

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1147

Chapter 436, Laws of 2005

59th Legislature
2005 Regular Session

SEX OFFENDERS--COMMUNITY PROTECTION ZONES

EFFECTIVE DATE: 7/24/05

Passed by the House April 18, 2005
Yeas 95 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 12, 2005
Yeas 46 Nays 0

BRAD OWEN

President of the Senate

Approved May 13, 2005.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1147** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

May 13, 2005 - 2:23 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1147

AS AMENDED BY THE SENATE

Passed Legislature - 2005 Regular Session

State of Washington 59th Legislature 2005 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Clements, O'Brien, Skinner, Woods, Pearson, Simpson, Lovick, Tom and B. Sullivan)

READ FIRST TIME 02/24/05.

1 AN ACT Relating to protecting communities from sex offenders
2 through the establishment of community protection zones; amending RCW
3 9.94A.030, 9.94A.712, and 72.09.340; adding a new section to chapter
4 9.94A RCW; creating a new section; and providing an expiration date.

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

6 **Sec. 1.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read
7 as follows:

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

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

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

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

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

6 (5) "Community custody" means that portion of an offender's
7 sentence of confinement in lieu of earned release time or imposed
8 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
9 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
10 community subject to controls placed on the offender's movement and
11 activities by the department. For offenders placed on community
12 custody for crimes committed on or after July 1, 2000, the department
13 shall assess the offender's risk of reoffense and may establish and
14 modify conditions of community custody, in addition to those imposed by
15 the court, based upon the risk to community safety.

16 (6) "Community custody range" means the minimum and maximum period
17 of community custody included as part of a sentence under RCW
18 9.94A.715, as established by the commission or the legislature under
19 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

20 (7) "Community placement" means that period during which the
21 offender is subject to the conditions of community custody and/or
22 postrelease supervision, which begins either upon completion of the
23 term of confinement (postrelease supervision) or at such time as the
24 offender is transferred to community custody in lieu of earned release.
25 Community placement may consist of entirely community custody, entirely
26 postrelease supervision, or a combination of the two.

27 (8) "Community protection zone" means the area within eight hundred
28 eighty feet of the facilities and grounds of a public or private
29 school.

30 (9) "Community restitution" means compulsory service, without
31 compensation, performed for the benefit of the community by the
32 offender.

33 ((+9)) (10) "Community supervision" means a period of time during
34 which a convicted offender is subject to crime-related prohibitions and
35 other sentence conditions imposed by a court pursuant to this chapter
36 or RCW 16.52.200(6) or 46.61.524. Where the court finds that any
37 offender has a chemical dependency that has contributed to his or her
38 offense, the conditions of supervision may, subject to available

1 resources, include treatment. For purposes of the interstate compact
2 for out-of-state supervision of parolees and probationers, RCW
3 9.95.270, community supervision is the functional equivalent of
4 probation and should be considered the same as probation by other
5 states.

6 ~~((+10+))~~ (11) "Confinement" means total or partial confinement.

7 ~~((+11+))~~ (12) "Conviction" means an adjudication of guilt pursuant
8 to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of
9 guilty, and acceptance of a plea of guilty.

10 ~~((+12+))~~ (13) "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 ~~((+13+))~~ (14) "Criminal history" means the list of a defendant's
18 prior convictions and juvenile adjudications, whether in this state, in
19 federal court, or elsewhere.

20 (a) The history shall include, where known, for each conviction (i)
21 whether the defendant has been placed on probation and the length and
22 terms thereof; and (ii) whether the defendant has been incarcerated and
23 the length of incarceration.

24 (b) A conviction may be removed from a defendant's criminal history
25 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
26 a similar out-of-state statute, or if the conviction has been vacated
27 pursuant to a governor's pardon.

28 (c) The determination of a defendant's criminal history is distinct
29 from the determination of an offender score. A prior conviction that
30 was not included in an offender score calculated pursuant to a former
31 version of the sentencing reform act remains part of the defendant's
32 criminal history.

33 ~~((+14+))~~ (15) "Day fine" means a fine imposed by the sentencing
34 court that equals the difference between the offender's net daily
35 income and the reasonable obligations that the offender has for the
36 support of the offender and any dependents.

37 ~~((+15+))~~ (16) "Day reporting" means a program of enhanced
38 supervision designed to monitor the offender's daily activities and

1 compliance with sentence conditions, and in which the offender is
2 required to report daily to a specific location designated by the
3 department or the sentencing court.

4 ~~((+16+))~~ (17) "Department" means the department of corrections.

5 ~~((+17+))~~ (18) "Determinate sentence" means a sentence that states
6 with exactitude the number of actual years, months, or days of total
7 confinement, of partial confinement, of community supervision, the
8 number of actual hours or days of community restitution work, or
9 dollars or terms of a legal financial obligation. The fact that an
10 offender through earned release can reduce the actual period of
11 confinement shall not affect the classification of the sentence as a
12 determinate sentence.

13 ~~((+18+))~~ (19) "Disposable earnings" means that part of the earnings
14 of an offender remaining after the deduction from those earnings of any
15 amount required by law to be withheld. For the purposes of this
16 definition, "earnings" means compensation paid or payable for personal
17 services, whether denominated as wages, salary, commission, bonuses, or
18 otherwise, and, notwithstanding any other provision of law making the
19 payments exempt from garnishment, attachment, or other process to
20 satisfy a court-ordered legal financial obligation, specifically
21 includes periodic payments pursuant to pension or retirement programs,
22 or insurance policies of any type, but does not include payments made
23 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
24 or Title 74 RCW.

25 ~~((+19+))~~ (20) "Drug offender sentencing alternative" is a
26 sentencing option available to persons convicted of a felony offense
27 other than a violent offense or a sex offense and who are eligible for
28 the option under RCW 9.94A.660.

29 ~~((+20+))~~ (21) "Drug offense" means:

30 (a) Any felony violation of chapter 69.50 RCW except possession of
31 a controlled substance (RCW 69.50.4013) or forged prescription for a
32 controlled substance (RCW 69.50.403);

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

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

1 ~~((21))~~ (22) "Earned release" means earned release from
2 confinement as provided in RCW 9.94A.728.

3 ~~((22))~~ (23) "Escape" means:

4 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
5 first degree (RCW 9A.76.110), escape in the second degree (RCW
6 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
7 willful failure to return from work release (RCW 72.65.070), or willful
8 failure to be available for supervision by the department while in
9 community custody (RCW 72.09.310); or

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

13 ~~((23))~~ (24) "Felony traffic offense" means:

14 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
15 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
16 and-run injury-accident (RCW 46.52.020(4)); or

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

20 ~~((24))~~ (25) "Fine" means a specific sum of money ordered by the
21 sentencing court to be paid by the offender to the court over a
22 specific period of time.

23 ~~((25))~~ (26) "First-time offender" means any person who has no
24 prior convictions for a felony and is eligible for the first-time
25 offender waiver under RCW 9.94A.650.

26 ~~((26))~~ (27) "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 ~~((27))~~ (28) "Legal financial obligation" means a sum of money
30 that is ordered by a superior court of the state of Washington for
31 legal financial obligations which may include restitution to the
32 victim, statutorily imposed crime victims' compensation fees as
33 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
34 drug funds, court-appointed attorneys' fees, and costs of defense,
35 fines, and any other financial obligation that is assessed to the
36 offender as a result of a felony conviction. Upon conviction for
37 vehicular assault while under the influence of intoxicating liquor or
38 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the

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

5 ~~((+28+))~~ (29) "Most serious offense" means any of the following
6 felonies or a felony attempt to commit any of the following felonies:

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

10 (b) Assault in the second degree;

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

12 (d) Child molestation in the second degree;

13 (e) Controlled substance homicide;

14 (f) Extortion in the first degree;

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

16 (h) Indecent liberties;

17 (i) Kidnapping in the second degree;

18 (j) Leading organized crime;

19 (k) Manslaughter in the first degree;

20 (l) Manslaughter in the second degree;

21 (m) Promoting prostitution in the first degree;

22 (n) Rape in the third degree;

23 (o) Robbery in the second degree;

24 (p) Sexual exploitation;

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

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

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

35 (t) Any other felony with a deadly weapon verdict under RCW
36 9.94A.602;

37 (u) Any felony offense in effect at any time prior to December 2,
38 1993, that is comparable to a most serious offense under this

1 subsection, or any federal or out-of-state conviction for an offense
2 that under the laws of this state would be a felony classified as a
3 most serious offense under this subsection;

4 (v)(i) A prior conviction for indecent liberties under RCW
5 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
6 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
7 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
8 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

9 (ii) A prior conviction for indecent liberties under RCW
10 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
11 if: (A) The crime was committed against a child under the age of
12 fourteen; or (B) the relationship between the victim and perpetrator is
13 included in the definition of indecent liberties under RCW
14 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
15 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
16 through July 27, 1997.

17 ~~((+29+))~~ (30) "Nonviolent offense" means an offense which is not a
18 violent offense.

19 ~~((+30+))~~ (31) "Offender" means a person who has committed a felony
20 established by state law and is eighteen years of age or older or is
21 less than eighteen years of age but whose case is under superior court
22 jurisdiction under RCW 13.04.030 or has been transferred by the
23 appropriate juvenile court to a criminal court pursuant to RCW
24 13.40.110. Throughout this chapter, the terms "offender" and
25 "defendant" are used interchangeably.

26 ~~((+31+))~~ (32) "Partial confinement" means confinement for no more
27 than one year in a facility or institution operated or utilized under
28 contract by the state or any other unit of government, or, if home
29 detention or work crew has been ordered by the court, in an approved
30 residence, for a substantial portion of each day with the balance of
31 the day spent in the community. Partial confinement includes work
32 release, home detention, work crew, and a combination of work crew and
33 home detention.

34 ~~((+32+))~~ (33) "Persistent offender" is an offender who:

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

37 (ii) Has, before the commission of the offense under (a) of this
38 subsection, been convicted as an offender on at least two separate

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

7 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
8 of a child in the first degree, child molestation in the first degree,
9 rape in the second degree, rape of a child in the second degree, or
10 indecent liberties by forcible compulsion; (B) any of the following
11 offenses with a finding of sexual motivation: Murder in the first
12 degree, murder in the second degree, homicide by abuse, kidnapping in
13 the first degree, kidnapping in the second degree, assault in the first
14 degree, assault in the second degree, assault of a child in the first
15 degree, or burglary in the first degree; or (C) an attempt to commit
16 any crime listed in this subsection (~~((+32+))~~) (33)(b)(i); and

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

29 (~~((+33+))~~) (34) "Postrelease supervision" is that portion of an
30 offender's community placement that is not community custody.

31 (~~((+34+))~~) (35) "Private school" means a school regulated under
32 chapter 28A.195 or 28A.205 RCW.

33 (36) "Public school" has the same meaning as in RCW 28A.150.010.

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

1 (~~(35)~~) (38) "Risk assessment" means the application of an
2 objective instrument supported by research and adopted by the
3 department for the purpose of assessing an offender's risk of
4 reoffense, taking into consideration the nature of the harm done by the
5 offender, place and circumstances of the offender related to risk, the
6 offender's relationship to any victim, and any information provided to
7 the department by victims. The results of a risk assessment shall not
8 be based on unconfirmed or unconfirmable allegations.

9 (~~(36)~~) (39) "Serious traffic offense" means:

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

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

18 (~~(37)~~) (40) "Serious violent offense" is a subcategory of violent
19 offense and means:

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

21 (ii) Homicide by abuse;

22 (iii) Murder in the second degree;

23 (iv) Manslaughter in the first degree;

24 (v) Assault in the first degree;

25 (vi) Kidnapping in the first degree;

26 (vii) Rape in the first degree;

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

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

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

33 (~~(38)~~) (41) "Sex offense" means:

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

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

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

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

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

6 (c) A felony with a finding of sexual motivation under RCW
7 9.94A.835 or 13.40.135; or

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

11 (~~(39)~~) (42) "Sexual motivation" means that one of the purposes
12 for which the defendant committed the crime was for the purpose of his
13 or her sexual gratification.

14 (~~(40)~~) (43) "Standard sentence range" means the sentencing
15 court's discretionary range in imposing a nonappealable sentence.

16 (~~(41)~~) (44) "Statutory maximum sentence" means the maximum length
17 of time for which an offender may be confined as punishment for a crime
18 as prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining
19 the crime, or other statute defining the maximum penalty for a crime.

20 (~~(42)~~) (45) "Total confinement" means confinement inside the
21 physical boundaries of a facility or institution operated or utilized
22 under contract by the state or any other unit of government for twenty-
23 four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

24 (~~(43)~~) (46) "Transition training" means written and verbal
25 instructions and assistance provided by the department to the offender
26 during the two weeks prior to the offender's successful completion of
27 the work ethic camp program. The transition training shall include
28 instructions in the offender's requirements and obligations during the
29 offender's period of community custody.

30 (~~(44)~~) (47) "Victim" means any person who has sustained
31 emotional, psychological, physical, or financial injury to person or
32 property as a direct result of the crime charged.

33 (~~(45)~~) (48) "Violent offense" means:

34 (a) Any of the following felonies:

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

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

1 (iii) Manslaughter in the first degree;
2 (iv) Manslaughter in the second degree;
3 (v) Indecent liberties if committed by forcible compulsion;
4 (vi) Kidnapping in the second degree;
5 (vii) Arson in the second degree;
6 (viii) Assault in the second degree;
7 (ix) Assault of a child in the second degree;
8 (x) Extortion in the first degree;
9 (xi) Robbery in the second degree;
10 (xii) Drive-by shooting;
11 (xiii) Vehicular assault, when caused by the operation or driving
12 of a vehicle by a person while under the influence of intoxicating
13 liquor or any drug or by the operation or driving of a vehicle in a
14 reckless manner; and
15 (xiv) Vehicular homicide, when proximately caused by the driving of
16 any vehicle by any person while under the influence of intoxicating
17 liquor or any drug as defined by RCW 46.61.502, or by the operation of
18 any vehicle in a reckless manner;
19 (b) Any conviction for a felony offense in effect at any time prior
20 to July 1, 1976, that is comparable to a felony classified as a violent
21 offense in (a) of this subsection; and
22 (c) Any federal or out-of-state conviction for an offense that
23 under the laws of this state would be a felony classified as a violent
24 offense under (a) or (b) of this subsection.
25 (~~(46)~~) (49) "Work crew" means a program of partial confinement
26 consisting of civic improvement tasks for the benefit of the community
27 that complies with RCW 9.94A.725.
28 (~~(47)~~) (50) "Work ethic camp" means an alternative incarceration
29 program as provided in RCW 9.94A.690 designed to reduce recidivism and
30 lower the cost of corrections by requiring offenders to complete a
31 comprehensive array of real-world job and vocational experiences,
32 character-building work ethics training, life management skills
33 development, substance abuse rehabilitation, counseling, literacy
34 training, and basic adult education.
35 (~~(48)~~) (51) "Work release" means a program of partial confinement
36 available to offenders who are employed or engaged as a student in a
37 regular course of study at school.

1 **Sec. 2.** RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read
2 as follows:

3 (1) An offender who is not a persistent offender shall be sentenced
4 under this section if the offender:

5 (a) Is convicted of:

6 (i) Rape in the first degree, rape in the second degree, rape of a
7 child in the first degree, child molestation in the first degree, rape
8 of a child in the second degree, or indecent liberties by forcible
9 compulsion;

10 (ii) Any of the following offenses with a finding of sexual
11 motivation: Murder in the first degree, murder in the second degree,
12 homicide by abuse, kidnapping in the first degree, kidnapping in the
13 second degree, assault in the first degree, assault in the second
14 degree, assault of a child in the first degree, or burglary in the
15 first degree; or

16 (iii) An attempt to commit any crime listed in this subsection
17 (1)(a);
18 committed on or after September 1, 2001; or

19 (b) Has a prior conviction for an offense listed in RCW
20 9.94A.030(~~(+32+)~~) (33)(b), and is convicted of any sex offense which
21 was committed after September 1, 2001.

22 For purposes of this subsection (1)(b), failure to register is not
23 a sex offense.

24 (2) An offender convicted of rape of a child in the first or second
25 degree or child molestation in the first degree who was seventeen years
26 of age or younger at the time of the offense shall not be sentenced
27 under this section.

28 (3) Upon a finding that the offender is subject to sentencing under
29 this section, the court shall impose a sentence to a maximum term
30 consisting of the statutory maximum sentence for the offense and a
31 minimum term either within the standard sentence range for the offense,
32 or outside the standard sentence range pursuant to RCW 9.94A.535, if
33 the offender is otherwise eligible for such a sentence.

34 (4) A person sentenced under subsection (3) of this section shall
35 serve the sentence in a facility or institution operated, or utilized
36 under contract, by the state.

37 (5) When a court sentences a person to the custody of the
38 department under this section, the court shall, in addition to the

1 other terms of the sentence, sentence the offender to community custody
2 under the supervision of the department and the authority of the board
3 for any period of time the person is released from total confinement
4 before the expiration of the maximum sentence.

5 (6)(a)(i) Unless a condition is waived by the court, the conditions
6 of community custody shall include those provided for in RCW
7 9.94A.700(4). The conditions may also include those provided for in
8 RCW 9.94A.700(5). The court may also order the offender to participate
9 in rehabilitative programs or otherwise perform affirmative conduct
10 reasonably related to the circumstances of the offense, the offender's
11 risk of reoffending, or the safety of the community, and the department
12 and the board shall enforce such conditions pursuant to RCW 9.94A.713,
13 9.95.425, and 9.95.430.

14 (ii) If the offense that caused the offender to be sentenced under
15 this section was an offense listed in subsection (1)(a) of this section
16 and the victim of the offense was under eighteen years of age at the
17 time of the offense, the court shall, as a condition of community
18 custody, prohibit the offender from residing in a community protection
19 zone.

20 (b) As part of any sentence under this section, the court shall
21 also require the offender to comply with any conditions imposed by the
22 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

23 **Sec. 3.** RCW 72.09.340 and 1996 c 215 s 3 are each amended to read
24 as follows:

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

29 (2) The department shall, no later than September 1, 1996,
30 implement a policy governing the department's evaluation and approval
31 of release plans for sex offenders. The policy shall include, at a
32 minimum, a formal process by which victims, witnesses, and other
33 interested people may provide information and comments to the
34 department on potential safety risks to specific individuals or classes
35 of individuals posed by a specific sex offender. The department shall
36 make all reasonable efforts to publicize the availability of this
37 process through currently existing mechanisms and shall seek the

1 assistance of courts, prosecutors, law enforcement, and victims'
2 advocacy groups in doing so. Notice of an offender's proposed
3 residence shall be provided to all people registered to receive notice
4 of an offender's release under RCW 9.94A.612(2), except that in no case
5 may this notification requirement be construed to require an extension
6 of an offender's release date.

7 (3)(a) For any offender convicted of a felony sex offense against
8 a minor victim after June 6, 1996, the department shall not approve a
9 residence location if the proposed residence: ~~((a))~~ (i) Includes a
10 minor victim or child of similar age or circumstance as a previous
11 victim who the department determines may be put at substantial risk of
12 harm by the offender's residence in the household; or ~~((b))~~ (ii) is
13 within close proximity of the current residence of a minor victim,
14 unless the whereabouts of the minor victim cannot be determined or
15 unless such a restriction would impede family reunification efforts
16 ordered by the court or directed by the department of social and health
17 services. The department is further authorized to reject a residence
18 location if the proposed residence is within close proximity to
19 schools, child care centers, playgrounds, or other grounds or
20 facilities where children of similar age or circumstance as a previous
21 victim are present who the department determines may be put at
22 substantial risk of harm by the sex offender's residence at that
23 location.

24 (b) In addition, for any offender prohibited from living in a
25 community protection zone under RCW 9.94A.712(6)(a)(ii), the department
26 may not approve a residence location if the proposed residence is in a
27 community protection zone.

28 (4) When the department requires supervised visitation as a term or
29 condition of a sex offender's community placement under RCW
30 9.94A.700(6), the department shall, prior to approving a supervisor,
31 consider the following:

32 (a) The relationships between the proposed supervisor, the
33 offender, and the minor; (b) the proposed supervisor's acknowledgment
34 and understanding of the offender's prior criminal conduct, general
35 knowledge of the dynamics of child sexual abuse, and willingness and
36 ability to protect the minor from the potential risks posed by contact
37 with the offender; and (c) recommendations made by the department of
38 social and health services about the best interests of the child.

1 NEW SECTION. **Sec. 4.** (1) The joint task force on sex offender
2 management is established to examine issues of community safety and the
3 management of sex offenders in the community and shall work in
4 collaboration with the partnership for community safety. The task
5 force shall be composed of one member of each of the two largest
6 caucuses of the senate, appointed by the president of the senate; one
7 member of each of the two largest caucuses of the house of
8 representatives, appointed by the speaker of the house; the secretary
9 of the department of corrections; the superintendent of public
10 instruction; the secretary of the department of social and health
11 services; the attorney general; the executive director of the
12 Washington association of sheriffs and police chiefs; the executive
13 director of the indeterminate sentence review board; the chair of the
14 end of sentence review committee; the executive director of the
15 criminal justice training commission; and a representative each of the
16 broadcast media and the print media, appointed by the governor. The
17 task force shall be chaired by one of the legislative members, selected
18 by the task force members.

19 (2) The task force shall make recommendations to the governor and
20 the legislature not later than December 1, 2005, on the following
21 subjects:

22 (a) The effectiveness of community protection zones and other
23 strategies to promote community safety, including recommendations on
24 proactive and reactive approaches to sex offender residence locations
25 and any statutory, constitutional, or practical limitations on the
26 state's ability to address sex offender housing requirements;

27 (b) Standardization of the community sex offender notification
28 process;

29 (c) Applicability of the public disclosure act to sex offender
30 information sharing;

31 (d) The training needs of law enforcement, criminal justice staff,
32 and school personnel to increase community safety in relationship to
33 sex offender notification and management strategies; and

34 (e) The impact and advisability of prenotification of local
35 government officials related to sex offender residence location.

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

1 Law enforcement agencies and the department of corrections are
2 immune from civil liability for damages from discretionary decisions
3 made under this act if they make a good faith effort to comply with
4 this act.

5 NEW SECTION. **Sec. 6.** This act expires July 1, 2006.

Passed by the House April 18, 2005.

Passed by the Senate April 12, 2005.

Approved by the Governor May 13, 2005.

Filed in Office of Secretary of State May 13, 2005.