  
18 training, life management skills development, substance abuse  
19 rehabilitation, counseling, literacy training, and basic adult  
20 education.

21       (~~(41)~~) (42) "Work release" means a program of partial confinement  
22 available to offenders who are employed or engaged as a student in a  
23 regular course of study at school. Participation in work release shall  
24 be conditioned upon the offender attending work or school at regularly  
25 defined hours and abiding by the rules of the work release facility.

26       (~~(42)~~) (43) "Home detention" means a program of partial  
27 confinement available to offenders wherein the offender is confined in  
28 a private residence subject to electronic surveillance.

29       **Sec. 3.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c  
30 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and  
31 amended to read as follows:

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

34       (1) Except as authorized in subsections (2), (4), (5), (6), and (8)  
35 of this section, the court shall impose a sentence within the sentence  
36 range for the offense.

37       (2) The court may impose a sentence outside the standard sentence  
38 range for that offense if it finds, considering the purpose of this

1 chapter, that there are substantial and compelling reasons justifying  
2 an exceptional sentence.

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

7 (4) A persistent offender shall be sentenced to a term of total  
8 confinement for life without the possibility of parole or, when  
9 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
10 first degree, sentenced to death, notwithstanding the maximum sentence  
11 under any other law. An offender convicted of the crime of murder in  
12 the first degree shall be sentenced to a term of total confinement not  
13 less than twenty years. An offender convicted of the crime of assault  
14 in the first degree or assault of a child in the first degree where the  
15 offender used force or means likely to result in death or intended to  
16 kill the victim shall be sentenced to a term of total confinement not  
17 less than five years. An offender convicted of the crime of rape in  
18 the first degree shall be sentenced to a term of total confinement not  
19 less than five years. The foregoing minimum terms of total confinement  
20 are mandatory and shall not be varied or modified as provided in  
21 subsection (2) of this section. In addition, all offenders subject to  
22 the provisions of this subsection shall not be eligible for community  
23 custody, earned early release time, furlough, home detention, partial  
24 confinement, work crew, work release, or any other form of early  
25 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),  
26 or any other form of authorized leave of absence from the correctional  
27 facility while not in the direct custody of a corrections officer or  
28 officers during such minimum terms of total confinement except in the  
29 case of an offender in need of emergency medical treatment or for the  
30 purpose of commitment to an inpatient treatment facility in the case of  
31 an offender convicted of the crime of rape in the first degree.

32 (5) In sentencing a first-time offender the court may waive the  
33 imposition of a sentence within the sentence range and impose a  
34 sentence which may include up to ninety days of confinement in a  
35 facility operated or utilized under contract by the county and a  
36 requirement that the offender refrain from committing new offenses.  
37 The sentence may also include up to two years of community supervision,  
38 which, in addition to crime-related prohibitions, may include

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

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

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

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

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

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

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

16 (6)(a) An offender is eligible for the special drug offender  
17 sentencing alternative if:

18 (i) The offender is convicted of the manufacture, delivery, or  
19 possession with intent to manufacture or deliver a controlled substance  
20 classified in Schedule I or II that is a narcotic drug or a felony that  
21 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
22 criminal solicitation, or criminal conspiracy to commit such crimes,  
23 and the violation does not involve a sentence enhancement under RCW  
24 9.94A.310 (3) or (4);

25 (ii) The offender has no prior convictions for a felony in this  
26 state, another state, or the United States; and

27 (iii) The offense involved only a small quantity of the particular  
28 controlled substance as determined by the judge upon consideration of  
29 such factors as the weight, purity, packaging, sale price, and street  
30 value of the controlled substance.

31 (b) If the midpoint of the standard range is greater than one year  
32 and the sentencing judge determines that the offender is eligible for  
33 this option and that the offender and the community will benefit from  
34 the use of the special drug offender sentencing alternative, the judge  
35 may waive imposition of a sentence within the standard range and impose  
36 a sentence that must include a period of total confinement in a state  
37 facility for one-half of the midpoint of the standard range. During  
38 incarceration in the state facility, offenders sentenced under this  
39 subsection shall undergo a comprehensive substance abuse assessment and

1 receive, within available resources, treatment services appropriate for  
2 the offender. The treatment services shall be designed by the division  
3 of alcohol and substance abuse of the department of social and health  
4 services, in cooperation with the department of corrections. If the  
5 midpoint of the standard range is twenty-four months or less, no more  
6 than three months of the sentence may be served in a work release  
7 status. The court shall also impose one year of concurrent community  
8 custody and community supervision that must include appropriate  
9 outpatient substance abuse treatment, crime-related prohibitions  
10 including a condition not to use illegal controlled substances, and a  
11 requirement to submit to urinalysis or other testing to monitor that  
12 status. The court may require that the monitoring for controlled  
13 substances be conducted by the department or by a treatment  
14 alternatives to street crime program or a comparable court or agency-  
15 referred program. The offender may be required to pay thirty dollars  
16 per month while on community custody to offset the cost of monitoring.  
17 In addition, the court shall impose three or more of the following  
18 conditions:

- 19 (i) Devote time to a specific employment or training;
- 20 (ii) Remain within prescribed geographical boundaries and notify  
21 the court or the community corrections officer before any change in the  
22 offender's address or employment;
- 23 (iii) Report as directed to a community corrections officer;
- 24 (iv) Pay all court-ordered legal financial obligations;
- 25 (v) Perform community service work;
- 26 (vi) Stay out of areas designated by the sentencing judge.
- 27 (c) If the offender violates any of the sentence conditions in (b)  
28 of this subsection, the department shall impose sanctions  
29 administratively, with notice to the prosecuting attorney and the  
30 sentencing court. Upon motion of the court or the prosecuting  
31 attorney, a violation hearing shall be held by the court. If the court  
32 finds that conditions have been willfully violated, the court may  
33 impose confinement consisting of up to the remaining one-half of the  
34 midpoint of the standard range. All total confinement served during  
35 the period of community custody shall be credited to the offender,  
36 regardless of whether the total confinement is served as a result of  
37 the original sentence, as a result of a sanction imposed by the  
38 department, or as a result of a violation found by the court. The term

1 of community supervision shall be tolled by any period of time served  
2 in total confinement as a result of a violation found by the court.

3 (d) The department shall determine the rules for calculating the  
4 value of a day fine based on the offender's income and reasonable  
5 obligations which the offender has for the support of the offender and  
6 any dependents. These rules shall be developed in consultation with  
7 the administrator for the courts, the office of financial management,  
8 and the commission.

9 (7) If a sentence range has not been established for the  
10 defendant's crime, the court shall impose a determinate sentence which  
11 may include not more than one year of confinement, community service  
12 work, a term of community supervision not to exceed one year, and/or  
13 other legal financial obligations. The court may impose a sentence  
14 which provides more than one year of confinement if the court finds,  
15 considering the purpose of this chapter, that there are substantial and  
16 compelling reasons justifying an exceptional sentence.

17 (8)(a)(i) When an offender is convicted of a sex offense other than  
18 a violation of RCW 9A.44.050 or a sex offense that is also a serious  
19 violent offense and has no prior convictions for a sex offense or any  
20 other felony sex offenses in this or any other state, the sentencing  
21 court, on its own motion or the motion of the state or the defendant,  
22 may order an examination to determine whether the defendant is amenable  
23 to treatment.

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

30 The examiner shall assess and report regarding the defendant's  
31 amenability to treatment and relative risk to the community. A  
32 proposed treatment plan shall be provided and shall include, at a  
33 minimum:

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

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

37 (C) Monitoring plans, including any requirements regarding living  
38 locations and conditions, lifestyle requirements, and monitoring by  
39 family members and others;

- 1 (D) Anticipated length of treatment; and
- 2 (E) Recommended crime-related prohibitions.

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

9 (ii) After receipt of the reports, the court shall consider whether  
10 the offender and the community will benefit from use of this special  
11 sex offender sentencing alternative and consider the victim's opinion  
12 whether the offender should receive a treatment disposition under this  
13 subsection. If the court determines that this special sex offender  
14 sentencing alternative is appropriate, the court shall then impose a  
15 sentence within the sentence range. If this sentence is less than  
16 eleven years of confinement, the court may suspend the execution of the  
17 sentence and impose the following conditions of suspension:

18 (A) The court shall place the defendant on community custody for  
19 the length of the suspended sentence or three years, whichever is  
20 greater, and require the offender to comply with any conditions imposed  
21 by the department of corrections under subsection (14) of this section;

22 (B) The court shall order treatment for any period up to three  
23 years in duration. The court in its discretion shall order outpatient  
24 sex offender treatment or inpatient sex offender treatment, if  
25 available. A community mental health center may not be used for such  
26 treatment unless it has an appropriate program designed for sex  
27 offender treatment. The offender shall not change sex offender  
28 treatment providers or treatment conditions without first notifying the  
29 prosecutor, the community corrections officer, and the court, and shall  
30 not change providers without court approval after a hearing if the  
31 prosecutor or community corrections officer object to the change. In  
32 addition, as conditions of the suspended sentence, the court may impose  
33 other sentence conditions including up to six months of confinement,  
34 not to exceed the sentence range of confinement for that offense,  
35 crime-related prohibitions, and requirements that the offender perform  
36 any one or more of the following:

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

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

4 (III) Report as directed to the court and a community corrections  
5 officer;

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

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

11 In addition, as a condition of the suspended sentence, the court  
12 shall order the defendant to refrain from establishing or maintaining  
13 a residence within the radius of one thousand feet of the perimeter of  
14 a school ground and to refrain from sex offender loitering as  
15 prohibited in section 1 of this act; and

16 (C) Sex offenders sentenced under this special sex offender  
17 sentencing alternative are not eligible to accrue any earned early  
18 release time while serving a suspended sentence.

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

26 (iv) At the time of sentencing, the court shall set a treatment  
27 termination hearing for three months prior to the anticipated date for  
28 completion of treatment. Prior to the treatment termination hearing,  
29 the treatment professional and community corrections officer shall  
30 submit written reports to the court and parties regarding the  
31 defendant's compliance with treatment ~~((and))~~, monitoring, and  
32 residential requirements, and recommendations regarding termination  
33 from treatment, including proposed community supervision conditions.  
34 Either party may request and the court may order another evaluation  
35 regarding the advisability of termination from treatment. The  
36 defendant shall pay the cost of any additional evaluation ordered  
37 unless the court finds the defendant to be indigent in which case the  
38 state shall pay the cost. At the treatment termination hearing the  
39 court may: (A) Modify conditions of community custody, and either (B)

1 terminate treatment, or (C) extend treatment for up to the remaining  
2 period of community custody.

3 (v) If a violation of conditions occurs during community custody,  
4 the department shall either impose sanctions as provided for in RCW  
5 9.94A.205(2)(a) or refer the violation to the court and recommend  
6 revocation of the suspended sentence as provided for in (a)(vi) of this  
7 subsection.

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

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

19 (viii) A sex offender therapist who examines or treats a sex  
20 offender pursuant to this subsection (8) does not have to be certified  
21 by the department of health pursuant to chapter 18.155 RCW if the court  
22 finds that: (A) The offender has already moved to another state or  
23 plans to move to another state for reasons other than circumventing the  
24 certification requirements; (B) no certified providers are available  
25 for treatment within a reasonable geographical distance of the  
26 offender's home; and (C) the evaluation and treatment plan comply with  
27 this subsection (8) and the rules adopted by the department of health.

28 (ix) For purposes of this subsection (8), "victim" means any person  
29 who has sustained emotional, psychological, physical, or financial  
30 injury to person or property as a result of the crime charged.  
31 "Victim" also means a parent or guardian of a victim who is a minor  
32 child unless the parent or guardian is the perpetrator of the offense.

33 (x) If the defendant was less than eighteen years of age when the  
34 charge was filed, the state shall pay for the cost of initial  
35 evaluation and treatment.

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

1 department of corrections to evaluate whether the offender is amenable  
2 to treatment and the department may place the offender in a treatment  
3 program within a correctional facility operated by the department.

4 Except for an offender who has been convicted of a violation of RCW  
5 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
6 before the expiration of his or her term of confinement, the department  
7 of corrections may request the court to convert the balance of  
8 confinement to community supervision and to place conditions on the  
9 offender including crime-related prohibitions and requirements that the  
10 offender perform any one or more of the following:

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

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

15 (iii) Report as directed to the court and a community corrections  
16 officer;

17 (iv) Undergo available outpatient treatment.

18 If the court places the offender on community supervision, the  
19 court shall order the defendant to refrain from establishing or  
20 maintaining a residence within the radius of one thousand feet of the  
21 perimeter of a school ground and to refrain from sex offender loitering  
22 as prohibited in section 1 of this act.

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

27 Nothing in this subsection (8)(b) shall confer eligibility for such  
28 programs for offenders convicted and sentenced for a sex offense  
29 committed prior to July 1, 1987. This subsection (8)(b) does not apply  
30 to any crime committed after July 1, 1990.

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

1 (9)(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 not sentenced under subsection (6) of this section,  
10 committed on or after July 1, 1988, the court shall in addition to the  
11 other terms of the sentence, sentence the offender to a one-year term  
12 of community placement beginning either upon completion of the term of  
13 confinement or at such time as the offender is transferred to community  
14 custody in lieu of earned early release in accordance with RCW  
15 9.94A.150 (1) and (2). When the court sentences an offender under this  
16 subsection to the statutory maximum period of confinement then the  
17 community placement portion of the sentence shall consist entirely of  
18 such community custody to which the offender may become eligible, in  
19 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
20 custody actually served shall be credited against the community  
21 placement portion of the sentence. If the offender is convicted of a  
22 sex offense, mandatory conditions of community placement shall include  
23 a prohibition restricting the offender from establishing or maintaining  
24 a residence within the radius of one thousand feet of the perimeter of  
25 a school ground and a prohibition restricting the offender from sex  
26 offender loitering as prohibited in section 1 of this act.

27 (b) When a court sentences a person to a term of total confinement  
28 to the custody of the department of corrections for an offense  
29 categorized as a sex offense committed on or after July 1, 1990, but  
30 before June 6, 1996, a serious violent offense, vehicular homicide, or  
31 vehicular assault, committed on or after July 1, 1990, the court shall  
32 in addition to other terms of the sentence, sentence the offender to  
33 community placement for two years or up to the period of earned early  
34 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is  
35 longer. The community placement shall begin either upon completion of  
36 the term of confinement or at such time as the offender is transferred  
37 to community custody in lieu of earned early release in accordance with  
38 RCW 9.94A.150 (1) and (2). When the court sentences an offender under  
39 this subsection to the statutory maximum period of confinement then the

1 community placement portion of the sentence shall consist entirely of  
2 the community custody to which the offender may become eligible, in  
3 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
4 custody actually served shall be credited against the community  
5 placement portion of the sentence. Unless a condition is waived by the  
6 court, the terms of community placement for offenders sentenced  
7 pursuant to this section shall include the following conditions:

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

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

12 (iii) The offender shall not possess or consume controlled  
13 substances except pursuant to lawfully issued prescriptions;

14 (iv) The offender shall pay supervision fees as determined by the  
15 department of corrections;

16 (v) The residence location and living arrangements are subject to  
17 the prior approval of the department of corrections during the period  
18 of community placement. The offender may not establish or maintain a  
19 residence within one thousand feet of the perimeter of a school ground.  
20 The court may not waive the restriction on residences within this  
21 radius; and

22 (vi) The offender shall submit to affirmative acts necessary to  
23 monitor compliance with the orders of the court as required by the  
24 department.

25 (c) As a part of any sentence imposed under (a) or (b) of this  
26 subsection, the court may also order any of the following special  
27 conditions:

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

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

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

34 (iv) The offender shall not consume alcohol;

35 (v) The offender shall comply with any crime-related prohibitions;  
36 or

37 (vi) For an offender convicted of a felony sex offense against a  
38 minor victim after June 6, 1996, the offender shall comply with any  
39 terms and conditions of community placement imposed by the department

1 of corrections relating to contact between the sex offender and a minor  
2 victim or a child of similar age or circumstance as a previous victim.

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

7 (10)(a) When a court sentences a person to the custody of the  
8 department of corrections for an offense categorized as a sex offense  
9 committed on or after June 6, 1996, the court shall, in addition to  
10 other terms of the sentence, sentence the offender to community custody  
11 for three years or up to the period of earned early release awarded  
12 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
13 community custody shall begin either upon completion of the term of  
14 confinement or at such time as the offender is transferred to community  
15 custody in lieu of earned early release in accordance with RCW  
16 9.94A.150 (1) and (2).

17 (b) Unless a condition is waived by the court, the terms of  
18 community custody shall be the same as those provided for in subsection  
19 (9)(b) of this section and may include those provided for in subsection  
20 (9)(c) of this section. As part of any sentence that includes a term  
21 of community custody imposed under this subsection, the court shall  
22 also require the offender to comply with any conditions imposed by the  
23 department of corrections under subsection (14) of this section.

24 (c) At any time prior to the completion of a sex offender's term of  
25 community custody, if the court finds that public safety would be  
26 enhanced, the court may impose and enforce an order extending any or  
27 all of the conditions imposed pursuant to this section for a period up  
28 to the maximum allowable sentence for the crime as it is classified in  
29 chapter 9A.20 RCW, regardless of the expiration of the offender's term  
30 of community custody. If a violation of a condition extended under  
31 this subsection occurs after the expiration of the offender's term of  
32 community custody, it shall be deemed a violation of the sentence for  
33 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
34 court as provided for in RCW 7.21.040.

35 (11) If the court imposes a sentence requiring confinement of  
36 thirty days or less, the court may, in its discretion, specify that the  
37 sentence be served on consecutive or intermittent days. A sentence  
38 requiring more than thirty days of confinement shall be served on

1 consecutive days. Local jail administrators may schedule court-ordered  
2 intermittent sentences as space permits.

3 (12) If a sentence imposed includes payment of a legal financial  
4 obligation, the sentence shall specify the total amount of the legal  
5 financial obligation owed, and shall require the offender to pay a  
6 specified monthly sum toward that legal financial obligation.  
7 Restitution to victims shall be paid prior to any other payments of  
8 monetary obligations. Any legal financial obligation that is imposed  
9 by the court may be collected by the department, which shall deliver  
10 the amount paid to the county clerk for credit. The offender's  
11 compliance with payment of legal financial obligations shall be  
12 supervised by the department for ten years following the entry of the  
13 judgment and sentence or ten years following the offender's release  
14 from total confinement. All monetary payments ordered shall be paid no  
15 later than ten years after the last date of release from confinement  
16 pursuant to a felony conviction or the date the sentence was entered  
17 unless the superior court extends the criminal judgment an additional  
18 ten years. If the legal financial obligations including crime victims'  
19 assessments are not paid during the initial ten-year period, the  
20 superior court may extend jurisdiction under the criminal judgment an  
21 additional ten years as provided in RCW 9.94A.140, 9.94A.142, and  
22 9.94A.145. If jurisdiction under the criminal judgment is extended,  
23 the department is not responsible for supervision of the offender  
24 during the subsequent period. Independent of the department, the party  
25 or entity to whom the legal financial obligation is owed shall have the  
26 authority to utilize any other remedies available to the party or  
27 entity to collect the legal financial obligation. Nothing in this  
28 section makes the department, the state, or any of its employees,  
29 agents, or other persons acting on their behalf liable under any  
30 circumstances for the payment of these legal financial obligations. If  
31 an order includes restitution as one of the monetary assessments, the  
32 county clerk shall make disbursements to victims named in the order.

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

37 (14) All offenders sentenced to terms involving community  
38 supervision, community service, community placement, or legal financial  
39 obligation shall be under the supervision of the department of

1 corrections and shall follow explicitly the instructions and conditions  
2 of the department of corrections. The department may require an  
3 offender to perform affirmative acts it deems appropriate to monitor  
4 compliance with the conditions of the sentence imposed.

5 (a) The instructions shall include, at a minimum, reporting as  
6 directed to a community corrections officer, refraining from  
7 establishing or maintaining a residence within the radius of one  
8 thousand feet of the perimeter of a school ground if the offender is a  
9 sex offender, engaging in sex offender loitering as prohibited in  
10 section 1 of this act, remaining within prescribed geographical  
11 boundaries, notifying the community corrections officer of any change  
12 in the offender's address or employment, and paying the supervision fee  
13 assessment.

14 (b) For offenders sentenced to terms involving community custody  
15 for crimes committed on or after June 6, 1996, the department may  
16 include, in addition to the instructions in (a) of this subsection, any  
17 appropriate conditions of supervision, including but not limited to,  
18 prohibiting the offender from having contact with any other specified  
19 individuals or specific class of individuals. The conditions  
20 authorized under this subsection (14)(b) may be imposed by the  
21 department prior to or during an offender's community custody term. If  
22 a violation of conditions imposed by the court or the department  
23 pursuant to subsection (10) of this section occurs during community  
24 custody, it shall be deemed a violation of community placement for the  
25 purposes of RCW 9.94A.207 and shall authorize the department to  
26 transfer an offender to a more restrictive confinement status as  
27 provided in RCW 9.94A.205. At any time prior to the completion of a  
28 sex offender's term of community custody, the department may recommend  
29 to the court that any or all of the conditions imposed by the court or  
30 the department pursuant to subsection (10) of this section be continued  
31 beyond the expiration of the offender's term of community custody as  
32 authorized in subsection (10)(c) of this section.

33 The department may require offenders to pay for special services  
34 rendered on or after July 25, 1993, including electronic monitoring,  
35 day reporting, and telephone reporting, dependent upon the offender's  
36 ability to pay. The department may pay for these services for  
37 offenders who are not able to pay.

38 (15) 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 (16) 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 (17) 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 (18) 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 (19) 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 (20) 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 (21) 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. 4.** RCW 13.40.160 and 1997 c 265 s 1 are each amended to read  
2 as follows:

3       (1) When the respondent is found to be a serious offender, the  
4 court shall commit the offender to the department for the standard  
5 range of disposition for the offense, as indicated in option A of  
6 schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and  
7 (6) of this section.

8       If the court concludes, and enters reasons for its conclusion, that  
9 disposition within the standard range would effectuate a manifest  
10 injustice the court shall impose a disposition outside the standard  
11 range, as indicated in option B of schedule D-3, RCW 13.40.0357. The  
12 court's finding of manifest injustice shall be supported by clear and  
13 convincing evidence.

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

23       (2) Where the respondent is found to be a minor or first offender,  
24 the court shall order that the respondent serve a term of community  
25 supervision as indicated in option A or option B of schedule D-1, RCW  
26 13.40.0357 except as provided in subsections (5) and (6) of this  
27 section. If the court determines that a disposition of community  
28 supervision would effectuate a manifest injustice the court may impose  
29 another disposition under option C of schedule D-1, RCW 13.40.0357.  
30 Except as provided in subsection (5) of this section, a disposition  
31 other than a community supervision may be imposed only after the court  
32 enters reasons upon which it bases its conclusions that imposition of  
33 community supervision would effectuate a manifest injustice. When a  
34 judge finds a manifest injustice and imposes a sentence of confinement  
35 exceeding thirty days, the court shall sentence the juvenile to a  
36 maximum term, and the provisions of RCW 13.40.030(2) shall be used to  
37 determine the range. The court's finding of manifest injustice shall  
38 be supported by clear and convincing evidence.

1 Except for disposition of community supervision or a disposition  
2 imposed pursuant to subsection (5) of this section, a disposition may  
3 be appealed as provided in RCW 13.40.230 by the state or the  
4 respondent. A disposition of community supervision or a disposition  
5 imposed pursuant to subsection (5) of this section may not be appealed  
6 under RCW 13.40.230.

7 (3) Where a respondent is found to have committed an offense for  
8 which the respondent declined to enter into a diversion agreement, the  
9 court shall impose a term of community supervision limited to the  
10 conditions allowed in a diversion agreement as provided in RCW  
11 13.40.080(2).

12 (4) If a respondent is found to be a middle offender:

13 (a) The court shall impose a determinate disposition within the  
14 standard range(s) for such offense, as indicated in option A of  
15 schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and  
16 (6) of this section. If the standard range includes a term of  
17 confinement exceeding thirty days, commitment shall be to the  
18 department for the standard range of confinement; or

19 (b) If the middle offender has less than 110 points, the court  
20 shall impose a determinate disposition of community supervision and/or  
21 up to thirty days confinement, as indicated in option B of schedule D-  
22 2, RCW 13.40.0357 in which case, if confinement has been imposed, the  
23 court shall state either aggravating or mitigating factors as set forth  
24 in RCW 13.40.150. If the middle offender has 110 points or more, the  
25 court may impose a disposition under option A and may suspend the  
26 disposition on the condition that the offender serve up to thirty days  
27 of confinement and follow all conditions of community supervision. If  
28 the offender violates any condition of the disposition including  
29 conditions of a probation bond, the court may impose sanctions pursuant  
30 to RCW 13.40.200 or may revoke the suspension and order execution of  
31 the disposition. The court shall give credit for any confinement time  
32 previously served if that confinement was for the offense for which the  
33 suspension is being revoked.

34 (c) Only if the court concludes, and enters reasons for its  
35 conclusions, that disposition as provided in subsection (4)(a) or (b)  
36 of this section would effectuate a manifest injustice, the court shall  
37 sentence the juvenile to a maximum term, and the provisions of RCW  
38 13.40.030(2) shall be used to determine the range. The court's finding

1 of manifest injustice shall be supported by clear and convincing  
2 evidence.

3 (d) A disposition pursuant to subsection (4)(c) of this section is  
4 appealable under RCW 13.40.230 by the state or the respondent. A  
5 disposition pursuant to subsection (4)(a) or (b) of this section is not  
6 appealable under RCW 13.40.230.

7 (5) When a serious, middle, or minor first offender is found to  
8 have committed a sex offense, other than a sex offense that is also a  
9 serious violent offense as defined by RCW 9.94A.030, and has no history  
10 of a prior sex offense, the court, on its own motion or the motion of  
11 the state or the respondent, may order an examination to determine  
12 whether the respondent is amenable to treatment.

13 The report of the examination shall include at a minimum the  
14 following: The respondent's version of the facts and the official  
15 version of the facts, the respondent's offense history, an assessment  
16 of problems in addition to alleged deviant behaviors, the respondent's  
17 social, educational, and employment situation, and other evaluation  
18 measures used. The report shall set forth the sources of the  
19 evaluator's information.

20 The examiner shall assess and report regarding the respondent's  
21 amenability to treatment and relative risk to the community. A  
22 proposed treatment plan shall be provided and shall include, at a  
23 minimum:

24 (a)(i) Frequency and type of contact between the offender and  
25 therapist;

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

28 (iii) Monitoring plans, including any requirements regarding living  
29 conditions, lifestyle requirements, and monitoring by family members,  
30 legal guardians, or others;

31 (iv) Anticipated length of treatment; and

32 (v) Recommended crime-related prohibitions.

33 The court on its own motion may order, or on a motion by the state  
34 shall order, a second examination regarding the offender's amenability  
35 to treatment. The evaluator shall be selected by the party making the  
36 motion. The defendant shall pay the cost of any second examination  
37 ordered unless the court finds the defendant to be indigent in which  
38 case the state shall pay the cost.

1 After receipt of reports of the examination, the court shall then  
2 consider whether the offender and the community will benefit from use  
3 of this special sex offender disposition alternative and consider the  
4 victim's opinion whether the offender should receive a treatment  
5 disposition under this section. If the court determines that this  
6 special sex offender disposition alternative is appropriate, then the  
7 court shall impose a determinate disposition within the standard range  
8 for the offense, and the court may suspend the execution of the  
9 disposition and place the offender on community supervision for up to  
10 two years. As a condition of the suspended disposition, the court may  
11 impose the conditions of community supervision and other conditions,  
12 including up to thirty days of confinement and requirements that the  
13 offender do any one or more of the following:

14 (b)(i) Devote time to a specific education, employment, or  
15 occupation;

16 (ii) Undergo available outpatient sex offender treatment for up to  
17 two years, or inpatient sex offender treatment not to exceed the  
18 standard range of confinement for that offense. A community mental  
19 health center may not be used for such treatment unless it has an  
20 appropriate program designed for sex offender treatment. The  
21 respondent shall not change sex offender treatment providers or  
22 treatment conditions without first notifying the prosecutor, the  
23 probation counselor, and the court, and shall not change providers  
24 without court approval after a hearing if the prosecutor or probation  
25 counselor object to the change;

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

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

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

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

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

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

1       (ix) Refrain from sex offender loitering as prohibited in section  
2 1 of this act; or

3       (x) The court shall order that the offender may not attend ((the))  
4 any public or approved private elementary, middle, or high school  
5 attended by the victim ((or)), the victim's siblings, or any student  
6 more than three years younger than the offender. The court shall also  
7 order that the offender may not attend any public or private  
8 elementary, middle, or high school that is within one thousand feet of  
9 the perimeter of a public or approved private school that has students  
10 more than three years younger than the offender. The parents or legal  
11 guardians of the offender are responsible for transportation or other  
12 costs associated with the offender's change of school that would  
13 otherwise be paid by the school district. The court shall send notice  
14 of the disposition and restriction on attending the ((~~same school as~~  
15 ~~the victim or victim's siblings~~)) schools described in this subsection  
16 (5)(b)(x) to the public or approved private school the juvenile will  
17 attend, if known, or if unknown, to the approved private schools and  
18 the public school district board of directors of the district in which  
19 the juvenile resides or intends to reside. This notice must be sent at  
20 the earliest possible date but not later than ten calendar days after  
21 entry of the disposition.

22       The sex offender treatment provider shall submit quarterly reports  
23 on the respondent's progress in treatment to the court and the parties.  
24 The reports shall reference the treatment plan and include at a minimum  
25 the following: Dates of attendance, respondent's compliance with  
26 requirements, treatment activities, the respondent's relative progress  
27 in treatment, and any other material specified by the court at the time  
28 of the disposition.

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

31       Except as provided in this subsection (5), after July 1, 1991,  
32 examinations and treatment ordered pursuant to this subsection shall  
33 only be conducted by sex offender treatment providers certified by the  
34 department of health pursuant to chapter 18.155 RCW. A sex offender  
35 therapist who examines or treats a juvenile sex offender pursuant to  
36 this subsection does not have to be certified by the department of  
37 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
38 offender has already moved to another state or plans to move to another  
39 state for reasons other than circumventing the certification

1 requirements; (B) no certified providers are available for treatment  
2 within a reasonable geographical distance of the offender's home; and  
3 (C) the evaluation and treatment plan comply with this subsection (5)  
4 and the rules adopted by the department of health.

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

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

20 (6) RCW 13.40.193 shall govern the disposition of any juvenile  
21 adjudicated of possessing a firearm in violation of RCW  
22 9.41.040(1)(b)(iii) or any crime in which a special finding is entered  
23 that the juvenile was armed with a firearm.

24 (7) Whenever a juvenile offender is entitled to credit for time  
25 spent in detention prior to a dispositional order, the dispositional  
26 order shall specifically state the number of days of credit for time  
27 served.

28 (8) Except as provided for in subsection (4)(b) or (5) of this  
29 section or RCW 13.40.125, the court shall not suspend or defer the  
30 imposition or the execution of the disposition.

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

34 (10) As a mandatory condition of community supervision or parole of  
35 a sex offender, the court shall order a sex offender to refrain from  
36 sex offender loitering as prohibited in section 1 of this act.

37 **Sec. 5.** RCW 13.40.160 and 1997 c 338 s 25 and 1997 c 265 s 1 are  
38 each reenacted and amended to read as follows:

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

3 (a) When the court sentences an offender to a local sanction as  
4 provided in RCW 13.40.0357 option A, the court shall impose a  
5 determinate disposition within the standard ranges, except as provided  
6 in subsections (2), (4), and (5) of this section. The disposition may  
7 be comprised of one or more local sanctions.

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

13 (2) If the court concludes, and enters reasons for its conclusion,  
14 that disposition within the standard range would effectuate a manifest  
15 injustice the court shall impose a disposition outside the standard  
16 range, as indicated in option C of RCW 13.40.0357. The court's finding  
17 of manifest injustice shall be supported by clear and convincing  
18 evidence.

19 A disposition outside the standard range shall be determinate and  
20 shall be comprised of confinement or community supervision, or a  
21 combination thereof. When a judge finds a manifest injustice and  
22 imposes a sentence of confinement exceeding thirty days, the court  
23 shall sentence the juvenile to a maximum term, and the provisions of  
24 RCW 13.40.030(2) shall be used to determine the range. A disposition  
25 outside the standard range is appealable under RCW 13.40.230 by the  
26 state or the respondent. A disposition within the standard range is  
27 not appealable under RCW 13.40.230.

28 (3) Where a respondent is found to have committed an offense for  
29 which the respondent declined to enter into a diversion agreement, the  
30 court shall impose a term of community supervision limited to the  
31 conditions allowed in a diversion agreement as provided in RCW  
32 13.40.080(2).

33 (4) When a juvenile offender is found to have committed a sex  
34 offense, other than a sex offense that is also a serious violent  
35 offense as defined by RCW 9.94A.030, and has no history of a prior sex  
36 offense, the court, on its own motion or the motion of the state or the  
37 respondent, may order an examination to determine whether the  
38 respondent is amenable to treatment.

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

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

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

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

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

19 (iv) Anticipated length of treatment; and

20 (v) Recommended crime-related prohibitions.

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

27 After receipt of reports of the examination, the court shall then  
28 consider whether the offender and the community will benefit from use  
29 of this special sex offender disposition alternative and consider the  
30 victim's opinion whether the offender should receive a treatment  
31 disposition under this section. If the court determines that this  
32 special sex offender disposition alternative is appropriate, then the  
33 court shall impose a determinate disposition within the standard range  
34 for the offense, or if the court concludes, and enters reasons for its  
35 conclusions, that such disposition would cause a manifest injustice,  
36 the court shall impose a disposition under option C, and the court may  
37 suspend the execution of the disposition and place the offender on  
38 community supervision for at least two years. As a condition of the  
39 suspended disposition, the court may impose the conditions of community

1 supervision and other conditions, including up to thirty days of  
2 confinement and requirements that the offender do any one or more of  
3 the following:

4 (b)(i) Devote time to a specific education, employment, or  
5 occupation;

6 (ii) Undergo available outpatient sex offender treatment for up to  
7 two years, or inpatient sex offender treatment not to exceed the  
8 standard range of confinement for that offense. A community mental  
9 health center may not be used for such treatment unless it has an  
10 appropriate program designed for sex offender treatment. The  
11 respondent shall not change sex offender treatment providers or  
12 treatment conditions without first notifying the prosecutor, the  
13 probation counselor, and the court, and shall not change providers  
14 without court approval after a hearing if the prosecutor or probation  
15 counselor object to the change;

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

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

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

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

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

27 (viii) Comply with the conditions of any court-ordered probation  
28 bond; ~~((or))~~

29 (ix) Refrain from sex offender loitering as prohibited in section  
30 1 of this act; or

31 ~~(x)~~ The court shall order that the offender may not attend ((the))  
32 any public or approved private elementary, middle, or high school  
33 attended by the victim ((or)), the victim's siblings, or any student  
34 more than three years younger than the offender. The court shall also  
35 order that the offender may not attend any public or private  
36 elementary, middle, or high school that is within one thousand feet of  
37 the perimeter of a public or approved private school that has students  
38 more than three years younger than the offender. The parents or legal  
39 guardians of the offender are responsible for transportation or other

1 costs associated with the offender's change of school that would  
2 otherwise be paid by the school district. The court shall send notice  
3 of the disposition and restriction on attending the (~~same school as~~  
4 ~~the victim or victim's siblings~~) schools described in this subsection  
5 (4)(b)(x) to the public or approved private school the juvenile will  
6 attend, if known, or if unknown, to the approved private schools and  
7 the public school district board of directors of the district in which  
8 the juvenile resides or intends to reside. This notice must be sent at  
9 the earliest possible date but not later than ten calendar days after  
10 entry of the disposition.

11 The sex offender treatment provider shall submit quarterly reports  
12 on the respondent's progress in treatment to the court and the parties.  
13 The reports shall reference the treatment plan and include at a minimum  
14 the following: Dates of attendance, respondent's compliance with  
15 requirements, treatment activities, the respondent's relative progress  
16 in treatment, and any other material specified by the court at the time  
17 of the disposition.

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

20 Except as provided in this subsection (4), after July 1, 1991,  
21 examinations and treatment ordered pursuant to this subsection shall  
22 only be conducted by sex offender treatment providers certified by the  
23 department of health pursuant to chapter 18.155 RCW. A sex offender  
24 therapist who examines or treats a juvenile sex offender pursuant to  
25 this subsection does not have to be certified by the department of  
26 health pursuant to chapter 18.155 RCW if the court finds that: (A) The  
27 offender has already moved to another state or plans to move to another  
28 state for reasons other than circumventing the certification  
29 requirements; (B) no certified providers are available for treatment  
30 within a reasonable geographical distance of the offender's home; and  
31 (C) the evaluation and treatment plan comply with this subsection (4)  
32 and the rules adopted by the department of health.

33 If the offender violates any condition of the disposition or the  
34 court finds that the respondent is failing to make satisfactory  
35 progress in treatment, the court may revoke the suspension and order  
36 execution of the disposition or the court may impose a penalty of up to  
37 thirty days' confinement for violating conditions of the disposition.  
38 The court may order both execution of the disposition and up to thirty  
39 days' confinement for the violation of the conditions of the

1 disposition. The court shall give credit for any confinement time  
2 previously served if that confinement was for the offense for which the  
3 suspension is being revoked.

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

9 A disposition entered under this subsection (4) is not appealable  
10 under RCW 13.40.230.

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

15 (6) RCW 13.40.193 shall govern the disposition of any juvenile  
16 adjudicated of possessing a firearm in violation of RCW  
17 9.41.040(1)(b)(iii) or any crime in which a special finding is entered  
18 that the juvenile was armed with a firearm.

19 (7) Whenever a juvenile offender is entitled to credit for time  
20 spent in detention prior to a dispositional order, the dispositional  
21 order shall specifically state the number of days of credit for time  
22 served.

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

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

29 (10) As a mandatory condition of community supervision or parole of  
30 a sex offender, the court shall order a sex offender to refrain from  
31 sex offender loitering as prohibited in section 1 of this act.

32 **Sec. 6.** RCW 13.40.210 and 1997 c 338 s 32 are each amended to read  
33 as follows:

34 (1) The secretary shall, except in the case of a juvenile committed  
35 by a court to a term of confinement in a state institution outside the  
36 appropriate standard range for the offense(s) for which the juvenile  
37 was found to be guilty established pursuant to RCW 13.40.030, set a  
38 release or discharge date for each juvenile committed to its custody.

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

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

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

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

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

36 (c) The secretary may further require up to twenty-five percent of  
37 the highest risk juvenile offenders who are placed on parole to  
38 participate in an intensive supervision program. Offenders  
39 participating in an intensive supervision program shall be required to

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

9 (d) If the juvenile is a sex offender, the secretary shall require  
10 the offender to refrain from sex offender loitering as prohibited in  
11 section 1 of this act.

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

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

35 (b) If the department finds that any juvenile in a program of  
36 parole has possessed a firearm or used a deadly weapon during the  
37 program of parole, the department shall modify the parole under (a) of  
38 this subsection and confine the juvenile for at least thirty days.

1 Confinement shall be in a facility operated by or pursuant to a  
2 contract with the state or any county.

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

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

10 **Sec. 7.** RCW 13.40.215 and 1997 c 265 s 2 are each amended to read  
11 as follows:

12 (1)(a) Except as provided in subsection (2) of this section, at the  
13 earliest possible date, and in no event later than thirty days before  
14 discharge, parole, or any other authorized leave or release, or before  
15 transfer to a community residential facility, the secretary shall send  
16 written notice of the discharge, parole, authorized leave or release,  
17 or transfer of a juvenile found to have committed a violent offense, a  
18 sex offense, or stalking, to the following:

19 (i) The chief of police of the city, if any, in which the juvenile  
20 will reside;

21 (ii) The sheriff of the county in which the juvenile will reside;  
22 and

23 (iii) The approved private schools and the common school district  
24 board of directors of the district in which the juvenile intends to  
25 reside or the approved private school or public school district in  
26 which the juvenile last attended school, whichever is appropriate,  
27 except when it has been determined by the department that the juvenile  
28 is twenty-one years old(~~(i is not required to return to school under~~  
29 ~~chapter 28A.225 RCW;))~~) or will be in the community for less than seven  
30 consecutive days on approved leave and will not be attending school  
31 during that time.

32 (b) After July 27, 1997, the department shall send a written notice  
33 to approved private and public schools under the same conditions  
34 identified in subsection (1)(a)(iii) of this section when a juvenile  
35 adjudicated of any offense is transferred to a community residential  
36 facility. The community residential facility shall provide written  
37 notice of the offender's criminal history to any school that the  
38 offender attends while residing at the community residential facility

1 and to any employer that employs the offender while residing at the  
2 community residential facility.

3 (c) The same notice as required by (a) of this subsection shall be  
4 sent to the following, if such notice has been requested in writing  
5 about a specific juvenile:

6 (i) The victim of the offense for which the juvenile was found to  
7 have committed or the victim's next of kin if the crime was a homicide;

8 (ii) Any witnesses who testified against the juvenile in any court  
9 proceedings involving the offense; and

10 (iii) Any person specified in writing by the prosecuting attorney.  
11 Information regarding victims, next of kin, or witnesses requesting the  
12 notice, information regarding any other person specified in writing by  
13 the prosecuting attorney to receive the notice, and the notice are  
14 confidential and shall not be available to the juvenile. The notice to  
15 the chief of police or the sheriff shall include the identity of the  
16 juvenile, the residence where the juvenile will reside, the identity of  
17 the person, if any, responsible for supervising the juvenile, and the  
18 time period of any authorized leave.

19 (d) The thirty-day notice requirements contained in this subsection  
20 shall not apply to emergency medical furloughs.

21 (e) The existence of the notice requirements in this subsection  
22 will not require any extension of the release date in the event the  
23 release plan changes after notification.

24 (2)(a) If a juvenile found to have committed a violent offense, a  
25 sex offense, or stalking escapes from a facility of the department, the  
26 secretary shall immediately notify, by the most reasonable and  
27 expedient means available, the chief of police of the city and the  
28 sheriff of the county in which the juvenile resided immediately before  
29 the juvenile's arrest. If previously requested, the secretary shall  
30 also notify the witnesses and the victim of the offense which the  
31 juvenile was found to have committed or the victim's next of kin if the  
32 crime was a homicide. If the juvenile is recaptured, the secretary  
33 shall send notice to the persons designated in this subsection as soon  
34 as possible but in no event later than two working days after the  
35 department learns of such recapture.

36 (b) The secretary may authorize a leave, for a juvenile found to  
37 have committed a violent offense, a sex offense, or stalking, which  
38 shall not exceed forty-eight hours plus travel time, to meet an  
39 emergency situation such as a death or critical illness of a member of

1 the juvenile's family. The secretary may authorize a leave, which  
2 shall not exceed the time medically necessary, to obtain medical care  
3 not available in a juvenile facility maintained by the department.  
4 Prior to the commencement of an emergency or medical leave, the  
5 secretary shall give notice of the leave to the appropriate law  
6 enforcement agency in the jurisdiction in which the juvenile will be  
7 during the leave period. The notice shall include the identity of the  
8 juvenile, the time period of the leave, the residence of the juvenile  
9 during the leave, and the identity of the person responsible for  
10 supervising the juvenile during the leave. If previously requested,  
11 the department shall also notify the witnesses and victim of the  
12 offense which the juvenile was found to have committed or the victim's  
13 next of kin if the offense was a homicide.

14 In case of an emergency or medical leave the secretary may waive  
15 all or any portion of the requirements for leaves pursuant to RCW  
16 13.40.205 (2)(a), (3), (4), and (5).

17 (3) If the victim, the victim's next of kin, or any witness is  
18 under the age of sixteen, the notice required by this section shall be  
19 sent to the parents or legal guardian of the child.

20 (4) The secretary shall send the notices required by this chapter  
21 to the last address provided to the department by the requesting party.  
22 The requesting party shall furnish the department with a current  
23 address.

24 (5) Upon discharge, parole, transfer to a community residential  
25 facility, or other authorized leave or release, a convicted juvenile  
26 sex offender shall not attend a public or approved private elementary,  
27 middle, or high school that is attended by a victim ~~((or))~~, a sibling  
28 of a victim of the sex offender, or any student more than three years  
29 younger than the offender. The offender also may not attend any public  
30 or private elementary, middle, or high school that is within one  
31 thousand feet of the perimeter of a public or approved private school  
32 that has students more than three years younger than the offender. The  
33 parents or legal guardians of the convicted juvenile sex offender shall  
34 be responsible for transportation or other costs associated with or  
35 required by the sex offender's change in school that otherwise would be  
36 paid by a school district. Upon discharge, parole, transfer to a  
37 community residential facility, or other authorized leave or release of  
38 a convicted juvenile sex offender, the secretary shall send written  
39 notice of the discharge, parole, transfer, or other authorized leave or

1 release and the requirements of this subsection to the common school  
2 district board of directors of the district in which the sex offender  
3 intends to reside or the district in which the sex offender last  
4 attended school, whichever is appropriate. The secretary shall send a  
5 similar notice to any approved private school the juvenile will attend,  
6 if known, or if unknown, to the approved private schools within the  
7 district the juvenile resides or intends to reside.

8 (6) For purposes of this section the following terms have the  
9 following meanings:

10 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

11 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

12 (c) "Stalking" means the crime of stalking as defined in RCW  
13 9A.46.110;

14 (d) "Next of kin" means a person's spouse, parents, siblings, and  
15 children.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 28A.225  
17 RCW to read as follows:

18 (1) If a school district knows that a student is adjudicated or  
19 convicted of a sex offense, as defined in RCW 9.94A.030, the school  
20 district may not place the student in a public school with other  
21 children more than three years younger than the sex offender. The  
22 school district may also not place the sex offender in a school that is  
23 within one thousand feet of another public or approved private school  
24 that has students more than three years younger than the sex offender.  
25 If the student is adjudicated or convicted of the sex offense during  
26 the school year, the student shall be suspended pending transfer to  
27 another school that the offender may attend without a violation of  
28 this section. If the school district cannot place the student in  
29 another school within the district without violating this section, the  
30 school district may enter into an agreement with another school  
31 district or an educational service district to provide educational  
32 services to the sex offender or may expel the student.

33 (2) This section shall be construed in a manner consistent with the  
34 individuals with disabilities education act, 20 U.S.C. 1400 et seq.

35 **Sec. 9.** RCW 28A.225.225 and 1997 c 265 s 3 are each amended to  
36 read as follows:

1 (1) All districts accepting applications from nonresident students  
2 or from students receiving home-based instruction for admission to the  
3 district's schools shall consider equally all applications received.  
4 Each school district shall adopt a policy establishing rational, fair,  
5 and equitable standards for acceptance and rejection of applications by  
6 June 30, 1990. The policy may include rejection of a nonresident  
7 student if:

8 (a) Acceptance of a nonresident student would result in the  
9 district experiencing a financial hardship;

10 (b) The student's disciplinary records indicate a history of  
11 convictions for offenses or crimes, violent or disruptive behavior, or  
12 gang membership; ((or))

13 (c) The student has been expelled or suspended from a public school  
14 for more than ten consecutive days. Any policy allowing for  
15 readmission of expelled or suspended students under this subsection  
16 (1)(c) must apply uniformly to both resident and nonresident  
17 applicants; or

18 (d) Acceptance of the student would result in the district  
19 violating section 1 of this act.

20 For purposes of subsection (1)(b) of this section, "gang" means a  
21 group which: (i) Consists of three or more persons; (ii) has  
22 identifiable leadership; and (iii) on an ongoing basis, regularly  
23 conspires and acts in concert mainly for criminal purposes.

24 (2) The district shall provide to applicants written notification  
25 of the approval or denial of the application in a timely manner. If  
26 the application is rejected, the notification shall include the reason  
27 or reasons for denial and the right to appeal under RCW 28A.225.230(3).

28 **Sec. 10.** RCW 28A.225.330 and 1997 c 266 s 4 are each amended to  
29 read as follows:

30 (1) When enrolling a student who has attended school in another  
31 school district, the school enrolling the student ((may)) shall request  
32 the parent and the student to briefly indicate in writing whether or  
33 not the student has:

34 (a) Any history of placement in special educational programs;

35 (b) Any past, current, or pending disciplinary action;

36 (c) Any history of violent behavior, or behavior listed in RCW  
37 13.04.155;

38 (d) Any unpaid fines or fees imposed by other schools; and

1 (e) Any health conditions affecting the student's educational  
2 needs.

3 (2) The school enrolling the student shall request the school the  
4 student previously attended to send the student's permanent record  
5 including records of disciplinary action and behavior listed in RCW  
6 13.04.155, attendance, immunization records, and academic performance.  
7 If the student has not paid a fine or fee under RCW 28A.635.060, or  
8 tuition, fees, or fines at approved private schools the school may  
9 withhold the student's official transcript, but shall transmit  
10 information about the student's academic performance, special  
11 placement, immunization records, and records of disciplinary action and  
12 behavior listed in RCW 13.04.155. If the official transcript is not  
13 sent due to unpaid tuition, fees, or fines, the enrolling school shall  
14 notify both the student and parent or guardian that the official  
15 transcript will not be sent until the obligation is met, and failure to  
16 have an official transcript may result in exclusion from  
17 extracurricular activities or failure to graduate.

18 (3) If information is requested under subsection (2) of this  
19 section, the information shall be transmitted within two school days  
20 after receiving the request and the records shall be sent as soon as  
21 possible. Any school district or district employee who releases the  
22 information in compliance with this section is immune from civil  
23 liability for damages unless it is shown that the school district  
24 employee acted with gross negligence or in bad faith. The state board  
25 of education shall provide by rule for the discipline under chapter  
26 28A.410 RCW of a school principal or other chief administrator of a  
27 public school building who fails to make a good faith effort to assure  
28 compliance with this subsection.

29 (4) Any school district or district employee who releases the  
30 information in compliance with federal and state law is immune from  
31 civil liability for damages unless it is shown that the school district  
32 or district employee acted with gross negligence or in bad faith.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 28A.225  
34 RCW to read as follows:

35 (1) Any school district, educational service district, or  
36 consortium of school districts may create specialized schools for  
37 students who have been adjudicated or convicted of offenses and who  
38 pose a danger to themselves, other students, and staff. The schools

1 may be designed to address the special educational needs of those  
2 students and the security needs of the students and staff. The schools  
3 may give priority in placement to adjudicated or convicted youth who  
4 are violent or chronically disruptive of the educational process and  
5 who would otherwise be subject to suspension or expulsion.

6 (2) The superintendent of public instruction is directed to assist  
7 school districts, educational service districts, and consortiums that  
8 intend to create specialized schools.

9 **Sec. 12.** RCW 28A.525.162 and 1995 c 77 s 24 are each amended to  
10 read as follows:

11 (1) Funds appropriated to the state board of education from the  
12 common school construction fund shall be allotted by the state board of  
13 education in accordance with student enrollment and the provisions of  
14 RCW 28A.525.200.

15 (2) No allotment shall be made to a school district until such  
16 district has provided matching funds equal to or greater than the  
17 difference between the total approved project cost and the amount of  
18 state assistance to the district for financing the project computed  
19 pursuant to RCW 28A.525.166, with the following exceptions:

20 (a) The state board may waive the matching requirement for  
21 districts which have provided funds for school building construction  
22 purposes through the authorization of bonds or through the  
23 authorization of excess tax levies or both in an amount equivalent to  
24 two and one-half percent of the value of its taxable property, as  
25 defined in RCW 39.36.015.

26 (b) No such matching funds shall be required as a condition to the  
27 allotment of funds for the purpose of making major or minor structural  
28 changes to existing school facilities in order to bring such facilities  
29 into compliance with the barrier free access requirements of section  
30 504 of the federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and  
31 rules implementing the act.

32 (c) The state board shall waive the matching requirement for  
33 districts that have provided funds to construct school buildings to  
34 house specialized schools that the districts may create under section  
35 11 of this act or to make structural changes to convert an existing  
36 building or school into a specialized school.

37 (3) For the purpose of computing the state matching percentage  
38 under RCW 28A.525.166 when a school district is granted authority to

1 enter into contracts, adjusted valuation per pupil shall be calculated  
2 using headcount student enrollments from the most recent October  
3 enrollment reports submitted by districts to the superintendent of  
4 public instruction, adjusted as follows:

5 (a) In the case of projects for which local bonds were approved  
6 after May 11, 1989:

7 (i) For districts which have been designated as serving high school  
8 districts under RCW 28A.540.110, students residing in the nonhigh  
9 district so designating shall be excluded from the enrollment count if  
10 the student is enrolled in any grade level not offered by the nonhigh  
11 district;

12 (ii) The enrollment of nonhigh school districts shall be increased  
13 by the number of students residing within the district who are enrolled  
14 in a serving high school district so designated by the nonhigh school  
15 district under RCW 28A.540.110, including only students who are  
16 enrolled in grade levels not offered by the nonhigh school district;  
17 and

18 (iii) The number of preschool students with disabilities included  
19 in the enrollment count shall be multiplied by one-half;

20 (b) In the case of construction or modernization of high school  
21 facilities in districts serving students from nonhigh school districts,  
22 the adjusted valuation per pupil shall be computed using the combined  
23 adjusted valuations and enrollments of each district, each weighted by  
24 the percentage of the district's resident high school students served  
25 by the high school district; and

26 (c) The number of kindergarten students included in the enrollment  
27 count shall be multiplied by one-half.

28 (4) The state board of education shall prescribe and make effective  
29 such rules as are necessary to equate insofar as possible the efforts  
30 made by school districts to provide capital funds by the means  
31 aforesaid.

32 (5) For the purposes of this section, "preschool students with  
33 disabilities" means developmentally disabled children of preschool age  
34 who are entitled to services under RCW 28A.155.010 through 28A.155.100  
35 and are not included in the kindergarten enrollment count of the  
36 district.

37 NEW SECTION. **Sec. 13.** A new section is added to chapter 28A.600  
38 RCW to read as follows:

1 Any elementary, middle, or secondary school student who is  
2 adjudicated or convicted of a sex offense as defined in RCW 9.94A.030  
3 may not attend any public school with other children that are more than  
4 three years younger than the sex offender. The sex offender also may  
5 not attend any public school that is located within the perimeter of  
6 one thousand feet of another public or approved private school attended  
7 by children more than three years younger than the sex offender.  
8 School districts may suspend, expel, or transfer any student who is  
9 adjudicated or convicted of a sex offense as provided in section 8 of  
10 this act.

11 **Sec. 14.** RCW 72.09.340 and 1996 c 215 s 3 are each amended to read  
12 as follows:

13 (1) In making all discretionary decisions regarding release plans  
14 for and supervision of sex offenders, the department shall set  
15 priorities and make decisions based on an assessment of public safety  
16 risks.

17 (2) The department shall, no later than September 1, 1996,  
18 implement a policy governing the department's evaluation and approval  
19 of release plans for sex offenders. The policy shall include, at a  
20 minimum, a formal process by which victims, witnesses, and other  
21 interested people may provide information and comments to the  
22 department on potential safety risks to specific individuals or classes  
23 of individuals posed by a specific sex offender. The department shall  
24 make all reasonable efforts to publicize the availability of this  
25 process through currently existing mechanisms and shall seek the  
26 assistance of courts, prosecutors, law enforcement, and victims'  
27 advocacy groups in doing so. Notice of an offender's proposed  
28 residence shall be provided to all people registered to receive notice  
29 of an offender's release under RCW 9.94A.155(2), except that in no case  
30 may this notification requirement be construed to require an extension  
31 of an offender's release date.

32 (3) Except as provided in subsection (4) of this section, for any  
33 offender convicted of a felony sex offense against a minor victim after  
34 June 6, 1996, the department shall not approve a residence location if  
35 the proposed residence: (a) Includes a minor victim or child of  
36 similar age or circumstance as a previous victim who the department  
37 determines may be put at substantial risk of harm by the offender's  
38 residence in the household; or (b) is within close proximity of the

1 current residence of a minor victim, unless the whereabouts of the  
2 minor victim cannot be determined or unless such a restriction would  
3 impede family reunification efforts ordered by the court or directed by  
4 the department of social and health services. The department is  
5 further authorized to reject a residence location if the proposed  
6 residence is within close proximity to schools, child care centers,  
7 playgrounds, or other grounds or facilities where children of similar  
8 age or circumstance as a previous victim are present who the department  
9 determines may be put at substantial risk of harm by the sex offender's  
10 residence at that location.

11 (4) For an offender convicted of any felony sex offense who is  
12 released after July 1, 1998, the department shall not approve a work  
13 release or residence location if the proposed work release facility or  
14 residence is located within the perimeter of one thousand feet of a  
15 public or approved private school as defined in RCW 9.94A.030.

16 (5) When the department requires supervised visitation as a term or  
17 condition of a sex offender's community placement under RCW  
18 9.94A.120(9)(c)(vi), the department shall, prior to approving a  
19 supervisor, consider the following:

20 (a) The relationships between the proposed supervisor, the  
21 offender, and the minor;

22 (b) The proposed supervisor's acknowledgment and understanding of  
23 the offender's prior criminal conduct, general knowledge of the  
24 dynamics of child sexual abuse, and willingness and ability to protect  
25 the minor from the potential risks posed by contact with the offender;  
26 and

27 (c) Recommendations made by the department of social and health  
28 services about the best interests of the child.

29 NEW SECTION. Sec. 15. A new section is added to chapter 72.65 RCW  
30 to read as follows:

31 The department may not place a sex offender in a work release  
32 facility that is located within one thousand feet of a public or  
33 approved private school as defined in RCW 9.94A.030.

34 NEW SECTION. Sec. 16. A new section is added to chapter 74.15 RCW  
35 to read as follows:

36 (1) The secretary shall require any agency that receives juveniles  
37 who have been adjudicated or convicted to provide written notice of the

1 offender's criminal history to any school that the offender attends  
2 while the offender resides at the agency's facility, home, or center,  
3 and to any employer who employs the offender while the offender resides  
4 at the facility, home, or center. The secretary shall, at a minimum,  
5 suspend the license of an agency for one year if the agency violates  
6 this section two or more times within one year.

7 (2) The secretary shall prohibit placement of a sex offender into  
8 an agency that is located within one thousand feet of a public or  
9 approved private school and has students more than three years younger  
10 than the offender.

11 NEW SECTION. **Sec. 17.** Section 4 of this act expires July 1, 1998.

12 NEW SECTION. **Sec. 18.** If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 19.** If any part of this act is found to be in  
17 conflict with federal requirements, the conflicting part of this act is  
18 hereby declared to be inoperative solely to the extent of the conflict,  
19 and such finding or determination does not affect the operation of the  
20 remainder of this act. Rules adopted under this act must meet federal  
21 requirements.

22 NEW SECTION. **Sec. 20.** This act is necessary for the immediate  
23 preservation of the public peace, health, or safety, or support of the  
24 state government and its existing public institutions, and takes effect  
25 immediately except for section 5 of this act which takes effect July 1,  
26 1998.

--- END ---