
SUBSTITUTE SENATE BILL 5226

State of Washington

68th Legislature

2023 Regular Session

By Senate Human Services (originally sponsored by Senators Padden and L. Wilson)

READ FIRST TIME 02/08/23.

1 AN ACT Relating to the department of corrections' duty to ensure
2 public safety by positively changing lives through pursuing open
3 active warrants of persons who have violated the terms of their
4 supervision; and amending RCW 72.09.010, 9.94A.704, and 9.94A.631.

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

6 **Sec. 1.** RCW 72.09.010 and 1995 1st sp.s. c 19 s 2 are each
7 amended to read as follows:

8 It is the intent of the legislature to establish a comprehensive
9 system of corrections for convicted law violators within the state of
10 Washington to accomplish the following objectives.

11 (1) The system should ensure the public safety by positively
12 changing lives. The system should be designed and managed to provide
13 the maximum feasible safety for the persons and property of the
14 general public, the staff, and ~~((the—inmates))~~ those who are
15 incarcerated or under supervision.

16 (2) The system should punish the offender for violating the laws
17 of the state of Washington. This punishment should generally be
18 limited to the denial of liberty of the offender.

19 (3) The system should positively impact offenders by stressing
20 personal responsibility and accountability and by discouraging
21 recidivism.

1 (4) The system should treat all offenders fairly and equitably
2 without regard to race, religion, sex, national origin, residence, or
3 social condition.

4 (5) The system, as much as possible, should reflect the values of
5 the community including:

6 (a) Avoiding idleness. Idleness is not only wasteful but
7 destructive to the individual and to the community.

8 (b) Adoption of the work ethic. It is the community expectation
9 that all individuals should work and through their efforts benefit
10 both themselves and the community.

11 (c) Providing opportunities for self improvement. All individuals
12 should have opportunities to grow and expand their skills and
13 abilities so as to fulfill their role in the community.

14 (d) Linking the receipt or denial of privileges to responsible
15 behavior and accomplishments. The individual who works to improve
16 himself or herself and the community should be rewarded for these
17 efforts. As a corollary, there should be no rewards for no effort.

18 (e) Sharing in the obligations of the community. All citizens,
19 the public and inmates alike, have a personal and fiscal obligation
20 in the corrections system. All communities must share in the
21 responsibility of the corrections system.

22 (6) The system should provide for prudent management of
23 resources. The avoidance of unnecessary or inefficient public
24 expenditures on the part of offenders and the department is
25 essential. Offenders must be accountable to the department, and the
26 department to the public and the legislature. The human and fiscal
27 resources of the community are limited. The management and use of
28 these resources can be enhanced by wise investment, productive
29 programs, the reduction of duplication and waste, and the joining
30 together of all involved parties in a common endeavor. Since most
31 offenders return to the community, it is wise for the state and the
32 communities to make an investment in effective rehabilitation
33 programs for offenders and the wise use of resources.

34 (7) The system should provide for restitution. Those who have
35 damaged others, persons or property, have a responsibility to make
36 restitution for these damages.

37 (8) The system should be accountable to the citizens of the
38 state. In return, the individual citizens and local units of
39 government must meet their responsibilities to make the corrections
40 system effective.

1 (9) The system should meet those national standards which the
2 state determines to be appropriate.

3 **Sec. 2.** RCW 9.94A.704 and 2022 c 29 s 9 are each amended to read
4 as follows:

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

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

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

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

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

20 (b) Remain within prescribed geographical boundaries;

21 (c) Notify the community corrections officer of any change in the
22 offender's address or employment; and

23 (d) Disclose the fact of supervision to any mental health,
24 chemical dependency, or domestic violence treatment provider, as
25 required by RCW 9.94A.722.

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

29 (5) If the offender was sentenced pursuant to a conviction for a
30 sex offense or domestic violence, the department may:

31 (a) Require the offender to refrain from direct or indirect
32 contact with the victim of the crime or immediate family member of
33 the victim of the crime. If a victim or an immediate family member of
34 a victim has requested that the offender not contact him or her after
35 notice as provided in RCW 72.09.340, the department shall require the
36 offender to refrain from contact with the requestor. Where the victim
37 is a minor, the parent or guardian of the victim may make a request
38 on the victim's behalf. This subsection is not intended to reduce the
39 preexisting authority of the department to impose no-contact

1 conditions regardless of the offender's crime and regardless of who
2 is protected by the no-contact condition, where such condition is
3 based on risk to community safety.

4 (b) Impose electronic monitoring. Within the resources made
5 available by the department for this purpose, the department shall
6 carry out any electronic monitoring using the most appropriate
7 technology given the individual circumstances of the offender. As
8 used in this section, "electronic monitoring" has the same meaning as
9 in RCW 9.94A.030.

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

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

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

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

24 (9) The department may require offenders to pay for special
25 services rendered including electronic monitoring, day reporting, and
26 telephone reporting, dependent on the offender's ability to pay. The
27 department may pay for these services for offenders who are not able
28 to pay.

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

35 (b) The board may impose conditions in addition to court-ordered
36 conditions. The board must consider and may impose department-
37 recommended conditions. The board must impose a condition requiring
38 the offender to refrain from contact with the victim or immediate
39 family member of the victim as provided in subsection (5)(a) of this
40 section.

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

7 (i) The crime of conviction;

8 (ii) The offender's risk of reoffending;

9 (iii) The safety of the community;

10 (iv) The offender's risk of domestic violence reoffense.

11 (d) If the department finds that an emergency exists requiring
12 the immediate imposition of additional conditions in order to prevent
13 the offender from committing a crime, the department may impose such
14 conditions. The department may not impose conditions that are
15 contrary to those set by the board or the court and may not
16 contravene or decrease court-imposed or board-imposed conditions.
17 Conditions imposed under this subsection shall take effect
18 immediately after notice to the offender by personal service, but
19 shall not remain in effect longer than seven working days unless
20 approved by the board.

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

24 (12) The department shall make every reasonable effort to pursue
25 active warrants of offenders who have violated the terms of their
26 supervision.

27 **Sec. 3.** RCW 9.94A.631 and 2020 c 82 s 2 are each amended to read
28 as follows:

29 (1) If an offender violates any condition or requirement of a
30 sentence, a community corrections officer may arrest or cause the
31 arrest of the offender without a warrant, pending a determination by
32 the court or by the department. If there is reasonable cause to
33 believe that an offender has violated a condition or requirement of
34 the sentence, a community corrections officer may require an offender
35 to submit to a search and seizure of the offender's person,
36 residence, automobile, or other personal property.

37 (2) For the safety and security of department staff, an offender
38 may be required to submit to pat searches, or other limited security
39 searches, by community corrections officers, correctional officers,

1 and other agency approved staff, without reasonable cause, when in or
2 on department premises, grounds, or facilities, or while preparing to
3 enter department premises, grounds, facilities, or vehicles. Pat
4 searches of offenders shall be conducted only by staff who are the
5 same gender as the offender, except in emergency situations.

6 (3) A community corrections officer may also arrest an offender
7 for any crime committed in his or her presence. The facts and
8 circumstances of the conduct of the offender shall be reported by the
9 community corrections officer, with recommendations, to the court,
10 local law enforcement, or local prosecution for consideration of new
11 charges. The community corrections officer's report shall serve as
12 the notice that the department will hold the offender for not more
13 than three days from the time of such notice for the new crime,
14 except if the offender's underlying offense is a felony offense
15 listed in RCW 9.94A.737(5), in which case the department will hold
16 the offender for thirty days from the time of arrest, until a
17 prosecuting attorney charges the offender with a crime, or until a
18 prosecuting attorney provides written notice to the department that
19 new charges will not be filed, whichever occurs first. This does not
20 affect the department's authority under RCW 9.94A.737.

21 If a community corrections officer arrests or causes the arrest
22 of an offender under this section, the offender shall be confined and
23 detained in the county jail of the county in which the offender was
24 taken into custody, and the sheriff of that county shall receive and
25 keep in the county jail(~~(, where room is available,)~~) all prisoners
26 delivered to the jail by the community corrections officer, and such
27 offenders shall not be released from custody on bail or personal
28 recognizance, except upon approval of the court or authorized
29 department staff, pursuant to a written order.

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