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SENATE BILL 6069

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Rivers, Darneille, King, Litzow, Fain, Becker, Kohl-  
Welles, Roach, and Brown

Read first time 01/15/14. Referred to Committee on Human Services &  
Corrections.

1 AN ACT Relating to community custody conditions for sex offenders;  
2 and amending RCW 9.94A.704 and 72.09.340.

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

4 **Sec. 1.** RCW 9.94A.704 and 2012 1st sp.s. c 6 s 3 are each amended  
5 to read as follows:

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

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

12 (b) Within the funds available for community custody, the  
13 department shall determine conditions on the basis of risk to community  
14 safety, and shall supervise offenders during community custody on the  
15 basis of risk to community safety and conditions imposed by the court.  
16 The secretary shall adopt rules to implement the provisions of this  
17 subsection (2)(b).

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

- 1 (a) Report as directed to a community corrections officer;  
2 (b) Remain within prescribed geographical boundaries;  
3 (c) Notify the community corrections officer of any change in the  
4 offender's address or employment;  
5 (d) Pay the supervision fee assessment; and  
6 (e) Disclose the fact of supervision to any mental health or  
7 chemical dependency treatment provider, as required by RCW 9.94A.722.

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

11 (5) If the offender was sentenced pursuant to a conviction for a  
12 sex offense, the department may:

13 (a) Require the offender to refrain from direct or indirect contact  
14 with the victim of the crime or a specified class of individuals. If  
15 a victim or an immediate family member of a victim has requested that  
16 the offender not contact him or her after notice as provided in RCW  
17 72.09.340, the department shall require the offender to refrain from  
18 contact with the requestor. Where the victim is a minor, the parent or  
19 guardian of the victim may make a request on the victim's behalf.

20 (b) Impose electronic monitoring. Within the resources made  
21 available by the department for this purpose, the department shall  
22 carry out any electronic monitoring using the most appropriate  
23 technology given the individual circumstances of the offender. As used  
24 in this section, "electronic monitoring" means the monitoring of an  
25 offender using an electronic offender tracking system including, but  
26 not limited to, a system using radio frequency or active or passive  
27 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 (10)(a) When a sex offender has been sentenced pursuant to RCW  
9 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. The board must impose a condition requiring  
17 the offender to refrain from contact with the victim or immediate  
18 family member of the victim as provided in subsection (5)(a) of this  
19 section.

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

- 25 (i) The crime of conviction;
- 26 (ii) The offender's risk of reoffending;
- 27 (iii) The safety of the community.

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

37 (11) In setting, modifying, and enforcing conditions of community

1 custody, the department shall be deemed to be performing a  
2 quasi-judicial function.

3 **Sec. 2.** RCW 72.09.340 and 2009 c 28 s 35 are each amended to read  
4 as follows:

5 (1) In making all discretionary decisions regarding release plans  
6 for and supervision of sex offenders, the department shall set  
7 priorities and make decisions based on an assessment of public safety  
8 risks.

9 (2) The department shall(~~(, no later than September 1, 1996,~~  
10 ~~implement))~~ have a policy governing the department's evaluation and  
11 approval of release plans for sex offenders. The policy shall include,  
12 at a minimum, a formal process by which victims, witnesses, and other  
13 interested people may provide information and comments to the  
14 department on potential safety risks to specific individuals or classes  
15 of individuals posed by a specific sex offender. The department shall  
16 make all reasonable efforts to publicize the availability of this  
17 process through currently existing mechanisms and shall seek the  
18 assistance of courts, prosecutors, law enforcement, and victims'  
19 advocacy groups in doing so. Notice of an offender's proposed  
20 residence shall be provided to all people registered to receive notice  
21 of an offender's release under RCW 72.09.712(2), except that in no case  
22 may this notification requirement be construed to require an extension  
23 of an offender's release date.

24 (3)(a) For any offender convicted of a felony sex offense against  
25 a minor victim after June 6, 1996, the department shall not approve a  
26 residence location if the proposed residence: (i) Includes a minor  
27 victim or child of similar age or circumstance as a previous victim who  
28 the department determines may be put at substantial risk of harm by the  
29 offender's residence in the household; or (ii) is within close  
30 proximity of the current residence of a minor victim, unless the  
31 whereabouts of the minor victim cannot be determined or unless such a  
32 restriction would impede family reunification efforts ordered by the  
33 court or directed by the department of social and health services. The  
34 department is further authorized to reject a residence location if the  
35 proposed residence is within close proximity to schools, child care  
36 centers, playgrounds, or other grounds or facilities where children of

1 similar age or circumstance as a previous victim are present who the  
2 department determines may be put at substantial risk of harm by the sex  
3 offender's residence at that location.

4 (b) In addition, for any offender prohibited from living in a  
5 community protection zone under RCW 9.94A.703(1)(c), the department may  
6 not approve a residence location if the proposed residence is in a  
7 community protection zone.

8 (4) At the time of providing notice of a sex offender's proposed  
9 residence as provided in subsection (2) of this section, the department  
10 shall include notice that a victim or immediate family member of a  
11 victim may request that the offender refrain from contacting him or her  
12 as a condition of the offender's community custody if that condition is  
13 not already provided by court order.

14 (5) When the department requires supervised visitation as a term or  
15 condition of a sex offender's community placement under RCW  
16 9.94B.050(6), the department shall, prior to approving a supervisor,  
17 consider the following:

18 (a) The relationships between the proposed supervisor, the  
19 offender, and the minor;

20 (b) The proposed supervisor's acknowledgment and understanding of  
21 the offender's prior criminal conduct, general knowledge of the  
22 dynamics of child sexual abuse, and willingness and ability to protect  
23 the minor from the potential risks posed by contact with the offender;  
24 and

25 (c) Recommendations made by the department of social and health  
26 services about the best interests of the child.

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