

E2SSB 6204 - S AMD 308

By Senators Hargrove, Carrell

ADOPTED 04/06/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "**Sec. 1.** RCW 9.94A.631 and 2009 c 390 s 1 are each amended to read
4 as follows:

5 (1) If an offender violates any condition or requirement of a
6 sentence, a community corrections officer may arrest or cause the
7 arrest of the offender without a warrant, pending a determination by
8 the court or (~~a department of corrections hearing officer~~) by the
9 department. If there is reasonable cause to believe that an offender
10 has violated a condition or requirement of the sentence, a community
11 corrections officer may require an offender to submit to a search and
12 seizure of the offender's person, residence, automobile, or other
13 personal property.

14 (2) For the safety and security of department staff, an offender
15 may be required to submit to pat searches, or other limited security
16 searches, by community corrections officers, correctional officers, and
17 other agency approved staff, without reasonable cause, when in or on
18 department premises, grounds, or facilities, or while preparing to
19 enter department premises, grounds, facilities, or vehicles. Pat
20 searches of offenders shall be conducted only by staff who are the same
21 gender as the offender, except in emergency situations.

22 (3) A community corrections officer may also arrest an offender for
23 any crime committed in his or her presence. The facts and
24 circumstances of the conduct of the offender shall be reported by the
25 community corrections officer, with recommendations, to the court (~~or~~
26 ~~department of corrections hearing officer~~), local law enforcement, or
27 local prosecution for consideration of new charges. The community
28 corrections officer's report shall serve as the notice that the
29 department will hold the offender for not more than three days from the

1 time of such notice for the new crime. This does not affect the
2 department's authority under RCW 9.94A.737.

3 If a community corrections officer arrests or causes the arrest of
4 an offender under this section, the offender shall be confined and
5 detained in the county jail of the county in which the offender was
6 taken into custody, and the sheriff of that county shall receive and
7 keep in the county jail, where room is available, all prisoners
8 delivered to the jail by the community corrections officer, and such
9 offenders shall not be released from custody on bail or personal
10 recognizance, except upon approval of the court or authorized
11 department staff, pursuant to a written order.

12 **Sec. 2.** RCW 9.94A.633 and 2010 c 258 s 1 and 2010 c 224 s 12 are
13 each reenacted and amended to read as follows:

14 (1)(a) An offender who violates any condition or requirement of a
15 sentence may be sanctioned by the court with up to sixty days'
16 confinement for each violation or by the department with up to thirty
17 days' confinement as provided in RCW 9.94A.737.

18 (b) In lieu of confinement, an offender may be sanctioned with work
19 release, home detention with electronic monitoring, work crew,
20 community restitution, inpatient treatment, daily reporting, curfew,
21 educational or counseling sessions, supervision enhanced through
22 electronic monitoring, or any other community-based sanctions
23 (~~(available in the community)~~).

24 (2) If an offender was under community custody pursuant to one of
25 the following statutes, the offender may be sanctioned as follows:

26 (a) If the offender was transferred to community custody in lieu of
27 earned early release in accordance with RCW 9.94A.728, the offender may
28 be transferred to a more restrictive confinement status to serve up to
29 the remaining portion of the sentence, less credit for any period
30 actually spent in community custody or in detention awaiting
31 disposition of an alleged violation.

32 (b) If the offender was sentenced under the drug offender
33 sentencing alternative set out in RCW 9.94A.660, the offender may be
34 sanctioned in accordance with that section.

35 (c) If the offender was sentenced under the parenting sentencing
36 alternative set out in RCW 9.94A.655, the offender may be sanctioned in
37 accordance with that section.

1 (d) If the offender was sentenced under the special sex offender
2 sentencing alternative set out in RCW 9.94A.670, the suspended sentence
3 may be revoked and the offender committed to serve the original
4 sentence of confinement.

5 (e) If the offender was sentenced to a work ethic camp pursuant to
6 RCW 9.94A.690, the offender may be reclassified to serve the unexpired
7 term of his or her sentence in total confinement.

8 (f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the
9 offender may be transferred to a more restrictive confinement status to
10 serve up to the remaining portion of the sentence, less credit for any
11 period actually spent in community custody or in detention awaiting
12 disposition of an alleged violation.

13 (3) If a probationer is being supervised by the department pursuant
14 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be
15 sanctioned pursuant to subsection (1) of this section. The department
16 shall have authority to issue a warrant for the arrest of an offender
17 who violates a condition of community custody, as provided in RCW
18 9.94A.716. Any sanctions shall be imposed by the department pursuant
19 to RCW 9.94A.737. ~~((The department shall provide a copy of the
20 violation hearing report to the sentencing court in a timely manner.))~~
21 Nothing in this subsection is intended to limit the power of the
22 sentencing court to respond to a probationer's violation of conditions.

23 (4) The parole or probation of an offender who is charged with a
24 new felony offense may be suspended and the offender placed in total
25 confinement pending disposition of the new criminal charges if:

26 (a) The offender is on parole pursuant to RCW 9.95.110(1); or

27 (b) The offender is being supervised pursuant to RCW 9.94A.745 and
28 is on parole or probation pursuant to the laws of another state.

29 **Sec. 3.** RCW 9.94A.704 and 2009 c 375 s 6 are each amended to read
30 as follows:

31 (1) Every person who is sentenced to a period of community custody
32 shall report to and be placed under the supervision of the department,
33 subject to RCW 9.94A.501.

34 (2)(a) The department shall assess the offender's risk of reoffense
35 and may establish and modify additional conditions of community custody
36 based upon the risk to community safety.

1 (b) Within the funds available for community custody, the
2 department shall determine conditions on the basis of risk to community
3 safety, and shall supervise offenders during community custody on the
4 basis of risk to community safety and conditions imposed by the court.
5 The secretary shall adopt rules to implement the provisions of this
6 subsection (2)(b).

7 (3) If the offender is supervised by the department, the department
8 shall at a minimum instruct the offender to:

9 (a) Report as directed to a community corrections officer;

10 (b) Remain within prescribed geographical boundaries;

11 (c) Notify the community corrections officer of any change in the
12 offender's address or employment;

13 (d) Pay the supervision fee assessment; and

14 (e) Disclose the fact of supervision to any mental health or
15 chemical dependency treatment provider, as required by RCW 9.94A.722.

16 (4) The department may require the offender to participate in
17 rehabilitative programs, or otherwise perform affirmative conduct, and
18 to obey all laws.

19 (5) If the offender was sentenced pursuant to a conviction for a
20 sex offense, the department may impose electronic monitoring. Within
21 the resources made available by the department for this purpose, the
22 department shall carry out any electronic monitoring using the most
23 appropriate technology given the individual circumstances of the
24 offender. As used in this section, "electronic monitoring" means the
25 monitoring of an offender using an electronic offender tracking system
26 including, but not limited to, a system using radio frequency or active
27 or passive global positioning system technology.

28 (6) The department may not impose conditions that are contrary to
29 those ordered by the court and may not contravene or decrease court-
30 imposed conditions.

31 (7)(a) The department shall notify the offender in writing of any
32 additional conditions or modifications.

33 (b) By the close of the next business day after receiving notice of
34 a condition imposed or modified by the department, an offender may
35 request an administrative review under rules adopted by the department.
36 The condition shall remain in effect unless the reviewing officer finds
37 that it is not reasonably related to the crime of conviction, the
38 offender's risk of reoffending, or the safety of the community.

1 (8) The department shall notify the offender in writing upon
2 community custody intake of the department's violation process.

3 (9) The department may require offenders to pay for special
4 services rendered including electronic monitoring, day reporting, and
5 telephone reporting, dependent on the offender's ability to pay. The
6 department may pay for these services for offenders who are not able to
7 pay.

8 (~~(+9)~~) (10)(a) When a sex offender has been sentenced pursuant to
9 RCW 9.94A.507, the department shall assess the offender's risk of
10 recidivism and shall recommend to the board any additional or modified
11 conditions based upon the offender's risk to community safety and may
12 recommend affirmative conduct or electronic monitoring consistent with
13 subsections (4) through (6) of this section.

14 (b) The board may impose conditions in addition to court-ordered
15 conditions. The board must consider and may impose department-
16 recommended conditions.

17 (c) By the close of the next business day, after receiving notice
18 of a condition imposed by the board or the department, an offender may
19 request an administrative hearing under rules adopted by the board.
20 The condition shall remain in effect unless the hearing examiner finds
21 that it is not reasonably related to any of the following:

- 22 (i) The crime of conviction;
- 23 (ii) The offender's risk of reoffending;
- 24 (iii) The safety of the community.

25 (d) If the department finds that an emergency exists requiring the
26 immediate imposition of additional conditions in order to prevent the
27 offender from committing a crime, the department may impose such
28 conditions. The department may not impose conditions that are contrary
29 to those set by the board or the court and may not contravene or
30 decrease court-imposed or board-imposed conditions. Conditions imposed
31 under this subsection shall take effect immediately after notice to the
32 offender by personal service, but shall not remain in effect longer
33 than seven working days unless approved by the board.

34 (~~(+10)~~) (11) In setting, modifying, and enforcing conditions of
35 community custody, the department shall be deemed to be performing a
36 quasi-judicial function.

1 **Sec. 4.** RCW 9.94A.706 and 2008 c 231 s 11 are each amended to read
2 as follows:

3 (1) No offender sentenced to a term of community custody under the
4 supervision of the department may own, use, or possess firearms ~~((or))~~,
5 ammunition, or explosives. ~~((Offenders who own, use, or are found to~~
6 ~~be in))~~ An offender's actual or constructive possession of firearms
7 ~~((or))~~, ammunition, or explosives shall be ~~((subject to the violation~~
8 ~~process and))~~ reported to local law enforcement or local prosecution
9 for consideration of new charges and subject to sanctions under RCW
10 9.94A.633 ~~((, 9.94A.716, and))~~ or 9.94A.737.

11 (2) For the purposes of this section:

12 (a) "Constructive possession" ~~((as used in this section))~~ means the
13 power and intent to control the firearm ~~((or))~~, ammunition, or
14 explosives.

15 (b) "Explosives" has the same definition as in RCW 46.04.170.

16 (c) "Firearm" ~~((as used in this section))~~ has the same definition
17 as in RCW 9.41.010.

18 **Sec. 5.** RCW 9.94A.714 and 2008 c 231 s 16 are each amended to read
19 as follows:

20 (1) ~~((If an offender has not completed his or her maximum term of~~
21 ~~total confinement and is subject to a third violation hearing pursuant~~
22 ~~to RCW 9.94A.737 for any violation of community custody and is found to~~
23 ~~have committed the violation, the department shall return the offender~~
24 ~~to total confinement in a state correctional facility to serve up to~~
25 ~~the remaining portion of his or her sentence, unless it is determined~~
26 ~~that returning the offender to a state correctional facility would~~
27 ~~substantially interfere with the offender's ability to maintain~~
28 ~~necessary community supports or to participate in necessary treatment~~
29 ~~or programming and would substantially increase the offender's~~
30 ~~likelihood of reoffending.~~

31 ~~(2))~~ The department may work with the Washington association of
32 sheriffs and police chiefs to establish and operate an electronic
33 monitoring program for ~~((low-risk))~~ offenders who violate the terms of
34 their community custody.

35 ~~((3))~~ (2) Local governments, their subdivisions and employees,
36 the department and its employees, and the Washington association of
37 sheriffs and police chiefs and its employees are immune from civil

1 liability for damages arising from incidents involving ((low-risk))
2 offenders who are placed on electronic monitoring unless it is shown
3 that an employee acted with gross negligence or bad faith.

4 **Sec. 6.** RCW 9.94A.716 and 2008 c 231 s 21 are each amended to read
5 as follows:

6 (1) The secretary may issue warrants for the arrest of any offender
7 who violates a condition of community custody. The arrest warrants
8 shall authorize any law enforcement or peace officer or community
9 corrections officer of this state or any other state where such
10 offender may be located, to arrest the offender and place him or her in
11 total confinement pending disposition of the alleged violation pursuant
12 to RCW 9.94A.633.

13 (2) A community corrections officer, if he or she has reasonable
14 cause to believe an offender has violated a condition of community
15 custody, may suspend the person's community custody status and arrest
16 or cause the arrest and detention in total confinement of the offender,
17 pending the determination of the secretary as to whether the violation
18 has occurred. The community corrections officer shall report to the
19 secretary all facts and circumstances and the reasons for the action of
20 suspending community custody status.

21 (3) If an offender has been arrested by the department for a new
22 felony offense while under community custody, ~~the ((department shall~~
23 ~~hold the offender in total confinement until a hearing before the~~
24 ~~department as provided in this section or until the offender has been~~
25 ~~formally charged for the new felony offense, whichever is earlier))~~
26 facts and circumstances of the conduct of the offender shall be
27 reported by the community corrections officer to local law enforcement
28 or local prosecution for consideration of new charges. The community
29 corrections officer's report shall serve as notice that the department
30 will hold the offender in total confinement for not more than three
31 days from the time of such notice for the new crime. Nothing in this
32 subsection shall be construed as to permit the department to hold an
33 offender past his or her maximum term of total confinement if the
34 offender has not completed the maximum term of total confinement or to
35 permit the department to hold an offender past the offender's term of
36 community custody.

1 (4) A violation of a condition of community custody shall be deemed
2 a violation of the sentence for purposes of RCW 9.94A.631. The
3 authority granted to community corrections officers under this section
4 shall be in addition to that set forth in RCW 9.94A.631.

5 **Sec. 7.** RCW 9.94A.737 and 2008 c 231 s 20 are each amended to read
6 as follows:

7 (1) If an offender is accused of violating any condition or
8 requirement of community custody, ~~((he or she is entitled to a hearing
9 before the department prior to the imposition of sanctions. The
10 hearing shall be considered as))~~ the department shall address the
11 violation behavior. The department may hold offender disciplinary
12 proceedings ~~((and shall))~~ not ~~((be))~~ subject to chapter 34.05 RCW. The
13 department shall ~~((develop hearing procedures and a structure of
14 graduated sanctions))~~ notify the offender in writing of the violation
15 process.

16 (2) ~~((The hearing procedures required under subsection (1) of this
17 section shall be developed by rule and include the following:))~~ (a) The
18 offender's violation behavior shall determine the sanction the
19 department imposes. The department shall adopt rules creating a
20 structured violation process that includes presumptive sanctions,
21 aggravating and mitigating factors, and definitions for low level
22 violations and high level violations.

23 (b)(i) The department must define aggravating factors that indicate
24 the offender may present a current and ongoing foreseeable risk and
25 which therefore, elevate an offender's behavior to a high level
26 violation process.

27 (ii) The state and its officers, agents, and employees may not be
28 held criminally or civilly liable for a decision to elevate or not to
29 elevate an offender's behavior to a high level violation process under
30 this subsection unless the state or its officers, agents, and employees
31 acted with reckless disregard.

32 (3) The department may intervene when an offender commits a low
33 level violation as follows:

34 (a) For a first low level violation, the department may sanction
35 the offender to one or more nonconfinement sanctions.

36 (b) For a second or subsequent low level violation, the department

1 may sanction the offender to not more than three days in total
2 confinement.

3 (i) The department shall develop rules to ensure that each offender
4 subject to a short term confinement sanction is provided the
5 opportunity to respond to the alleged violation prior to imposition of
6 total confinement.

7 (ii) The offender may appeal the short term confinement sanction to
8 a panel of three reviewing officers designated by the secretary or by
9 the secretary's designee. The offender's appeal must be in writing and
10 hand-delivered to department staff, or postmarked, within seven days
11 after the sanction is imposed.

12 (4) If an offender is accused of committing a high level violation,
13 the department may sanction the offender to not more than thirty days
14 in total confinement per hearing.

15 (a) The offender is entitled to a hearing prior to the imposition
16 of sanctions; and

17 (b) The offender may be held in total confinement pending a
18 sanction hearing. Prehearing time served must be credited to the
19 offender's sanction time.

20 (5) The department shall adopt rules creating hearing procedures
21 for high level violations. The hearings are offender disciplinary
22 proceedings and are not subject to chapter 34.05 RCW. The procedures
23 shall include the following:

24 ~~(a) ((Hearing officers shall report through a chain of command~~
25 ~~separate from that of community corrections officers;~~

26 ~~(b))~~ The department shall provide the offender with written notice
27 of the alleged violation((7)) and the evidence ((~~relied upon, and the~~
28 ~~reasons the particular sanction was imposed)) supporting it. The
29 notice ((~~shall~~)) must include a statement of the rights specified in
30 this subsection, and the offender's right to file a personal restraint
31 petition under court rules after the final decision ((~~of the~~
32 ~~department));~~~~

33 ~~((c) The hearing shall be held))~~ (b) Unless ((~~waived by~~)) the
34 offender waives the right to a hearing, the department shall hold a
35 hearing, and shall ((be)) record it electronically ((~~recorded~~)). For
36 offenders not in total confinement, the department shall hold a hearing
37 ((~~shall be held~~)) within fifteen ((~~working~~)) business days, but not
38 less than twenty-four hours, after written notice of the alleged

1 violation. For offenders in total confinement, the department shall
2 hold a hearing (~~((shall be held))~~) within five (~~((working))~~) business days,
3 but not less than twenty-four hours, after written notice of the
4 alleged violation;

5 ~~((+d))~~ (c) The offender shall have the right to: (i) Be present
6 at the hearing; (ii) have the assistance of a person qualified to
7 assist the offender in the hearing, appointed by the hearing officer if
8 the offender has a language or communications barrier; (iii) testify or
9 remain silent; (iv) call witnesses and present documentary evidence;
10 ~~((and))~~ (v) question witnesses who appear and testify; and (vi) receive
11 a written summary of the reasons for the hearing officer's decision;
12 and

13 ~~((+e))~~ (d) The sanction shall take effect if affirmed by the
14 hearing officer. (~~((Within seven days after the hearing officer's~~
15 ~~decision, the offender may appeal the decision))~~) The offender may
16 appeal the sanction to a panel of three reviewing officers designated
17 by the secretary or by the secretary's designee. The offender's appeal
18 must be in writing and hand-delivered to department staff, or
19 postmarked, within seven days after the sanction was imposed. The
20 ~~((sanction shall be reversed or modified))~~ appeals panel shall affirm,
21 reverse, modify, vacate, or remand based on its findings. If a
22 majority of the panel finds that the sanction was not reasonably
23 related to any of the following: (i) The crime of conviction; (ii) the
24 violation committed; (iii) the offender's risk of reoffending; or (iv)
25 the safety of the community, then the panel will reverse, vacate,
26 remand, or modify the sanction.

27 ~~((+3))~~ (6) For purposes of this section, (~~((no finding of a~~
28 ~~violation of conditions may be based on unconfirmed or unconfirmable~~
29 ~~allegations))~~) the hearings officer may not rely on unconfirmed or
30 unconfirmable allegations to find that the offender violated a
31 condition.

32 (7) Hearing officers shall report through a chain of command
33 separate from that of community corrections officers.

34 **Sec. 8.** RCW 9.94A.740 and 2008 c 231 s 22 are each amended to read
35 as follows:

36 (1) When an offender is arrested pursuant to RCW 9.94A.631 or

1 9.94A.716, the department shall compensate the local jurisdiction at
2 the office of financial management's adjudicated rate, in accordance
3 with RCW 70.48.440, until the department releases its detainer.

4 (2) Inmates, as defined in RCW 72.09.015, who have been transferred
5 to community custody and who are detained in a local correctional
6 facility are the financial responsibility of the department of
7 corrections, except as provided in subsection (3) of this section.

8 (3) For confinement sanctions imposed by the department under RCW
9 9.94A.670, the local correctional facility shall be financially
10 responsible.

11 (4) The department, in consultation with the Washington association
12 of sheriffs and police chiefs and those counties in which the sheriff
13 does not operate a correctional facility, shall establish a methodology
14 for determining the department's local correctional facilities bed
15 utilization rate, for each county in calendar year 1998, for offenders
16 being held for violations of conditions of community custody.

17 (5) Except as provided in subsections (1) and (2) of this section,
18 the local correctional facility shall continue to be financially
19 responsible to the extent of the calendar year 1998 bed utilization
20 rate for confinement sanctions imposed by the department pursuant to
21 RCW 9.94A.737. If the department's use of bed space in local
22 correctional facilities of any county for such confinement sanctions
23 exceeds the 1998 bed utilization rate for the county, the department
24 shall compensate the county for the excess use at the per diem rate
25 equal to the lowest rate charged by the county under its contract with
26 a municipal government during the year in which the use occurs.

27 **Sec. 9.** RCW 9.95.210 and 2011 1st sp.s. c 40 s 7 are each amended
28 to read as follows:

29 (1) In granting probation, the superior court may suspend the
30 imposition or the execution of the sentence and may direct that the
31 suspension may continue upon such conditions and for such time as it
32 shall designate, not exceeding the maximum term of sentence or two
33 years, whichever is longer.

34 (2) In the order granting probation and as a condition thereof, the
35 superior court may in its discretion imprison the defendant in the
36 county jail for a period not exceeding one year and may fine the
37 defendant any sum not exceeding the statutory limit for the offense

1 committed, and court costs. As a condition of probation, the superior
2 court shall require the payment of the penalty assessment required by
3 RCW 7.68.035. The superior court may also require the defendant to
4 make such monetary payments, on such terms as it deems appropriate
5 under the circumstances, as are necessary: (a) To comply with any
6 order of the court for the payment of family support; (b) to make
7 restitution to any person or persons who may have suffered loss or
8 damage by reason of the commission of the crime in question or when the
9 offender pleads guilty to a lesser offense or fewer offenses and agrees
10 with the prosecutor's recommendation that the offender be required to
11 pay restitution to a victim of an offense or offenses which are not
12 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
13 imposed and court costs, including reimbursement of the state for costs
14 of extradition if return to this state by extradition was required; (d)
15 following consideration of the financial condition of the person
16 subject to possible electronic monitoring, to pay for the costs of
17 electronic monitoring if that monitoring was required by the court as
18 a condition of release from custody or as a condition of probation; (e)
19 to contribute to a county or interlocal drug fund; and (f) to make
20 restitution to a public agency for the costs of an emergency response
21 under RCW 38.52.430, and may require bonds for the faithful observance
22 of any and all conditions imposed in the probation.

23 (3) The superior court shall order restitution in all cases where
24 the victim is entitled to benefits under the crime victims'
25 compensation act, chapter 7.68 RCW. If the superior court does not
26 order restitution and the victim of the crime has been determined to be
27 entitled to benefits under the crime victims' compensation act, the
28 department of labor and industries, as administrator of the crime
29 victims' compensation program, may petition the superior court within
30 one year of imposition of the sentence for entry of a restitution
31 order. Upon receipt of a petition from the department of labor and
32 industries, the superior court shall hold a restitution hearing and
33 shall enter a restitution order.

34 (4) In granting probation, the superior court may order the
35 probationer to report to the secretary of corrections or such officer
36 as the secretary may designate and as a condition of the probation to
37 follow the instructions of the secretary for up to twelve months. If
38 the county legislative authority has elected to assume responsibility

1 for the supervision of superior court misdemeanor probationers within
2 its jurisdiction, the superior court misdemeanor probationer shall
3 report to a probation officer employed or contracted for by the county.
4 In cases where a superior court misdemeanor probationer is sentenced
5 in one county, but resides within another county, there must be
6 provisions for the probationer to report to the agency having
7 supervision responsibility for the probationer's county of residence.

8 (5) If the probationer has been ordered to make restitution and the
9 superior court has ordered supervision, the officer supervising the
10 probationer shall make a reasonable effort to ascertain whether
11 restitution has been made. If the superior court has ordered
12 supervision and restitution has not been made as ordered, the officer
13 shall inform the prosecutor of that violation of the terms of probation
14 not less than three months prior to the termination of the probation
15 period. The secretary of corrections will promulgate rules and
16 regulations for the conduct of the person during the term of probation.
17 For defendants found guilty in district court, like functions as the
18 secretary performs in regard to probation may be performed by probation
19 officers employed for that purpose by the county legislative authority
20 of the county wherein the court is located.

21 (6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
22 sentences imposed under this section.

23 **Sec. 10.** RCW 9.95.210 and 2012 c 183 s 4 are each amended to read
24 as follows:

25 (1)(a) Except as provided in (b) of this subsection in granting
26 probation, the superior court may suspend the imposition or the
27 execution of the sentence and may direct that the suspension may
28 continue upon such conditions and for such time as it shall designate,
29 not exceeding the maximum term of sentence or two years, whichever is
30 longer.

31 (b) For a defendant sentenced under RCW 46.61.5055, the superior
32 court may suspend the imposition or the execution of the sentence and
33 may direct that the suspension continue upon such conditions and for
34 such time as the court shall designate, not to exceed five years. The
35 court shall have continuing jurisdiction and authority to suspend the
36 execution of all or any part of the sentence upon stated terms,
37 including installment payment of fines. A defendant who has been

1 sentenced, and who then fails to appear for any hearing to address the
2 defendant's compliance with the terms of probation when ordered to do
3 so by the court shall have the term of probation tolled until such time
4 as the defendant makes his or her presence known to the court on the
5 record. Any time before entering an order terminating probation, the
6 court may modify or revoke its order suspending the imposition or
7 execution of the sentence if the defendant violates or fails to carry
8 out any of the conditions of the suspended sentence.

9 (2) In the order granting probation and as a condition thereof, the
10 superior court may in its discretion imprison the defendant in the
11 county jail for a period not exceeding one year and may fine the
12 defendant any sum not exceeding the statutory limit for the offense
13 committed, and court costs. As a condition of probation, the superior
14 court shall require the payment of the penalty assessment required by
15 RCW 7.68.035. The superior court may also require the defendant to
16 make such monetary payments, on such terms as it deems appropriate
17 under the circumstances, as are necessary: (a) To comply with any
18 order of the court for the payment of family support; (b) to make
19 restitution to any person or persons who may have suffered loss or
20 damage by reason of the commission of the crime in question or when the
21 offender pleads guilty to a lesser offense or fewer offenses and agrees
22 with the prosecutor's recommendation that the offender be required to
23 pay restitution to a victim of an offense or offenses which are not
24 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
25 imposed and court costs, including reimbursement of the state for costs
26 of extradition if return to this state by extradition was required; (d)
27 following consideration of the financial condition of the person
28 subject to possible electronic monitoring, to pay for the costs of
29 electronic monitoring if that monitoring was required by the court as
30 a condition of release from custody or as a condition of probation; (e)
31 to contribute to a county or interlocal drug fund; and (f) to make
32 restitution to a public agency for the costs of an emergency response
33 under RCW 38.52.430, and may require bonds for the faithful observance
34 of any and all conditions imposed in the probation.

35 (3) The superior court shall order restitution in all cases where
36 the victim is entitled to benefits under the crime victims'
37 compensation act, chapter 7.68 RCW. If the superior court does not
38 order restitution and the victim of the crime has been determined to be

1 entitled to benefits under the crime victims' compensation act, the
2 department of labor and industries, as administrator of the crime
3 victims' compensation program, may petition the superior court within
4 one year of imposition of the sentence for entry of a restitution
5 order. Upon receipt of a petition from the department of labor and
6 industries, the superior court shall hold a restitution hearing and
7 shall enter a restitution order.

8 (4) In granting probation, the superior court may order the
9 probationer to report to the secretary of corrections or such officer
10 as the secretary may designate and as a condition of the probation to
11 follow the instructions of the secretary for up to twelve months. If
12 the county legislative authority has elected to assume responsibility
13 for the supervision of superior court misdemeanor probationers within
14 its jurisdiction, the superior court misdemeanor probationer shall
15 report to a probation officer employed or contracted for by the county.
16 In cases where a superior court misdemeanor probationer is sentenced
17 in one county, but resides within another county, there must be
18 provisions for the probationer to report to the agency having
19 supervision responsibility for the probationer's county of residence.

20 (5) If the probationer has been ordered to make restitution and the
21 superior court has ordered supervision, the officer supervising the
22 probationer shall make a reasonable effort to ascertain whether
23 restitution has been made. If the superior court has ordered
24 supervision and restitution has not been made as ordered, the officer
25 shall inform the prosecutor of that violation of the terms of probation
26 not less than three months prior to the termination of the probation
27 period. The secretary of corrections will promulgate rules and
28 regulations for the conduct of the person during the term of probation.
29 For defendants found guilty in district court, like functions as the
30 secretary performs in regard to probation may be performed by probation
31 officers employed for that purpose by the county legislative authority
32 of the county wherein the court is located.

33 (6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
34 sentences imposed under this section.

35 NEW SECTION. **Sec. 11.** (1)(a) Research shows that traditional
36 mechanisms of surveillance-based supervision and sanctioning are
37 ineffective in reducing recidivism or improving public safety. The

1 legislature is persuaded by recent studies showing that swift and
2 certain sanctions, in combination with treatment-based interventions
3 that address chemical dependency and criminogenic behaviors, are a more
4 effective and efficient use of public resources to affect future crime.

5 (b) Notwithstanding, this is a new approach for Washington. It is
6 imperative to the success of the state's system of offender supervision
7 that the department of corrections be vigilant in:

8 (i) Monitoring the quality and consistency of applying swift and
9 certain sanctions across the state;

10 (ii) Ensuring that sanctions are commensurate with identified
11 behaviors and, to the extent possible, produce satisfactory results;

12 (iii) Applying evidence-based treatment and evaluation principles
13 to address offenders' criminogenic and chemical dependency needs and
14 therefore pairing the offender with the appropriate treatment; and

15 (iv) Maintaining good relations and open communication with law
16 enforcement to assist in identifying offenders that pose the greatest
17 risk to public safety.

18 (2) In implementing the provisions of this act, the department of
19 corrections is directed to:

20 (a) Form stakeholder groups, that may include but are not limited
21 to local community corrections officers, law enforcement, prosecuting
22 attorneys, superior court judges, chemical dependency treatment and
23 other community providers, and victim advocates;

24 (b) Within available resources, provide inpatient or outpatient
25 chemical dependency treatment to offenders initially assessed as in
26 need of treatment based on an evaluation of the offender's needs by a
27 certified staff or chemical dependency provider utilizing evidence-
28 based tools for evaluation;

29 (c) Perform outreach to the criminal justice training commission
30 and local law enforcement agencies to ensure law enforcement is
31 informed of changes in procedures for holding offenders pending the
32 filing of charges for a new crime and establish ongoing channels of
33 communication with local law enforcement for conveying information
34 about individual offenders who have committed new crimes;

35 (d) Survey community corrections officers on a periodic basis to
36 gather input and suggestions.

37 (3) The department shall report to the governor, appropriate
38 committees of the legislature, and the stakeholder groups as identified

1 in subsection (2)(a) of this section on its progress and activities in
2 implementing this act, steps taken to improve the efficacy of chemical
3 dependency treatment, evidence of outcomes achieved as reported by
4 providers through submission of performance measure data, and including
5 any recommended changes in legislation, no later than December 1, 2012,
6 and December 1, 2013.

7 (4) This section expires December 31, 2013.

8 NEW SECTION. **Sec. 12.** This act applies retroactively and
9 prospectively regardless of the date of an offender's underlying
10 offense.

11 NEW SECTION. **Sec. 13.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 14.** Section 2 of this act is necessary for the
16 immediate preservation of the public peace, health, or safety, or
17 support of the state government and its existing public institutions,
18 and takes effect immediately.

19 NEW SECTION. **Sec. 15.** Sections 1, 3 through 9, and 11 through 14
20 of this act are necessary for the immediate preservation of the public
21 peace, health, or safety, or support of the state government and its
22 existing public institutions, and take effect June 1, 2012.

23 NEW SECTION. **Sec. 16.** Section 9 of this act expires August 1,
24 2012.

25 NEW SECTION. **Sec. 17.** Section 10 of this act takes effect August
26 1, 2012."

E2SSB 6204 - S AMD

By Senators Hargrove, Carrell

ADOPTED 04/06/2012

1 On page 1, line 1 of the title, after "supervision;" strike the
2 remainder of the title and insert "amending RCW 9.94A.631, 9.94A.704,
3 9.94A.706, 9.94A.714, 9.94A.716, 9.94A.737, 9.94A.740, 9.95.210, and
4 9.95.210; reenacting and amending RCW 9.94A.633; creating new sections;
5 providing effective dates; providing expiration dates; and declaring an
6 emergency."

--- END ---