
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 a new section; and providing an effective date.

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

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

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

15 (b) Consider the revision of the sentencing range for assault of a
16 child in the first degree which includes, but is not limited to, taking
17 into consideration the violence of the offense, the age of victims, the
18 criminal history of the offender, the mental health capacity of the
19 offender, and the risk of the offender reoffending in the community;

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

3 (d) Consider the modification of the mandatory minimum term of
4 confinement for an offender convicted of assault of a child in the
5 first degree;

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

9 (f) Consider restructuring or adjusting the statutory community
10 custody conditions for offenders convicted of assault of a child in the
11 first degree; and

12 (e) Determine the fiscal impact of any proposed recommendations.

13 (2) The commission shall review and make recommendations regarding
14 the revision or modification of offenders convicted of the crime of
15 assault of a child in the first degree.

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

18 **Sec. 2.** RCW 9.94A.703 and 2008 c 231 s 9 are each amended to read
19 as follows:

20 When a court sentences a person to a term of community custody, the
21 court shall impose conditions of community custody as provided in this
22 section.

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

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

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

29 (c) If the offender was sentenced under RCW ((~~9.94A.712~~)) 9.94A.507
30 for an offense listed in RCW ((~~9.94A.712~~)) 9.94A.507(1)(a), and the
31 victim of the offense was under eighteen years of age at the time of
32 the offense, prohibit the offender from residing in a community
33 protection zone;

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

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

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

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

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

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

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

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

14 (a) Remain within, or outside of, a specified geographical
15 boundary;

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

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

19 (d) Participate in rehabilitative programs or otherwise perform
20 affirmative conduct reasonably related to the circumstances of the
21 offense, the offender's risk of reoffending, or the safety of the
22 community;

23 (e) Refrain from consuming alcohol; or

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

25 (4) **Special conditions.**

26 (a) In sentencing an offender convicted of a crime of domestic
27 violence, as defined in RCW 10.99.020, if the offender has a minor
28 child, or if the victim of the offense for which the offender was
29 convicted has a minor child, the court may order the offender to
30 participate in a domestic violence perpetrator program approved under
31 RCW 26.50.150.

32 (b)(i) In sentencing an offender convicted of an alcohol or drug-
33 related traffic offense, the court shall require the offender to
34 complete a diagnostic evaluation by an alcohol or drug dependency
35 agency approved by the department of social and health services or a
36 qualified probation department, defined under RCW 46.61.516, that has
37 been approved by the department of social and health services. If the
38 offense was pursuant to chapter 46.61 RCW, the report shall be

1 forwarded to the department of licensing. If the offender is found to
2 have an alcohol or drug problem that requires treatment, the offender
3 shall complete treatment in a program approved by the department of
4 social and health services under chapter 70.96A RCW. If the offender
5 is found not to have an alcohol or drug problem that requires
6 treatment, the offender shall complete a course in an information
7 school approved by the department of social and health services under
8 chapter 70.96A RCW. The offender shall pay all costs for any
9 evaluation, education, or treatment required by this section, unless
10 the offender is eligible for an existing program offered or approved by
11 the department of social and health services.

12 (ii) For purposes of this section, "alcohol or drug-related traffic
13 offense" means the following: Driving while under the influence as
14 defined by RCW 46.61.502, actual physical control while under the
15 influence as defined by RCW 46.61.504, vehicular homicide as defined by
16 RCW 46.61.520(1)(a), vehicular assault as defined by RCW
17 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050,
18 or assault by watercraft as defined by RCW 79A.60.060.

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

23 NEW SECTION. **Sec. 3.** This act takes effect August 1, 2009.

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