

---

**SENATE BILL 5226**

---

**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** Senators Padden and L. Wilson

Read first time 01/10/23. Referred to Committee on Human Services.

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

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~~) highest duty of the department and the  
12 secretary is to ensure the public safety. The system should be  
13 designed and managed to provide the maximum feasible safety for the  
14 persons and property of the general public, the staff, and the  
15 inmates.

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 and  
25 prioritize staffing to pursue active warrants of offenders who have  
26 violated the terms of their supervision.

--- END ---