
SENATE BILL 5065

State of Washington

54th Legislature

1995 Regular Session

By Senators Smith, Winsley and Schow; by request of Department of Corrections

Read first time 01/09/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to sentences for additional crimes by felons;
2 amending RCW 9.94A.200 and 9.94A.400; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.94A.200 and 1989 c 252 s 7 are each amended to read
5 as follows:

6 (1) If an offender violates any condition or requirement of a
7 sentence, the court may modify its order of judgment and sentence and
8 impose further punishment in accordance with this section.

9 (2) In cases where conditions from a second or later sentence of
10 community supervision begin prior to the term of the second or later
11 sentence, the court shall treat a violation of such conditions as a
12 violation of the sentence of community supervision currently being
13 served.

14 (3) If an offender fails to comply with any of the requirements or
15 conditions of a sentence the following provisions apply:

16 (a) The court, upon the motion of the state, or upon its own
17 motion, shall require the offender to show cause why the offender
18 should not be punished for the noncompliance. The court may issue a
19 summons or a warrant of arrest for the offender's appearance;

1 (b) The state has the burden of showing noncompliance by a
2 preponderance of the evidence. If the court finds that the violation
3 has occurred, it may order the offender to be confined for a period not
4 to exceed sixty days for each violation, and may (i) convert a term of
5 partial confinement to total confinement, (ii) convert community
6 service obligation to total or partial confinement, or (iii) convert
7 monetary obligations, except restitution and the crime victim penalty
8 assessment, to community service hours at the rate of the state minimum
9 wage as established in RCW 49.46.020 for each hour of community
10 service. Any time served in confinement awaiting a hearing on
11 noncompliance shall be credited against any confinement order by the
12 court; and

13 (c) If the court finds that the violation was not willful, the
14 court may modify its previous order regarding payment of legal
15 financial obligations and regarding community service obligations.

16 ((+3)) (4) Nothing in this section prohibits the filing of escape
17 charges if appropriate.

18 **Sec. 2.** RCW 9.94A.400 and 1990 c 3 s 704 are each amended to read
19 as follows:

20 (1)(a) Except as provided in (b) of this subsection, whenever a
21 person is to be sentenced for two or more current offenses, the
22 sentence range for each current offense shall be determined by using
23 all other current and prior convictions as if they were prior
24 convictions for the purpose of the offender score: PROVIDED, That if
25 the court enters a finding that some or all of the current offenses
26 encompass the same criminal conduct then those current offenses shall
27 be counted as one crime. Sentences imposed under this subsection shall
28 be served concurrently. Consecutive sentences may only be imposed
29 under the exceptional sentence provisions of RCW 9.94A.120 and
30 9.94A.390(2)(f) or any other provision of RCW 9.94A.390. "Same
31 criminal conduct," as used in this subsection, means two or more crimes
32 that require the same criminal intent, are committed at the same time
33 and place, and involve the same victim. This definition does not apply
34 in cases involving vehicular assault or vehicular homicide if the
35 victims occupied the same vehicle. However, the sentencing judge may
36 consider multiple victims in such instances as an aggravating
37 circumstance under RCW 9.94A.390.

1 (b) Whenever a person is convicted of two or more serious violent
2 offenses, as defined in RCW 9.94A.030, arising from separate and
3 distinct criminal conduct, the sentence range for the offense with the
4 highest seriousness level under RCW 9.94A.320 shall be determined using
5 the offender's prior convictions and other current convictions that are
6 not serious violent offenses in the offender score and the sentence
7 range for other serious violent offenses shall be determined by using
8 an offender score of zero. The sentence range for any offenses that
9 are not serious violent offenses shall be determined according to (a)
10 of this subsection. All sentences imposed under (b) of this subsection
11 shall be served consecutively to each other and concurrently with
12 sentences imposed under (a) of this subsection.

13 (2)(a) Except as provided in (b) of this subsection, whenever a
14 person while under sentence of felony commits another felony and is
15 sentenced to another term of confinement, the latter term shall not
16 begin until expiration of all prior terms.

17 (b) Whenever a second or later felony conviction results in
18 community supervision with conditions not currently in effect, under
19 the prior sentence or sentences of community supervision the court may
20 require that the conditions of community supervision contained in the
21 second or later sentence begin during the immediate term of community
22 supervision and continue throughout the duration of the consecutive
23 term of community supervision.

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

31 (4) Whenever any person granted probation under RCW 9.95.210 or
32 9.92.060, or both, has the probationary sentence revoked and a prison
33 sentence imposed, that sentence shall run consecutively to any sentence
34 imposed pursuant to this chapter, unless the court pronouncing the
35 subsequent sentence expressly orders that they be served concurrently.

36 (5) However, in the case of consecutive sentences, all periods of
37 total confinement shall be served before any partial confinement,
38 community service, community supervision, or any other requirement or
39 conditions of any of the sentences. Except for exceptional sentences

1 as authorized under RCW 9.94A.120(2), if two or more sentences that run
2 consecutively include periods of community supervision, the aggregate
3 of the community supervision period shall not exceed twenty-four
4 months.

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