
HOUSE BILL 2294

State of Washington

61st Legislature

2009 Regular Session

By Representatives Pearson, O'Brien, Ross, Haler, Walsh, Dammeier, Ormsby, Klippert, Schmick, Green, Kelley, Hinkle, McCune, Roach, and Chandler

Read first time 02/25/09. Referred to Committee on Human Services.

1 AN ACT Relating to improving public safety by improving the
2 sentencing and supervision of criminal offenders in confinement and in
3 the community; amending RCW 9.94A.501; amending 2008 c 231 s 6
4 (uncodified); adding a new chapter to Title 9 RCW; repealing 2008 c 231
5 s 24; providing an effective date; providing an expiration date; and
6 declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds the following:

9 (1) Public safety is one of the paramount duties of the state, an
10 essential purpose of government, and a high priority of the people of
11 the state of Washington;

12 (2) The citizens of Washington state expect their government to
13 protect their families, neighborhoods and communities from criminal
14 offenders who impose so much harm, suffering, and loss of life, health,
15 and property on innocent, unsuspecting victims;

16 (3) The people believe criminal offenders should pay for the crimes
17 they commit by being sentenced to certain terms of confinement in
18 prison or jail and to fully pay their debt to society for the harm they
19 cause, including incarceration, community supervision, and payment of

1 all legal financial obligations, such as victim restitution,
2 statutorily imposed crime victims' compensation fees, court costs,
3 county or interlocal drug funds, court appointed attorneys' fees, and
4 costs of defense, fines, and any other financial obligation assessed as
5 the result of the offenders' convictions;

6 (4) Justice and the expectations of victims and society demand that
7 criminal offenders serve all or most of their sentences behind bars and
8 that when they are serving part of their sentence in the community,
9 they are sufficiently supervised;

10 (5) When criminal offenders are incarcerated in prison or jail,
11 they cannot commit further crimes against citizens who are then fully
12 protected;

13 (6) When criminal offenders are released into the community,
14 citizens are not fully protected, but they are much less likely to
15 become victims of crime if the offenders are being adequately and
16 consistently supervised by well-trained and well-equipped community
17 custody officers;

18 (7) Criminal offenders in all risk levels reoffend at various rates
19 depending on the individual offender and circumstances, and all felony
20 criminal offenders should be supervised for a sufficient period of time
21 to ensure they are not committing additional crimes or violations of
22 their sentence or conditions of release;

23 (8) Over the past few years, there has been a clear trend of
24 balancing the need for resources on the back of victims by reducing not
25 only the time criminal offenders spend in full confinement but also by
26 reducing the amount of supervision criminal offenders get once they are
27 released back into the community;

28 (9) This trend of releasing criminal offenders out of prison
29 earlier and reducing the quantity and quality of supervision they have
30 once they get out earlier is putting the safety of the public at risk
31 and is actually resulting in more crimes being committed, thus creating
32 more victims and costing taxpayers more in government resources to
33 investigate, pursue, arrest, prosecute, try, and reincarcerate criminal
34 offenders who recidivate regardless of risk level;

35 (10) Washington's current sentencing structure was developed with
36 the premise that criminal offenders would be supervised once they were
37 released back into the community, and that because they would be

1 strictly supervised, they could be released earlier without
2 unnecessarily compromising public safety;

3 (11) Unfortunately, state law has placed severe restrictions on the
4 ability of community corrections officers to adequately supervise
5 certain offenders, thus compromising public safety, which is
6 unacceptable;

7 (12) Community corrections is Washington state's first line of
8 defense between criminal offenders on release and in the community; and

9 (13) Truth, transparency, and accountability in the sentencing,
10 confinement, and supervision of criminal offenders is essential to
11 maintaining public safety and a lawful society, building public trust
12 and confidence in our criminal justice system, and sending a clear
13 message to offenders that there will be swift and certain consequences
14 for their criminal acts.

15 NEW SECTION. **Sec. 2.** The legislature intends by this act to:

16 (1) Ensure felony criminal offenders serve an appropriate and just
17 time in full confinement, to ensure the integrity of determinate
18 sentencing is maintained;

19 (2) Simplify the supervision of felony criminal offenders in
20 Washington state;

21 (3) Enhance the uniformity of supervision of felony criminal
22 offenders in Washington state;

23 (4) Enhance the quantity and quality of supervision of felony
24 criminal offenders in Washington state;

25 (5) Ensure that the supervision of offenders in all risk levels is
26 sufficient to monitor critical requirements and restrictions in the
27 offender's sentence and conditions of release; and

28 (6) Limit department of corrections supervision to felony offenders
29 only and eliminate misdemeanor and gross misdemeanor offenders from
30 department of corrections supervision.

31 NEW SECTION. **Sec. 3.** The department of corrections shall
32 establish and utilize a validated, evidence-based risk assessment
33 instrument consistent with national best practices that shall classify
34 offenders as high risk, moderate risk, and low risk.

1 NEW SECTION. **Sec. 4.** (1) Any offender convicted of a felony in
2 Washington state shall be sentenced to a minimum term of twelve months
3 of community custody.

4 (2) The department of corrections shall actively supervise for a
5 minimum of twelve months with no exceptions any offender convicted of
6 a felony in Washington state who is classified as high risk.

7 (3)(a) The department of corrections shall actively supervise for
8 a minimum of six months, with no exceptions, any offender convicted of
9 a felony in Washington state who is classified as moderate or low risk.

10 (b) If the offender commits a violation of his or her sentence or
11 condition of release during the six-month period of active supervision,
12 the department of corrections shall actively supervise, with no
13 exceptions, the offender for a minimum of twelve months.

14 NEW SECTION. **Sec. 5.** Community corrections officers and community
15 corrections employees whose primary job or function is to deal with
16 felony offenders hired on or after the effective date of this section
17 must successfully complete the basic law enforcement academy course,
18 known as the basic course, sponsored by the criminal justice training
19 commission, or the basic law enforcement equivalency certification,
20 known as the equivalency course, provided by the criminal justice
21 training commission. The criminal justice training commission may
22 charge the department of corrections for the costs of providing this
23 training.

24 NEW SECTION. **Sec. 6.** The supervision of misdemeanor and gross
25 misdemeanor offenders shall be the responsibility of the counties and
26 cities.

27 **Sec. 7.** 2008 c 231 s 6 (uncodified) is amended to read as follows:

28 The existing sentencing reform act contains numerous provisions for
29 supervision of different types of offenders. This duplication has
30 caused great confusion for judges, lawyers, offenders, and the
31 department of corrections, and often results in inaccurate sentences.
32 The clarifications in this act are intended to support continued
33 discussions by the sentencing guidelines commission with the courts and
34 the criminal justice community to identify and propose policy changes
35 that will further simplify and improve the sentencing reform act

1 relating to the supervision of offenders. The sentencing guidelines
2 commission shall submit policy change proposals to the legislature on
3 or before December 1, 2008.

4 Sections 7 through 58 of this act are intended to simplify the
5 supervision provisions of the sentencing reform act and increase the
6 uniformity of its application. These sections are not intended to
7 either increase or decrease the authority of sentencing courts or the
8 department relating to supervision, except for those provisions
9 instructing the court to apply the provisions of the current community
10 custody law to offenders sentenced after July 1, 2009, but who
11 committed their crime prior to the effective date of this section to
12 the extent that such application is constitutionally permissible.

13 This will effect a change for offenders who committed their crimes
14 prior to the offender accountability act, chapter 196, Laws of 1999.
15 These offenders will be ordered to a term of community custody rather
16 than community placement or community supervision. To the extent
17 constitutionally permissible, the terms of the offender's supervision
18 will be as provided in current law. With the exception of this change,
19 the legislature does not intend to make, and no provision of sections
20 7 through 58 of this act may be construed as making, a substantive
21 change to the supervision provisions of the sentencing reform act.

22 It is the intent of the legislature to reaffirm that section 3,
23 chapter 379, Laws of 2003, expires July 1, (~~2010~~) 2009.

24 **Sec. 8.** RCW 9.94A.501 and 2005 c 362 s 1 are each amended to read
25 as follows:

26 (1) When the department performs a risk assessment pursuant to RCW
27 9.94A.500, or to determine a person's conditions of supervision, the
28 risk assessment shall classify the offender or a probationer sentenced
29 in superior court into one of at least four risk categories.

30 (2) The department shall supervise every offender sentenced to a
31 term of community custody, community placement, or community
32 supervision and every misdemeanor and gross misdemeanor probationer
33 ordered by a superior court to probation under the supervision of the
34 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

35 (a) Whose risk assessment places that offender or probationer in
36 one of the two highest risk categories; or

37 (b) Regardless of the offender's or probationer's risk category if:

1 (i) The offender's or probationer's current conviction is for:
2 (A) A sex offense;
3 (B) A violent offense;
4 (C) A crime against persons as defined in RCW 9.94A.411;
5 (D) A felony that is domestic violence as defined in RCW 10.99.020;
6 (E) A violation of RCW 9A.52.025 (residential burglary);
7 (F) A violation of, or an attempt, solicitation, or conspiracy to
8 violate, RCW 69.50.401 by manufacture or delivery or possession with
9 intent to deliver methamphetamine; or

10 (G) A violation of, or an attempt, solicitation, or conspiracy to
11 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

12 (ii) The offender or probationer has a prior conviction for:

13 (A) A sex offense;
14 (B) A violent offense;
15 (C) A crime against persons as defined in RCW 9.94A.411;
16 (D) A felony that is domestic violence as defined in RCW 10.99.020;
17 (E) A violation of RCW 9A.52.025 (residential burglary);
18 (F) A violation of, or an attempt, solicitation, or conspiracy to
19 violate, RCW 69.50.401 by manufacture or delivery or possession with
20 intent to deliver methamphetamine; or

21 (G) A violation of, or an attempt, solicitation, or conspiracy to
22 violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

23 (iii) The conditions of the offender's community custody, community
24 placement, or community supervision or the probationer's supervision
25 include chemical dependency treatment;

26 (iv) The offender was sentenced under RCW 9.94A.650 or 9.94A.670;
27 or

28 (v) The offender is subject to supervision pursuant to RCW
29 9.94A.745.

30 (3) The department is not authorized to, and may not, supervise any
31 offender sentenced to a term of community custody, community placement,
32 or community supervision or any probationer unless the offender or
33 probationer is one for whom supervision is required under subsection
34 (2) of this section.

35 (4) This section expires July 1, (~~2010~~) 2009.

36 NEW SECTION. **Sec. 9.** This act applies retroactively and
37 prospectively regardless of whether the offender is currently on

1 community custody or probation with the department, currently
2 incarcerated with a term of community custody or probation with the
3 department, or sentenced after the effective date of this section.

4 NEW SECTION. **Sec. 10.** 2008 c 231 s 24 is repealed.

5 NEW SECTION. **Sec. 11.** The provisions of this act shall be
6 liberally construed to effectuate its intent.

7 NEW SECTION. **Sec. 12.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

11 NEW SECTION. **Sec. 13.** Sections 1 through 6, 9, 11, and 12 of this
12 act constitute a new chapter in Title 9 RCW.

13 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 July 1, 2009.

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