
SENATE BILL 5769

State of Washington

56th Legislature

1999 Regular Session

By Senators Sheahan, McCaslin, Morton, West and Oke

Read first time 02/08/1999. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to prisoner release; amending RCW 9.94A.150,
2 9.95.110, and 72.02.100; adding a new section to chapter 9.94A RCW;
3 creating a new section; and declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature finds and declares that:

6 (a) Released prisoners frequently remain in the county containing
7 the correctional facility from which they are released resulting in
8 counties that contain correctional facilities having a disproportionate
9 share of released prisoners; and

10 (b) The increased numbers of released prisoners in counties
11 containing correctional facilities result in increased costs and higher
12 crime rates for those counties.

13 (2) It is the intent of the legislature that:

14 (a) Whenever possible, prisoners unconditionally discharged from
15 state correctional institutions be released in the county of original
16 commitment; and

17 (b) Whenever possible, prisoners released on parole or under
18 community placement be required to reside in the county of original
19 commitment for the duration of the parole or community placement.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
2 to read as follows:

3 (1) When the department transfers an offender to community custody
4 under RCW 9.94A.150(2), the department shall order, as a condition of
5 the community custody, that the offender reside for the duration of the
6 community custody in the county in which the offender was originally
7 committed unless the department waives the residency requirement under
8 subsection (3) of this section.

9 (2) When a court sentences an offender to postrelease supervision,
10 the court shall order, as a condition of the postrelease supervision,
11 that the offender reside for the duration of the postrelease
12 supervision in the county in which the offender was originally
13 committed unless the court waives the residency requirement under
14 subsection (3) of this section.

15 (3) Upon motion of the department, a victim, or a prosecutor, the
16 department or the court may waive the residency requirement in
17 subsections (1) and (2) of this section only after making a finding
18 that one of the following conditions has been met:

19 (a) The offender provides proof of employment with no set ending
20 date in a county other than the county in which the offender was
21 originally committed. The proof of employment shall include the
22 employer's unified business identifier account number and an affidavit
23 from the employer verifying the offender's employment;

24 (b) The presence of the offender in the county in which the
25 offender was originally committed is found to pose a significant danger
26 to the victim of the offender's crime;

27 (c) The offender has biological or adoptive family members who have
28 continuously resided in a county other than the county in which the
29 offender was originally committed for at least six months prior to the
30 offender's release and who will be materially significant in aiding in
31 the rehabilitation of the offender and in the success of the community
32 custody or postrelease supervision. At least one of the biological or
33 adoptive family members shall provide proof of current employment that
34 began at least three months prior to the offender's release. Such
35 proof shall include the employer's unified business identifier account
36 number and an affidavit from the employer verifying the biological or
37 adoptive family member's employment;

1 (d) The offender has a spouse who has continuously resided in a
2 county other than the county in which the offender was originally
3 committed for at least six months prior to the offender's release;

4 (e) The offender has a biological child with a person who is not a
5 spouse and the person has continuously resided with the child in a
6 county other than the county in which the offender was originally
7 committed for at least six months prior to the offender's release. The
8 person shall provide proof of current employment that began at least
9 three months prior to the offender's release. Such proof shall include
10 the employer's unified business identifier account number and an
11 affidavit from the employer verifying the person's employment;

12 (f) As another condition of community custody or postrelease
13 supervision, the offender is required to participate in a treatment
14 program which is not available or located in the county in which the
15 offender was originally committed;

16 (g) The offender desires to serve his or her community custody or
17 postrelease supervision in another state; or

18 (h) The department or the court finds other good cause, of a nature
19 similar to the other conditions listed in this subsection, for the
20 waiver and the alternate location of the offender's community custody
21 or postrelease supervision is not in the county in which the offender
22 is incarcerated.

23 **Sec. 3.** RCW 9.94A.150 and 1996 c 199 s 2 are each amended to read
24 as follows:

25 No person serving a sentence imposed pursuant to this chapter and
26 committed to the custody of the department shall leave the confines of
27 the correctional facility or be released prior to the expiration of the
28 sentence except as follows:

29 (1) Except as otherwise provided for in subsection (2) of this
30 section, the term of the sentence of an offender committed to a
31 correctional facility operated by the department, may be reduced by
32 earned early release time in accordance with procedures that shall be
33 developed and promulgated by the correctional agency having
34 jurisdiction in which the offender is confined. The earned early
35 release time shall be for good behavior and good performance, as
36 determined by the correctional agency having jurisdiction. The
37 correctional agency shall not credit the offender with earned early
38 release credits in advance of the offender actually earning the

1 credits. Any program established pursuant to this section shall allow
2 an offender to earn early release credits for presentence
3 incarceration. If an offender is transferred from a county jail to the
4 department of corrections, the county jail facility shall certify to
5 the department the amount of time spent in custody at the facility and
6 the amount of earned early release time. In the case of an offender
7 who has been convicted of a felony committed after July 23, 1995, that
8 involves any applicable deadly weapon enhancements under RCW 9.94A.310
9 (3) or (4), or both, shall not receive any good time credits or earned
10 early release time for that portion of his or her sentence that results
11 from any deadly weapon enhancements. In the case of an offender
12 convicted of a serious violent offense or a sex offense that is a class
13 A felony committed on or after July 1, 1990, the aggregate earned early
14 release time may not exceed fifteen percent of the sentence. In no
15 other case shall the aggregate earned early release time exceed one-
16 third of the total sentence;

17 (2) A person convicted of a sex offense or an offense categorized
18 as a serious violent offense, assault in the second degree, vehicular
19 homicide, vehicular assault, assault of a child in the second degree,
20 any crime against a person where it is determined in accordance with
21 RCW 9.94A.125 that the defendant or an accomplice was armed with a
22 deadly weapon at the time of commission, or any felony offense under
23 chapter 69.50 or 69.52 RCW may become eligible, in accordance with a
24 program developed by the department subject to section 2 of this act,
25 for transfer to community custody status in lieu of earned early
26 release time pursuant to subsection (1) of this section;

27 (3) An offender may leave a correctional facility pursuant to an
28 authorized furlough or leave of absence. In addition, offenders may
29 leave a correctional facility when in the custody of a corrections
30 officer or officers;

31 (4) The governor, upon recommendation from the clemency and pardons
32 board, may grant an extraordinary release for reasons of serious health
33 problems, senility, advanced age, extraordinary meritorious acts, or
34 other extraordinary circumstances;

35 (5) No more than the final six months of the sentence may be served
36 in partial confinement designed to aid the offender in finding work and
37 reestablishing himself or herself in the community;

38 (6) The governor may pardon any offender;

1 (7) The department of corrections may release an offender from
2 confinement any time within ten days before a release date calculated
3 under this section; and

4 (8) An offender may leave a correctional facility prior to
5 completion of his sentence if the sentence has been reduced as provided
6 in RCW 9.94A.160.

7 Notwithstanding any other provisions of this section, an offender
8 sentenced for a felony crime listed in RCW 9.94A.120(4) as subject to
9 a mandatory minimum sentence of total confinement shall not be released
10 from total confinement before the completion of the listed mandatory
11 minimum sentence for that felony crime of conviction unless allowed
12 under RCW 9.94A.120(4).

13 **Sec. 4.** RCW 9.95.110 and 1955 c 133 s 12 are each amended to read
14 as follows:

15 (1) The (~~board of prison terms and paroles~~) indeterminate
16 sentence review board may permit a convicted person to leave the
17 buildings and enclosures of the penitentiary or the reformatory on
18 parole, after such convicted person has served the period of
19 confinement fixed for him or her by the board, less time credits for
20 good behavior and diligence in work: PROVIDED, That in no case shall
21 an inmate be credited with more than one-third of his or her sentence
22 as fixed by the board.

23 (2) The (~~board of prison terms and paroles~~) indeterminate
24 sentence review board may establish rules and regulations under which
25 a convicted person may be allowed to leave the confines of the
26 penitentiary or the reformatory on parole, and may return such person
27 to the confines of the institution from which he or she was paroled, at
28 its discretion.

29 (3) The indeterminate sentence review board shall order, as a
30 condition of the parole, that the convicted person reside for the
31 duration of the parole in the county in which the convicted person was
32 originally committed unless the indeterminate sentence review board
33 waives the residency requirement under subsection (4) of this section.

34 (4) Upon motion of the indeterminate sentence review board, a
35 victim, or a prosecutor, the indeterminate sentence review board may
36 waive the residency requirement in subsection (3) of this section only
37 after making a finding that one of the following conditions has been
38 met:

1 (a) The convicted person provides proof of employment with no set
2 ending date in a county other than the county in which the offender was
3 originally committed. The proof of employment shall include the
4 employer's unified business identifier account number and an affidavit
5 from the employer verifying the convicted person's employment;

6 (b) The presence of the convicted person in the county in which the
7 convicted person was originally committed is found to pose a
8 significant danger to the victim of the convicted person's crime;

9 (c) The convicted person has biological or adoptive family members
10 who have continuously resided in a county other than the county in
11 which the convicted person was originally committed for at least six
12 months prior to the convicted person's release and who will be
13 materially significant in aiding in the rehabilitation of the convicted
14 person and in the success of the parole. At least one of the
15 biological or adoptive family members shall provide proof of current
16 employment that began at least three months prior to the convicted
17 person's release. Such proof shall include the employer's unified
18 business identifier account number and an affidavit from the employer
19 verifying the biological or adoptive family member's employment;

20 (d) The convicted person has a spouse who has continuously resided
21 in a county other than the county in which the convicted person was
22 originally committed for at least six months prior to the convicted
23 person's release;

24 (e) The convicted person has a biological child with a person who
25 is not a spouse and the person has continuously lived with the child in
26 a county other than the county in which the convicted person was
27 originally committed for at least six months prior to the convicted
28 person's release. The person shall provide proof of current employment
29 that began at least three months prior to the convicted person's
30 release. Such proof shall include the employer's unified business
31 identifier account number and an affidavit from the employer verifying
32 the person's employment;

33 (f) As another condition of parole, the convicted person is
34 required to participate in a treatment program which is not available
35 or located in the county in which the convicted person was originally
36 committed;

37 (g) The convicted person desires to be paroled in another state; or

38 (h) The department or the court finds other good cause, of a nature
39 similar to the other conditions listed in this subsection, for the

1 waiver and the alternate location of the convicted person's parole is
2 not in the county in which the convicted person is incarcerated.

3 **Sec. 5.** RCW 72.02.100 and 1988 c 143 s 5 are each amended to read
4 as follows:

5 Any person serving a sentence for a term of confinement in a state
6 correctional facility for convicted felons, pursuant to court
7 commitment, who is thereafter released upon an order of parole of the
8 indeterminate (~~sentencing~~) sentence review board, or who is
9 discharged from custody upon expiration of sentence, or who is ordered
10 discharged from custody by a court of appropriate jurisdiction, shall
11 be entitled to retain his or her earnings from labor or employment
12 while in confinement and shall be supplied by the superintendent of the
13 state correctional facility with suitable and presentable clothing, the
14 sum of forty dollars for subsistence, and transportation by the least
15 expensive method of public transportation not to exceed the cost of one
16 hundred dollars to (~~his place of residence or~~) the place designated
17 in his or her parole plan, or to the place from which committed (~~if~~
18 ~~such person is being discharged on expiration of sentence, or~~
19 ~~discharged from custody by a court of appropriate jurisdiction~~):
20 PROVIDED, That up to sixty additional dollars may be made available to
21 the parolee for necessary personal and living expenses upon application
22 to and approval by such person's community corrections officer. The
23 superintendent shall provide the transportation authorized by this
24 section by nonnegotiable travel voucher payable to the carrier being
25 utilized, and in no event shall there be any cash disbursement to the
26 person being released or any person, firm, or corporation. An officer
27 of the state correctional facility shall escort the person to the site
28 of embarkation and shall remain at the site of embarkation until the
29 person has departed. If in the opinion of the superintendent suitable
30 arrangements have been made to provide the person to be released with
31 suitable clothing (~~and/or the expenses of transportation~~), the
32 superintendent may consent to such arrangement. If the superintendent
33 has reasonable cause to believe that the person to be released has
34 ample funds, with the exception of earnings from labor or employment
35 while in confinement, to assume the expenses of clothing,
36 transportation, or the expenses for which payments made pursuant to RCW
37 72.02.100 or 72.02.110 or any one or more of such expenses, the person
38 released shall be required to assume such expenses.

1 NEW SECTION. **Sec. 6.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and takes effect
8 immediately.

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