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**SUBSTITUTE SENATE BILL 5010**

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**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Padden, Sheldon, and Carrell)

READ FIRST TIME 01/31/13.

1 AN ACT Relating to community custody conditions for marijuana; and  
2 reenacting and amending RCW 9.94A.703.

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

4 **Sec. 1.** RCW 9.94A.703 and 2009 c 214 s 3 and 2009 c 28 s 11 are  
5 each reenacted and amended to read as follows:

6 When a court sentences a person to a term of community custody, the  
7 court shall impose conditions of community custody as provided in this  
8 section.

9 (1) **Mandatory conditions.** As part of any term of community  
10 custody, the court shall:

11 (a) Require the offender to inform the department of court-ordered  
12 treatment upon request by the department;

13 (b) Require the offender to comply with any conditions imposed by  
14 the department under RCW 9.94A.704;

15 (c) If the offender was sentenced under RCW 9.94A.507 for an  
16 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense  
17 was under eighteen years of age at the time of the offense, prohibit  
18 the offender from residing in a community protection zone;

1 (d) If the offender was sentenced under RCW 9A.36.120, prohibit the  
2 offender from serving in any paid or volunteer capacity where he or she  
3 has control or supervision of minors under the age of thirteen.

4 (2) **Waivable conditions.** Unless waived by the court, as part of  
5 any term of community custody, the court shall order an offender to:

6 (a) Report to and be available for contact with the assigned  
7 community corrections officer as directed;

8 (b) Work at department-approved education, employment, or community  
9 restitution, or any combination thereof;

10 (c) Refrain from possessing or consuming controlled substances  
11 except pursuant to lawfully issued prescriptions;

12 (d) Pay supervision fees as determined by the department; and

13 (e) Obtain prior approval of the department for the offender's  
14 residence location and living arrangements.

15 (3) **Discretionary conditions.** As part of any term of community  
16 custody, the court may order an offender to:

17 (a) Remain within, or outside of, a specified geographical  
18 boundary;

19 (b) Refrain from direct or indirect contact with the victim of the  
20 crime or a specified class of individuals;

21 (c) Participate in crime-related treatment or counseling services;

22 (d) Participate in rehabilitative programs or otherwise perform  
23 affirmative conduct reasonably related to the circumstances of the  
24 offense, the offender's risk of reoffending, or the safety of the  
25 community;

26 (e) Refrain from consuming alcohol; (~~(e)~~)

27 (f) Refrain from consuming marijuana except pursuant to a lawfully  
28 issued medical marijuana authorization unless the department has  
29 determined that consumption is inconsistent with and contrary to his or  
30 her supervision under RCW 69.51A.055; or

31 (g) Comply with any crime-related prohibitions.

32 (4) **Special conditions.**

33 (a) In sentencing an offender convicted of a crime of domestic  
34 violence, as defined in RCW 10.99.020, if the offender has a minor  
35 child, or if the victim of the offense for which the offender was  
36 convicted has a minor child, the court may order the offender to  
37 participate in a domestic violence perpetrator program approved under  
38 RCW 26.50.150.

1 (b)(i) In sentencing an offender convicted of an alcohol or drug-  
2 related traffic offense, the court shall require the offender to  
3 complete a diagnostic evaluation by an alcohol or drug dependency  
4 agency approved by the department of social and health services or a  
5 qualified probation department, defined under RCW 46.61.516, that has  
6 been approved by the department of social and health services. If the  
7 offense was pursuant to chapter 46.61 RCW, the report shall be  
8 forwarded to the department of licensing. If the offender is found to  
9 have an alcohol or drug problem that requires treatment, the offender  
10 shall complete treatment in a program approved by the department of  
11 social and health services under chapter 70.96A RCW. If the offender  
12 is found not to have an alcohol or drug problem that requires  
13 treatment, the offender shall complete a course in an information  
14 school approved by the department of social and health services under  
15 chapter 70.96A RCW. The offender shall pay all costs for any  
16 evaluation, education, or treatment required by this section, unless  
17 the offender is eligible for an existing program offered or approved by  
18 the department of social and health services.

19 (ii) For purposes of this section, "alcohol or drug-related traffic  
20 offense" means the following: Driving while under the influence as  
21 defined by RCW 46.61.502, actual physical control while under the  
22 influence as defined by RCW 46.61.504, vehicular homicide as defined by  
23 RCW 46.61.520(1)(a), vehicular assault as defined by RCW  
24 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050,  
25 or assault by watercraft as defined by RCW 79A.60.060.

26 (iii) This subsection (4)(b) does not require the department of  
27 social and health services to add new treatment or assessment  
28 facilities nor affect its use of existing programs and facilities  
29 authorized by law.

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