

CERTIFICATION OF ENROLLMENT

**HOUSE BILL 2838**

64th Legislature  
2016 Regular Session

Passed by the House February 16, 2016  
Yeas 84 Nays 13

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**Speaker of the House of Representatives**

Passed by the Senate March 3, 2016  
Yeas 47 Nays 2

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2838** as passed by House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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HOUSE BILL 2838

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Passed Legislature - 2016 Regular Session

State of Washington

64th Legislature

2016 Regular Session

By Representatives Klippert and Hayes; by request of Department of Corrections

Read first time 01/22/16. Referred to Committee on Public Safety.

1 AN ACT Relating to clarifying the department of corrections'  
2 authority to impose conditions prohibiting contact with other  
3 persons, even if the offender is not a sex offender; and reenacting  
4 and amending RCW 9.94A.704.

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

6 **Sec. 1.** RCW 9.94A.704 and 2015 c 287 s 7 and 2015 c 134 s 8 are  
7 each reenacted and amended to read as follows:

8 (1) Every person who is sentenced to a period of community  
9 custody shall report to and be placed under the supervision of the  
10 department, subject to RCW 9.94A.501.

11 (2)(a) The department shall assess the offender's risk of  
12 reoffense and may establish and modify additional conditions of  
13 community custody based upon the risk to community safety.

14 (b) Within the funds available for community custody, the  
15 department shall determine conditions on the basis of risk to  
16 community safety, and shall supervise offenders during community  
17 custody on the basis of risk to community safety and conditions  
18 imposed by the court. The secretary shall adopt rules to implement  
19 the provisions of this subsection (2)(b).

20 (3) If the offender is supervised by the department, the  
21 department shall at a minimum instruct the offender to:

- 1 (a) Report as directed to a community corrections officer;  
2 (b) Remain within prescribed geographical boundaries;  
3 (c) Notify the community corrections officer of any change in the  
4 offender's address or employment;  
5 (d) Pay the supervision fee assessment; and  
6 (e) Disclose the fact of supervision to any mental health or  
7 chemical dependency treatment provider, as required by RCW 9.94A.722.

8 (4) The department may require the offender to participate in  
9 rehabilitative programs, or otherwise perform affirmative conduct,  
10 and to obey all laws.

11 (5) If the offender was sentenced pursuant to a conviction for a  
12 sex offense, the department may:

13 (a) Require the offender to refrain from direct or indirect  
14 contact with the victim of the crime or immediate family member of  
15 the victim of the crime. If a victim or an immediate family member of  
16 a victim has requested that the offender not contact him or her after  
17 notice as provided in RCW 72.09.340, the department shall require the  
18 offender to refrain from contact with the requestor. Where the victim  
19 is a minor, the parent or guardian of the victim may make a request  
20 on the victim's behalf. This subsection is not intended to reduce the  
21 preexisting authority of the department to impose no-contact  
22 conditions regardless of the offender's crime and regardless of who  
23 is protected by the no-contact condition, where such condition is  
24 based on risk to community safety.

25 (b) Impose electronic monitoring. Within the resources made  
26 available by the department for this purpose, the department shall  
27 carry out any electronic monitoring using the most appropriate  
28 technology given the individual circumstances of the offender. As  
29 used in this section, "electronic monitoring" has the same meaning as  
30 in RCW 9.94A.030.

31 (6) The department may not impose conditions that are contrary to  
32 those ordered by the court and may not contravene or decrease court-  
33 imposed conditions.

34 (7)(a) The department shall notify the offender in writing of any  
35 additional conditions or modifications.

36 (b) By the close of the next business day after receiving notice  
37 of a condition imposed or modified by the department, an offender may  
38 request an administrative review under rules adopted by the  
39 department. The condition shall remain in effect unless the reviewing  
40 officer finds that it is not reasonably related to the crime of

1 conviction, the offender's risk of reoffending, or the safety of the  
2 community.

3 (8) The department shall notify the offender in writing upon  
4 community custody intake of the department's violation process.

5 (9) The department may require offenders to pay for special  
6 services rendered including electronic monitoring, day reporting, and  
7 telephone reporting, dependent on the offender's ability to pay. The  
8 department may pay for these services for offenders who are not able  
9 to pay.

10 (10)(a) When an offender on community custody is under the  
11 authority of the board, the department shall assess the offender's  
12 risk of recidivism and shall recommend to the board any additional or  
13 modified conditions based upon the offender's risk to community  
14 safety and may recommend affirmative conduct or electronic monitoring  
15 consistent with subsections (4) through (6) of this section.

16 (b) The board may impose conditions in addition to court-ordered  
17 conditions. The board must consider and may impose department-  
18 recommended conditions. The board must impose a condition requiring  
19 the offender to refrain from contact with the victim or immediate  
20 family member of the victim as provided in subsection (5)(a) of this  
21 section.

22 (c) By the close of the next business day, after receiving notice  
23 of a condition imposed by the board or the department, an offender  
24 may request an administrative hearing under rules adopted by the  
25 board. The condition shall remain in effect unless the hearing  
26 examiner finds that it is not reasonably related to any of the  
27 following:

- 28 (i) The crime of conviction;
- 29 (ii) The offender's risk of reoffending;
- 30 (iii) The safety of the community.

31 (d) If the department finds that an emergency exists requiring  
32 the immediate imposition of additional conditions in order to prevent  
33 the offender from committing a crime, the department may impose such  
34 conditions. The department may not impose conditions that are  
35 contrary to those set by the board or the court and may not  
36 contravene or decrease court-imposed or board-imposed conditions.  
37 Conditions imposed under this subsection shall take effect  
38 immediately after notice to the offender by personal service, but  
39 shall not remain in effect longer than seven working days unless  
40 approved by the board.

1           (11) In setting, modifying, and enforcing conditions of community  
2 custody, the department shall be deemed to be performing a  
3 quasi-judicial function.

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