
HOUSE BILL 2233

State of Washington 58th Legislature 2003 Regular Session

By Representatives Carrell, Lovick, Talcott, Sump, McDonald, Delvin, McMahan, Crouse, Boldt, Orcutt, Newhouse, Bush and Buck

Read first time . Referred to .

1 AN ACT Relating to the supervision of offenders; amending RCW
2 9.94A.700, 9.94A.705, 9.94A.715, 9.94A.720, and 9.94A.545; and adding
3 a new section to chapter 9.94A RCW.

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

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

7 (1)(a) When the department performs a risk assessment pursuant to
8 RCW 9.94A.500, or to determine a person's conditions of supervision,
9 the risk assessment shall classify the offender into one of at least
10 four risk categories.

11 (b) The department shall supervise every offender:

12 (i) Sentenced to a term of community custody, community placement,
13 or community supervision whose risk assessment places that offender in
14 one of the two highest risk categories;

15 (ii) Sentenced to a term of community custody, community placement,
16 or community supervision, regardless of the offender's risk category,
17 for a violent offense, a sex offense, a crime against persons as
18 defined in RCW 9.94A.411, burglary in the first degree, burglary in the
19 second degree, or domestic violence as defined in RCW 10.99.020; or

1 (iii) Sentenced to a term of community custody, community
2 placement, or community supervision, regardless of the offender's risk
3 category, who has a prior conviction for a violent offense, a sex
4 offense, a crime against persons as defined in RCW 9.94A.411, burglary
5 in the first degree, burglary in the second degree, or domestic
6 violence as defined in RCW 10.99.020.

7 (2) The department may supervise any offender sentenced to a term
8 of community custody, community placement, or community supervision
9 whose risk assessment places that offender in any risk category other
10 than the two highest and who is not required to be supervised under
11 subsection (1) of this section.

12 **Sec. 2.** RCW 9.94A.700 and 2002 c 175 s 13 are each amended to read
13 as follows:

14 When a court sentences an offender to a term of total confinement
15 in the custody of the department for any of the offenses specified in
16 this section, the court shall also sentence the offender to a term of
17 community placement as provided in this section. The department shall
18 supervise any sentence of community placement imposed under this
19 section pursuant to section 1 of this act.

20 (1) The court shall order a one-year term of community placement
21 for the following:

22 (a) A sex offense or a serious violent offense committed after July
23 1, 1988, but before July 1, 1990; or

24 (b) An offense committed on or after July 1, 1988, but before July
25 25, 1999, that is:

26 (i) Assault in the second degree;

27 (ii) Assault of a child in the second degree;

28 (iii) A crime against persons where it is determined in accordance
29 with RCW 9.94A.602 that the offender or an accomplice was armed with a
30 deadly weapon at the time of commission; or

31 (iv) A felony offense under chapter 69.50 or 69.52 RCW not
32 sentenced under RCW 9.94A.660.

33 (2) The court shall sentence the offender to a term of community
34 placement of two years or up to the period of earned release awarded
35 pursuant to RCW 9.94A.728, whichever is longer, for:

36 (a) An offense categorized as a sex offense committed on or after

1 July 1, 1990, but before June 6, 1996, including those sex offenses
2 also included in other offense categories;

3 (b) A serious violent offense other than a sex offense committed on
4 or after July 1, 1990, but before July 1, 2000; or

5 (c) A vehicular homicide or vehicular assault committed on or after
6 July 1, 1990, but before July 1, 2000.

7 (3) The community placement ordered under this section shall begin
8 either upon completion of the term of confinement or at such time as
9 the offender is transferred to community custody in lieu of earned
10 release. When the court sentences an offender to the statutory maximum
11 sentence then the community placement portion of the sentence shall
12 consist entirely of the community custody to which the offender may
13 become eligible. Any period of community custody actually served shall
14 be credited against the community placement portion of the sentence.

15 (4) Unless a condition is waived by the court, the terms of any
16 community placement imposed under this section shall include the
17 following conditions:

18 (a) The offender shall report to and be available for contact with
19 the assigned community corrections officer as directed;

20 (b) The offender shall work at department-approved education,
21 employment, or community restitution, or any combination thereof;

22 (c) The offender shall not possess or consume controlled substances
23 except pursuant to lawfully issued prescriptions;

24 (d) The offender shall pay supervision fees as determined by the
25 department; and

26 (e) The residence location and living arrangements shall be subject
27 to the prior approval of the department during the period of community
28 placement.

29 (5) As a part of any terms of community placement imposed under
30 this section, the court may also order one or more of the following
31 special conditions:

32 (a) The offender shall remain within, or outside of, a specified
33 geographical boundary;

34 (b) The offender shall not have direct or indirect contact with the
35 victim of the crime or a specified class of individuals;

36 (c) The offender shall participate in crime-related treatment or
37 counseling services;

38 (d) The offender shall not consume alcohol; or

1 (e) The offender shall comply with any crime-related prohibitions.

2 (6) An offender convicted of a felony sex offense against a minor
3 victim after June 6, 1996, shall comply with any terms and conditions
4 of community placement imposed by the department relating to contact
5 between the sex offender and a minor victim or a child of similar age
6 or circumstance as a previous victim.

7 (7) Prior to or during community placement, upon recommendation of
8 the department, the sentencing court may remove or modify any
9 conditions of community placement so as not to be more restrictive.

10 **Sec. 3.** RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read
11 as follows:

12 Except for persons sentenced under RCW 9.94A.700(2) or 9.94A.710,
13 when a court sentences a person to a term of total confinement to the
14 custody of the department for a violent offense, any crime against
15 persons under RCW 9.94A.411(2), or any felony offense under chapter
16 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660, committed on or
17 after July 25, 1999, but before July 1, 2000, the court shall in
18 addition to the other terms of the sentence, sentence the offender to
19 a one-year term of community placement beginning either upon completion
20 of the term of confinement or at such time as the offender is
21 transferred to community custody in lieu of earned release in
22 accordance with RCW 9.94A.728 (1) and (2). When the court sentences
23 the offender under this section to the statutory maximum period of
24 confinement, then the community placement portion of the sentence shall
25 consist entirely of such community custody to which the offender may
26 become eligible, in accordance with RCW 9.94A.728 (1) and (2). Any
27 period of community custody actually served shall be credited against
28 the community placement portion of the sentence. The department shall
29 supervise any sentence of community placement or community custody
30 imposed under this section pursuant to section 1 of this act.

31 **Sec. 4.** RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each
32 amended to read as follows:

33 (1) When a court sentences a person to the custody of the
34 department for a sex offense not sentenced under RCW 9.94A.712, a
35 violent offense, any crime against persons under RCW 9.94A.411(2), or
36 a felony offense under chapter 69.50 or 69.52 RCW, committed on or

1 after July 1, 2000, the court shall in addition to the other terms of
2 the sentence, sentence the offender to community custody for the
3 community custody range established under RCW 9.94A.850 or up to the
4 period of earned release awarded pursuant to RCW 9.94A.728 (1) and (2),
5 whichever is longer. The community custody shall begin: (a) Upon
6 completion of the term of confinement; (b) at such time as the offender
7 is transferred to community custody in lieu of earned release in
8 accordance with RCW 9.94A.728 (1) and (2); or (c) with regard to
9 offenders sentenced under RCW 9.94A.660, upon failure to complete or
10 administrative termination from the special drug offender sentencing
11 alternative program. The department shall supervise any sentence of
12 community custody imposed under this section pursuant to section 1 of
13 this act.

14 (2)(a) Unless a condition is waived by the court, the conditions of
15 community custody shall include those provided for in RCW 9.94A.700(4).
16 The conditions may also include those provided for in RCW 9.94A.700(5).
17 The court may also order the offender to participate in rehabilitative
18 programs or otherwise perform affirmative conduct reasonably related to
19 the circumstances of the offense, the offender's risk of reoffending,
20 or the safety of the community, and the department shall enforce such
21 conditions pursuant to subsection (6) of this section.

22 (b) As part of any sentence that includes a term of community
23 custody imposed under this subsection, the court shall also require the
24 offender to comply with any conditions imposed by the department under
25 RCW 9.94A.720. The department shall assess the offender's risk of
26 reoffense and may establish and modify additional conditions of the
27 offender's community custody based upon the risk to community safety.
28 In addition, the department may require the offender to participate in
29 rehabilitative programs, or otherwise perform affirmative conduct, and
30 to obey all laws.

31 (c) The department may not impose conditions that are contrary to
32 those ordered by the court and may not contravene or decrease court
33 imposed conditions. The department shall notify the offender in
34 writing of any such conditions or modifications. In setting,
35 modifying, and enforcing conditions of community custody, the
36 department shall be deemed to be performing a quasi-judicial function.

37 (3) If an offender violates conditions imposed by the court or the
38 department pursuant to this section during community custody, the

1 department may transfer the offender to a more restrictive confinement
2 status and impose other available sanctions as provided in RCW
3 9.94A.737 and 9.94A.740.

4 (4) Except for terms of community custody under RCW 9.94A.670, the
5 department shall discharge the offender from community custody on a
6 date determined by the department, which the department may modify,
7 based on risk and performance of the offender, within the range or at
8 the end of the period of earned release, whichever is later.

9 (5) At any time prior to the completion or termination of a sex
10 offender's term of community custody, if the court finds that public
11 safety would be enhanced, the court may impose and enforce an order
12 extending any or all of the conditions imposed pursuant to this section
13 for a period up to the maximum allowable sentence for the crime as it
14 is classified in chapter 9A.20 RCW, regardless of the expiration of the
15 offender's term of community custody. If a violation of a condition
16 extended under this subsection occurs after the expiration of the
17 offender's term of community custody, it shall be deemed a violation of
18 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
19 contempt of court as provided for in RCW 7.21.040. If the court
20 extends a condition beyond the expiration of the term of community
21 custody, the department is not responsible for supervision of the
22 offender's compliance with the condition.

23 (6) Within the funds available for community custody, the
24 department shall determine conditions and duration of community custody
25 on the basis of risk to community safety, and shall supervise offenders
26 during community custody on the basis of risk to community safety and
27 conditions imposed by the court. The secretary shall adopt rules to
28 implement the provisions of this subsection.

29 (7) By the close of the next business day after receiving notice of
30 a condition imposed or modified by the department, an offender may
31 request an administrative review under rules adopted by the department.
32 The condition shall remain in effect unless the reviewing officer finds
33 that it is not reasonably related to any of the following: (a) The
34 crime of conviction; (b) the offender's risk of reoffending; or (c) the
35 safety of the community.

36 **Sec. 5.** RCW 9.94A.720 and 2002 c 175 s 14 are each amended to read
37 as follows:

1 (1)(a) Pursuant to section 1 of this act, all offenders sentenced
2 to terms involving community supervision, community restitution,
3 community placement, community custody, or legal financial obligation
4 shall be under the supervision of the department and shall follow
5 explicitly the instructions and conditions of the department. The
6 department may require an offender to perform affirmative acts it deems
7 appropriate to monitor compliance with the conditions of the sentence
8 imposed.

9 (b) The instructions shall include, at a minimum, reporting as
10 directed to a community corrections officer, remaining within
11 prescribed geographical boundaries, notifying the community corrections
12 officer of any change in the offender's address or employment, and
13 paying the supervision fee assessment.

14 (c) For offenders sentenced to terms involving community custody
15 for crimes committed on or after June 6, 1996, the department may
16 include, in addition to the instructions in (b) of this subsection, any
17 appropriate conditions of supervision, including but not limited to,
18 prohibiting the offender from having contact with any other specified
19 individuals or specific class of individuals.

20 (d) For offenders sentenced to terms of community custody for
21 crimes committed on or after July 1, 2000, the department may impose
22 conditions as specified in RCW 9.94A.715.

23 The conditions authorized under (c) of this subsection may be
24 imposed by the department prior to or during an offender's community
25 custody term. If a violation of conditions imposed by the court or the
26 department pursuant to RCW 9.94A.710 occurs during community custody,
27 it shall be deemed a violation of community placement for the purposes
28 of RCW 9.94A.740 and shall authorize the department to transfer an
29 offender to a more restrictive confinement status as provided in RCW
30 9.94A.737. At any time prior to the completion of an offender's term
31 of community custody, the department may recommend to the court that
32 any or all of the conditions imposed by the court or the department
33 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
34 expiration of the offender's term of community custody as authorized in
35 RCW 9.94A.715 (3) or (5).

36 The department may require offenders to pay for special services
37 rendered on or after July 25, 1993, including electronic monitoring,

1 day reporting, and telephone reporting, dependent upon the offender's
2 ability to pay. The department may pay for these services for
3 offenders who are not able to pay.

4 (2) No offender sentenced to terms involving community supervision,
5 community restitution, community custody, or community placement under
6 the supervision of the department may own, use, or possess firearms or
7 ammunition. Offenders who own, use, or are found to be in actual or
8 constructive possession of firearms or ammunition shall be subject to
9 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
10 9.94A.740. "Constructive possession" as used in this subsection means
11 the power and intent to control the firearm or ammunition. "Firearm"
12 as used in this subsection has the same definition as in RCW 9.41.010.

13 **Sec. 6.** RCW 9.94A.545 and 2000 c 28 s 13 are each amended to read
14 as follows:

15 On all sentences of confinement for one year or less, the court may
16 impose up to one year of community custody, subject to conditions and
17 sanctions as authorized in RCW 9.94A.715 and 9.94A.720. An offender
18 shall be on community custody as of the date of sentencing. However,
19 during the time for which the offender is in total or partial
20 confinement pursuant to the sentence or a violation of the sentence,
21 the period of community custody shall toll. The department shall
22 supervise any sentence of community custody imposed under this section
23 pursuant to section 1 of this act.

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