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**SENATE BILL 6281**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senators Darneille, O'Ban, Dhingra, Kuderer, and Hasegawa

AN ACT Relating to allowing specified offenders to earn positive achievement time on community custody; amending RCW 9.94A.501; adding a new section to chapter 9.94A RCW; and creating a new section.

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

**Sec.**  RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

(iii) Communication with a minor for immoral purposes; and

(iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been pleaded and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e)(i) Has a current conviction for a domestic violence felony offense where domestic violence has been pleaded and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence was pleaded and proven after August 1, 2011. This subsection (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

(ii) Has a current conviction for a domestic violence felony offense where domestic violence was pleaded and proven. The state and its officers, agents, and employees shall not be held criminally or civilly liable for its supervision of an offender under this subsection (4)(e)(ii) unless the state and its officers, agents, and employees acted with gross negligence;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670;

(g) Is subject to supervision pursuant to RCW 9.94A.745; or

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control).

(5) The department shall supervise any offender who is released by the indeterminate sentence review board and who was sentenced to community custody or subject to community custody under the terms of release.

(6) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

(7) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

(8) The period of time the department is authorized to supervise an offender under this section may not exceed the duration of community custody specified under RCW 9.94B.050, 9.94A.701 (1) through (8), or 9.94A.702, except in cases where the court has imposed an exceptional term of community custody under RCW 9.94A.535.

(9) The period of time the department is authorized to supervise an offender under this section may be reduced by the earned award of positive achievement time pursuant to section 2 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 9.94A RCW to read as follows:

(1) If an offender sentenced under this chapter or chapter 9.94B RCW is supervised by the department, the offender may earn positive achievement time in accordance with procedures that are developed and adopted by the department.

(a) The positive achievement time shall be awarded to offenders who are in compliance with supervision terms and are making progress towards the goals of their individualized supervision case plan, including: Participation in specific targeted interventions, risk-related programming or treatment; or completing steps towards specific targeted goals that enhance protective factors and stability, as determined by the department.

(b) For each month of community custody served, offenders may earn positive achievement time of fifteen days.

(c) Positive achievement time is accrued monthly and time shall not be applied to an offender's term of supervision prior to the earning of the time.

(2) An offender is not eligible to earn positive achievement time if he or she:

(a) Was sentenced under RCW 9.94A.507 or 10.95.030;

(b) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670;

(c) Is subject to supervision pursuant to RCW 9.94A.745;

(d) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017; or

(e) Is serving community custody pursuant to early release under RCW 9.94A.730.

NEW SECTION. **Sec.**  The department of corrections has discretion to implement sections 1 and 2 of this act over a period of time not to exceed twelve months. For any offender under active supervision by the department as of the effective date of this section, he or she is not eligible to earn positive achievement time pursuant to section 2 of this act until he or she has received an orientation by the department regarding positive time.

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