

testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith or maliciously, knowingly makes a false report of abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

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## CHAPTER 143

[Substitute House Bill No. 1271]

### DEPARTMENT OF CORRECTIONS

AN ACT Relating to the department of corrections; amending RCW 72.12.160, 72.02.100, 72.02.110, 72.13.110, 72.13.120, 72.13.130, 72.13.140, 72.13.150, 72.13.160, 72.08.380, 9.94A.170, 9.94A.383, and 9.94A.400; reenacting and amending RCW 72.01.050 and 9.94A.120; adding new sections to chapter 72.02 RCW; creating new sections; recodifying RCW 72.12.160, 72.13.110, 72.13.120, 72.13.130, 72.13.140, 72.13.150, 72.13.160, 72.15.060, and 72.08.380; repealing RCW 72.02.050, 72.08.010, 72.08.020, 72.08.040, 72.08.045, 72.08.050, 72.08.080, 72.08.090, 72.08.101, 72.08.102, 72.08.103, 72.08.120, 72.08.130, 72.08.160, 72.12.010, 72.12.020, 72.12.040, 72.12.070, 72.12.090, 72.12.100, 72.12.140, 72.13.001, 72.13.010, 72.13.040, 72.13.050, 72.13.060, 72.13.080, 72.13.091, 72.13.100, 72.13.170, 72.15.010, 72.15.020, 72.15.030, 72.15.040, 72.15.050, and 72.15.070; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 72.01.050, chapter 28, Laws of 1959 as last amended by section 1, chapter 350, Laws of 1985 and by section 8, chapter 378, Laws of 1985 and RCW 72.01.050 are each reenacted and amended to read as follows:

(1) The secretary of social and health services shall have full power to manage and govern the following public institutions: The western state hospital, the eastern state hospital, the northern state hospital, the state training school, the state school for girls, Lakeland Village, the Rainier school,

and such other institutions as authorized by law, subject only to the limitations contained in laws relating to the management of such institutions.

(2) The secretary of corrections shall have full power to manage and govern the following public institutions: The Washington state penitentiary, the Washington state reformatory, the Washington corrections center, the McNeil Island corrections center, the ((Purdy)) Washington corrections center for women, the Cedar Creek corrections center, the Clearwater corrections center, ((the Firland corrections center,)) the Indian Ridge corrections center, the Larch corrections center, the Olympic corrections center, Pine Lodge corrections center, the special offender center, the Twin Rivers corrections center, and the ((proposed five hundred bed facility at)) Clallam Bay corrections center subject only to the limitations contained in laws relating to the management of such institutions.

(3) If any of the facilities specified in subsection (2) of this section is fully or partially destroyed by natural causes or otherwise, the secretary of corrections may, with the approval of the governor, provide for the establishment and operation of additional residential correctional facilities to place those inmates displaced by such destruction. However, such additional facilities may not be established if there are existing residential correctional facilities to which all of the displaced inmates can be appropriately placed. The establishment and operation of any additional facility shall be on a temporary basis, and the facility may not be operated beyond July 1 of the year following the year in which it was partially or fully destroyed.

NEW SECTION. Sec. 2. A new section is added to chapter 72.02 RCW to read as follows:

The superintendent of each institution has the powers, duties, and responsibilities specified in this section.

(1) Subject to the rules of the department, the superintendent is responsible for the supervision and management of the institution, the grounds and buildings, the subordinate officers and employees, and the prisoners committed, admitted, or transferred to the institution.

(2) Subject to the rules of the department and the director of the division of prisons or his or her designee and the state personnel board, the superintendent shall appoint all subordinate officers and employees.

(3) The superintendent shall be the custodian of all funds and valuable personal property of convicted persons as may be in their possession upon admission to the institution, or which may be sent or brought in to such persons, or earned by them while in custody, or which shall be forwarded to the superintendent on behalf of convicted persons. All such funds shall be deposited in the personal account of the convicted person and the superintendent shall have authority to disburse moneys from such person's personal account for the personal and incidental needs of the convicted person as may be deemed reasonably necessary. When convicted persons are released from the confines of the institution either on parole, transfer, or discharge,

all funds and valuable personal property in the possession of the superintendent belonging to such convicted persons shall be delivered to them. In no case shall the state of Washington, or any state officer, including state elected officials, employees, or volunteers, be liable for the loss of such personal property, except upon a showing that the loss was occasioned by the intentional act, gross negligence, or negligence of the officer, official, employee, or volunteer, and that the actions or omissions occurred while the person was performing, or in good faith purporting to perform, his or her official duties. Recovery of damages for loss of personal property while in the custody of the superintendent under this subsection shall be limited to the lesser of the market value of the item lost at the time of the loss, or the original purchase price of the item or, in the case of hand-made goods, the materials used in fabricating the item.

(4) The superintendent, subject to the approval of the director of the division of prisons and the secretary, shall make, amend, and repeal rules for the administration, supervision, discipline, and security of the institution.

(5) When in the superintendent's opinion an emergency exists, the superintendent may promulgate temporary rules for the governance of the institution, which shall remain in effect until terminated by the director of the division of prisons or the secretary.

(6) The superintendent shall perform such other duties as may be prescribed.

NEW SECTION. Sec. 3. A new section is added to chapter 72.02 RCW to read as follows:

The superintendent, subject to the approval of the director of the division of prisons and the secretary, shall appoint such associate superintendents as shall be deemed necessary, who shall have such qualifications as shall be determined by the secretary. In the event the superintendent is absent from the institution, or during periods of illness or other situations incapacitating the superintendent from properly performing his or her duties, one of the associate superintendents of such institution as may be designated by the director of the division of prisons and the secretary shall act as superintendent.

Sec. 4. Section 109, chapter 136, Laws of 1981 as amended by section 2, chapter 350, Laws of 1985 and RCW 72.12.160 are each amended to read as follows:

It is the intent of the legislature that limitations be placed on the state correctional institutions at Monroe.

The following facilities at Monroe shall be subject to the inmate population limitations specified in this section.

(1) The special offender center shall house no more than one hundred forty-four inmates.

(2) The Twin Rivers corrections center shall house no more than five hundred inmates.

(3) The ~~((Monroe))~~ Washington state reformatory population shall be as determined pursuant to federal court order:

PROVIDED, That the governor may declare an emergency and increase by ten percent for a twelve-month period of time the population limitation of any of the facilities specified in this section.

Sec. 5. Section 1, chapter 171, Laws of 1971 ex. sess. and RCW 72-.02.100 are each amended to read as follows:

Any person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, who is thereafter released upon an order of parole of the ~~((state board of prison terms and paroles))~~ indeterminate sentencing review board, or who is discharged from custody upon expiration of sentence, or who is ordered discharged from custody by a court of appropriate jurisdiction, shall be entitled to retain his earnings from labor or employment while in confinement and shall be supplied by the superintendent of the state correctional facility with suitable and presentable clothing, the sum of forty dollars for subsistence, and transportation by the least expensive method of public transportation not to exceed the cost of one hundred dollars to his place of residence or the place designated in his parole plan, or to the place from which committed if such person is being discharged on expiration of sentence, or discharged from custody by a court of appropriate jurisdiction: PROVIDED, That up to sixty additional dollars may be made available to the parolee for necessary personal and living expenses upon application to and approval by such person's ~~((parole))~~ community corrections officer. If in the opinion of the superintendent suitable arrangements have been made to provide the person to be released with suitable clothing and/or the expenses of transportation, the superintendent may consent to such arrangement. If the superintendent has reasonable cause to believe that the person to be released has ample funds, with the exception of earnings from labor or employment while in confinement, to assume the expenses of clothing, transportation, or the expenses for which payments made pursuant to RCW 72.02.100 or 72-.02.110 or any one or more of such expenses, the person released shall be required to assume such expenses.

Sec. 6. Section 2, chapter 171, Laws of 1971 ex. sess. as amended by section 80, chapter 136, Laws of 1981 and RCW 72.02.110 are each amended to read as follows:

As state, federal or other funds are available, the secretary of corrections or his designee is authorized, in his discretion, not to provide the forty dollars subsistence money or the optional sixty dollars to a person or persons released as described in RCW 72.02.100, and instead to utilize the authorization and procedure contained in this section relative to such person or persons.

Any person designated by the secretary serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant

to court commitment, who is thereafter released upon an order of parole of the ~~((state board of prison terms and paroles))~~ indeterminate sentencing review board, or is discharged from custody upon expiration of sentence, or is ordered discharged from custody by a court of appropriate jurisdiction, shall receive the sum of fifty-five dollars per week for a period of up to six weeks. The initial weekly payment shall be made to such person upon his release or parole by the superintendent of the institution. Subsequent weekly payments shall be made to such person by the ~~((probation and parole))~~ community corrections officer at the office of such ~~((probation or parole))~~ officer. In addition to the initial six weekly payments provided for in this section, a ~~((probation and parole))~~ community corrections officer and his ~~((district))~~ supervisor may, at their discretion, continue such payments up to a maximum of twenty additional weeks when they are satisfied that such person is actively seeking employment and that such payments are necessary to continue the efforts of such person to gain employment: PROVIDED, That if, at the time of release or parole, in the opinion of the superintendent funds are otherwise available to such person, with the exception of earnings from labor or employment while in confinement, such weekly sums of money or part thereof shall not be provided to such person.

When a person receiving such payments provided for in this section becomes employed, he may continue to receive payments for two weeks after the date he becomes employed but payments made after he becomes employed shall be discontinued as of the date he is first paid for such employment: PROVIDED, That no person shall receive payments for a period exceeding the twenty-six week maximum as established in this section.

The secretary of corrections may annually adjust the amount of weekly payment provided for in this section to reflect changes in the cost of living and the purchasing power of the sum set for the previous year.

Sec. 7. Section 11, chapter 214, Laws of 1959 and RCW 72.13.110 are each amended to read as follows:

There shall be ~~((a department in such institution))~~ units known as ~~((the))~~ reception and classification centers ~~((under the supervision of an associate superintendent))~~ which, subject to the rules and regulations of the department, shall be charged with the function of receiving and classifying all ~~((male))~~ persons committed or transferred to the institution, taking into consideration age, type of crime for which committed, physical condition, behavior, attitude and prospects for reformation for the purposes of confinement and treatment of ~~((male))~~ offenders convicted of offenses punishable by imprisonment ~~((in the state penitentiary or state reformatory))~~, except offenders convicted of crime and sentenced to death.

Sec. 8. Section 12, chapter 214, Laws of 1959 as last amended by section 95, chapter 136, Laws of 1981 and RCW 72.13.120 are each amended to read as follows:

Any ~~((male))~~ offender convicted of an offense punishable by imprisonment ~~((in the state penitentiary or the state reformatory))~~, except an offender sentenced to death, shall, notwithstanding any inconsistent provision of law, be sentenced to imprisonment in a penal institution under the jurisdiction of the department without designating the name of such institution, and be committed to the reception ~~((center))~~ units for classification, confinement and placement in such correctional facility under the supervision of the department as the secretary shall deem appropriate.

Sec. 9. Section 13, chapter 214, Laws of 1959 and RCW 72.13.130 are each amended to read as follows:

Nothing ~~((herein contained, however,))~~ in this chapter shall be construed to restrict or impair the power of any court or judge having jurisdiction to pronounce sentence upon a person to whom this ~~((act))~~ chapter applies, to fix the term of imprisonment and to order ~~((his))~~ commitment, according to law, nor to deny the right of any such court or judge to sentence to imprisonment; nor to deny the right of any such court or judge to suspend sentence or the execution of judgment thereon or to make any other disposition of the case pursuant to law ~~((but in case the punishment imposed be imprisonment in the state penitentiary or the state reformatory; the warrant of commitment shall commit the person convicted to the reception center established by this act for classification, confinement and placement as provided by this chapter))~~.

Sec. 10. Section 14, chapter 214, Laws of 1959 as amended by section 207, chapter 141, Laws of 1979 and RCW 72.13.140 are each amended to read as follows:

~~((The secretary shall appoint a staff for the reception center to interview, test, classify, and supervise offenders committed to the center. Such staff shall consist of such employees as the secretary shall determine to be adequate for prompt and effective classification. There shall be within the reception center a classification board, which should be composed of such members of the staff of the reception center as the secretary may require. After making a study and investigation of the facts of the cases of the persons committed to the reception center as the secretary may require, the board shall make and file in the department a certificate in writing, recommending the state correctional institution best suited to receive the offender during the term of his confinement, the type of program to be followed and the approximate length of such treatment. The state board of prison terms and paroles))~~ The indeterminate sentence review board and other state agencies shall cooperate with the department in obtaining necessary investigative materials concerning offenders committed to the reception ~~((center))~~ unit and supply the reception ~~((center))~~ unit with necessary information regarding social histories and community background.

Sec. 11. Section 15, chapter 214, Laws of 1959 as last amended by section 4, chapter 114, Laws of 1984 and RCW 72.13.150 are each amended to read as follows:

The ~~((superintendent of the correctional institution established by this chapter))~~ division of prisons shall receive all ~~((male))~~ persons convicted of a felony by the superior court and committed by the superior court to the reception ~~((center))~~ units for classification and placement in such facility as the secretary shall designate~~((, and all persons transferred thereto by the secretary from the state reformatory and state penitentiary, and other correctional facilities of the department))~~. The superintendent of these institutions shall only receive prisoners for classification and study in the institution upon presentation of certified copies of a judgment, sentence, and order of commitment of the superior court and the statement of the prosecuting attorney, along with other reports as may have been made in reference to each individual prisoner.

Sec. 12. Section 16, chapter 214, Laws of 1959 as amended by section 209, chapter 141, Laws of 1979 and RCW 72.13.160 are each amended to read as follows:

The secretary shall determine the state correctional institution in which the offender shall be confined during ~~((his))~~ the term of imprisonment. The confinement of any offender shall be governed by the laws applicable to the institution to which ~~((he))~~ the offender is certified for confinement, but ~~((his))~~ parole and discharge shall be governed by the laws applicable to the sentence imposed by the court.

Sec. 13. Section 72.08.380, chapter 28, Laws of 1959 as last amended by section 87, chapter 136, Laws of 1981 and RCW 72.08.380 are each amended to read as follows:

Whenever the superintendent of ~~((the state penitentiary))~~ an institution withholds from mailing letters written by inmates of such institution, the superintendent shall forward such letters to the secretary of corrections or the secretary's designee for study and the inmate shall be forthwith notified that such letter has been withheld from mailing and the reason for so doing. Letters forwarded to the secretary for study shall either be mailed within seven days to the addressee or, if deemed objectionable by the secretary, retained in a separate file for two years and then destroyed.

NEW SECTION. Sec. 14. The training center general population housing units at the Washington correction center at Shelton shall be subject to an inmate population limit of no more than one hundred fifteen percent of the rated capacity. However, the governor may declare an emergency and increase by fifteen percent for a twelve-month period of time the population limitation of the training center general population housing units.

NEW SECTION. Sec. 15. RCW 72.12.160, 72.13.110, 72.13.120, 72.13.130, 72.13.140, 72.13.150, 72.13.160, 72.15.060, and 72.08.380 are each recodified as sections in chapter 72.02 RCW.

NEW SECTION. Sec. 16. Section 22, chapter 8, Laws of 1981 and RCW 72.02.050 are each repealed.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

- (1) Section 72.08.010, chapter 28, Laws of 1959 and RCW 72.08.010;
- (2) Section 72.08.020, chapter 28, Laws of 1959, section 186, chapter 141, Laws of 1979 and RCW 72.08.020;
- (3) Section 72.08.040, chapter 28, Laws of 1959, section 1, chapter 56, Laws of 1969 and RCW 72.08.040;
- (4) Section 72.08.045, chapter 28, Laws of 1959, section 187, chapter 141, Laws of 1979 and RCW 72.08.045;
- (5) Section 72.08.050, chapter 28, Laws of 1959 and RCW 72.08.050;
- (6) Section 72.08.080, chapter 28, Laws of 1959 and RCW 72.08.080;
- (7) Section 72.08.090, chapter 28, Laws of 1959 and RCW 72.08.090;
- (8) Section 3, chapter 9, Laws of 1965 ex. sess., section 188, chapter 141, Laws of 1979, section 85, chapter 136, Laws of 1981 and RCW 72.08.101;
- (9) Section 4, chapter 9, Laws of 1965 ex. sess., section 189, chapter 141, Laws of 1979, section 86, chapter 136, Laws of 1981 and RCW 72.08.102;
- (10) Section 5, chapter 9, Laws of 1965 ex. sess. and RCW 72.08.103;
- (11) Section 72.08.120, chapter 28, Laws of 1959, section 190, chapter 141, Laws of 1979 and RCW 72.08.120;
- (12) Section 72.08.130, chapter 28, Laws of 1959, section 191, chapter 141, Laws of 1979 and RCW 72.08.130 and
- (13) Section 72.08.160, chapter 28, Laws of 1959 and RCW 72.08.160.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

- (1) Section 72.12.010, chapter 28, Laws of 1959 and RCW 72.12.010;
- (2) Section 72.12.020, chapter 28, Laws of 1959, section 193, chapter 141, Laws of 1979, section 88, chapter 136, Laws of 1981 and RCW 72.12.020;
- (3) Section 72.12.040, chapter 28, Laws of 1959 and RCW 72.12.040;
- (4) Section 72.12.070, chapter 28, Laws of 1959, section 195, chapter 141, Laws of 1979 and RCW 72.12.070;
- (5) Section 72.12.090, chapter 28, Laws of 1959, section 196, chapter 141, Laws of 1979 and RCW 72.12.090;
- (6) Section 72.12.100, chapter 28, Laws of 1959, section 197, chapter 141, Laws of 1979 and RCW 72.12.100; and



(7) Section 72.12.140, chapter 28, Laws of 1959, section 198, chapter 141, Laws of 1979, section 89, chapter 136, Laws of 1981 and RCW 72.12.140.

**NEW SECTION.** Sec. 19. The following acts or parts of acts are each repealed:

- (1) Section 90, chapter 136, Laws of 1981 and RCW 72.13.001;
- (2) Section 1, chapter 214, Laws of 1959, section 199, chapter 141, Laws of 1979, section 91, chapter 136, Laws of 1981 and RCW 72.13.010;
- (3) Section 4, chapter 214, Laws of 1959, section 200, chapter 141, Laws of 1979, section 92, chapter 136, Laws of 1981 and RCW 72.13.040;
- (4) Section 5, chapter 214, Laws of 1959, section 201, chapter 141, Laws of 1979 and RCW 72.13.050;
- (5) Section 6, chapter 214, Laws of 1959, section 202, chapter 141, Laws of 1979, section 93, chapter 136, Laws of 1981 and RCW 72.13.060;
- (6) Section 8, chapter 214, Laws of 1959, section 204, chapter 141, Laws of 1979 and RCW 72.13.080;
- (7) Section 2, chapter 2, Laws of 1982 2nd ex. sess., section 5, chapter 350, Laws of 1985 and RCW 72.13.091;
- (8) Section 10, chapter 214, Laws of 1959, section 205, chapter 141, Laws of 1979 and RCW 72.13.100; and
- (9) Section 17, chapter 214, Laws of 1959, section 210, chapter 141, Laws of 1979 and RCW 72.13.170.

**NEW SECTION.** Sec. 20. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 122, Laws of 1967 ex. sess., section 211, chapter 141, Laws of 1979, section 96, chapter 136, Laws of 1981 and RCW 72.15.010;
- (2) Section 4, chapter 122, Laws of 1967 ex. sess., section 212, chapter 141, Laws of 1979 and RCW 72.15.020;
- (3) Section 5, chapter 122, Laws of 1967 ex. sess., section 213, chapter 141, Laws of 1979 and RCW 72.15.030;
- (4) Section 6, chapter 122, Laws of 1967 ex. sess. and RCW 72.15.040;
- (5) Section 7, chapter 122, Laws of 1967 ex. sess., section 214, chapter 141, Laws of 1979 and RCW 72.15.050; and
- (6) Section 9, chapter 122, Laws of 1967 ex. sess., section 215, chapter 141, Laws of 1979 and RCW 72.15.070.

Sec. 21. Section 1, chapter 402, Laws of 1987 and section 2, chapter 456, Laws of 1987 and RCW 9.94A.120 are each reenacted and amended to read as follows:

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

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

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

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

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than three years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum three year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

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

- (a) Devote time to a specific employment or occupation;
  - (b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;
  - (c) Pursue a prescribed, secular course of study or vocational training;
  - (d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer ((of)) prior to any change in the offender's address or employment;
  - (e) Report as directed to the court and a community corrections officer;
- or

(f) Pay a fine and/or accomplish some community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of

community supervision not to exceed one year, and/or a fine. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7) (a) When an offender is convicted of a sex offense other than a violation of RCW 9A.44.040 or RCW 9A.44.050 and has no prior convictions for a sex offense or any other felony sexual offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

After receipt of the reports, the court shall then determine whether the offender and the community will benefit from use of this special sexual offender sentencing alternative. If the court determines that both the offender and the community will benefit from use of this provision, the court shall then impose a sentence within the sentence range and, if this sentence is less than six years of confinement, the court may suspend the execution of the sentence and place the offender on community supervision for up to two years. As a condition of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;
- (iii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer ((of)) prior to any change in the offender's address or employment;
- (iv) Report as directed to the court and a community corrections officer;
- (v) Pay a fine, accomplish some community service work, or any combination thereof; or
- (vi) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

If the offender violates these sentence conditions the court may revoke the suspension and order execution of the sentence. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

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

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

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

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

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

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

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

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

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

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

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

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a sexual offense committed prior to July 1, 1987.

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

(9) If a sentence imposed includes a fine or restitution, the sentence shall specify a reasonable manner and time in which the fine or restitution shall be paid. In any sentence under this chapter the court may also require the offender to make such monetary payments, on such terms as it deems appropriate under the circumstances, as are necessary (a) to pay court costs, including reimbursement of the state for costs of extradition if return to this state by extradition was required, (b) to make recoupment of the cost of defense attorney's fees if counsel is provided at public expense, (c) to contribute to a county or interlocal drug fund, and (d) to make such other payments as provided by law. All monetary payments shall be ordered paid by no later than ten years after the date of the judgment of conviction.

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

(11) All offenders sentenced to terms involving community supervision, community service, restitution, or fines shall be under the supervision of the secretary of the department of corrections or such person as the secretary

may designate and shall follow implicitly the instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer of any change in the offender's address or employment.

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

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

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

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

(16) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release.

**\*Sec. 22. Section 17, chapter 137, Laws of 1981 and RCW 9.94A.170 are each amended to read as follows:**

**(1) A term of confinement ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented him or herself from ((supervision)) confinement without the prior approval of the entity in whose custody the offender has been placed. A term of partial confinement shall be tolled during any period of time spent in total confinement pursuant to a new conviction or pursuant to sanctions for violation of sentence conditions on a separate felony conviction.**

**(2) A term of supervision ordered in a sentence pursuant to this chapter shall be tolled by any period of time during which the offender has absented himself or herself from supervision without prior approval of the entity under whose supervision the offender has been placed.**

**(3) Any period of supervision shall be tolled during any period of time the offender is in confinement for any reason. However, if an offender is detained pursuant to RCW 9.94A.195 and is later found not to have violated a condition or requirement of supervision, time spent in confinement due to such detention shall not toll the period of supervision.**

**(4) For confinement sentences, the date for the tolling of the sentence shall be established by the entity responsible for the confinement. For sentences involving supervision, the date for the tolling of the sentence shall be established by the court, based on reports from the entity responsible for the supervision.**

\*Sec. 22 was vetoed, see message at end of chapter.

Sec. 23. Section 22, chapter 209, Laws of 1984 and RCW 9.94A.383 are each amended to read as follows:

On all sentences of confinement for one year or less, the court may impose up to one year of community supervision. ~~((For confinement sentences, unless otherwise ordered by the court, the period of community supervision begins at the date of release from confinement. For nonconfinement sentences, the period of community supervision begins at the date of entry of the judgment and sentence.))~~ An offender shall be on community supervision as of the date of sentencing. However, during the time for which the offender is in total or partial confinement pursuant to the sentence or a violation of the sentence, the period of community supervision shall toll.

Sec. 24. Section 11, chapter 115, Laws of 1983 as last amended by section 5, chapter 456, Laws of 1987 and RCW 9.94A.400 are each amended to read as follows:

(1) (a) Except as provided in (b) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.120 and 9.94A.390(2)(e) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition does not apply in cases involving vehicular assault or vehicular homicide if the victims occupied the same vehicle. However, the sentencing judge may consider multiple victims in such instances as an aggravating circumstance under RCW 9.94A.390.

(b) Whenever a person is convicted of three or more serious violent offenses, as defined in RCW 9.94A.330, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's criminal history in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any offenses that are not serious violent

offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(2) Whenever a person while under sentence of felony commits another felony and is sentenced to another term of imprisonment, the latter term shall not begin until expiration of all prior terms.

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

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

(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months.

NEW SECTION. Sec. 25. Increased sanctions authorized by sections 21 through 24 of this act are applicable only to those persons committing offenses after the effective date of this section.

NEW SECTION. Sec. 26. Sections 21 through 24 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

NEW SECTION. Sec. 27. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 10, 1988.

Passed the Senate March 10, 1988.

Approved by the Governor March 21, 1988, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 21, 1988.

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



"I am returning herewith, without my approval as to section 22, Substitute House Bill No. 1271 entitled:

"AN ACT Relating to the department of corrections."

Section 22 of this bill clarifies language relating to the tolling of sentences when offenders have absented themselves from supervision or are confined for violations of sentence conditions. Similar language is contained in Engrossed Substitute House Bill No. 1424, section 9, which establishes a program of community placement. The language of that bill is more comprehensive and includes elements of the newly authorized program. In order to avoid confusion, I have vetoed section 22 of this bill.

With the exception of section 22, Substitute House Bill No. 1271 is approved."

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## CHAPTER 144

[Engrossed Substitute Senate Bill No. 6305]

### CHILDHOOD SEXUAL ABUSE—STATUTE OF LIMITATIONS

AN ACT Relating to the statute of limitations for sexual abuse or exploitation of a child; amending RCW 4.16.350; adding a new section to chapter 4.16 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

**NEW SECTION.** Sec. 1. A new section is added to chapter 4.16 RCW to read as follows:

(1) All claims or causes of action based on intentional conduct brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse shall be commenced within three years of the act alleged to have caused the injury or condition, or three years of the time the victim discovered or reasonably should have discovered that the injury or condition was caused by said act, whichever period expires later.

(2) The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse or exploitation.

(3) The knowledge of a custodial parent or guardian shall not be imputed to a person under the age of eighteen years.

(4) For purposes of this section, "child" means a person under the age of eighteen years.

(5) As used in this section, "childhood sexual abuse" means any act committed by the defendant against a complainant who was less than eighteen years of age at the time of the act and which act would have been a violation of chapter 9A.44 RCW or RCW 9.68A.040 or prior laws of similar effect at the time the act was committed.

Sec. 2. Section 1, chapter 80, Laws of 1971 as last amended by section 1401, chapter 212, Laws of 1987 and RCW 4.16.350 are each amended to read as follows: