
SUBSTITUTE SENATE BILL 5990

State of Washington

58th Legislature

2003 Regular Session

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

READ FIRST TIME 03/03/03.

1 AN ACT Relating to times and supervision standards for release of
2 offenders; amending RCW 9.94A.728, 9.94A.700, 9.94A.705, 9.94A.715,
3 9.94A.720, and 9.94A.545; reenacting and amending RCW 9.94A.728; adding
4 new sections to chapter 9.94A RCW; creating a new section; providing
5 effective dates; providing expiration dates; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 9.94A.728 and 2002 c 50 s 2 are each amended to read
9 as follows:

10 No person serving a sentence imposed pursuant to this chapter and
11 committed to the custody of the department shall leave the confines of
12 the correctional facility or be released prior to the expiration of the
13 sentence except as follows:

14 (1)(a) Except as otherwise provided for in subsection ~~((+2))~~ (4)
15 of this section, the term of the sentence of an offender committed to
16 a correctional facility operated by the department may be reduced by
17 earned release time in accordance with procedures that shall be
18 developed and promulgated by the correctional agency having
19 jurisdiction in which the offender is confined. The earned release

1 time shall be for good behavior and good performance, as determined by
2 the correctional agency having jurisdiction. The correctional agency
3 shall not credit the offender with earned release credits in advance of
4 the offender actually earning the credits. Any program established
5 pursuant to this section shall allow an offender to earn early release
6 credits for presentence incarceration. If an offender is transferred
7 from a county jail to the department, the administrator of a county
8 jail facility shall certify to the department the amount of time spent
9 in custody at the facility and the amount of earned release time. An
10 offender who has been convicted of a felony committed after July 23,
11 1995, that involves any applicable deadly weapon enhancements under RCW
12 9.94A.510 (3) or (4), or both, shall not receive any good time credits
13 or earned release time for that portion of his or her sentence that
14 results from any deadly weapon enhancements. In the case of an
15 offender convicted of a serious violent offense, or a sex offense that
16 is a class A felony, committed on or after July 1, 1990, and before
17 July 1, 2003, the aggregate earned release time may not exceed fifteen
18 percent of the sentence. In the case of an offender convicted of a
19 serious violent offense, or a sex offense that is a class A felony,
20 committed on or after July 1, 2003, the aggregate earned release time
21 may not exceed ten percent of the sentence.

22 (b) In the case of an offender who qualifies under subsection (2)
23 of this section, the aggregate earned release time may not exceed fifty
24 percent of the sentence.

25 (c) In no other case shall the aggregate earned release time exceed
26 one-third of the total sentence;

27 (2) An offender may earn up to fifty percent earned release time if
28 he or she is not confined pursuant to a sentence for an offense that is
29 a violent offense; a sex offense; a violation or attempt, solicitation,
30 or conspiracy to violate RCW 69.50.401 by manufacture or delivery or
31 possession with intent to deliver methamphetamine; a violation or
32 attempt, solicitation, or conspiracy to violate RCW 69.50.406 (delivery
33 of a controlled substance to a minor); or a crime against a person as
34 defined in RCW 9.94A.411 and he or she:

35 (a) Has no prior conviction for a sex offense; a serious violent
36 offense; a violation or attempt, solicitation, or conspiracy to violate
37 RCW 69.50.401 by manufacture or delivery or possession with intent to

1 deliver methamphetamine; or a violation or attempt, solicitation, or
2 conspiracy to violate RCW 69.50.406 (delivery of a controlled substance
3 to a minor);

4 (b) Is not subject to court-ordered chemical dependency treatment
5 under RCW 9.94A.660 or the provisions of chapter 290, Laws of 2002; and

6 (c) Has an offender score of less than seven.

7 (3)(a) The department shall recalculate the earned release time and
8 reschedule the expected release dates for each eligible offender under
9 subsections (1) and (2) of this section.

10 (b) Subsection (2) of this section applies retroactively to
11 eligible offenders serving terms of total confinement in a state
12 correctional facility as of the effective date of this section.

13 (c) Subsections (1)(b) and (2) of this section do not apply to
14 offenders convicted after July 1, 2010.

15 (4)(a) A person convicted of a sex offense or an offense
16 categorized as a serious violent offense, assault in the second degree,
17 vehicular homicide, vehicular assault, assault of a child in the second
18 degree, any crime against persons where it is determined in accordance
19 with RCW 9.94A.602 that the offender or an accomplice was armed with a
20 deadly weapon at the time of commission, or any felony offense under
21 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
22 eligible, in accordance with a program developed by the department, for
23 transfer to community custody status in lieu of earned release time
24 pursuant to subsection (1) of this section;

25 (b) A person convicted of a sex offense, a violent offense, any
26 crime against persons under RCW 9.94A.411(2), or a felony offense under
27 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may
28 become eligible, in accordance with a program developed by the
29 department, for transfer to community custody status in lieu of earned
30 release time pursuant to subsection (1) of this section;

31 (c) The department shall, as a part of its program for release to
32 the community in lieu of earned release, require the offender to
33 propose a release plan that includes an approved residence and living
34 arrangement. All offenders with community placement or community
35 custody terms eligible for release to community custody status in lieu
36 of earned release shall provide an approved residence and living
37 arrangement prior to release to the community;

1 (d) The department may deny transfer to community custody status in
2 lieu of earned release time pursuant to subsection (1) of this section
3 if the department determines an offender's release plan, including
4 proposed residence location and living arrangements, may violate the
5 conditions of the sentence or conditions of supervision, place the
6 offender at risk to violate the conditions of the sentence, place the
7 offender at risk to reoffend, or present a risk to victim safety or
8 community safety. The department's authority under this section is
9 independent of any court-ordered condition of sentence or statutory
10 provision regarding conditions for community custody or community
11 placement;

12 (~~(+3)~~) (5) An offender may leave a correctional facility pursuant
13 to an authorized furlough or leave of absence. In addition, offenders
14 may leave a correctional facility when in the custody of a corrections
15 officer or officers;

16 (~~(+4)~~) (6)(a) The secretary may authorize an extraordinary medical
17 placement for an offender when all of the following conditions exist:

18 (i) The offender has a medical condition that is serious enough to
19 require costly care or treatment;

20 (ii) The offender poses a low risk to the community because he or
21 she is physically incapacitated due to age or the medical condition;
22 and

23 (iii) Granting the extraordinary medical placement will result in
24 a cost savings to the state.

25 (b) An offender sentenced to death or to life imprisonment without
26 the possibility of release or parole is not eligible for an
27 extraordinary medical placement.

28 (c) The secretary shall require electronic monitoring for all
29 offenders in extraordinary medical placement unless the electronic
30 monitoring equipment interferes with the function of the offender's
31 medical equipment or results in the loss of funding for the offender's
32 medical care. The secretary shall specify who shall provide the
33 monitoring services and the terms under which the monitoring shall be
34 performed.

35 (d) The secretary may revoke an extraordinary medical placement
36 under this subsection at any time.

37 (~~(+5)~~) (7) The governor, upon recommendation from the clemency and

1 pardons board, may grant an extraordinary release for reasons of
2 serious health problems, senility, advanced age, extraordinary
3 meritorious acts, or other extraordinary circumstances;

4 ~~((+6))~~ (8) No more than the final six months of the sentence may
5 be served in partial confinement designed to aid the offender in
6 finding work and reestablishing himself or herself in the community;

7 ~~((+7))~~ (9) The governor may pardon any offender;

8 ~~((+8))~~ (10) The department may release an offender from
9 confinement any time within ten days before a release date calculated
10 under this section; and

11 ~~((+9))~~ (11) An offender may leave a correctional facility prior to
12 completion of his or her sentence if the sentence has been reduced as
13 provided in RCW 9.94A.870.

14 Notwithstanding any other provisions of this section, an offender
15 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
16 mandatory minimum sentence of total confinement shall not be released
17 from total confinement before the completion of the listed mandatory
18 minimum sentence for that felony crime of conviction unless allowed
19 under RCW 9.94A.540, however persistent offenders are not eligible for
20 extraordinary medical placement.

21 **Sec. 2.** RCW 9.94A.728 and 2002 c 290 s 21 and 2002 c 50 s 2 are
22 each reenacted and amended to read as follows:

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

27 (1)(a) Except as otherwise provided for in subsection ~~((+2))~~ (4)
28 of this section, the term of the sentence of an offender committed to
29 a correctional facility operated by the department may be reduced by
30 earned release time in accordance with procedures that shall be
31 developed and promulgated by the correctional agency having
32 jurisdiction in which the offender is confined. The earned release
33 time shall be for good behavior and good performance, as determined by
34 the correctional agency having jurisdiction. The correctional agency
35 shall not credit the offender with earned release credits in advance of
36 the offender actually earning the credits. Any program established
37 pursuant to this section shall allow an offender to earn early release

1 credits for presentence incarceration. If an offender is transferred
2 from a county jail to the department, the administrator of a county
3 jail facility shall certify to the department the amount of time spent
4 in custody at the facility and the amount of earned release time. An
5 offender who has been convicted of a felony committed after July 23,
6 1995, that involves any applicable deadly weapon enhancements under RCW
7 9.94A.533 (3) or (4), or both, shall not receive any good time credits
8 or earned release time for that portion of his or her sentence that
9 results from any deadly weapon enhancements. In the case of an
10 offender convicted of a serious violent offense, or a sex offense that
11 is a class A felony, committed on or after July 1, 1990, and before
12 July 1, 2003, the aggregate earned release time may not exceed fifteen
13 percent of the sentence. In the case of an offender convicted of a
14 serious violent offense, or a sex offense that is a class A felony,
15 committed on or after July 1, 2003, the aggregate earned release time
16 may not exceed ten percent of the sentence.

17 (b) In the case of an offender who qualifies under subsection (2)
18 of this section, the aggregate earned release time may not exceed fifty
19 percent of the sentence.

20 (c) In no other case shall the aggregate earned release time exceed
21 one-third of the total sentence;

22 (2) An offender may earn up to fifty percent earned release time if
23 he or she is not confined pursuant to a sentence for an offense that is
24 a violent offense; a sex offense; a violation or attempt, solicitation,
25 or conspiracy to violate RCW 69.50.401 by manufacture or delivery or
26 possession with intent to deliver methamphetamine; a violation or
27 attempt, solicitation, or conspiracy to violate RCW 69.50.406 (delivery
28 of a controlled substance to a minor); or a crime against a person as
29 defined in RCW 9.94A.411 and he or she:

30 (a) Has no prior conviction for a sex offense; a serious violent
31 offense; a violation or attempt, solicitation, or conspiracy to violate
32 RCW 69.50.401 by manufacture or delivery or possession with intent to
33 deliver methamphetamine; or a violation or attempt, solicitation, or
34 conspiracy to violate RCW 69.50.406 (delivery of a controlled substance
35 to a minor);

36 (b) Is not subject to court-ordered chemical dependency treatment
37 under RCW 9.94A.660 or the provisions of chapter 290, Laws of 2002; and

38 (c) Has an offender score of less than seven.

1 (3)(a) The department shall recalculate the earned release time and
2 reschedule the expected release dates for each eligible offender under
3 subsections (1) and (2) of this section.

4 (b) Subsection (2) of this section applies retroactively to
5 eligible offenders serving terms of total confinement in a state
6 correctional facility as of the effective date of this section.

7 (c) Subsections (1)(b) and (2) of this section do not apply to
8 offenders convicted after July 1, 2010.

9 (4)(a) A person convicted of a sex offense or an offense
10 categorized as a serious violent offense, assault in the second degree,
11 vehicular homicide, vehicular assault, assault of a child in the second
12 degree, any crime against persons where it is determined in accordance
13 with RCW 9.94A.602 that the offender or an accomplice was armed with a
14 deadly weapon at the time of commission, or any felony offense under
15 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
16 eligible, in accordance with a program developed by the department, for
17 transfer to community custody status in lieu of earned release time
18 pursuant to subsection (1) of this section;

19 (b) A person convicted of a sex offense, a violent offense, any
20 crime against persons under RCW 9.94A.411(2), or a felony offense under
21 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may
22 become eligible, in accordance with a program developed by the
23 department, for transfer to community custody status in lieu of earned
24 release time pursuant to subsection (1) of this section;

25 (c) The department shall, as a part of its program for release to
26 the community in lieu of earned release, require the offender to
27 propose a release plan that includes an approved residence and living
28 arrangement. All offenders with community placement or community
29 custody terms eligible for release to community custody status in lieu
30 of earned release shall provide an approved residence and living
31 arrangement prior to release to the community;

32 (d) The department may deny transfer to community custody status in
33 lieu of earned release time pursuant to subsection (1) of this section
34 if the department determines an offender's release plan, including
35 proposed residence location and living arrangements, may violate the
36 conditions of the sentence or conditions of supervision, place the
37 offender at risk to violate the conditions of the sentence, place the
38 offender at risk to reoffend, or present a risk to victim safety or

1 community safety. The department's authority under this section is
2 independent of any court-ordered condition of sentence or statutory
3 provision regarding conditions for community custody or community
4 placement;

5 ((+3)) (5) An offender may leave a correctional facility pursuant
6 to an authorized furlough or leave of absence. In addition, offenders
7 may leave a correctional facility when in the custody of a corrections
8 officer or officers;

9 ((+4)) (6)(a) The secretary may authorize an extraordinary medical
10 placement for an offender when all of the following conditions exist:

11 (i) The offender has a medical condition that is serious enough to
12 require costly care or treatment;

13 (ii) The offender poses a low risk to the community because he or
14 she is physically incapacitated due to age or the medical condition;
15 and

16 (iii) Granting the extraordinary medical placement will result in
17 a cost savings to the state.

18 (b) An offender sentenced to death or to life imprisonment without
19 the possibility of release or parole is not eligible for an
20 extraordinary medical placement.

21 (c) The secretary shall require electronic monitoring for all
22 offenders in extraordinary medical placement unless the electronic
23 monitoring equipment interferes with the function of the offender's
24 medical equipment or results in the loss of funding for the offender's
25 medical care. The secretary shall specify who shall provide the
26 monitoring services and the terms under which the monitoring shall be
27 performed.

28 (d) The secretary may revoke an extraordinary medical placement
29 under this subsection at any time.

30 ((+5)) (7) The governor, upon recommendation from the clemency and
31 pardons board, may grant an extraordinary release for reasons of
32 serious health problems, senility, advanced age, extraordinary
33 meritorious acts, or other extraordinary circumstances;

34 ((+6)) (8) No more than the final six months of the sentence may
35 be served in partial confinement designed to aid the offender in
36 finding work and reestablishing himself or herself in the community;

37 ((+7)) (9) The governor may pardon any offender;

1 (~~(8)~~) (10) The department may release an offender from
2 confinement any time within ten days before a release date calculated
3 under this section; and

4 (~~(9)~~) (11) An offender may leave a correctional facility prior to
5 completion of his or her sentence if the sentence has been reduced as
6 provided in RCW 9.94A.870.

7 Notwithstanding any other provisions of this section, an offender
8 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
9 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.540, however persistent offenders are not eligible for
13 extraordinary medical placement.

14 NEW SECTION. Sec. 3. A new section is added to chapter 9.94A RCW
15 to read as follows:

16 The legislature declares that the changes to the maximum
17 percentages of earned release time in this act do not create any
18 expectation that the percentage of earned release time cannot be
19 revised and offenders have no reason to conclude that the maximum
20 percentage of earned release time is an entitlement or creates any
21 liberty interest. The legislature retains full control over the right
22 to revise the percentages of earned release time available to offenders
23 at any time. This section applies to persons convicted on or after the
24 effective date of this section.

25 NEW SECTION. Sec. 4. A new section is added to chapter 9.94A RCW
26 to read as follows:

27 (1) When the department performs a risk assessment pursuant to RCW
28 9.94A.500, or to determine a person's conditions of supervision, the
29 risk assessment shall classify the offender into one of at least four
30 risk categories. The department shall supervise every offender
31 sentenced to a term of community custody, community placement, or
32 community supervision whose risk assessment places that offender in one
33 of the two highest risk categories. The department is not authorized
34 to, and may not, supervise any offender sentenced to a term of
35 community custody, community placement, or community supervision whose

1 risk assessment places that offender in any risk category other than
2 the two highest unless the offender is one for whom supervision is
3 required under subsection (2) of this section.

4 (2) Notwithstanding an offender's classification in a risk category
5 other than the two highest risk categories, the department shall
6 supervise the offender if:

7 (a) He or she has a prior conviction for an offense that is a
8 serious violent offense, sex offense, manufacture or delivery or
9 possession with intent to deliver methamphetamine, or delivery of a
10 controlled substance to a minor; or

11 (b) He or she is subject to court-ordered chemical dependency
12 treatment under RCW 9.94A.660 or the provisions of chapter 290, Laws of
13 2002, or he or she was sentenced under RCW 9.94A.670.

14 (3) This section expires July 1, 2010.

15 **Sec. 5.** RCW 9.94A.700 and 2002 c 175 s 13 are each amended to read
16 as follows:

17 When a court sentences an offender to a term of total confinement
18 in the custody of the department for any of the offenses specified in
19 this section, the court shall also sentence the offender to a term of
20 community placement as provided in this section. Except as provided in
21 section 4 of this act, the department shall supervise any sentence of
22 community placement imposed under this section.

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

25 (a) A sex offense or a serious violent offense committed after July
26 1, 1988, but before July 1, 1990; or

27 (b) An offense committed on or after July 1, 1988, but before July
28 25, 1999, that is:

29 (i) Assault in the second degree;

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

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

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

36 (2) The court shall sentence the offender to a term of community

1 placement of two years or up to the period of earned release awarded
2 pursuant to RCW 9.94A.728, whichever is longer, for:

3 (a) An offense categorized as a sex offense committed on or after
4 July 1, 1990, but before June 6, 1996, including those sex offenses
5 also included in other offense categories;

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

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

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

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

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

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

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

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

29 (e) The residence location and living arrangements shall be subject
30 to the prior approval of the department during the period of community
31 placement.

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

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

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

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

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

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

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

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

13 **Sec. 6.** RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read
14 as follows:

15 Except for persons sentenced under RCW 9.94A.700(2) or 9.94A.710,
16 when a court sentences a person to a term of total confinement to the
17 custody of the department for a violent offense, any crime against
18 persons under RCW 9.94A.411(2), or any felony offense under chapter
19 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660, committed on or
20 after July 25, 1999, but before July 1, 2000, the court shall in
21 addition to the other terms of the sentence, sentence the offender to
22 a one-year term of community placement beginning either upon completion
23 of the term of confinement or at such time as the offender is
24 transferred to community custody in lieu of earned release in
25 accordance with RCW 9.94A.728 (1) and (~~(+2)~~) (4). When the court
26 sentences the offender under this section to the statutory maximum
27 period of confinement, then the community placement portion of the
28 sentence shall consist entirely of such community custody to which the
29 offender may become eligible, in accordance with RCW 9.94A.728 (1) and
30 (~~(+2)~~) (4). Any period of community custody actually served shall be
31 credited against the community placement portion of the sentence.
32 Except as provided in section 4 of this act, the department shall
33 supervise any sentence of community placement or community custody
34 imposed under this section.

35 **Sec. 7.** RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each
36 amended to read as follows:

1 (1) When a court sentences a person to the custody of the
2 department for a sex offense not sentenced under RCW 9.94A.712, a
3 violent offense, any crime against persons under RCW 9.94A.411(2), or
4 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
5 after July 1, 2000, the court shall in addition to the other terms of
6 the sentence, sentence the offender to community custody for the
7 community custody range established under RCW 9.94A.850 or up to the
8 period of earned release awarded pursuant to RCW 9.94A.728 (1) and
9 ~~((+2+))~~ (4), whichever is longer. The community custody shall begin:
10 (a) Upon completion of the term of confinement; (b) at such time as the
11 offender is transferred to community custody in lieu of earned release
12 in accordance with RCW 9.94A.728 (1) and ~~((+2+))~~ (4); or (c) with
13 regard to offenders sentenced under RCW 9.94A.660, upon failure to
14 complete or administrative termination from the special drug offender
15 sentencing alternative program. Except as provided in section 4 of
16 this act, the department shall supervise any sentence of community
17 custody imposed under this section.

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

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

35 (c) The department may not impose conditions that are contrary to
36 those ordered by the court and may not contravene or decrease court
37 imposed conditions. The department shall notify the offender in

1 writing of any such conditions or modifications. In setting,
2 modifying, and enforcing conditions of community custody, the
3 department shall be deemed to be performing a quasi-judicial function.

4 (3) If an offender violates conditions imposed by the court or the
5 department pursuant to this section during community custody, the
6 department may transfer the offender to a more restrictive confinement
7 status and impose other available sanctions as provided in RCW
8 9.94A.737 and 9.94A.740.

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

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

28 (6) Within the funds available for community custody, the
29 department shall determine conditions and duration of community custody
30 on the basis of risk to community safety, and shall supervise offenders
31 during community custody on the basis of risk to community safety and
32 conditions imposed by the court. The secretary shall adopt rules to
33 implement the provisions of this subsection.

34 (7) By the close of the next business day after receiving notice of
35 a condition imposed or modified by the department, an offender may
36 request an administrative review under rules adopted by the department.
37 The condition shall remain in effect unless the reviewing officer finds

1 that it is not reasonably related to any of the following: (a) The
2 crime of conviction; (b) the offender's risk of reoffending; or (c) the
3 safety of the community.

4 **Sec. 8.** RCW 9.94A.720 and 2002 c 175 s 14 are each amended to read
5 as follows:

6 (1)(a) Except as provided in section 4 of this act, all offenders
7 sentenced to terms involving community supervision, community
8 restitution, community placement, or community custody(~~(, or legal~~
9 ~~financial obligation)~~) shall be under the supervision of the department
10 and shall follow explicitly the instructions and conditions of the
11 department. The department may require an offender to perform
12 affirmative acts it deems appropriate to monitor compliance with the
13 conditions of the sentence imposed. The department may only supervise
14 the offender's compliance with payment of the legal financial
15 obligations during any period in which the department is authorized to
16 supervise the offender in the community under section 4 of this act.

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

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

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

31 The conditions authorized under (c) of this subsection may be
32 imposed by the department prior to or during an offender's community
33 custody term. If a violation of conditions imposed by the court or the
34 department pursuant to RCW 9.94A.710 occurs during community custody,
35 it shall be deemed a violation of community placement for the purposes
36 of RCW 9.94A.740 and shall authorize the department to transfer an
37 offender to a more restrictive confinement status as provided in RCW

1 9.94A.737. At any time prior to the completion of an offender's term
2 of community custody, the department may recommend to the court that
3 any or all of the conditions imposed by the court or the department
4 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
5 expiration of the offender's term of community custody as authorized in
6 RCW 9.94A.715 (3) or (5).

7 The department may require offenders to pay for special services
8 rendered on or after July 25, 1993, including electronic monitoring,
9 day reporting, and telephone reporting, dependent upon the offender's
10 ability to pay. The department may pay for these services for
11 offenders who are not able to pay.

12 (2) No offender sentenced to terms involving community supervision,
13 community restitution, community custody, or community placement under
14 the supervision of the department may own, use, or possess firearms or
15 ammunition. Offenders who own, use, or are found to be in actual or
16 constructive possession of firearms or ammunition shall be subject to
17 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
18 9.94A.740. "Constructive possession" as used in this subsection means
19 the power and intent to control the firearm or ammunition. "Firearm"
20 as used in this subsection has the same definition as in RCW 9.41.010.

21 **Sec. 9.** RCW 9.94A.545 and 2000 c 28 s 13 are each amended to read
22 as follows:

23 On all sentences of confinement for one year or less, in which the
24 offender is convicted of a sex offense, a violent offense, a crime
25 against a person under RCW 9.94A.411, or felony violation of chapter
26 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit
27 such a crime, the court may impose up to one year of community custody,
28 subject to conditions and sanctions as authorized in RCW 9.94A.715 and
29 9.94A.720. An offender shall be on community custody as of the date of
30 sentencing. However, during the time for which the offender is in
31 total or partial confinement pursuant to the sentence or a violation of
32 the sentence, the period of community custody shall toll.

33 NEW SECTION. **Sec. 10.** The Washington state institute for public
34 policy shall study the results of the changes in earned release under
35 sections 1 and 2 of this act. The study shall determine whether the
36 changes in earned release affect the rate of recidivism or the type of

1 offenses committed by persons whose release dates were affected by the
2 changes in this act. The Washington state institute for public policy
3 shall report its findings to the governor and the appropriate
4 committees of the legislature no later than December 1, 2008.

5 NEW SECTION. **Sec. 11.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and takes effect
12 July 1, 2003, except for section 2 of this act, which takes effect July
13 1, 2004.

14 NEW SECTION. **Sec. 13.** Section 1 of this act expires July 1, 2004.

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