
SUBSTITUTE SENATE BILL 6322

State of Washington

59th Legislature

2006 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Brandland, Kohl-Welles, Carrell, Kastama, Stevens, Keiser, Doumit, Rockefeller, Kline, Rasmussen, Berkey, Haugen, Shin, Jacobsen, McAuliffe, Pflug, Sheldon, Roach and Benton)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to electronic monitoring of sex offenders; amending
2 RCW 9.94A.715; and adding a new section to chapter 4.24 RCW.

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

4 **Sec. 1.** RCW 9.94A.715 and 2003 c 379 s 6 are each amended to read
5 as follows:

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

1 alternative program. Except as provided in RCW 9.94A.501, the
2 department shall supervise any sentence of community custody imposed
3 under this section.

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

12 (b) As part of any sentence that includes a term of community
13 custody imposed under this subsection, the court shall also require the
14 offender to comply with any conditions imposed by the department under
15 RCW 9.94A.720. The department shall assess the offender's risk of
16 reoffense and may establish and modify additional conditions of the
17 offender's community custody based upon the risk to community safety.
18 In addition, the department may require the offender to participate in
19 rehabilitative programs, or otherwise perform affirmative conduct,
20 ~~((and))~~ to obey all laws, or to submit to electronic monitoring as
21 defined in this section. The department shall, within available
22 resources, carry out any electronic monitoring imposed under this
23 section using the most appropriate technology given the individual
24 circumstances of the offender. As used in this section, "electronic
25 monitoring" means the monitoring of an offender using an electronic
26 offender tracking system including, but not limited to, a system using
27 radio frequency or active or passive global positioning system
28 technology.

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

35 (3) If an offender violates conditions imposed by the court or the
36 department pursuant to this section during community custody, the
37 department may transfer the offender to a more restrictive confinement

1 status and impose other available sanctions as provided in RCW
2 9.94A.737 and 9.94A.740.

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

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

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

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

35 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
36 to read as follows:

37 Local governments, their subdivisions and employees, the department

1 and its employees, and the Washington association of sheriffs and
2 police chiefs and its employees shall be immune from civil liability
3 for damages arising from incidents involving offenders who are placed
4 on electronic monitoring, unless it is shown that an employee acted
5 with gross negligence or bad faith.

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