

FINAL BILL REPORT

ESSB 5288

PARTIAL VETO

C 375 L 09

Synopsis as Enacted

Brief Description: Changing provisions regarding supervision of offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala and Shin).

Senate Committee on Human Services & Corrections

House Committee on Human Services

House Committee on Ways & Means

Background: When the Sentencing Reform Act was passed by the Legislature in 1984, it contained very limited provisions for the supervision of offenders. Over time, the Legislature reinstated supervision in varying lengths of time and for varying offenses.

In 1999 the Legislature passed the Offender Accountability Act (OAA). The OAA extended community custody to all sex offenses, all violent offenses, all crimes against persons, and all felony drug offenses. It also required the Department of Corrections (DOC) to utilize a validated risk assessment and supervise offenders according to their risk level. In 2003 due to tough budget circumstances, the Legislature restricted the types of offenders that DOC could supervise and increased earned early release for certain offenders from one-third to 50 percent of their sentence. The supervision scheme has largely remained the same since the 2003 changes.

Currently DOC must supervise any offender who has been sentenced to community custody and every misdemeanor or gross misdemeanor probationer ordered by the superior court to probation if:

- a risk assessment places the offender in one of the two highest risk categories; or
- regardless of the offender's risk category:
 - the offender or probationer has a conviction for:
 - a sex offense;
 - a violent offense;
 - a crime against persons;
 - a felony that is domestic violence;
 - residential burglary;
 - the manufacture, delivery, or possession of methamphetamine; or

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- delivery of a controlled substance to a minor;
- the offender has a prior conviction for any of the above listed offenses;
- the conditions of the offender's supervision include chemical dependency treatment;
- the offender was sentenced to a First Time Offender Waiver (FTOW) or Special Sex Offender Sentencing Alternative (SSOSA); or
- supervision is required by the Interstate Compact for Adult Offender Supervision.

DOC is prohibited from supervising any offender who does not fall within one of these categories.

DOC has utilized a validated risk instrument, the Level of Service Inventory (LSI-R), to place the offender in one of four risk categories designated as Level A, B, C, and D. Last year, the Washington State Institute for Public Policy (WSIPP) developed an improved risk assessment tool for DOC that will classify offenders as High Risk Violent, High Risk Nonviolent (property and drug), Moderate Risk, and Low Risk. DOC is in the process of implementing this new tool with its current caseload

Summary: DOC must supervise the following offenders sentenced to community custody:

- offenders who are classified at a high risk to reoffend;
- all sex offenders;
- all dangerously mentally ill offenders;
- all offenders with an indeterminate sentence;
- all offenders sentenced to Drug Offender Sentencing Alternative (DOSA), SSOSA, and FTOW; and
- all offenders required to be supervised under the Interstate Compact.

DOC must also supervise the following misdemeanants who have been sentenced to probation by a superior court:

- misdemeanor sex offenders, including those convicted of a failure to register; and
- offenders convicted of fourth degree assault or violation of a domestic violence court order and who have a prior conviction.

DOC may arrest and pursue administrative sanctions for misdemeanants who are under DOC supervision, the same as for felony offenders on community custody. Terms of community custody are changed from ranges established by the Sentencing Guidelines Commission (SGC) to periods fixed by statute as follows:

- 36 months for sex offenders, serious violent offenders, and sex offenders convicted of a felony failure to register;
- 18 months for violent offenders that did not commit a serious violent offense;
- 12 months for offenders convicted of a crime against person, drug offense, or offense involving unlawful possession of a firearm by a gang member; and
- community custody terms are unchanged for DOSA, SSOSA, and FTOW sentences.

SGC must include in its biennial report to the Legislature due December 1, 2011, an analysis of the impact of the provisions of the act on recidivism.

Votes on Final Passage:

Senate	38	8	
House	51	45	(House amended)
Senate	26	23	(Senate concurred)

Effective: July 26, 2009

Partial Veto Summary: The Governor vetoed the emergency clause requiring the act to take effect immediately.