

HB 3161 - S COMM AMD

By Committee on Human Services & Corrections

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.94A.713 and 2006 c 130 s 1 are each amended to read  
4 as follows:

5 (1) When an offender is sentenced under RCW 9.94A.712, the  
6 department shall assess the offender's risk of recidivism and shall  
7 recommend to the board any additional or modified conditions of the  
8 offender's community custody based upon the risk to community safety.  
9 In addition, the department shall make a recommendation with regard to,  
10 and the board may require the offender to participate in,  
11 rehabilitative programs, or otherwise perform affirmative conduct, and  
12 obey all laws. The department may recommend and, if recommended, the  
13 board may impose electronic monitoring as a condition of community  
14 custody for the offender. Within the resources made available by the  
15 department for this purpose, the department shall carry out any  
16 monitoring imposed under this section using the most appropriate  
17 technology given the individual circumstances of the offender. The  
18 department shall recover the costs of the electronic monitoring from  
19 the offender to the extent that the department determines the offender  
20 is financially able. As used in this section, "electronic monitoring"  
21 means the monitoring of an offender using an electronic offender  
22 tracking system including, but not limited to, a system using radio  
23 frequency or active or passive global positioning technology. The  
24 board must consider and may impose department-recommended conditions.

25 (2) The department may not recommend and the board may not impose  
26 conditions that are contrary to those ordered by the court and may not  
27 contravene or decrease court-imposed conditions. The board shall  
28 notify the offender in writing of any such conditions or modifications.

29 (3) In setting, modifying, and enforcing conditions of community

1 custody, the department shall be deemed to be performing a quasi-  
2 judicial function.

3 (4) If an offender violates conditions imposed by the court, the  
4 department, or the board during community custody, the board or the  
5 department may transfer the offender to a more restrictive confinement  
6 status and impose other available sanctions as provided in RCW  
7 9.95.435.

8 (5) By the close of the next business day, after receiving notice  
9 of a condition imposed by the board or the department, an offender may  
10 request an administrative hearing under rules adopted by the board.  
11 The condition shall remain in effect unless the hearing examiner finds  
12 that it is not reasonably related to any of the following:

- 13 (a) The crime of conviction;
- 14 (b) The offender's risk of reoffending; or
- 15 (c) The safety of the community.

16 (6) An offender released by the board under RCW 9.95.420 shall be  
17 subject to the supervision of the department until the expiration of  
18 the maximum term of the sentence. The department shall monitor the  
19 offender's compliance with conditions of community custody imposed by  
20 the court, department, or board, and promptly report any violations to  
21 the board. Any violation of conditions of community custody  
22 established or modified by the board shall be subject to the provisions  
23 of RCW 9.95.425 through 9.95.440.

24 (7) If the department finds that an emergency exists requiring the  
25 immediate imposition of conditions of release in addition to those set  
26 by the board under RCW 9.95.420 and subsection (1) of this section in  
27 order to prevent the offender from committing a crime, the department  
28 may impose additional conditions. The department may not impose  
29 conditions that are contrary to those set by the board or the court and  
30 may not contravene or decrease court-imposed or board-imposed  
31 conditions. Conditions imposed under this subsection shall take effect  
32 immediately after notice to the offender by personal service, but shall  
33 not remain in effect longer than seven working days unless approved by  
34 the board under subsection (1) of this section within seven working  
35 days.

36 **Sec. 2.** RCW 9.94A.715 and 2006 c 130 s 2 and 2006 c 128 s 5 are  
37 each reenacted and 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, or when a court sentences a person to a term of  
6 confinement of one year or less for a violation of RCW  
7 9A.44.130(~~(+10+)~~) (11)(a) committed on or after June 7, 2006, the court  
8 shall in addition to the other terms of the sentence, sentence the  
9 offender to community custody for the community custody range  
10 established under RCW 9.94A.850 or up to the period of earned release  
11 awarded pursuant to RCW 9.94A.728 (1) and (2), whichever is longer.  
12 The community custody shall begin: (a) Upon completion of the term of  
13 confinement; (b) at such time as the offender is transferred to  
14 community custody in lieu of earned release in accordance with RCW  
15 9.94A.728 (1) and (2); or (c) with regard to offenders sentenced under  
16 RCW 9.94A.660, upon failure to complete or administrative termination  
17 from the special drug offender sentencing alternative program. Except  
18 as provided in RCW 9.94A.501, the department shall supervise any  
19 sentence of community custody imposed under this section.

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

28 (b) As part of any sentence that includes a term of community  
29 custody imposed under this subsection, the court shall also require the  
30 offender to comply with any conditions imposed by the department under  
31 RCW 9.94A.720. The department shall assess the offender's risk of  
32 reoffense and may establish and modify additional conditions of the  
33 offender's community custody based upon the risk to community safety.  
34 In addition, the department may require the offender to participate in  
35 rehabilitative programs, or otherwise perform affirmative conduct, and  
36 to obey all laws. The department may impose electronic monitoring as  
37 a condition of community custody for an offender sentenced to a term of  
38 community custody under this section pursuant to a conviction for a sex

1 offense. Within the resources made available by the department for  
2 this purpose, the department shall carry out any electronic monitoring  
3 imposed under this section using the most appropriate technology given  
4 the individual circumstances of the offender. The department shall  
5 recover the costs of the electronic monitoring from the offender to the  
6 extent that the department determines the offender is financially able.  
7 As used in this section, "electronic monitoring" means the monitoring  
8 of an offender using an electronic offender tracking system including,  
9 but not limited to, a system using radio frequency or active or passive  
10 global positioning system technology.

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

17 (3) If an offender violates conditions imposed by the court or the  
18 department pursuant to this section during community custody, the  
19 department may transfer the offender to a more restrictive confinement  
20 status and impose other available sanctions as provided in RCW  
21 9.94A.737 and 9.94A.740.

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

27 (5) At any time prior to the completion or termination of a sex  
28 offender's term of community custody, if the court finds that public  
29 safety would be enhanced, the court may impose and enforce an order  
30 extending any or all of the conditions imposed pursuant to this section  
31 for a period up to the maximum allowable sentence for the crime as it  
32 is classified in chapter 9A.20 RCW, regardless of the expiration of the  
33 offender's term of community custody. If a violation of a condition  
34 extended under this subsection occurs after the expiration of the  
35 offender's term of community custody, it shall be deemed a violation of  
36 the sentence for the purposes of RCW 9.94A.631 and may be punishable as  
37 contempt of court as provided for in RCW 7.21.040. If the court

1 extends a condition beyond the expiration of the term of community  
2 custody, the department is not responsible for supervision of the  
3 offender's compliance with the condition.

4 (6) Within the funds available for community custody, the  
5 department shall determine conditions and duration of community custody  
6 on the basis of risk to community safety, and shall supervise offenders  
7 during community custody on the basis of risk to community safety and  
8 conditions imposed by the court. The secretary shall adopt rules to  
9 implement the provisions of this subsection.

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

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17 On page 1, line 2 of the title, after "monitoring;" strike the  
18 remainder of the title and insert "amending RCW 9.94A.713; and  
19 reenacting and amending RCW 9.94A.715."

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