
SENATE BILL 6476

State of Washington

59th Legislature

2006 Regular Session

By Senators Roach, Pflug, Johnson, Carrell, Stevens, Benson, Delvin, Schoesler, Schmidt, Mulliken and Benton

Read first time 01/12/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to active monitoring of nonpersistent offenders;
2 amending RCW 9.94A.712 and 9.94A.712; reenacting and amending RCW
3 9A.76.120; creating a new section; prescribing penalties; providing an
4 effective date; and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the current
7 community supervision of sex offenders could be enhanced if the
8 whereabouts of these offenders could be ascertained twenty-four hours
9 a day. The legislature further finds that electronic monitoring with
10 global positioning capability would very significantly enhance the
11 supervision of sex offenders who do not have permanent addresses. The
12 legislature intends to require the use of electronic monitoring with
13 global positioning capability to supervise the most dangerous sex
14 offenders, if an offender is released back into the community.

15 **Sec. 2.** RCW 9.94A.712 and 2005 c 436 s 2 are each amended to read
16 as follows:

17 (1) An offender who is not a persistent offender shall be sentenced
18 under this section if the offender:

1 (a) Is convicted of:

2 (i) Rape in the first degree, rape in the second degree, rape of a
3 child in the first degree, child molestation in the first degree, rape
4 of a child in the second degree, or indecent liberties by forcible
5 compulsion;

6 (ii) Any of the following offenses with a finding of sexual
7 motivation: Murder in the first degree, murder in the second degree,
8 homicide by abuse, kidnapping in the first degree, kidnapping in the
9 second degree, assault in the first degree, assault in the second
10 degree, assault of a child in the first degree, or burglary in the
11 first degree; or

12 (iii) An attempt to commit any crime listed in this subsection
13 (1)(a);
14 committed on or after September 1, 2001; or

15 (b) Has a prior conviction for an offense listed in RCW
16 9.94A.030(33)(b), and is convicted of any sex offense which was
17 committed after September 1, 2001.

18 For purposes of this subsection (1)(b), failure to register is not
19 a sex offense.

20 (2) An offender convicted of rape of a child in the first or second
21 degree or child molestation in the first degree who was seventeen years
22 of age or younger at the time of the offense shall not be sentenced
23 under this section.

24 (3) Upon a finding that the offender is subject to sentencing under
25 this section, the court shall impose a sentence to a maximum term
26 consisting of the statutory maximum sentence for the offense and a
27 minimum term either within the standard sentence range for the offense,
28 or outside the standard sentence range pursuant to RCW 9.94A.535, if
29 the offender is otherwise eligible for such a sentence.

30 (4) A person sentenced under subsection (3) of this section shall
31 serve the sentence in a facility or institution operated, or utilized
32 under contract, by the state.

33 (5) When a court sentences a person to the custody of the
34 department under this section, the court shall, in addition to the
35 other terms of the sentence, sentence the offender to community custody
36 under the supervision of the department and the authority of the board
37 for any period of time the person is released from total confinement
38 before the expiration of the maximum sentence.

1 (6)(a)(i) Unless a condition is waived by the court, the conditions
2 of community custody shall include those provided for in RCW
3 9.94A.700(4). The conditions may also include those provided for in
4 RCW 9.94A.700(5). The court may also order the offender to participate
5 in rehabilitative programs or otherwise perform affirmative conduct
6 reasonably related to the circumstances of the offense, the offender's
7 risk of reoffending, or the safety of the community, and the department
8 and the board shall enforce such conditions pursuant to RCW 9.94A.713,
9 9.95.425, and 9.95.430.

10 (ii) If the offense that caused the offender to be sentenced under
11 this section was an offense listed in subsection (1)(a) of this section
12 and the victim of the offense was under eighteen years of age at the
13 time of the offense, the court shall, as a condition of community
14 custody, prohibit the offender from residing in a community protection
15 zone.

16 (iii) The conditions of community custody shall include active
17 electronic monitoring that identifies the offender's location and
18 timely reports or records the offender's presence near or within a
19 crime scene or in a prohibited area, or the offender's departure from
20 specified geographic limitations. This condition shall not be waived
21 by the court.

22 (b) As part of any sentence under this section, the court shall
23 also require the offender to comply with any conditions imposed by the
24 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

25 **Sec. 3.** RCW 9.94A.712 and 2004 c 176 s 3 are each amended to read
26 as follows:

27 (1) An offender who is not a persistent offender shall be sentenced
28 under this section if the offender:

29 (a) Is convicted of:

30 (i) Rape in the first degree, rape in the second degree, rape of a
31 child in the first degree, child molestation in the first degree, rape
32 of a child in the second degree, or indecent liberties by forcible
33 compulsion;

34 (ii) Any of the following offenses with a finding of sexual
35 motivation: Murder in the first degree, murder in the second degree,
36 homicide by abuse, kidnapping in the first degree, kidnapping in the

1 second degree, assault in the first degree, assault in the second
2 degree, assault of a child in the first degree, or burglary in the
3 first degree; or

4 (iii) An attempt to commit any crime listed in this subsection
5 (1)(a);

6 committed on or after September 1, 2001; or

7 (b) Has a prior conviction for an offense listed in RCW
8 9.94A.030(32)(b), and is convicted of any sex offense which was
9 committed after September 1, 2001.

10 For purposes of this subsection (1)(b), failure to register is not
11 a sex offense.

12 (2) An offender convicted of rape of a child in the first or second
13 degree or child molestation in the first degree who was seventeen years
14 of age or younger at the time of the offense shall not be sentenced
15 under this section.

16 (3) Upon a finding that the offender is subject to sentencing under
17 this section, the court shall impose a sentence to a maximum term
18 consisting of the statutory maximum sentence for the offense and a
19 minimum term either within the standard sentence range for the offense,
20 or outside the standard sentence range pursuant to RCW 9.94A.535, if
21 the offender is otherwise eligible for such a sentence.

22 (4) A person sentenced under subsection (3) of this section shall
23 serve the sentence in a facility or institution operated, or utilized
24 under contract, by the state.

25 (5) When a court sentences a person to the custody of the
26 department under this section, the court shall, in addition to the
27 other terms of the sentence, sentence the offender to community custody
28 under the supervision of the department and the authority of the board
29 for any period of time the person is released from total confinement
30 before the expiration of the maximum sentence.

31 (6)(a) Unless a condition is waived by the court, the conditions of
32 community custody shall include those provided for in RCW 9.94A.700(4).
33 The conditions may also include those provided for in RCW 9.94A.700(5).
34 The court may also order the offender to participate in rehabilitative
35 programs or otherwise perform affirmative conduct reasonably related to
36 the circumstances of the offense, the offender's risk of reoffending,
37 or the safety of the community, and the department and the board shall

1 enforce such conditions pursuant to RCW 9.94A.713, 9.95.425, and
2 9.95.430.

3 (b) The conditions of community custody shall include active
4 electronic monitoring that identifies the offender's location and
5 timely reports or records the offender's presence near or within a
6 crime scene or in a prohibited area, or the offender's departure from
7 specified geographic limitations. This condition shall not be waived
8 by the court.

9 (c) As part of any sentence under this section, the court shall
10 also require the offender to comply with any conditions imposed by the
11 board under RCW 9.94A.713 and 9.95.420 through 9.95.435.

12 **Sec. 4.** RCW 9A.76.120 and 2001 c 287 s 2 and 2001 c 264 s 2 are
13 each reenacted and amended to read as follows:

14 (1) A person is guilty of escape in the second degree if:

15 (a) He or she knowingly escapes from a detention facility; or

16 (b) Having been charged with a felony or an equivalent juvenile
17 offense, he or she knowingly escapes from custody; ((~~or~~))

18 (c) Having been committed under chapter 10.77 RCW for a sex,
19 violent, or felony harassment offense and being under an order of
20 conditional release, he or she knowingly leaves or remains absent from
21 the state of Washington without prior court authorization; or

22 (d) He or she intentionally alters, tampers with, damages or
23 destroys any electronic monitoring equipment ordered under RCW
24 9.94A.712, unless the person is the owner of the equipment, or an agent
25 of the owner, performing ordinary maintenance and repairs.

26 (2) It is an affirmative defense to a prosecution under this
27 section that uncontrollable circumstances prevented the person from
28 remaining in custody or in the detention facility or from returning to
29 custody or to the detention facility, and that the person did not
30 contribute to the creation of such circumstances in reckless disregard
31 of the requirement to remain or return, and that the person returned to
32 custody or the detention facility as soon as such circumstances ceased
33 to exist.

34 (3) Escape in the second degree is a class C felony.

35 NEW SECTION. **Sec. 5.** Section 2 of this act expires July 1, 2006.

1 NEW SECTION. **Sec. 6.** Section 3 of this act takes effect July 1,
2 2006.

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