

FINAL BILL REPORT

ESSB 5990

C 379 L 03
Synopsis as Enacted

Brief Description: Changing times and supervision standards for release of offenders.

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, Stevens, McAuliffe, Carlson, Regala, Parlette, Rasmussen and Winsley).

Senate Committee on Children & Family Services & Corrections
House Committee on Appropriations

Background: "Earned release" means the amount of time by which an offender can reduce the amount of time he or she is confined. It is earned by successful participation in required work, education, treatment, and other programming and by appropriate behavior. It can be lost in a disciplinary hearing for infractions or by a refusal to participate in required programming. Earned release time is not discretionary for the Department of Corrections (DOC). Maximum amounts of earned release are set in statute. Under current law, offenders convicted of a serious violent offense or a sex offense that is a class A felony are eligible for a maximum of 15 percent earned release time. All other offenders are eligible for a maximum of 33 percent earned release time.

Community custody, community placement, and community supervision are terms to describe different kinds of supervision in the community. Whether a sentence includes a requirement for supervision in the community depends on the crime. In 1999, the Offender Accountability Act (OAA) expanded the list of crimes subject to supervision in the community to all sex offenses, violent offenses, crimes against persons, and drug offenses. Offenders convicted of other crimes are not supervised after release from prison. The OAA also eliminated the use of community placement and community supervision for crimes committed after July 1, 2000. Community custody applies to these crimes. Under community custody, DOC has the opportunity to require conditions of supervision in addition to those required by the court.

In the case of felony offenders sentenced to jail, the current law permits the court to add a term of community custody up to one year onto any sentence, including those that would not be eligible for community custody if the offender were sentenced to prison.

The OAA also required DOC to use a validated risk assessment tool and to move from a policy of trying to spread supervision resources equally over all offenders to a policy of focusing resources on the offenders in the highest risk management categories. The current practice sorts offenders into four risk management categories from "A" (greatest risk) to "D" (least risk). Under the OAA, most DOC supervision resources go to offenders in risk management categories "A" and "B," who may also have an interdisciplinary team. Offenders in risk management categories "C" and "D" usually check in with their community corrections officer electronically. Those offenders classified as "C" or "D" who are

sentenced to court-ordered treatment under the special sex offender sentencing alternative, the drug offender sentencing alternative, and the drug sentencing reform act of 2001 are supervised with regard to their court ordered treatment. Otherwise, offenders classified as "D" are actively supervised only if a violation of a release condition is brought to the attention of the department.

No changes to the maximum terms of earned release or to which offenders will be supervised in the community may be made without statutory change by the Legislature.

Under current law, DOC both bills offenders with outstanding legal financial obligations and engages in collections efforts related to those obligations. Some county clerks have engaged in active collections efforts with a significant degree of success, resulting in increased victim restitution payments and in increases in the funds to both state and counties. During the Legal Financial Obligations Work Group in the 2002 interim, the county clerks raised the possibility of taking a more comprehensive role in collections of legal financial obligations.

Summary: Offenders convicted of serious violent offenses or sex offenses that are class A felonies committed after July 1, 2003 are able to earn a maximum of 10 percent earned release time.

Offenders convicted of offenses that are not subject to supervision in the community and offenders convicted of drug offenses may earn a maximum of 50 percent earned release time if they are classified in one of the two lowest risk categories. This increase does not apply to any offender with any conviction for any of the following:

- sex offense;
- violent offense;
- crime against persons;
- residential burglary;
- felony domestic violence;
- methamphetamine manufacture, delivery or possession with intent to deliver;
- delivering a controlled substance to a minor.

The increase to a maximum of 50 percent earned release applies retroactively and prospectively and expires July 1, 2010. No offender convicted after July 1, 2003 has a reasonable expectation or enforceable interest in his or her earned release time under the due process clause and the Legislature retains the right to change the maximum amount of earned release for which offenders are eligible.

For offenders sentenced to less than one year (a jail sentence), courts may impose a term of community custody up to one year only if the crime for which the offender is convicted is a sex offense, violent offense, crime against a person, a drug offense, or if the offender was sentenced under the first time offender waiver.

DOC must perform a risk assessment on offenders with sentences to community custody, community placement, or community supervision and classify the offender into one of four risk management classifications, from highest to lowest. DOC must supervise those offenders classified in the two highest risk management classifications and is not authorized to supervise

those offenders in the other risk management classifications unless the offender has any conviction for any of the following:

- sex offense;
- violent offense;
- crime against persons;
- residential burglary;
- felony domestic violence;
- methamphetamine manufacture, delivery or possession with intent to deliver; or
- delivering a controlled substance to a minor.

Or the offender:

- is required to participate in drug treatment or sex offender treatment;
- has been transferred to Washington under the Interstate Compact for Adult Offender Supervision; or
- was sentenced under the first time offender waiver.

The change to which offenders are supervised applies retroactively and prospectively and expires July 1, 2010.

The Washington State Institute for Public Policy must study whether the changes to earned release impact the rate of recidivism or the types of crimes committed and report to the Legislature by December 1, 2009.

The Drug Sentence Reform Act is implemented July 1, 2003.

The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. DOC must collect or arrange for the collection of legal financial obligations while an offender is incarcerated, while the department is authorized to supervise the offender in the community, or if a county clerk does not engage in collections. When the offender completes his or her term of supervision, or if the offender is not subject to a supervision order in the community, DOC must notify the Administrative Office of the Courts (AOC) of the termination of the offender's supervision and provide information to enable the county clerk to collect the remaining legal financial obligations. AOC will provide the billing services and maintain its existing statewide database of offender payments.

When an offender with outstanding legal financial obligations has completed the non-financial requirements of his or her sentence, DOC will provide the county clerk with a notice that the offender has completed all the non-financial requirements of the sentence. When the offender completes payment of the legal financial obligations, the county clerk will notify the court, including the notice from DOC. The court then issues a certificate of discharge for the offense to the offender.

The Washington Association of County Officials, in consultation with the county clerks, will determine a funding formula for allocation of moneys appropriated for the purposes of collecting legal financial obligations and will report to the appropriate committee of the Legislature and the Administrative Office of the Courts by September 1, 2003. The

association also reports annually beginning December 1, 2004, to the appropriate committee of the Legislature on the amounts of legal financial obligations collected by the county clerks.

The Administrative Office of the Courts shall distribute the funds appropriated to the counties for purpose of the county clerk collection budgets by October 1, 2003 without deducting any portion for administrative costs. The Administrative Office of the Courts may expend those funds appropriated by the Legislature for legal financial obligation billing.

The state, DOC, the counties, and their employees are not liable for the acts of an offender who is not under supervision by DOC, but remains under the jurisdiction of the court for payment of legal financial obligations.

DOC may make mandatory deductions for legal financial obligations, including victims compensation, restitution, and cost of incarceration from any worker's compensation benefit an offender receives. Monthly payment schedules are not a limit on civil collections.

Votes on Final Passage:

Senate	41	8	
House	84	13	(House amended)
Senate	43	4	(Senate concurred)

Effective: July 1, 2003 (Sections 1-12, 20 and 28)
October 1, 2003 (Sections 13-19 and 21-27)