
HOUSE BILL 2838

State of Washington

64th Legislature

2016 Regular Session

By Representatives Klippert and Hayes; by request of Department of Corrections

Read first time 01/22/16. Referred to Committee on Public Safety.

1 AN ACT Relating to clarifying the department of corrections'
2 authority to impose conditions prohibiting contact with other
3 persons, even if the offender is not a sex offender; and reenacting
4 and amending RCW 9.94A.704.

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

6 **Sec. 1.** RCW 9.94A.704 and 2015 c 287 s 7 and 2015 c 134 s 8 are
7 each reenacted and amended to read as follows:

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

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

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

20 (3) If the offender is supervised by the department, the
21 department 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,
10 and 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
14 contact with the victim of the crime or immediate family member of
15 the victim of the crime. If a victim or an immediate family member of
16 a victim has requested that the offender not contact him or her after
17 notice as provided in RCW 72.09.340, the department shall require the
18 offender to refrain from contact with the requestor. Where the victim
19 is a minor, the parent or guardian of the victim may make a request
20 on the victim's behalf. This subsection is not intended to reduce the
21 preexisting authority of the department to impose no-contact
22 conditions regardless of the offender's crime and regardless of who
23 is protected by the no-contact condition, where such condition is
24 based on risk to community safety.

25 (b) Impose electronic monitoring. Within the resources made
26 available by the department for this purpose, the department shall
27 carry out any electronic monitoring using the most appropriate
28 technology given the individual circumstances of the offender. As
29 used in this section, "electronic monitoring" has the same meaning as
30 in RCW 9.94A.030.

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

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

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

1 conviction, the offender's risk of reoffending, or the safety of the
2 community.

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

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

10 (10)(a) When an offender on community custody is under the
11 authority of the board, the department shall assess the offender's
12 risk of recidivism and shall recommend to the board any additional or
13 modified conditions based upon the offender's risk to community
14 safety and may recommend affirmative conduct or electronic monitoring
15 consistent with subsections (4) through (6) of this section.

16 (b) The board may impose conditions in addition to court-ordered
17 conditions. The board must consider and may impose department-
18 recommended conditions. The board must impose a condition requiring
19 the offender to refrain from contact with the victim or immediate
20 family member of the victim as provided in subsection (5)(a) of this
21 section.

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

- 28 (i) The crime of conviction;
- 29 (ii) The offender's risk of reoffending;
- 30 (iii) The safety of the community.

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

1 (11) In setting, modifying, and enforcing conditions of community
2 custody, the department shall be deemed to be performing a
3 quasi-judicial function.

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