
SENATE BILL 5897

State of Washington 54th Legislature 1995 Regular Session

By Senators Smith, Prentice and C. Anderson

Read first time 02/13/95. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to authority of courts to modify sentences;
2 amending RCW 9.94A.150; adding a new section to chapter 9.94A RCW; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
6 to read as follows:

7 (1) The sentencing court, upon recommendation from the secretary of
8 corrections, may modify a sentence and transfer an offender to
9 community placement for reasons of serious health problems, senility,
10 or advanced age.

11 (2) The department of corrections shall develop procedures for
12 identifying offenders who may qualify for sentence modifications,
13 recommending modifications to sentencing courts, placing offenders in
14 appropriate care facilities, and providing continuing supervision over
15 offenders with modified sentences.

16 (3) A court shall not modify a sentence if any of the following
17 conditions exist:

18 (a) A victim or witness would be at risk as a result of the
19 transfer of the offender to community placement;

1 (b) The offender would be victimized following transfer to
2 community placement;

3 (c) The community is without the resources to provide the offender
4 with necessary care; or

5 (d) The offender is under a sentence of death or life imprisonment
6 without possibility of release.

7 (4) For the purposes of this section, "serious health problems"
8 includes:

9 (a) A chronic disease or illness that singly, or in combination
10 with others, is characterized by one or more of the following:

11 (i) It is not amenable to either curative or palliative treatment;

12 (ii) It is debilitating in nature; or

13 (iii) The offender is experiencing pain and suffering that is not
14 easily managed, except by continued use of controlled drugs.

15 (b) A serious disability resulting from a physical or mental
16 condition that renders an offender permanently unable to perform
17 unassisted activities of daily living.

18 (c) A terminal illness that is likely to cause the death of the
19 offender within twelve months.

20 **Sec. 2.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read
21 as follows:

22 No person serving a sentence imposed pursuant to this chapter and
23 committed to the custody of the department (~~shall~~) may leave the
24 confines of the correctional facility or be released prior to the
25 expiration of the sentence except as follows:

26 (1) Except as otherwise provided for in subsection (2) of this
27 section, the term of the sentence of an offender committed to a
28 correctional facility operated by the department(~~(7)~~) may be reduced by
29 earned early release time in accordance with procedures that shall be
30 developed and promulgated by the correctional agency having
31 jurisdiction in which the offender is confined. The earned early
32 release time shall be for good behavior and good performance, as
33 determined by the correctional agency having jurisdiction. The
34 correctional agency shall not credit the offender with earned early
35 release credits in advance of the offender actually earning the
36 credits. Any program established pursuant to this section shall allow
37 an offender to earn early release credits for presentence
38 incarceration. If an offender is transferred from a county jail to the

1 department of corrections, the county jail facility shall certify to
2 the department the amount of time spent in custody at the facility and
3 the amount of earned early release time. In the case of an offender
4 convicted of a serious violent offense or a sex offense that is a class
5 A felony committed on or after July 1, 1990, the aggregate earned early
6 release time may not exceed fifteen percent of the sentence. In no
7 other case shall the aggregate earned early release time exceed one-
8 third of the total sentence;

9 (2) A person convicted of a sex offense or an offense categorized
10 as a serious violent offense, assault in the second degree, assault of
11 a child in the second degree, any crime against a person where it is
12 determined in accordance with RCW 9.94A.125 that the defendant or an
13 accomplice was armed with a deadly weapon at the time of commission, or
14 any felony offense under chapter 69.50 or 69.52 RCW may become
15 eligible, in accordance with a program developed by the department, for
16 transfer to community custody status in lieu of earned early release
17 time pursuant to subsection (1) of this section;

18 (3) An offender may leave a correctional facility pursuant to an
19 authorized furlough or leave of absence. In addition, offenders may
20 leave a correctional facility when in the custody of a corrections
21 officer or officers;

22 (4) The governor, upon recommendation from the clemency and pardons
23 board, may grant an extraordinary release for reasons of serious health
24 problems, senility, advanced age, extraordinary meritorious acts, or
25 other extraordinary circumstances;

26 (5) A court, upon recommendation from the secretary of corrections,
27 may modify a sentence and transfer an offender to community placement
28 for reasons of serious health problems, senility, or advanced age as
29 authorized under section 1 of this act;

30 (6) No more than the final six months of the sentence may be served
31 in partial confinement designed to aid the offender in finding work and
32 reestablishing ~~((him))~~ himself or herself in the community;

33 ~~((+6))~~ (7) The governor may pardon any offender;

34 ~~((+7))~~ (8) The department of corrections may release an offender
35 from confinement any time within ten days before a release date
36 calculated under this section; and

1 (~~(8)~~) (9) An offender may leave a correctional facility prior to
2 completion of his or her sentence if the sentence has been reduced as
3 provided in RCW 9.94A.160.

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