
SENATE BILL 5094

State of Washington

55th Legislature

1997 Regular Session

By Senator Roach

Read first time 01/14/97. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the release of offenders; and amending RCW
2 9.95.062 and 10.64.025.

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

4 **Sec. 1.** RCW 9.95.062 and 1996 c 275 s 9 are each amended to read
5 as follows:

6 (1) Notwithstanding Car 3.2 or RAP 7.2, an appeal by a defendant in
7 a criminal action shall not stay the execution of the judgment of
8 conviction, if the court determines by a preponderance of the evidence
9 that:

10 (a) The defendant is likely to flee or to pose a danger to the
11 safety of any other person or the community if the judgment is stayed;
12 or

13 (b) The delay resulting from the stay will unduly diminish the
14 deterrent effect of the punishment; or

15 (c) A stay of the judgment will cause unreasonable trauma to the
16 victims of the crime or their families; or

17 (d) The defendant has not undertaken to the extent of the
18 defendant's financial ability to pay the financial obligations under

1 the judgment or has not posted an adequate performance bond to assure
2 payment.

3 (2) An appeal by a defendant convicted of one of the following
4 offenses shall not stay execution of the judgment of conviction: Rape
5 in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a
6 child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076,
7 and 9A.44.079); child molestation in the first, second, or third degree
8 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
9 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
10 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
11 9A.40.090); any class A or B felony that is a sexually motivated
12 offense as defined in RCW 9.94A.030; a felony violation of RCW
13 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
14 attempt, solicitation, or conspiracy to commit one of those offenses.

15 (3) In case the defendant has been convicted of a felony, and has
16 been unable to obtain release pending the appeal by posting an appeal
17 bond, cash, adequate security, release on personal recognizance, or any
18 other conditions imposed by the court, the time the defendant has been
19 imprisoned pending the appeal shall be deducted from the term for which
20 the defendant was sentenced, if the judgment is affirmed.

21 (4) If the court stays execution of the judgment and does not
22 require the defendant to post an appeal bond, cash, or other security,
23 the court shall state its reasons for that decision on the record.

24 **Sec. 2.** RCW 10.64.025 and 1996 c 275 s 10 are each amended to read
25 as follows:

26 (1) A defendant who has been found guilty of a felony and is
27 awaiting sentencing shall be detained unless the court finds by clear
28 and convincing evidence that the defendant is not likely to flee or to
29 pose a danger to the safety of any other person or the community if
30 released or the defendant's release will not cause unreasonable trauma
31 to the victims of the crime or their families. Any bail bond that was
32 posted on behalf of a defendant shall, upon the defendant's conviction,
33 be exonerated. If the court releases the defendant and does not
34 require the defendant to post a bond, cash, or other security, the
35 court shall state its reasons for that decision on the record.

36 (2) A defendant who has been found guilty of one of the following
37 offenses shall be detained pending sentencing: Rape in the first or
38 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the

1 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and
2 9A.44.079); child molestation in the first, second, or third degree
3 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
4 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
5 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
6 9A.40.090); any class A or B felony that is a sexually motivated
7 offense as defined in RCW 9.94A.030; a felony violation of RCW
8 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
9 attempt, solicitation, or conspiracy to commit one of those offenses.

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