
HOUSE BILL 2206

State of Washington

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By Representatives Takko and Jenkins

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1 AN ACT Relating to possession or use of alcohol, cannabis products,
2 and controlled substances in sentencing provisions; amending RCW
3 9.94A.505 and 9.94A.607; and reenacting and amending RCW 9.94A.703.

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

5 **Sec. 1.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to read
6 as follows:

7 (1) When a person is convicted of a felony, the court shall impose
8 punishment as provided in this chapter.

9 (2)(a) The court shall impose a sentence as provided in the
10 following sections and as applicable in the case:

11 (i) Unless another term of confinement applies, a sentence within
12 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

13 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

14 (iii) RCW 9.94A.570, relating to persistent offenders;

15 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

16 (v) RCW 9.94A.650, relating to the first-time offender waiver;

17 (vi) RCW 9.94A.660, relating to the drug offender sentencing
18 alternative;

1 (vii) RCW 9.94A.670, relating to the special sex offender
2 sentencing alternative;

3 (viii) RCW 9.94A.655, relating to the parenting sentencing
4 alternative;

5 (ix) RCW 9.94A.507, relating to certain sex offenses;

6 (x) RCW 9.94A.535, relating to exceptional sentences;

7 (xi) RCW 9.94A.589, relating to consecutive and concurrent
8 sentences;

9 (xii) RCW 9.94A.603, relating to felony driving while under the
10 influence of intoxicating liquor or any drug and felony physical
11 control of a vehicle while under the influence of intoxicating liquor
12 or any drug.

13 (b) If a standard sentence range has not been established for the
14 offender's crime, the court shall impose a determinate sentence which
15 may include not more than one year of confinement; community
16 restitution work; a term of community custody under RCW 9.94A.702 not
17 to exceed one year; and/or other legal financial obligations. The
18 court may impose a sentence which provides more than one year of
19 confinement and a community custody term under RCW 9.94A.701 if the
20 court finds reasons justifying an exceptional sentence as provided in
21 RCW 9.94A.535.

22 (3) If the court imposes a sentence requiring confinement of thirty
23 days or less, the court may, in its discretion, specify that the
24 sentence be served on consecutive or intermittent days. A sentence
25 requiring more than thirty days of confinement shall be served on
26 consecutive days. Local jail administrators may schedule court-ordered
27 intermittent sentences as space permits.

28 (4) If a sentence imposed includes payment of a legal financial
29 obligation, it shall be imposed as provided in RCW 9.94A.750,
30 9.94A.753, 9.94A.760, and 43.43.7541.

31 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
32 court may not impose a sentence providing for a term of confinement or
33 community custody that exceeds the statutory maximum for the crime as
34 provided in chapter 9A.20 RCW.

35 (6) The sentencing court shall give the offender credit for all
36 confinement time served before the sentencing if that confinement was
37 solely in regard to the offense for which the offender is being
38 sentenced.

1 (7) The court shall order restitution as provided in RCW 9.94A.750
2 and 9.94A.753.

3 (8) As a part of any sentence, the court may impose and enforce
4 crime-related prohibitions and affirmative conditions as provided in
5 this chapter. "Crime-related prohibitions" may include a prohibition
6 on the use or possession of alcohol, cannabis products, or controlled
7 substances if the court finds that any chemical dependency or substance
8 abuse contributed to the offense.

9 (9) In any sentence of partial confinement, the court may require
10 the offender to serve the partial confinement in work release, in a
11 program of home detention, on work crew, or in a combined program of
12 work crew and home detention.

13 **Sec. 2.** RCW 9.94A.607 and 1999 c 197 s 2 are each amended to read
14 as follows:

15 (1) Where the court finds that the offender has ((a)) any chemical
16 dependency that has contributed to his or her offense, the court may,
17 as a condition of the sentence and subject to available resources,
18 order the offender to participate in rehabilitative programs or
19 otherwise to perform affirmative conduct reasonably related to the
20 circumstances of the crime for which the offender has been convicted
21 and reasonably necessary or beneficial to the offender and the
22 community in rehabilitating the offender. A rehabilitative program may
23 include a directive that the offender obtain an evaluation as to the
24 need for chemical dependency treatment related to the use of alcohol,
25 cannabis products, or controlled substances, regardless of the
26 particular substance that contributed to the commission of the offense.
27 The court may also impose a prohibition on the use or possession of
28 alcohol, cannabis products, or controlled substances regardless of
29 whether a chemical dependency evaluation is ordered.

30 (2) This section applies to sentences which include any term other
31 than, or in addition to, a term of total confinement, including
32 suspended sentences.

33 **Sec. 3.** RCW 9.94A.703 and 2009 c 214 s 3 and 2009 c 28 s 11 are
34 each reenacted and amended to read as follows:

35 When a court sentences a person to a term of community custody, the

1 court shall impose conditions of community custody as provided in this
2 section.

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

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

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

9 (c) If the offender was sentenced under RCW 9.94A.507 for an
10 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense
11 was under eighteen years of age at the time of the offense, prohibit
12 the offender from residing in a community protection zone;

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

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

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

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

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

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

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

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

29 (a) Remain within, or outside of, a specified geographical
30 boundary;

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

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

34 (d) Participate in rehabilitative programs or otherwise perform
35 affirmative conduct reasonably related to the circumstances of the
36 offense, the offender's risk of reoffending, or the safety of the
37 community;

1 (e) Refrain from possessing or consuming alcohol or cannabis
2 products; or

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

4 (4) **Special conditions.**

5 (a) In sentencing an offender convicted of a crime of domestic
6 violence, as defined in RCW 10.99.020, if the offender has a minor
7 child, or if the victim of the offense for which the offender was
8 convicted has a minor child, the court may order the offender to
9 participate in a domestic violence perpetrator program approved under
10 RCW 26.50.150.

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

29 (ii) For purposes of this section, "alcohol or drug-related traffic
30 offense" means the following: Driving while under the influence as
31 defined by RCW 46.61.502, actual physical control while under the
32 influence as defined by RCW 46.61.504, vehicular homicide as defined by
33 RCW 46.61.520(1)(a), vehicular assault as defined by RCW
34 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050,
35 or assault by watercraft as defined by RCW 79A.60.060.

36 (iii) This subsection (4)(b) does not require the department of
37 social and health services to add new treatment or assessment

1 facilities nor affect its use of existing programs and facilities
2 authorized by law.

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