
ENGROSSED HOUSE BILL 2279

State of Washington

61st Legislature

2009 Regular Session

By Representatives Hurst, Hope, Dunshee, Kelley, and Roach

Read first time 02/23/09. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to the offense of assault of a child in the first
2 degree by requiring the review of the sentencing of offenders and
3 modifying the conditions of release; amending RCW 9.94A.703; creating
4 new sections; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** This act shall be known as the Eryk Woodruff
7 public safety act of 2009.

8 NEW SECTION. **Sec. 2.** (1) The sentencing guidelines commission
9 shall review the crime of assault of a child in the first degree as it
10 relates to: The elements of the crime, sentencing under the sentencing
11 reform act grid, all provisions providing for exceptional sentences
12 both above and below the standard sentencing ranges, judicial
13 discretion in sentencing, earned early release, and community custody
14 requirements. As part of its review, the commission shall:

15 (a) Study the relevant provisions of the sentencing reform act
16 relating to assault of a child in the first degree;

17 (b) Consider the revision of the sentencing range for assault of a
18 child in the first degree which includes, but is not limited to, taking

1 into consideration the violence of the offense, the age of victims, the
2 criminal history of the offender, the mental health capacity of the
3 offender, and the risk of the offender reoffending in the community;

4 (c) Consider the use of advisory sentencing guidelines for assault
5 of a child in the first degree;

6 (d) Consider the modification of the mandatory minimum term of
7 confinement for an offender convicted of assault of a child in the
8 first degree;

9 (e) Consider altering the statutory provisions surrounding earned
10 early release for an offender convicted of assault of a child in the
11 first degree;

12 (f) Consider restructuring or adjusting the statutory community
13 custody conditions for offenders convicted of assault of a child in the
14 first degree;

15 (g) Consider the use of determinate plus sentencing that provides
16 for a minimum and a maximum term of confinement for an offender
17 convicted of assault of a child in the first degree; and

18 (h) Determine the fiscal impact of any proposed recommendations.

19 (2) The commission shall review and make recommendations regarding
20 the revision or modification of the sentences of offenders convicted of
21 the crime of assault of a child in the first degree.

22 (3) The commission shall submit its findings to the appropriate
23 committees of the legislature no later than December 31, 2009.

24 **Sec. 3.** RCW 9.94A.703 and 2008 c 231 s 9 are each amended to read
25 as follows:

26 When a court sentences a person to a term of community custody, the
27 court shall impose conditions of community custody as provided in this
28 section.

29 (1) **Mandatory conditions.** As part of any term of community
30 custody, the court shall:

31 (a) Require the offender to inform the department of court-ordered
32 treatment upon request by the department;

33 (b) Require the offender to comply with any conditions imposed by
34 the department under RCW 9.94A.704;

35 (c) If the offender was sentenced under RCW ((~~9.94A.712~~)) 9.94A.507
36 for an offense listed in RCW ((~~9.94A.712~~)) 9.94A.507(1)(a), and the

1 victim of the offense was under eighteen years of age at the time of
2 the offense, prohibit the offender from residing in a community
3 protection zone;

4 (d) If the offender was sentenced under RCW 9A.36.120, prohibit the
5 offender from serving in any paid or volunteer capacity where he or she
6 has control or supervision of minors under the age of thirteen.

7 (2) **Waivable conditions.** Unless waived by the court, as part of
8 any term of community custody, the court shall order an offender to:

9 (a) Report to and be available for contact with the assigned
10 community corrections officer as directed;

11 (b) Work at department-approved education, employment, or community
12 restitution, or any combination thereof;

13 (c) Refrain from possessing or consuming controlled substances
14 except pursuant to lawfully issued prescriptions;

15 (d) Pay supervision fees as determined by the department; and

16 (e) Obtain prior approval of the department for the offender's
17 residence location and living arrangements.

18 (3) **Discretionary conditions.** As part of any term of community
19 custody, the court may order an offender to:

20 (a) Remain within, or outside of, a specified geographical
21 boundary;

22 (b) Refrain from direct or indirect contact with the victim of the
23 crime or a specified class of individuals;

24 (c) Participate in crime-related treatment or counseling services;

25 (d) Participate in rehabilitative programs or otherwise perform
26 affirmative conduct reasonably related to the circumstances of the
27 offense, the offender's risk of reoffending, or the safety of the
28 community;

29 (e) Refrain from consuming alcohol; or

30 (f) Comply with any crime-related prohibitions.

31 (4) **Special conditions.**

32 (a) In sentencing an offender convicted of a crime of domestic
33 violence, as defined in RCW 10.99.020, if the offender has a minor
34 child, or if the victim of the offense for which the offender was
35 convicted has a minor child, the court may order the offender to
36 participate in a domestic violence perpetrator program approved under
37 RCW 26.50.150.

1 (b)(i) In sentencing an offender convicted of an alcohol or drug-
2 related traffic offense, the court shall require the offender to
3 complete a diagnostic evaluation by an alcohol or drug dependency
4 agency approved by the department of social and health services or a
5 qualified probation department, defined under RCW 46.61.516, that has
6 been approved by the department of social and health services. If the
7 offense was pursuant to chapter 46.61 RCW, the report shall be
8 forwarded to the department of licensing. If the offender is found to
9 have an alcohol or drug problem that requires treatment, the offender
10 shall complete treatment in a program approved by the department of
11 social and health services under chapter 70.96A RCW. If the offender
12 is found not to have an alcohol or drug problem that requires
13 treatment, the offender shall complete a course in an information
14 school approved by the department of social and health services under
15 chapter 70.96A RCW. The offender shall pay all costs for any
16 evaluation, education, or treatment required by this section, unless
17 the offender is eligible for an existing program offered or approved by
18 the department of social and health services.

19 (ii) For purposes of this section, "alcohol or drug-related traffic
20 offense" means the following: Driving while under the influence as
21 defined by RCW 46.61.502, actual physical control while under the
22 influence as defined by RCW 46.61.504, vehicular homicide as defined by
23 RCW 46.61.520(1)(a), vehicular assault as defined by RCW
24 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050,
25 or assault by watercraft as defined by RCW 79A.60.060.

26 (iii) This subsection (4)(b) does not require the department of
27 social and health services to add new treatment or assessment
28 facilities nor affect its use of existing programs and facilities
29 authorized by law.

30 NEW SECTION. **Sec. 4.** This act takes effect August 1, 2009.

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