
SENATE BILL 5288

State of Washington

61st Legislature

2009 Regular Session

By Senators Hargrove, Stevens, Regala, and Shin

Read first time 01/19/09. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to offender risk assessments; amending RCW
2 9.94A.501 and 9.94A.501; amending 2008 c 231 s 6 (uncodified);
3 Repealing 2008 c 231 s 60 (uncodified); providing an effective date;
4 providing an expiration date; and declaring an emergency.

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

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

8 (1) When the department performs a risk assessment pursuant to RCW
9 9.94A.500, or to determine a person's conditions of supervision, the
10 risk assessment shall classify the offender or a probationer sentenced
11 in superior court into one of at least four risk categories.

12 (2) The department shall supervise every offender sentenced to a
13 term of community custody, community placement, or community
14 supervision and every misdemeanor and gross misdemeanor probationer
15 ordered by a superior court to probation under the supervision of the
16 department pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

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

1 (b) Regardless of ~~((the))~~ an offender's ~~((or probationer's))~~ risk
2 category if:

3 ~~((The offender's or probationer's current conviction is for:~~

4 ~~(A) A sex offense;~~

5 ~~(B) A violent offense;~~

6 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~

7 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

8 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~

9 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~
10 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
11 ~~intent to deliver methamphetamine; or~~

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

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

15 ~~(A) A sex offense;~~

16 ~~(B) A violent offense;~~

17 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~

18 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

19 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~

20 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~
21 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
22 ~~intent to deliver methamphetamine; or~~

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

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

28 ~~(iv))~~ The offender has a current or prior conviction for a sex
29 offense and the department has assessed the offender as a level III sex
30 offender or the offender was sentenced under RCW 9.94A.712 and the
31 board has determined that the offender should be supervised;

32 (ii) The offender was sentenced under RCW 9.94A.650 or 9.94A.670;

33 or

34 ~~((v))~~ (iii) The offender is subject to supervision pursuant to
35 RCW 9.94A.745.

36 (3) The department is not authorized to, and may not, supervise any
37 offender sentenced to a term of community custody, community placement,

1 or community supervision or any probationer unless the offender or
2 probationer is one for whom supervision is required under subsection
3 (2) of this section.

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

5 **Sec. 2.** RCW 9.94A.501 and 2008 c 231 s 24 are each amended to read
6 as follows:

7 (1) When the court orders the department ~~((performs))~~ to conduct a
8 risk assessment pursuant to RCW 9.94A.500, or ~~((to determine a~~
9 ~~person's))~~ in determining an offender's conditions of supervision, the
10 department shall utilize the risk assessment ~~((shall classify the~~
11 ~~offender or a probationer sentenced in superior court into one of at~~
12 ~~least four risk categories))~~ tool recommended by the Washington state
13 institute for public policy.

14 (2) The department shall supervise every offender sentenced to a
15 term of community custody and every misdemeanor and gross misdemeanor
16 probationer ordered by a superior court to probation under the
17 supervision of the department pursuant to RCW 9.92.060, 9.95.204, or
18 9.95.210:

19 (a) Whose risk assessment ~~((places that))~~ classifies the offender
20 or probationer ~~((in one of the two highest risk categories))~~ as one who
21 is at a high risk to reoffend; or

22 (b) Regardless of ~~((the))~~ an offender's ~~((or probationer's))~~ risk
23 ~~((category))~~ classification if:

24 (i) ~~((The offender's or probationer's current conviction is for:~~

25 ~~(A) A sex offense;~~

26 ~~(B) A violent offense;~~

27 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~

28 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~

29 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~

30 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~
31 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
32 ~~intent to deliver methamphetamine; or~~

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

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

36 ~~(A) A sex offense;~~

37 ~~(B) A violent offense;~~

1 ~~(C) A crime against persons as defined in RCW 9.94A.411;~~
2 ~~(D) A felony that is domestic violence as defined in RCW 10.99.020;~~
3 ~~(E) A violation of RCW 9A.52.025 (residential burglary);~~
4 ~~(F) A violation of, or an attempt, solicitation, or conspiracy to~~
5 ~~violate, RCW 69.50.401 by manufacture or delivery or possession with~~
6 ~~intent to deliver methamphetamine; or~~

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

9 ~~(iii) The conditions of the offender's community custody or the~~
10 ~~probationer's supervision include chemical dependency treatment;~~

11 ~~(iv))~~ The offender has a current or prior conviction for a sex
12 offense and the department has assessed the offender as a level III sex
13 offender or the offender was sentenced under RCW 9.94A.507 and the
14 board has determined that the offender should be supervised;

15 (ii) The offender was sentenced under RCW 9.94A.650 or 9.94A.670;
16 or

17 ~~((v))~~ (iii) The offender is subject to supervision pursuant to
18 RCW 9.94A.745.

19 (3) The department is not authorized to, and may not, supervise any
20 offender sentenced to a term of community custody or any probationer
21 unless the offender or probationer is one for whom supervision is
22 required under subsection (2) of this section.

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

24 **Sec. 3.** 2008 c 231 s 6 (uncodified) is amended to read as follows:

25 The existing sentencing reform act contains numerous provisions for
26 supervision of different types of offenders. This duplication has
27 caused great confusion for judges, lawyers, offenders, and the
28 department of corrections, and often results in inaccurate sentences.
29 The clarifications in this act are intended to support continued
30 discussions by the sentencing guidelines commission with the courts and
31 the criminal justice community to identify and propose policy changes
32 that will further simplify and improve the sentencing reform act
33 relating to the supervision of offenders. The sentencing guidelines
34 commission shall submit policy change proposals to the legislature on
35 or before December 1, 2008.

36 Sections 7 through 58 of this act are intended to simplify the
37 supervision provisions of the sentencing reform act and increase the

1 uniformity of its application. These sections are not intended to
2 either increase or decrease the authority of sentencing courts or the
3 department relating to supervision, except for those provisions
4 instructing the court to apply the provisions of the current community
5 custody law to offenders sentenced after July 1, 2009, but who
6 committed their crime prior to August 1, 2009, to the extent that such
7 application is constitutionally permissible.

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

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

19 NEW SECTION. **Sec. 4.** 2008 c 231 s 60 (uncodified) is repealed.

20 NEW SECTION. **Sec. 5.** (1) Sections 1 and 4 of this act are
21 necessary for the immediate preservation of the public peace, health,
22 or safety, or support of the state government and its existing public
23 institutions, and take effect immediately.

24 (2) Sections 2 and 3 of this act take effect August 1, 2009.

25 NEW SECTION. **Sec. 6.** Section 1 of this act expires August 1,
26 2009.

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