
SENATE BILL 6204

State of Washington

62nd Legislature

2012 Regular Session

By Senator Hargrove; by request of Department of Corrections

Read first time 01/16/12. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to community supervision; amending RCW 9.94A.631,
2 9.94A.704, 9.94A.706, 9.94A.714, 9.94A.716, 9.94A.737, 9.94A.740, and
3 9.95.210; reenacting and amending RCW 9.94A.633 and 9.94A.701;
4 providing effective dates; creating new sections; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 9.94A.631 and 2009 c 390 s 1 are each amended to read
8 as follows:

9 (1) If an offender violates any condition or requirement of a
10 sentence, a community corrections officer may arrest or cause the
11 arrest of the offender without a warrant, pending a determination by
12 the court or a department of corrections hearing officer. If there is
13 reasonable cause to believe that an offender has violated a condition
14 or requirement of the sentence, a community corrections officer may
15 require an offender to submit to a search and seizure of the offender's
16 person, residence, automobile, or other personal property.

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

1 other agency approved staff, without reasonable cause, when in or on
2 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 same
5 gender as the offender, except in emergency situations.

6 (3) A community corrections officer may also arrest an offender for
7 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 (~~or~~
10 ~~department of corrections hearing officer~~), local law enforcement, or
11 local prosecution for consideration of new charges. The community
12 corrections officer's report shall serve as the notice that the
13 department will hold the offender for not more than three days from the
14 time of arrest for the new crime. This does not affect the
15 department's authority under RCW 9.94A.737.

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

25 **Sec. 2.** RCW 9.94A.633 and 2010 c 258 s 1 and 2010 c 224 s 12 are
26 each reenacted and amended to read as follows:

27 (1)(a) An offender who violates any condition or requirement of a
28 sentence may be sanctioned by the court with up to sixty days'
29 confinement for each violation or by the department as provided in RCW
30 9.94A.737.

31 (b) In lieu of confinement, an offender may be sanctioned with work
32 release, home detention with electronic monitoring, work crew,
33 community restitution, inpatient treatment, daily reporting, curfew,
34 educational or counseling sessions, supervision enhanced through
35 electronic monitoring, or any other community-based sanctions
36 (~~available in the community~~)).

1 (2) If an offender was under community custody pursuant to one of
2 the following statutes, the offender may be sanctioned as follows:

3 (a) If the offender was transferred to community custody in lieu of
4 earned early release in accordance with RCW 9.94A.728, the offender may
5 be transferred to a more restrictive confinement status to serve up to
6 the remaining portion of the sentence, less credit for any period
7 actually spent in community custody or in detention awaiting
8 disposition of an alleged violation.

9 (b) If the offender was sentenced under the drug offender
10 sentencing alternative set out in RCW 9.94A.660, the offender may be
11 sanctioned in accordance with that section.

12 (c) If the offender was sentenced under the parenting sentencing
13 alternative set out in RCW 9.94A.655, the offender may be sanctioned in
14 accordance with that section.

15 (d) If the offender was sentenced under the special sex offender
16 sentencing alternative set out in RCW 9.94A.670, the suspended sentence
17 may be revoked and the offender committed to serve the original
18 sentence of confinement.

19 (e) If the offender was sentenced to a work ethic camp pursuant to
20 RCW 9.94A.690, the offender may be reclassified to serve the unexpired
21 term of his or her sentence in total confinement.

22 (f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the
23 offender may be transferred to a more restrictive confinement status to
24 serve up to the remaining portion of the sentence, less credit for any
25 period actually spent in community custody or in detention awaiting
26 disposition of an alleged violation.

27 (3) If a probationer is being supervised by the department pursuant
28 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be
29 sanctioned pursuant to subsection (1) of this section. The department
30 shall have authority to issue a warrant for the arrest of an offender
31 who violates a condition of community custody, as provided in RCW
32 9.94A.716. Any sanctions shall be imposed by the department pursuant
33 to RCW 9.94A.737. ~~((The department shall provide a copy of the
34 violation hearing report to the sentencing court in a timely manner.))~~
35 Nothing in this subsection is intended to limit the power of the
36 sentencing court to respond to a probationer's violation of conditions.

37 (4) The parole or probation of an offender who is charged with a

1 new felony offense may be suspended and the offender placed in total
2 confinement pending disposition of the new criminal charges if:

- 3 (a) The offender is on parole pursuant to RCW 9.95.110(1); or
- 4 (b) The offender is being supervised pursuant to RCW 9.94A.745 and
5 is on parole or probation pursuant to the laws of another state.

6 **Sec. 3.** RCW 9.94A.701 and 2010 c 267 s 11 and 2010 c 224 s 5 are
7 each reenacted and amended to read as follows:

8 (1) If an offender is sentenced to the custody of the department
9 for ~~((one of the following crimes))~~ a sex offense not sentenced under
10 RCW 9.94A.507, the court shall, in addition to the other terms of the
11 sentence, sentence the offender to community custody for ~~((three))~~ two
12 years(~~(÷~~

- 13 ~~(a) A sex offense not sentenced under RCW 9.94A.507; or~~
- 14 ~~(b) A serious violent offense))~~.

15 (2) ~~((A court shall, in addition to the other terms of the~~
16 ~~sentence, sentence an offender to community custody for eighteen months~~
17 ~~when the court sentences the person to the custody of the department~~
18 ~~for a violent offense that is not considered a serious violent offense.~~

19 ~~(3))~~ A court shall, in addition to the other terms of the
20 sentence, sentence an offender to community custody for one year when
21 the court sentences the person to the custody of the department for:

- 22 (a) A violent offense;
- 23 (b) Any crime against persons under RCW 9.94A.411(2);
- 24 ~~((b))~~ (c) An offense involving the unlawful possession of a
25 firearm under RCW 9.41.040, where the offender is a criminal street
26 gang member or associate;

27 ~~((c))~~ (d) A felony offense under chapter 69.50 or 69.52 RCW,
28 committed on or after July 1, 2000; or

29 ~~((d))~~ (e) A felony violation of RCW 9A.44.132(1) (failure to
30 register) that is the offender's first violation for a felony failure
31 to register.

32 ~~((4))~~ (3) If an offender is sentenced under the drug offender
33 sentencing alternative, the court shall impose community custody as
34 provided in RCW 9.94A.660.

35 ~~((5))~~ (4) If an offender is sentenced under the special sex
36 offender sentencing alternative, the court shall impose community
37 custody as provided in RCW 9.94A.670.

1 (~~(+6)~~) (5) If an offender is sentenced to a work ethic camp, the
2 court shall impose community custody as provided in RCW 9.94A.690.

3 (~~(+7)~~) (6) If an offender is sentenced under the parenting
4 sentencing alternative, the court shall impose a term of community
5 custody as provided in RCW 9.94A.655.

6 (~~(+8)~~) (7) If a sex offender is sentenced as a nonpersistent
7 offender pursuant to RCW 9.94A.507, the court shall impose community
8 custody as provided in that section.

9 (~~(+9)~~) (8) The term of community custody specified by this section
10 shall be reduced by the court whenever an offender's standard range
11 term of confinement in combination with the term of community custody
12 exceeds the statutory maximum for the crime as provided in RCW
13 9A.20.021.

14 **Sec. 4.** RCW 9.94A.704 and 2009 c 375 s 6 are each amended to read
15 as follows:

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

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

22 (b) Within the funds available for community custody, the
23 department shall determine conditions on the basis of risk to community
24 safety, and shall supervise offenders during community custody on the
25 basis of risk to community safety and conditions imposed by the court.
26 The secretary shall adopt rules to implement the provisions of this
27 subsection (2)(b).

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

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

31 (b) Remain within prescribed geographical boundaries;

32 (c) Notify the community corrections officer of any change in the
33 offender's address or employment;

34 (d) Pay the supervision fee assessment; and

35 (e) Disclose the fact of supervision to any mental health or
36 chemical dependency treatment provider, as required by RCW 9.94A.722.

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

4 (5) If the offender was sentenced pursuant to a conviction for a
5 sex offense, the department may impose electronic monitoring. Within
6 the resources made available by the department for this purpose, the
7 department shall carry out any electronic monitoring using the most
8 appropriate technology given the individual circumstances of the
9 offender. As used in this section, "electronic monitoring" means the
10 monitoring of an offender using an electronic offender tracking system
11 including, but not limited to, a system using radio frequency or active
12 or passive global positioning system technology.

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

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

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

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

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

31 ((+9)) (10)(a) When a sex offender has been sentenced pursuant to
32 RCW 9.94A.507, the department shall assess the offender's risk of
33 recidivism and shall recommend to the board any additional or modified
34 conditions based upon the offender's risk to community safety and may
35 recommend affirmative conduct or electronic monitoring consistent with
36 subsections (4) through (6) of this section.

37 (b) The board may impose conditions in addition to court-ordered

1 conditions. The board must consider and may impose department-
2 recommended conditions.

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

- 8 (i) The crime of conviction;
9 (ii) The offender's risk of reoffending;
10 (iii) The safety of the community.

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

20 ~~((+10))~~ (11) In setting, modifying, and enforcing conditions of
21 community custody, the department shall be deemed to be performing a
22 quasi-judicial function.

23 **Sec. 5.** RCW 9.94A.706 and 2008 c 231 s 11 are each amended to read
24 as follows:

25 No offender sentenced to a term of community custody under the
26 supervision of the department may own, use, or possess firearms ~~((or))~~,
27 ammunition, or explosives. ~~((Offenders who own, use, or are found to~~
28 ~~be in))~~ An offender's actual or constructive possession of firearms
29 ~~((or))~~, ammunition, or explosives shall be ~~((subject to the violation~~
30 ~~process and))~~ considered a high level violation and subject to
31 sanctions under RCW 9.94A.633~~((, 9.94A.716, and))~~ or 9.94A.737.

32 "Constructive possession" as used in this section means the power
33 and intent to control the firearm or ammunition. "Firearm" as used in
34 this section has the same definition as in RCW 9.41.010.

35 **Sec. 6.** RCW 9.94A.714 and 2008 c 231 s 16 are each amended to read
36 as follows:

1 ~~(1) ((If an offender has not completed his or her maximum term of~~
2 ~~total confinement and is subject to a third violation hearing pursuant~~
3 ~~to RCW 9.94A.737 for any violation of community custody and is found to~~
4 ~~have committed the violation, the department shall return the offender~~
5 ~~to total confinement in a state correctional facility to serve up to~~
6 ~~the remaining portion of his or her sentence, unless it is determined~~
7 ~~that returning the offender to a state correctional facility would~~
8 ~~substantially interfere with the offender's ability to maintain~~
9 ~~necessary community supports or to participate in necessary treatment~~
10 ~~or programming and would substantially increase the offender's~~
11 ~~likelihood of reoffending.~~

12 (2)) The department may work with the Washington association of
13 sheriffs and police chiefs to establish and operate an electronic
14 monitoring program for ((low-risk)) offenders who violate the terms of
15 their community custody.

16 ((3)) (2) Local governments, their subdivisions and employees,
17 the department and its employees, and the Washington association of
18 sheriffs and police chiefs and its employees are immune from civil
19 liability for damages arising from incidents involving ((low-risk))
20 offenders who are placed on electronic monitoring unless it is shown
21 that an employee acted with gross negligence or bad faith.

22 **Sec. 7.** RCW 9.94A.716 and 2008 c 231 s 21 are each amended to read
23 as follows:

24 (1) The secretary may issue warrants for the arrest of any offender
25 who violates a condition of community custody. The arrest warrants
26 shall authorize any law enforcement or peace officer or community
27 corrections officer of this state or any other state where such
28 offender may be located, to arrest the offender and place him or her in
29 total confinement pending disposition of the alleged violation pursuant
30 to RCW 9.94A.633.

31 (2) A community corrections officer, if he or she has reasonable
32 cause to believe an offender has violated a condition of community
33 custody, may suspend the person's community custody status and arrest
34 or cause the arrest and detention in total confinement of the offender,
35 pending the determination of the secretary as to whether the violation
36 has occurred. The community corrections officer shall report to the

1 secretary all facts and circumstances and the reasons for the action of
2 suspending community custody status.

3 (3) If an offender has been arrested by the department for a new
4 felony offense while under community custody, ~~the ((department shall~~
5 ~~hold the offender in total confinement until a hearing before the~~
6 ~~department as provided in this section or until the offender has been~~
7 ~~formally charged for the new felony offense, whichever is earlier))~~
8 facts and circumstances of the conduct of the offender shall be
9 reported by the community corrections officer to local law enforcement
10 or local prosecution for consideration of new charges. The community
11 corrections officer's report shall serve as notice that the department
12 will hold the offender in total confinement for not more than three
13 days from the time of arrest on the new felony offense. Nothing in
14 this subsection shall be construed as to permit the department to hold
15 an offender past his or her maximum term of total confinement if the
16 offender has not completed the maximum term of total confinement or to
17 permit the department to hold an offender past the offender's term of
18 community custody.

19 (4) A violation of a condition of community custody shall be deemed
20 a violation of the sentence for purposes of RCW 9.94A.631. The
21 authority granted to community corrections officers under this section
22 shall be in addition to that set forth in RCW 9.94A.631.

23 **Sec. 8.** RCW 9.94A.737 and 2008 c 231 s 20 are each amended to read
24 as follows:

25 (1) If an offender is accused of violating any condition or
26 requirement of community custody, ~~((he or she is entitled to a hearing~~
27 ~~before the department prior to the imposition of sanctions. The~~
28 ~~hearing shall be considered as))~~ the department shall address the
29 violation behavior. The department may hold offender disciplinary
30 proceedings ~~((and shall))~~ not ~~((be))~~ subject to chapter 34.05 RCW. The
31 department shall ~~((develop hearing procedures and a structure of~~
32 ~~graduated sanctions))~~ notify the offender in writing of the violation
33 process.

34 (2) ~~((The hearing procedures required under subsection (1) of this~~
35 ~~section shall be developed by rule and include the following:))~~ The
36 offender's violation behavior shall determine the sanction the
37 department imposes. The department shall adopt rules creating a

1 structured violation process that includes presumptive sanctions,
2 aggravating and mitigating factors, and definitions for low level
3 violations and high level violations.

4 (3) The department may intervene when an offender commits a low
5 level violation as follows:

6 (a) For a first low level violation, the department may sanction
7 the offender to one or more nonconfinement sanctions.

8 (b) For a second or subsequent low level violation, the department
9 may sanction the offender to not more than three days in total
10 confinement.

11 (4) If an offender is accused of committing a high level violation,
12 he or she is entitled to a hearing prior to the department imposing
13 sanctions. The department may sanction an offender to not more than
14 thirty days in total confinement per hearing.

15 (5) The department shall adopt rules creating hearing procedures
16 for high level violations. The hearings are offender disciplinary
17 proceedings and are not subject to chapter 34.05 RCW. The procedures
18 shall include the following:

19 ~~((Hearing officers shall report through a chain of command~~
20 ~~separate from that of community corrections officers;~~

21 ~~(b))~~ The department shall provide the offender with written notice
22 of the alleged violation~~((7))~~ and the evidence ~~((relied upon, and the~~
23 ~~reasons the particular sanction was imposed))~~ supporting it. The
24 notice ~~((shall))~~ must include a statement of the rights specified in
25 this subsection, and the offender's right to file a personal restraint
26 petition under court rules after the final decision ~~((of the~~
27 ~~department))~~;

28 ~~((c) The hearing shall be held))~~ (b) Unless ((waived by)) the
29 offender waives the right to a hearing, the department shall hold a
30 hearing, and shall ((be)) record it electronically ((recorded)). For
31 offenders not in total confinement, the department shall hold a hearing
32 ((shall be held)) within fifteen ((working)) business days, but not
33 less than twenty-four hours, after written notice of the alleged
34 violation. For offenders in total confinement, the department shall
35 hold a hearing ((shall be held)) within five ((working)) business days,
36 but not less than twenty-four hours, after written notice of the
37 alleged violation;

1 ~~((d))~~ (c) The offender shall have the right to: (i) Be present
2 at the hearing; (ii) have the assistance of a person qualified to
3 assist the offender in the hearing, appointed by the hearing officer if
4 the offender has a language or communications barrier; (iii) testify or
5 remain silent; (iv) call witnesses and present documentary evidence;
6 ~~((and))~~ (v) question witnesses who appear and testify; and (vi) receive
7 a written summary of the reasons for the hearing officer's decision;
8 and

9 ~~((e))~~ (d) The sanction shall take effect if affirmed by the
10 hearing officer. Within seven days after the hearing officer's
11 decision, the offender may appeal the decision to a panel of three
12 reviewing officers designated by the secretary or by the secretary's
13 designee. ~~The ((sanction shall be reversed or modified))~~ appeals panel
14 shall affirm, reverse, modify, vacate, or remand based on its findings.
15 If a majority of the panel finds that the sanction was not reasonably
16 related to any of the following: (i) The crime of conviction; (ii) the
17 violation committed; (iii) the offender's risk of reoffending; or (iv)
18 the safety of the community, then the panel will reverse or modify the
19 sanction.

20 ~~((3))~~ (6) For purposes of this section, ~~((no finding of a~~
21 ~~violation of conditions may be based on unconfirmed or unconfirmable~~
22 ~~allegations))~~ the hearings officer may not rely on unconfirmed or
23 unconfirmable allegations to find that the offender violated a
24 condition.

25 (7) Hearing officers shall report through a chain of command
26 separate from that of community corrections officers.

27 **Sec. 9.** RCW 9.94A.740 and 2008 c 231 s 22 are each amended to read
28 as follows:

29 (1) When an offender is arrested pursuant to RCW 9.94A.631 or
30 9.94A.716, the department shall compensate the local jurisdiction at
31 the office of financial management's adjudicated rate, in accordance
32 with RCW 70.48.440, until the department releases its detainer.

33 (2) Inmates, as defined in RCW 72.09.015, who have been transferred
34 to community custody and who are detained in a local correctional
35 facility are the financial responsibility of the department of
36 corrections, except as provided in subsection (3) of this section.

1 (3) For confinement sanctions imposed by the department under RCW
2 9.94A.670, the local correctional facility shall be financially
3 responsible.

4 (4) The department, in consultation with the Washington association
5 of sheriffs and police chiefs and those counties in which the sheriff
6 does not operate a correctional facility, shall establish a methodology
7 for determining the department's local correctional facilities bed
8 utilization rate, for each county in calendar year 1998, for offenders
9 being held for violations of conditions of community custody.

10 (5) Except as provided in subsections (1) and (2) of this section,
11 the local correctional facility shall continue to be financially
12 responsible to the extent of the calendar year 1998 bed utilization
13 rate for confinement sanctions imposed by the department pursuant to
14 RCW 9.94A.737. If the department's use of bed space in local
15 correctional facilities of any county for such confinement sanctions
16 exceeds the 1998 bed utilization rate for the county, the department
17 shall compensate the county for the excess use at the per diem rate
18 equal to the lowest rate charged by the county under its contract with
19 a municipal government during the year in which the use occurs.

20 **Sec. 10.** RCW 9.95.210 and 2011 1st sp.s. c 40 s 7 are each amended
21 to read as follows:

22 (1) In granting probation, the superior court may suspend the
23 imposition or the execution of the sentence and may direct that the
24 suspension may continue upon such conditions and for such time as it
25 shall designate, not exceeding the maximum term of sentence or two
26 years, whichever is longer.

27 (2) In the order granting probation and as a condition thereof, the
28 superior court may in its discretion imprison the defendant in the
29 county jail for a period not exceeding one year and may fine the
30 defendant any sum not exceeding the statutory limit for the offense
31 committed, and court costs. As a condition of probation, the superior
32 court shall require the payment of the penalty assessment required by
33 RCW 7.68.035. The superior court may also require the defendant to
34 make such monetary payments, on such terms as it deems appropriate
35 under the circumstances, as are necessary: (a) To comply with any
36 order of the court for the payment of family support; (b) to make
37 restitution to any person or persons who may have suffered loss or

1 damage by reason of the commission of the crime in question or when the
2 offender pleads guilty to a lesser offense or fewer offenses and agrees
3 with the prosecutor's recommendation that the offender be required to
4 pay restitution to a victim of an offense or offenses which are not
5 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
6 imposed and court costs, including reimbursement of the state for costs
7 of extradition if return to this state by extradition was required; (d)
8 following consideration of the financial condition of the person
9 subject to possible electronic monitoring, to pay for the costs of
10 electronic monitoring if that monitoring was required by the court as
11 a condition of release from custody or as a condition of probation; (e)
12 to contribute to a county or interlocal drug fund; and (f) to make
13 restitution to a public agency for the costs of an emergency response
14 under RCW 38.52.430, and may require bonds for the faithful observance
15 of any and all conditions imposed in the probation.

16 (3) The superior court shall order restitution in all cases where
17 the victim is entitled to benefits under the crime victims'
18 compensation act, chapter 7.68 RCW. If the superior court does not
19 order restitution and the victim of the crime has been determined to be
20 entitled to benefits under the crime victims' compensation act, the
21 department of labor and industries, as administrator of the crime
22 victims' compensation program, may petition the superior court within
23 one year of imposition of the sentence for entry of a restitution
24 order. Upon receipt of a petition from the department of labor and
25 industries, the superior court shall hold a restitution hearing and
26 shall enter a restitution order.

27 (4) In granting probation, the superior court may order the
28 probationer to report to the secretary of corrections or such officer
29 as the secretary may designate and as a condition of the probation to
30 follow the instructions of the secretary for up to twelve months. If
31 the county legislative authority has elected to assume responsibility
32 for the supervision of superior court misdemeanor probationers within
33 its jurisdiction, the superior court misdemeanor probationer shall
34 report to a probation officer employed or contracted for by the county.
35 In cases where a superior court misdemeanor probationer is sentenced
36 in one county, but resides within another county, there must be
37 provisions for the probationer to report to the agency having
38 supervision responsibility for the probationer's county of residence.

1 (5) If the probationer has been ordered to make restitution and the
2 superior court has ordered supervision, the officer supervising the
3 probationer shall make a reasonable effort to ascertain whether
4 restitution has been made. If the superior court has ordered
5 supervision and restitution has not been made as ordered, the officer
6 shall inform the prosecutor of that violation of the terms of probation
7 not less than three months prior to the termination of the probation
8 period. The secretary of corrections will promulgate rules and
9 regulations for the conduct of the person during the term of probation.
10 For defendants found guilty in district court, like functions as the
11 secretary performs in regard to probation may be performed by probation
12 officers employed for that purpose by the county legislative authority
13 of the county wherein the court is located.

14 (6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
15 sentences imposed under this section.

16 NEW SECTION. **Sec. 11.** The department of corrections must
17 recalculate the term of community custody and reset the date that
18 community custody will end for each offender currently in confinement
19 or serving a term of community custody pursuant to RCW 9.94A.501(2) or
20 9.94A.701, regardless of whether the offender is currently on community
21 custody with the department, currently incarcerated with a term of
22 community custody with the department, or sentenced after the effective
23 date of this section, and regardless of whether the offender's date of
24 offense occurred prior to the effective date of this section or after.
25 The recalculation shall not extend a term of community custody beyond
26 that to which an offender is currently subject.

27 NEW SECTION. **Sec. 12.** The legislature declares that the
28 department of corrections' recalculations of community custody terms
29 pursuant to section 11 of this act does not create any expectations
30 that a particular community custody term will end prior to May 1, 2012,
31 and offenders have no reason to conclude that the recalculation of
32 their community custody terms prior to May 1, 2012, is an entitlement
33 or creates any liberty interest to their community custody term ending
34 prior to May 1, 2012.

1 NEW SECTION. **Sec. 13.** The department of corrections shall have
2 the authority to begin implementing section 11 of this act upon the
3 effective date of this section.

4 NEW SECTION. **Sec. 14.** Sections 1, 2, and 4 through 9 of this act
5 are necessary for the immediate preservation of the public peace,
6 health, or safety, or support of the state government and its existing
7 public institutions, and take effect March 1, 2012.

8 NEW SECTION. **Sec. 15.** Sections 3 and 10 of this act take effect
9 May 1, 2012.

--- END ---