

SUBSTITUTE SENATE BILL 6516

State of Washington 55th Legislature 1998 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Goings, Hochstatter, Benton, Rossi, Patterson, Oke, Schow, Johnson, McDonald, Stevens, Strannigan, Fraser, Sellar, Prentice, Bauer and Rasmussen)

Read first time 01/29/98.

1 AN ACT Relating to first degree murder; reenacting and amending RCW
2 9.94A.310, 9.94A.320, 9.94A.120, and 9.94A.040; prescribing penalties;
3 and providing an effective date.

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

5 Sec. 1. RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are
6 each reenacted and amended to read as follows:

7 (1) TABLE 1

8 Sentencing Grid

9 SERIOUSNESS

10 SCORE

OFFENDER SCORE

11 9 or
12 0 1 2 3 4 5 6 7 8 more

14 ((XV))

15 XVI Life Sentence without Parole/Death Penalty

17 XV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y
18 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

	<u>Life</u>										
1											
2											
3	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
4		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
5		320	333	347	361	374	388	416	450	493	548
6											
7	XIII	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
8		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
9		220	234	244	254	265	275	295	316	357	397
10											
11	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
12		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
13		123	136	147	160	171	184	216	236	277	318
14											
15	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
16		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
17		102	114	125	136	147	158	194	211	245	280
18											
19	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
20		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
21		68	75	82	89	96	102	130	144	171	198
22											
23	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
24		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
25		41	48	54	61	68	75	102	116	144	171
26											
27	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
28		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
29		27	34	41	48	54	61	89	102	116	144
30											
31	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
32		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
33		20	27	34	41	48	54	75	89	102	116
34											
35	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
36		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
37		14	20	27	34	41	48	61	75	89	102
38											

1	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
2		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
3		12	14	17	20	29	43	54	68	82	96
4	<hr/>										
5	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
6		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
7		9	12	14	17	20	29	43	57	70	84
8	<hr/>										
9	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
10		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
11		3	8	12	12	16	22	29	43	57	68
12	<hr/>										
13	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
14		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
15		Days	6	9	12	14	18	22	29	43	57
16	<hr/>										
17	I		3m	4m	5m	8m	13m	16m	20m	2y2m	
18		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
19		Days	Days	5	6	8	12	14	18	22	29
20	<hr/>										

21 NOTE: Numbers in the first horizontal row of each seriousness category  
22 represent sentencing midpoints in years(y) and months(m). Numbers in  
23 the second and third rows represent presumptive sentencing ranges in  
24 months, or in days if so designated. 12+ equals one year and one day.  
25 "Life" in seriousness category XV means a life sentence without parole.

26 (2) For persons convicted of the anticipatory offenses of criminal  
27 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
28 presumptive sentence is determined by locating the sentencing grid  
29 sentence range defined by the appropriate offender score and the  
30 seriousness level of the completed crime, and multiplying the range by  
31 75 percent.

32 (3) The following additional times shall be added to the  
33 presumptive sentence for felony crimes committed after July 23, 1995,  
34 if the offender or an accomplice was armed with a firearm as defined in  
35 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
36 listed in this subsection as eligible for any firearm enhancements  
37 based on the classification of the completed felony crime. If the  
38 offender or an accomplice was armed with a firearm as defined in RCW  
39 9.41.010 and the offender is being sentenced for an anticipatory

1 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
2 this subsection as eligible for any firearm enhancements, the following  
3 additional times shall be added to the presumptive sentence determined  
4 under subsection (2) of this section based on the felony crime of  
5 conviction as classified under RCW 9A.28.020:

6 (a) Five years for any felony defined under any law as a class A  
7 felony or with a maximum sentence of at least twenty years, or both,  
8 and not covered under (f) of this subsection.

9 (b) Three years for any felony defined under any law as a class B  
10 felony or with a maximum sentence of ten years, or both, and not  
11 covered under (f) of this subsection.

12 (c) Eighteen months for any felony defined under any law as a  
13 class C felony or with a maximum sentence of five years, or both, and  
14 not covered under (f) of this subsection.

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

22 (e) Notwithstanding any other provision of law, any and all  
23 firearm enhancements under this section are mandatory, shall be served  
24 in total confinement, and shall not run concurrently with any other  
25 sentencing provisions.

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

31 (g) If the presumptive sentence under this section exceeds the  
32 statutory maximum for the offense, the statutory maximum sentence shall  
33 be the presumptive sentence unless the offender is a persistent  
34 offender as defined in RCW 9.94A.030.

35 (4) The following additional times shall be added to the  
36 presumptive sentence for felony crimes committed after July 23, 1995,  
37 if the offender or an accomplice was armed with a deadly weapon as  
38 defined in this chapter other than a firearm as defined in RCW 9.41.010  
39 and the offender is being sentenced for one of the crimes listed in

1 this subsection as eligible for any deadly weapon enhancements based on  
2 the classification of the completed felony crime. If the offender or  
3 an accomplice was armed with a deadly weapon other than a firearm as  
4 defined in RCW 9.41.010 and the offender is being sentenced for an  
5 anticipatory offense under chapter 9A.28 RCW to commit one of the  
6 crimes listed in this subsection as eligible for any deadly weapon  
7 enhancements, the following additional times shall be added to the  
8 presumptive sentence determined under subsection (2) of this section  
9 based on the felony crime of conviction as classified under RCW  
10 9A.28.020:

11 (a) Two years for any felony defined under any law as a class A  
12 felony or with a maximum sentence of at least twenty years, or both,  
13 and not covered under (f) of this subsection.

14 (b) One year for any felony defined under any law as a class B  
15 felony or with a maximum sentence of ten years, or both, and not  
16 covered under (f) of this subsection.

17 (c) Six months for any felony defined under any law as a class C  
18 felony or with a maximum sentence of five years, or both, and not  
19 covered under (f) of this subsection.

20 (d) If the offender is being sentenced under (a), (b), and/or (c)  
21 of this subsection for any deadly weapon enhancements and the offender  
22 has previously been sentenced for any deadly weapon enhancements after  
23 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
24 subsection (3)(a), (b), and/or (c) of this section, or both, any and  
25 all deadly weapon enhancements under this subsection shall be twice the  
26 amount of the enhancement listed.

27 (e) Notwithstanding any other provision of law, any and all deadly  
28 weapon enhancements under this section are mandatory, shall be served  
29 in total confinement, and shall not run concurrently with any other  
30 sentencing provisions.

31 (f) The deadly weapon enhancements in this section shall apply to  
32 all felony crimes except the following: Possession of a machine gun,  
33 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
34 unlawful possession of a firearm in the first and second degree, and  
35 use of a machine gun in a felony.

36 (g) If the presumptive sentence under this section exceeds the  
37 statutory maximum for the offense, the statutory maximum sentence shall  
38 be the presumptive sentence unless the offender is a persistent  
39 offender as defined in RCW 9.94A.030.

1 (5) The following additional times shall be added to the  
2 presumptive sentence if the offender or an accomplice committed the  
3 offense while in a county jail or state correctional facility as that  
4 term is defined in this chapter and the offender is being sentenced for  
5 one of the crimes listed in this subsection. If the offender or an  
6 accomplice committed one of the crimes listed in this subsection while  
7 in a county jail or state correctional facility as that term is defined  
8 in this chapter, and the offender is being sentenced for an  
9 anticipatory offense under chapter 9A.28 RCW to commit one of the  
10 crimes listed in this subsection, the following additional times shall  
11 be added to the presumptive sentence determined under subsection (2) of  
12 this section:

13 (a) Eighteen months for offenses committed under RCW  
14 69.50.401(a)(1) (i) or (ii) or 69.50.410;

15 (b) Fifteen months for offenses committed under RCW  
16 69.50.401(a)(1) (iii), (iv), and (v);

17 (c) Twelve months for offenses committed under RCW 69.50.401(d).

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

21 (6) An additional twenty-four months shall be added to the  
22 presumptive sentence for any ranked offense involving a violation of  
23 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

24 **Sec. 2.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c  
25 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each  
26 reenacted and amended to read as follows:

27 TABLE 2

28 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

29 ((XV))

30 XVI Aggravated Murder 1 (RCW 10.95.020)

31 ((XIV))

32 XV Murder 1 (RCW 9A.32.030)

33 XIV Homicide by abuse (RCW 9A.32.055)

34 Malicious explosion 1 (RCW 70.74.280(1))

35 XIII Murder 2 (RCW 9A.32.050)

36 Malicious explosion 2 (RCW 70.74.280(2))

1 Malicious placement of an explosive 1 (RCW  
2 70.74.270(1))

3 XII Assault 1 (RCW 9A.36.011)  
4 Assault of a Child 1 (RCW 9A.36.120)  
5 Rape 1 (RCW 9A.44.040)  
6 Rape of a Child 1 (RCW 9A.44.073)  
7 Malicious placement of an imitation device 1  
8 (RCW 70.74.272(1)(a))

9 XI Rape 2 (RCW 9A.44.050)  
10 Rape of a Child 2 (RCW 9A.44.076)  
11 Manslaughter 1 (RCW 9A.32.060)

12 X Kidnapping 1 (RCW 9A.40.020)  
13 Child Molestation 1 (RCW 9A.44.083)  
14 Malicious explosion 3 (RCW 70.74.280(3))  
15 Over 18 and deliver heroin or narcotic from  
16 Schedule I or II to someone under 18  
17 (RCW 69.50.406)  
18 Leading Organized Crime (RCW 9A.82.060(1)(a))  
19 Indecent Liberties (with forcible compulsion)  
20 (RCW 9A.44.100(1)(a))

21 IX Assault of a Child 2 (RCW 9A.36.130)  
22 Robbery 1 (RCW 9A.56.200)  
23 Explosive devices prohibited (RCW 70.74.180)  
24 Malicious placement of an explosive 2 (RCW  
25 70.74.270(2))  
26 Over 18 and deliver narcotic from Schedule  
27 III, IV, or V or a nonnarcotic from  
28 Schedule I-V to someone under 18 and 3  
29 years junior (RCW 69.50.406)  
30 Controlled Substance Homicide (RCW 69.50.415)  
31 Sexual Exploitation (RCW 9.68A.040)  
32 Inciting Criminal Profiteering (RCW  
33 9A.82.060(1)(b))  
34 Vehicular Homicide, by being under the  
35 influence of intoxicating liquor or any  
36 drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)  
2 Promoting Prostitution 1 (RCW 9A.88.070)  
3 Selling for profit (controlled or  
4 counterfeit) any controlled substance  
5 (RCW 69.50.410)  
6 Manufacture, deliver, or possess with intent  
7 to deliver heroin or cocaine (RCW  
8 69.50.401(a)(1)(i))  
9 Manufacture, deliver, or possess with intent  
10 to deliver methamphetamine (RCW  
11 69.50.401(a)(1)(ii))  
12 Possession of ephedrine or pseudoephedrine  
13 with intent to manufacture  
14 methamphetamine (RCW 69.50.440)  
15 Vehicular Homicide, by the operation of any  
16 vehicle in a reckless manner (RCW  
17 46.61.520)  
18 Manslaughter 2 (RCW 9A.32.070)

19 VII Burglary 1 (RCW 9A.52.020)  
20 Vehicular Homicide, by disregard for the  
21 safety of others (RCW 46.61.520)  
22 Introducing Contraband 1 (RCW 9A.76.140)  
23 Indecent Liberties (without forcible  
24 compulsion) (RCW 9A.44.100(1) (b) and  
25 (c))  
26 Child Molestation 2 (RCW 9A.44.086)  
27 Dealing in depictions of minor engaged in  
28 sexually explicit conduct (RCW  
29 9.68A.050)  
30 Sending, bringing into state depictions of  
31 minor engaged in sexually explicit  
32 conduct (RCW 9.68A.060)  
33 Involving a minor in drug dealing (RCW  
34 69.50.401(f))  
35 Drive-by Shooting (RCW 9A.36.045)  
36 Unlawful Possession of a Firearm in the first  
37 degree (RCW 9.41.040(1)(a))

1 Malicious placement of an explosive 3 (RCW  
2 70.74.270(3))

3 VI Bribery (RCW 9A.68.010)  
4 Rape of a Child 3 (RCW 9A.44.079)  
5 Intimidating a Juror/Witness (RCW 9A.72.110,  
6 9A.72.130)  
7 Malicious placement of an imitation device 2  
8 (RCW 70.74.272(1)(b))  
9 Incest 1 (RCW 9A.64.020(1))  
10 Manufacture, deliver, or possess with intent  
11 to deliver narcotics from Schedule I or  
12 II (except heroin or cocaine) (RCW  
13 69.50.401(a)(1)(i))  
14 Intimidating a Judge (RCW 9A.72.160)  
15 Bail Jumping with Murder 1 (RCW  
16 9A.76.170(2)(a))  
17 Theft of a Firearm (RCW 9A.56.300)

18 V Persistent prison misbehavior (RCW 9.94.070)  
19 Criminal Mistreatment 1 (RCW 9A.42.020)  
20 Abandonment of dependent person 1 (RCW  
21 9A.42.060)  
22 Rape 3 (RCW 9A.44.060)  
23 Sexual Misconduct with a Minor 1 (RCW  
24 9A.44.093)  
25 Child Molestation 3 (RCW 9A.44.089)  
26 Kidnapping 2 (RCW 9A.40.030)  
27 Extortion 1 (RCW 9A.56.120)  
28 Incest 2 (RCW 9A.64.020(2))  
29 Perjury 1 (RCW 9A.72.020)  
30 Extortionate Extension of Credit (RCW  
31 9A.82.020)  
32 Advancing money or property for extortionate  
33 extension of credit (RCW 9A.82.030)  
34 Extortionate Means to Collect Extensions of  
35 Credit (RCW 9A.82.040)  
36 Rendering Criminal Assistance 1 (RCW  
37 9A.76.070)

1 Bail Jumping with class A Felony (RCW  
2 9A.76.170(2)(b))  
3 Sexually Violating Human Remains (RCW  
4 9A.44.105)  
5 Delivery of imitation controlled substance by  
6 person eighteen or over to person under  
7 eighteen (RCW 69.52.030(2))  
8 Possession of a Stolen Firearm (RCW  
9 9A.56.310)

10 IV Residential Burglary (RCW 9A.52.025)  
11 Theft of Livestock 1 (RCW 9A.56.080)  
12 Robbery 2 (RCW 9A.56.210)  
13 Assault 2 (RCW 9A.36.021)  
14 Escape 1 (RCW 9A.76.110)  
15 Arson 2 (RCW 9A.48.030)  
16 Commercial Bribery (RCW 9A.68.060)  
17 Bribing a Witness/Bribe Received by Witness  
18 (RCW 9A.72.090, 9A.72.100)  
19 Malicious Harassment (RCW 9A.36.080)  
20 Threats to Bomb (RCW 9.61.160)  
21 Willful Failure to Return from Furlough (RCW  
22 72.66.060)  
23 Hit and Run--Injury Accident (RCW  
24 46.52.020(4))  
25 Hit and Run with Vessel--Injury Accident (RCW  
26 88.12.155(3))  
27 Vehicular Assault (RCW 46.61.522)  
28 Manufacture, deliver, or possess with intent  
29 to deliver narcotics from Schedule III,  
30 IV, or V or nonnarcotics from Schedule  
31 I-V (except marijuana or  
32 methamphetamines) (RCW 69.50.401 (a)(1)  
33 (iii) through (v))  
34 Influencing Outcome of Sporting Event (RCW  
35 9A.82.070)

1 Use of Proceeds of Criminal Profiteering (RCW  
2 9A.82.080 (1) and (2))  
3 Knowingly Trafficking in Stolen Property (RCW  
4 9A.82.050(2))

5 III Criminal Gang Intimidation (RCW 9A.46.120)  
6 Criminal Mistreatment 2 (RCW 9A.42.030)  
7 Abandonment of dependent person 2 (RCW  
8 9A.42.070)  
9 Extortion 2 (RCW 9A.56.130)  
10 Unlawful Imprisonment (RCW 9A.40.040)  
11 Assault 3 (RCW 9A.36.031)  
12 Assault of a Child 3 (RCW 9A.36.140)  
13 Custodial Assault (RCW 9A.36.100)  
14 Unlawful possession of firearm in the second  
15 degree (RCW 9.41.040(1)(b))  
16 Harassment (RCW 9A.46.020)  
17 Promoting Prostitution 2 (RCW 9A.88.080)  
18 Willful Failure to Return from Work Release  
19 (RCW 72.65.070)  
20 Burglary 2 (RCW 9A.52.030)  
21 Introducing Contraband 2 (RCW 9A.76.150)  
22 Communication with a Minor for Immoral  
23 Purposes (RCW 9.68A.090)  
24 Patronizing a Juvenile Prostitute (RCW  
25 9.68A.100)  
26 Escape 2 (RCW 9A.76.120)  
27 Perjury 2 (RCW 9A.72.030)  
28 Bail Jumping with class B or C Felony (RCW  
29 9A.76.170(2)(c))  
30 Intimidating a Public Servant (RCW 9A.76.180)  
31 Tampering with a Witness (RCW 9A.72.120)  
32 Manufacture, deliver, or possess with intent  
33 to deliver marijuana (RCW  
34 69.50.401(a)(1)(iii))  
35 Delivery of a material in lieu of a  
36 controlled substance (RCW 69.50.401(c))  
37 Manufacture, distribute, or possess with  
38 intent to distribute an imitation  
39 controlled substance (RCW 69.52.030(1))

1 Recklessly Trafficking in Stolen Property  
2 (RCW 9A.82.050(1))  
3 Theft of livestock 2 (RCW 9A.56.080)  
4 Securities Act violation (RCW 21.20.400)

5 II Unlawful Practice of Law (RCW 2.48.180)  
6 Malicious Mischief 1 (RCW 9A.48.070)  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 Theft 1 (RCW 9A.56.030)  
10 Class B Felony Theft of Rental, Leased, or  
11 Lease-purchased Property (RCW  
12 9A.56.096(4))  
13 Trafficking in Insurance Claims (RCW  
14 48.30A.015)  
15 Unlicensed Practice of a Profession or  
16 Business (RCW 18.130.190(7))  
17 Health Care False Claims (RCW 48.80.030)  
18 Possession of controlled substance that is  
19 either heroin or narcotics from Schedule  
20 I or II (RCW 69.50.401(d))  
21 Possession of phencyclidine (PCP) (RCW  
22 69.50.401(d))  
23 Create, deliver, or possess a counterfeit  
24 controlled substance (RCW 69.50.401(b))  
25 Computer Trespass 1 (RCW 9A.52.110)  
26 Escape from Community Custody (RCW 72.09.310)

27 I Theft 2 (RCW 9A.56.040)  
28 Class C Felony Theft of Rental, Leased, or  
29 Lease-purchased Property (RCW  
30 9A.56.096(4))  
31 Possession of Stolen Property 2 (RCW  
32 9A.56.160)  
33 Forgery (RCW 9A.60.020)  
34 Taking Motor Vehicle Without Permission (RCW  
35 9A.56.070)  
36 Vehicle Prowl 1 (RCW 9A.52.095)  
37 Attempting to Elude a Pursuing Police Vehicle  
38 (RCW 46.61.024)

1 Malicious Mischief 2 (RCW 9A.48.080)  
2 Reckless Burning 1 (RCW 9A.48.040)  
3 Unlawful Issuance of Checks or Drafts (RCW  
4 9A.56.060)  
5 Unlawful Use of Food Stamps (RCW 9.91.140 (2)  
6 and (3))  
7 False Verification for Welfare (RCW  
8 74.08.055)  
9 Forged Prescription (RCW 69.41.020)  
10 Forged Prescription for a Controlled  
11 Substance (RCW 69.50.403)  
12 Possess Controlled Substance that is a  
13 Narcotic from Schedule III, IV, or V or  
14 Non-narcotic from Schedule I-V (except  
15 phencyclidine) (RCW 69.50.401(d))

16 **Sec. 3.** RCW 9.94A.120 and 1997 c 340 s 2, 1997 c 338 s 4, 1997 c  
17 144 s 2, 1997 c 121 s 2, and 1997 c 69 s 1 are each reenacted and  
18 amended to read as follows:

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

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

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

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

32 (4) A persistent offender shall be sentenced to a term of total  
33 confinement for life without the possibility of parole or, when  
34 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
35 first degree, sentenced to death, notwithstanding the maximum sentence  
36 under any other law. An offender convicted of the crime of murder in  
37 the first degree shall be sentenced to a term of total confinement not  
38 less than twenty years and may be sentenced to term of total

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

21 (5) In sentencing a first-time offender the court may waive the  
22 imposition of a sentence within the sentence range and impose a  
23 sentence which may include up to ninety days of confinement in a  
24 facility operated or utilized under contract by the county and a  
25 requirement that the offender refrain from committing new offenses.  
26 The sentence may also include up to two years of community supervision,  
27 which, in addition to crime-related prohibitions, may include  
28 requirements that the offender perform any one or more of the  
29 following:

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

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

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

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

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

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

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

7 (i) The offender is convicted of the manufacture, delivery, or  
8 possession with intent to manufacture or deliver a controlled substance  
9 classified in Schedule I or II that is a narcotic drug or a felony that  
10 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,  
11 criminal solicitation, or criminal conspiracy to commit such crimes,  
12 and the violation does not involve a sentence enhancement under RCW  
13 9.94A.310 (3) or (4);

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

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

20 (b) If the midpoint of the standard range is greater than one year  
21 and the sentencing judge determines that the offender is eligible for  
22 this option and that the offender and the community will benefit from  
23 the use of the special drug offender sentencing alternative, the judge  
24 may waive imposition of a sentence within the standard range and impose  
25 a sentence that must include a period of total confinement in a state  
26 facility for one-half of the midpoint of the standard range. During  
27 incarceration in the state facility, offenders sentenced under this  
28 subsection shall undergo a comprehensive substance abuse assessment and  
29 receive, within available resources, treatment services appropriate for  
30 the offender. The treatment services shall be designed by the division  
31 of alcohol and substance abuse of the department of social and health  
32 services, in cooperation with the department of corrections. If the  
33 midpoint of the standard range is twenty-four months or less, no more  
34 than three months of the sentence may be served in a work release  
35 status. The court shall also impose one year of concurrent community  
36 custody and community supervision that must include appropriate  
37 outpatient substance abuse treatment, crime-related prohibitions  
38 including a condition not to use illegal controlled substances, and a  
39 requirement to submit to urinalysis or other testing to monitor that

1 status. The court may require that the monitoring for controlled  
2 substances be conducted by the department or by a treatment  
3 alternatives to street crime program or a comparable court or agency-  
4 referred program. The offender may be required to pay thirty dollars  
5 per month while on community custody to offset the cost of monitoring.  
6 In addition, the court shall impose three or more of the following  
7 conditions:

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

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

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

13 (iv) Pay all court-ordered legal financial obligations;

14 (v) Perform community service work;

15 (vi) Stay out of areas designated by the sentencing judge.

16 (c) If the offender violates any of the sentence conditions in (b)  
17 of this subsection, the department shall impose sanctions  
18 administratively, with notice to the prosecuting attorney and the  
19 sentencing court. Upon motion of the court or the prosecuting  
20 attorney, a violation hearing shall be held by the court. If the court  
21 finds that conditions have been willfully violated, the court may  
22 impose confinement consisting of up to the remaining one-half of the  
23 midpoint of the standard range. All total confinement served during  
24 the period of community custody shall be credited to the offender,  
25 regardless of whether the total confinement is served as a result of  
26 the original sentence, as a result of a sanction imposed by the  
27 department, or as a result of a violation found by the court. The term  
28 of community supervision shall be tolled by any period of time served  
29 in total confinement as a result of a violation found by the court.

30 (d) The department shall determine the rules for calculating the  
31 value of a day fine based on the offender's income and reasonable  
32 obligations which the offender has for the support of the offender and  
33 any dependents. These rules shall be developed in consultation with  
34 the administrator for the courts, the office of financial management,  
35 and the commission.

36 (7) If a sentence range has not been established for the  
37 defendant's crime, the court shall impose a determinate sentence which  
38 may include not more than one year of confinement, community service  
39 work, a term of community supervision not to exceed one year, and/or

1 other legal financial obligations. The court may impose a sentence  
2 which provides more than one year of confinement if the court finds,  
3 considering the purpose of this chapter, that there are substantial and  
4 compelling reasons justifying an exceptional sentence.

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

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

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

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

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

25 (C) Monitoring plans, including any requirements regarding living  
26 conditions, lifestyle requirements, and monitoring by family members  
27 and others;

28 (D) Anticipated length of treatment; and

29 (E) Recommended crime-related prohibitions.

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

36 (ii) After receipt of the reports, the court shall consider  
37 whether the offender and the community will benefit from use of this  
38 special sex offender sentencing alternative and consider the victim's  
39 opinion whether the offender should receive a treatment disposition

1 under this subsection. If the court determines that this special sex  
2 offender sentencing alternative is appropriate, the court shall then  
3 impose a sentence within the sentence range. If this sentence is less  
4 than eleven years of confinement, the court may suspend the execution  
5 of the sentence and impose the following conditions of suspension:

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

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

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

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

29 (III) Report as directed to the court and a community corrections  
30 officer;

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

34 (V) Make recoupment to the victim for the cost of any counseling  
35 required as a result of the offender's crime; and

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

1 (iii) The sex offender therapist shall submit quarterly reports on  
2 the defendant's progress in treatment to the court and the parties.  
3 The report shall reference the treatment plan and include at a minimum  
4 the following: Dates of attendance, defendant's compliance with  
5 requirements, treatment activities, the defendant's relative progress  
6 in treatment, and any other material as specified by the court at  
7 sentencing.

8 (iv) At the time of sentencing, the court shall set a treatment  
9 termination hearing for three months prior to the anticipated date for  
10 completion of treatment. Prior to the treatment termination hearing,  
11 the treatment professional and community corrections officer shall  
12 submit written reports to the court and parties regarding the  
13 defendant's compliance with treatment and monitoring requirements, and  
14 recommendations regarding termination from treatment, including  
15 proposed community supervision conditions. Either party may request  
16 and the court may order another evaluation regarding the advisability  
17 of termination from treatment. The defendant shall pay the cost of any  
18 additional evaluation ordered unless the court finds the defendant to  
19 be indigent in which case the state shall pay the cost. At the  
20 treatment termination hearing the court may: (A) Modify conditions of  
21 community custody, and either (B) terminate treatment, or (C) extend  
22 treatment for up to the remaining period of community custody.

23 (v) If a violation of conditions occurs during community custody,  
24 the department shall either impose sanctions as provided for in RCW  
25 9.94A.205(2)(a) or refer the violation to the court and recommend  
26 revocation of the suspended sentence as provided for in (a)(vi) of this  
27 subsection.

28 (vi) The court may revoke the suspended sentence at any time  
29 during the period of community custody and order execution of the  
30 sentence if: (A) The defendant violates the conditions of the  
31 suspended sentence, or (B) the court finds that the defendant is  
32 failing to make satisfactory progress in treatment. All confinement  
33 time served during the period of community custody shall be credited to  
34 the offender if the suspended sentence is revoked.

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

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

10 (ix) For purposes of this subsection (8), "victim" means any  
11 person who has sustained emotional, psychological, physical, or  
12 financial injury to person or property as a result of the crime  
13 charged. "Victim" also means a parent or guardian of a victim who is  
14 a minor child unless the parent or guardian is the perpetrator of the  
15 offense.

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

19 (b) When an offender commits any felony sex offense on or after  
20 July 1, 1987, and is sentenced to a term of confinement of more than  
21 one year but less than six years, the sentencing court may, on its own  
22 motion or on the motion of the offender or the state, request the  
23 department of corrections to evaluate whether the offender is amenable  
24 to treatment and the department may place the offender in a treatment  
25 program within a correctional facility operated by the department.

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

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

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

37 (iii) Report as directed to the court and a community corrections  
38 officer;

39 (iv) Undergo available outpatient treatment.

1 If the offender violates any of the terms of his or her community  
2 supervision, the court may order the offender to serve out the balance  
3 of his or her community supervision term in confinement in the custody  
4 of the department of corrections.

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

9 (c) Offenders convicted and sentenced for a sex offense committed  
10 prior to July 1, 1987, may, subject to available funds, request an  
11 evaluation by the department of corrections to determine whether they  
12 are amenable to treatment. If the offender is determined to be  
13 amenable to treatment, the offender may request placement in a  
14 treatment program within a correctional facility operated by the  
15 department. Placement in such treatment program is subject to  
16 available funds.

17 (9)(a) When a court sentences a person to a term of total  
18 confinement to the custody of the department of corrections for an  
19 offense categorized as a sex offense or a serious violent offense  
20 committed after July 1, 1988, but before July 1, 1990, assault in the  
21 second degree, assault of a child in the second degree, any crime  
22 against a person where it is determined in accordance with RCW  
23 9.94A.125 that the defendant or an accomplice was armed with a deadly  
24 weapon at the time of commission, or any felony offense under chapter  
25 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,  
26 committed on or after July 1, 1988, the court shall in addition to the  
27 other terms of the sentence, sentence the offender to a one-year term  
28 of community placement beginning either upon completion of the term of  
29 confinement or at such time as the offender is transferred to community  
30 custody in lieu of earned early release in accordance with RCW  
31 9.94A.150 (1) and (2). When the court sentences an offender under this  
32 subsection to the statutory maximum period of confinement then the  
33 community placement portion of the sentence shall consist entirely of  
34 such community custody to which the offender may become eligible, in  
35 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
36 custody actually served shall be credited against the community  
37 placement portion of the sentence.

38 (b) When a court sentences a person to a term of total confinement  
39 to the custody of the department of corrections for an offense

1 categorized as a sex offense committed on or after July 1, 1990, but  
2 before June 6, 1996, a serious violent offense, vehicular homicide, or  
3 vehicular assault, committed on or after July 1, 1990, the court shall  
4 in addition to other terms of the sentence, sentence the offender to  
5 community placement for two years or up to the period of earned early  
6 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is  
7 longer. The community placement shall begin either upon completion of  
8 the term of confinement or at such time as the offender is transferred  
9 to community custody in lieu of earned early release in accordance with  
10 RCW 9.94A.150 (1) and (2). When the court sentences an offender under  
11 this subsection to the statutory maximum period of confinement then the  
12 community placement portion of the sentence shall consist entirely of  
13 the community custody to which the offender may become eligible, in  
14 accordance with RCW 9.94A.150 (1) and (2). Any period of community  
15 custody actually served shall be credited against the community  
16 placement portion of the sentence. Unless a condition is waived by the  
17 court, the terms of community placement for offenders sentenced  
18 pursuant to this section shall include the following conditions:

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

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

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

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

27 (v) The residence location and living arrangements are subject to  
28 the prior approval of the department of corrections during the period  
29 of community placement; and

30 (vi) The offender shall submit to affirmative acts necessary to  
31 monitor compliance with the orders of the court as required by the  
32 department.

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

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

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

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

3 (iv) The offender shall not consume alcohol;

4 (v) The offender shall comply with any crime-related prohibitions;  
5 or

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

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

15 (10)(a) When a court sentences a person to the custody of the  
16 department of corrections for an offense categorized as a sex offense  
17 committed on or after June 6, 1996, the court shall, in addition to  
18 other terms of the sentence, sentence the offender to community custody  
19 for three years or up to the period of earned early release awarded  
20 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The  
21 community custody shall begin either upon completion of the term of  
22 confinement or at such time as the offender is transferred to community  
23 custody in lieu of earned early release in accordance with RCW  
24 9.94A.150 (1) and (2).

25 (b) Unless a condition is waived by the court, the terms of  
26 community custody shall be the same as those provided for in subsection  
27 (9)(b) of this section and may include those provided for in subsection  
28 (9)(c) of this section. As part of any sentence that includes a term  
29 of community custody imposed under this subsection, the court shall  
30 also require the offender to comply with any conditions imposed by the  
31 department of corrections under subsection (14) of this section.

32 (c) At any time prior to the completion of a sex offender's term  
33 of community custody, if the court finds that public safety would be  
34 enhanced, the court may impose and enforce an order extending any or  
35 all of the conditions imposed pursuant to this section for a period up  
36 to the maximum allowable sentence for the crime as it is classified in  
37 chapter 9A.20 RCW, regardless of the expiration of the offender's term  
38 of community custody. If a violation of a condition extended under  
39 this subsection occurs after the expiration of the offender's term of

1 community custody, it shall be deemed a violation of the sentence for  
2 the purposes of RCW 9.94A.195 and may be punishable as contempt of  
3 court as provided for in RCW 7.21.040.

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

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

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

5 (14) All offenders sentenced to terms involving community  
6 supervision, community service, community placement, or legal financial  
7 obligation shall be under the supervision of the department of  
8 corrections and shall follow explicitly the instructions and conditions  
9 of the department of corrections. The department may require an  
10 offender to perform affirmative acts it deems appropriate to monitor  
11 compliance with the conditions of the sentence imposed.

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

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

36 The department may require offenders to pay for special services  
37 rendered on or after July 25, 1993, including electronic monitoring,  
38 day reporting, and telephone reporting, dependent upon the offender's

1 ability to pay. The department may pay for these services for  
2 offenders who are not able to pay.

3 (15) All offenders sentenced to terms involving community  
4 supervision, community service, or community placement under the  
5 supervision of the department of corrections shall not own, use, or  
6 possess firearms or ammunition. Offenders who own, use, or are found  
7 to be in actual or constructive possession of firearms or ammunition  
8 shall be subject to the appropriate violation process and sanctions.  
9 "Constructive possession" as used in this subsection means the power  
10 and intent to control the firearm or ammunition. "Firearm" as used in  
11 this subsection means a weapon or device from which a projectile may be  
12 fired by an explosive such as gunpowder.

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

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

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

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

36 (20) In any sentence of partial confinement, the court may require  
37 the defendant to serve the partial confinement in work release, in a  
38 program of home detention, on work crew, or in a combined program of  
39 work crew and home detention.

1 (21) All court-ordered legal financial obligations collected by  
2 the department and remitted to the county clerk shall be credited and  
3 paid where restitution is ordered. Restitution shall be paid prior to  
4 any other payments of monetary obligations.

5 **Sec. 4.** RCW 9.94A.040 and 1997 c 365 s 2 and 1997 c 338 s 3 are  
6 each reenacted and amended to read as follows:

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

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

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

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

15 (ii) The intent of the legislature to emphasize confinement for  
16 the violent offender and alternatives to confinement for the nonviolent  
17 offender.

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

21 (b) Recommend to the legislature revisions or modifications to the  
22 standard sentence ranges, state sentencing policy, prosecuting  
23 standards, and other standards. If implementation of the revisions or  
24 modifications would result in exceeding the capacity of correctional  
25 facilities, then the commission shall accompany its recommendation with  
26 an additional list of standard sentence ranges which are consistent  
27 with correction capacity;

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

30 (d)(i) Serve as a clearinghouse and information center for the  
31 collection, preparation, analysis, and dissemination of information on  
32 state and local adult and juvenile sentencing practices; (ii) develop  
33 and maintain a computerized adult and juvenile sentencing information  
34 system by individual superior court judge consisting of offender,  
35 offense, history, and sentence information entered from judgment and  
36 sentence forms for all adult felons; and (iii) conduct ongoing research  
37 regarding adult and juvenile sentencing guidelines, use of total  
38 confinement and alternatives to total confinement, plea bargaining, and

1 other matters relating to the improvement of the adult criminal justice  
2 system and the juvenile justice system;

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

5 (f) Evaluate the effectiveness of existing disposition standards  
6 and related statutes in implementing policies set forth in RCW  
7 13.40.010 generally, specifically review the guidelines relating to the  
8 confinement of minor and first offenders as well as the use of  
9 diversion, and review the application of current and proposed juvenile  
10 sentencing standards and guidelines for potential adverse impacts on  
11 the sentencing outcomes of racial and ethnic minority youth;

12 (g) Solicit the comments and suggestions of the juvenile justice  
13 community concerning disposition standards, and make recommendations to  
14 the legislature regarding revisions or modifications of the standards.  
15 The evaluations shall be submitted to the legislature on December 1 of  
16 each odd-numbered year. The department of social and health services  
17 shall provide the commission with available data concerning the  
18 implementation of the disposition standards and related statutes and  
19 their effect on the performance of the department's responsibilities  
20 relating to juvenile offenders, and with recommendations for  
21 modification of the disposition standards. The office of the  
22 administrator for the courts shall provide the commission with  
23 available data on diversion and dispositions of juvenile offenders  
24 under chapter 13.40 RCW; and

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

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

29 (ii) The capacity of state and local juvenile and adult facilities  
30 and resources; and

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

32 (3) Each of the commission's recommended standard sentence ranges  
33 shall include one or more of the following: Total confinement, partial  
34 confinement, community supervision, community service, and a fine.

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

37 (a) If the maximum term in the range is one year or less, the  
38 minimum term in the range shall be no less than one-third of the  
39 maximum term in the range, except that if the maximum term in the range

1 is ninety days or less, the minimum term may be less than one-third of  
2 the maximum;

3 (b) If the maximum term in the range is greater than one year, the  
4 minimum term in the range shall be no less than seventy-five percent of  
5 the maximum term in the range, except that for murder in the first  
6 degree in seriousness category XV under RCW 9.94A.310, the seventy-five  
7 percent minimum term limitation does not apply, and except that for  
8 murder in the second degree in seriousness category XIII under RCW  
9 9.94A.310, the minimum term in the range shall be no less than fifty  
10 percent of the maximum term in the range; and

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

13 (5) The commission shall exercise its duties under this section in  
14 conformity with chapter 34.05 RCW.

15 NEW SECTION. **Sec. 5.** This act takes effect July 1, 1998.

--- END ---