

# SENATE BILL REPORT

## HB 2341

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As Reported By Senate Committee On:  
Human Services & Corrections, February 17, 2000

**Title:** An act relating to community custody ranges.

**Brief Description:** Specifying community custody ranges.

**Sponsors:** Representatives O'Brien, Ballasiotes, Hurst and Kenney; by request of Sentencing Guidelines Commission.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/17/2000 [DP].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** Do pass.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles, Long, Sheahan and Stevens.

**Staff:** Fara Daun (786-7459)

**Background:** In 1999, the Legislature passed and the Governor enacted E2SSB 5421, commonly known as the Offender Accountability Act. This act restructured the supervision of offenders in the community following their term of confinement. Under the Offender Accountability Act, offenders who commit sex offenses, violent offenses, crimes against persons as defined in RCW 9.94A.440, and felony violations of the Uniform Controlled Substances Act after July 1, 2000, would receive a range of community custody in addition to their term of total confinement. The term of community custody is subject to conditions by the court and by the Department of Corrections including both crime related prohibitions and affirmative duties. Community custody replaces community placement and community supervision for crimes committed after July 1, 2000.

The Offender Accountability Act required the Sentencing Guidelines Commission to establish a set of ranges of community custody and to present them to the Legislature. The minimum time in the range may be no less than one-half of the maximum time in the range. The Legislature may modify the ranges or enact them as recommended. If the Legislature does not act on the recommendation of the Sentencing Guidelines Commission, the ranges take effect without the action of the Legislature. In future years, the commission may recommend modifications to the initial ranges, but modifications will take effect only upon the action of the Legislature.

**Summary of Bill:** Specified offenders sentenced under the Offender Accountability Act are subject to the following ranges of community custody, based on their offense:

- Sex Offenses 36 - 48 Months

(not sentenced under  
RCW 9.94A.120(8))

- Serious Violent Offenses            24 - 48 Months
- Violent Offenses                      18 - 36 Months
- Crimes Against Persons            9 - 18 Months
- Felony Drug Offenses               9 - 12 Months

(not sentenced under  
RCW 9.94A.120(6))

Where an offender has multiple convictions or the offense falls into more than one category, the community custody range must be based on the offense type that dictates the longest term of community custody.

The ranges specified do not limit the authority of the court to impose an exceptional sentence under the existing guidelines in the code, except that the term of community custody is part of the entire sentence and is therefore limited by the statutory maximum sentence.

The legislation also makes technical corrections.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** There are two benefits to passing the bill instead of allowing it to go into effect by rule. (1) It will be easier to work with as code because criminal practitioners use the RCW regularly and do not normally use the Washington Administrative Code (WAC). (2) Although the delegation of authority is proper and, based on prior case history, the state is likely to prevail, enacting the ranges by statute eliminates delegation of authority as a basis for challenge and that is likely to be a basis of a challenge if they are adopted in WAC.

**Testimony Against:** None.

**Testified:** PRO: Representative Al O'Brien, prime sponsor; Russ Hauge, Sentencing Guidelines Commission, Washington Association of Prosecuting Attorneys.