

FINAL BILL REPORT

E2SSB 5421

C 196 L 99

Synopsis as Enacted

Brief Description: Enhancing supervision of offenders.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Long, Franklin, Costa, Patterson, Winsley and McAuliffe; by request of Governor Locke).

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

House Committee on Criminal Justice & Corrections

House Committee on Appropriations

Background: The Sentencing Reform Act of 1981 abolished Washington's parole system. Beginning in 1988, however, the Legislature has required the Department of Corrections (DOC) to supervise several classes of offenders following release but has not removed limitations on DOC's ability to effectively supervise offenders in the community. In addition, the existing structure of community supervision is very complex and the terminology that describes it is confusing. Concern exists that the current structure does not reflect either the risks posed by offenders in the community or public expectations of DOC's ability to monitor offenders and protect the public.

Summary: Community supervision for sex offenses, violent offenses, crimes against persons, and felony drug offenses committed after July 1, 2000, is community custody. Conditions of community custody and levels of supervision are based on risk. Stalking, custodial assault, and felony violations of domestic violence protection orders are crimes against persons. The Sentencing Guidelines Commission establishes community custody ranges and must make recommendations to the Legislature by December 31, 1999. The Legislature may adopt or modify the recommendations. If the Legislature does not act, the initial ranges recommended by the commission become law. The commission may propose annual modifications, but modifications become law only if enacted by the Legislature.

The court must sentence offenders subject to community custody to a range of community custody. It may impose conditions of supervision, including affirmative conditions such as rehabilitative treatment, based on reasonable relation to the circumstances of the offense, the risk of recidivism, or community safety. Offenders may not be discharged from community custody before the end of the period of earned release but DOC may discharge an offender between the end of the earned release and the end of the range specified by the court.

When sex offender treatment is imposed, the treatment provider must be certified by the state. There are four exceptions to the certification requirement: the offender lives out of state; there is no certified provider within a reasonable geographic distance from the offender's home; the treatment provider is employed by DOC; or the treatment program meets Department of Health rules and the provider consults with a certified provider. An offender's failure to participate in required treatment is a violation.

The court may also impose conditions on sex offenders beyond the end of the term of community custody. DOC is not required to monitor conditions beyond the end of community custody. Where a sex offender lives in a city or town, the police chief or town marshal, rather than the county sheriff, may verify that the offender lives where he or she is registered to live.

DOC may establish and modify additional conditions based on risk to community safety. DOC must provide the offender written notice of any modifications to the conditions. DOC may not impose conditions contrary to conditions set by the court and may not contravene or reduce any court imposed conditions.

DOC must complete risk assessments of offenders using a validated risk assessment tool. When directed by a sentencing court, the initial risk assessment must be completed prior to sentencing and used by the court in sentencing. If not performed prior to sentencing, the initial risk assessment is completed when an offender is placed in a DOC facility. A risk assessment must also be done prior to release. The results of a risk assessment cannot be based on unconfirmed allegations. DOC has jurisdiction over offenders on community custody status and may enforce the conditions through sanctions for violations. DOC must develop a structure of graduated sanctions for violations up to and including a return to full confinement.

Offenders subject to sanctions for violations have the right to a hearing, unless they waive the right. A violation finding cannot be based on unconfirmed or unconfirmable allegations. Violation hearing officers and community corrections officers (CCOs) must report through separate chains of command. Due process protections include notice, timelines for hearings, the right to testify or remain silent, to call and question witnesses, and present documentary evidence. The sanction is overturned if it is not reasonably related to the crime of conviction, or the violation committed, or the safety of the community.

DOC may arrange to transfer the duties of collecting legal financial obligations (LFOs) to county clerks or other entities if the clerks do not assume this responsibility. Post-release supervision for purposes of collecting LFOs are no longer tolled when the offender is not available for supervision. DOC, in conjunction with the Washington Association of Sheriffs and Police Chiefs and counties, must establish a baseline jail bed utilization rate and negotiate terms of any increase. The rate of reimbursement is the lowest rate charged for counties with their contract with their respective municipal governments.

The year term of community supervision for unranked felonies becomes a term of community custody. The First Time Offender Waiver becomes a term of community custody and includes conditions of supervision. The term must not exceed one year unless the court orders treatment for between one and two years, in which case supervision ends with treatment.

Except as otherwise prohibited, DOC has the authority to access records maintained by public agencies and may require periodic reports from treatment providers and providers of other required services for the purposes of setting, modifying, or monitoring compliance with the conditions of supervision. DOC must develop and monitor transition and relapse prevention strategies, including risk assessment and release planning, for sex offenders. DOC must also deploy CCOs on the basis of the geographic distribution of offenders and

establish a systematic means of assessing the risk to community safety. The Washington State Institute of Public Policy must conduct a study of the effect of the act on recidivism and other outcomes and report annually to the Legislature.

No defense to liability for personal injury or death based solely on availability of funds is created.

Votes on Final Passage:

Senate	45	0	
House	95	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 25, 1999
July 1, 2000 (Section 10)