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HOUSE BILL 1081

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Radcliff, Blanton, Costa, Koster, Ballasiotes, Cole, Dickerson, Basich and Mitchell; by request of Department of Corrections

Read first time 01/11/95. Referred to Committee on Corrections.

1 AN ACT Relating to sentences for additional crimes by felons;  
2 amending RCW 9.94A.200 and 9.94A.400; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.94A.200 and 1989 c 252 s 7 are each amended to read  
5 as follows:

6 (1) If an offender violates any condition or requirement of a  
7 sentence, the court may modify its order of judgment and sentence and  
8 impose further punishment in accordance with this section.

9 (2) In cases where conditions from a second or later sentence of  
10 community supervision begin prior to the term of the second or later  
11 sentence, the court shall treat a violation of such conditions as a  
12 violation of the sentence of community supervision currently being  
13 served.

14 (3) If an offender fails to comply with any of the requirements or  
15 conditions of a sentence the following provisions apply:

16 (a) The court, upon the motion of the state, or upon its own  
17 motion, shall require the offender to show cause why the offender  
18 should not be punished for the noncompliance. The court may issue a  
19 summons or a warrant of arrest for the offender's appearance;

1 (b) The state has the burden of showing noncompliance by a  
2 preponderance of the evidence. If the court finds that the violation  
3 has occurred, it may order the offender to be confined for a period not  
4 to exceed sixty days for each violation, and may (i) convert a term of  
5 partial confinement to total confinement, (ii) convert community  
6 service obligation to total or partial confinement, or (iii) convert  
7 monetary obligations, except restitution and the crime victim penalty  
8 assessment, to community service hours at the rate of the state minimum  
9 wage as established in RCW 49.46.020 for each hour of community  
10 service. Any time served in confinement awaiting a hearing on  
11 noncompliance shall be credited against any confinement order by the  
12 court; and

13 (c) If the court finds that the violation was not willful, the  
14 court may modify its previous order regarding payment of legal  
15 financial obligations and regarding community service obligations.

16 ~~((+3))~~ (4) Nothing in this section prohibits the filing of escape  
17 charges if appropriate.

18 **Sec. 2.** RCW 9.94A.400 and 1990 c 3 s 704 are each amended to read  
19 as follows:

20 (1)(a) Except as provided in (b) of this subsection, whenever a  
21 person is to be sentenced for two or more current offenses, the  
22 sentence range for each current offense shall be determined by using  
23 all other current and prior convictions as if they were prior  
24 convictions for the purpose of the offender score: PROVIDED, That if  
25 the court enters a finding that some or all of the current offenses  
26 encompass the same criminal conduct then those current offenses shall  
27 be counted as one crime. Sentences imposed under this subsection shall  
28 be served concurrently. Consecutive sentences may only be imposed  
29 under the exceptional sentence provisions of RCW 9.94A.120 and  
30 9.94A.390(2)(f) or any other provision of RCW 9.94A.390. "Same  
31 criminal conduct," as used in this subsection, means two or more crimes  
32 that require the same criminal intent, are committed at the same time  
33 and place, and involve the same victim. This definition does not apply  
34 in cases involving vehicular assault or vehicular homicide if the  
35 victims occupied the same vehicle. However, the sentencing judge may  
36 consider multiple victims in such instances as an aggravating  
37 circumstance under RCW 9.94A.390.

1 (b) Whenever a person is convicted of two or more serious violent  
2 offenses, as defined in RCW 9.94A.030, arising from separate and  
3 distinct criminal conduct, the sentence range for the offense with the  
4 highest seriousness level under RCW 9.94A.320 shall be determined using  
5 the offender's prior convictions and other current convictions that are  
6 not serious violent offenses in the offender score and the sentence  
7 range for other serious violent offenses shall be determined by using  
8 an offender score of zero. The sentence range for any offenses that  
9 are not serious violent offenses shall be determined according to (a)  
10 of this subsection. All sentences imposed under (b) of this subsection  
11 shall be served consecutively to each other and concurrently with  
12 sentences imposed under (a) of this subsection.

13 (2)(a) Except as provided in (b) of this subsection, whenever a  
14 person while under sentence of felony commits another felony and is  
15 sentenced to another term of confinement, the latter term shall not  
16 begin until expiration of all prior terms.

17 (b) Whenever a second or later felony conviction results in  
18 community supervision with conditions not currently in effect, under  
19 the prior sentence or sentences of community supervision the court may  
20 require that the conditions of community supervision contained in the  
21 second or later sentence begin during the immediate term of community  
22 supervision and continue throughout the duration of the consecutive  
23 term of community supervision.

24 (3) Subject to subsections (1) and (2) of this section, whenever a  
25 person is sentenced for a felony that was committed while the person  
26 was not under sentence of a felony, the sentence shall run concurrently  
27 with any felony sentence which has been imposed by any court in this or  
28 another state or by a federal court subsequent to the commission of the  
29 crime being sentenced unless the court pronouncing the current sentence  
30 expressly orders that they be served consecutively.

31 (4) Whenever any person granted probation under RCW 9.95.210 or  
32 9.92.060, or both, has the probationary sentence revoked and a prison  
33 sentence imposed, that sentence shall run consecutively to any sentence  
34 imposed pursuant to this chapter, unless the court pronouncing the  
35 subsequent sentence expressly orders that they be served concurrently.

36 (5) However, in the case of consecutive sentences, all periods of  
37 total confinement shall be served before any partial confinement,  
38 community service, community supervision, or any other requirement or  
39 conditions of any of the sentences. Except for exceptional sentences

1 as authorized under RCW 9.94A.120(2), if two or more sentences that run  
2 consecutively include periods of community supervision, the aggregate  
3 of the community supervision period shall not exceed twenty-four  
4 months.

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