
SENATE BILL 5104

State of Washington

64th Legislature

2015 Regular Session

By Senator Padden

Read first time 01/14/15. Referred to Committee on Law & Justice.

1 AN ACT Relating to possession or use of alcohol and controlled
2 substances in sentencing provisions; amending RCW 9.94A.505 and
3 9.94A.607; and reenacting and amending RCW 9.94A.703.

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

5 **Sec. 1.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to
6 read as follows:

7 (1) When a person is convicted of a felony, the court shall
8 impose punishment as provided in this chapter.

9 (2)(a) The court shall impose a sentence as provided in the
10 following sections and as applicable in the case:

11 (i) Unless another term of confinement applies, a sentence within
12 the standard sentence range established in RCW 9.94A.510 or
13 9.94A.517;

14 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

15 (iii) RCW 9.94A.570, relating to persistent offenders;

16 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

17 (v) RCW 9.94A.650, relating to the first-time offender waiver;

18 (vi) RCW 9.94A.660, relating to the drug offender sentencing
19 alternative;

20 (vii) RCW 9.94A.670, relating to the special sex offender
21 sentencing alternative;

1 (viii) RCW 9.94A.655, relating to the parenting sentencing
2 alternative;

3 (ix) RCW 9.94A.507, relating to certain sex offenses;

4 (x) RCW 9.94A.535, relating to exceptional sentences;

5 (xi) RCW 9.94A.589, relating to consecutive and concurrent
6 sentences;

7 (xii) RCW 9.94A.603, relating to felony driving while under the
8 influence of intoxicating liquor or any drug and felony physical
9 control of a vehicle while under the influence of intoxicating liquor
10 or any drug.

11 (b) If a standard sentence range has not been established for the
12 offender's crime, the court shall impose a determinate sentence which
13 may include not more than one year of confinement; community
14 restitution work; a term of community custody under RCW 9.94A.702 not
15 to exceed one year; and/or other legal financial obligations. The
16 court may impose a sentence which provides more than one year of
17 confinement and a community custody term under RCW 9.94A.701 if the
18 court finds reasons justifying an exceptional sentence as provided in
19 RCW 9.94A.535.

20 (3) If the court imposes a sentence requiring confinement of
21 thirty days or less, the court may, in its discretion, specify that
22 the sentence be served on consecutive or intermittent days. A
23 sentence requiring more than thirty days of confinement shall be
24 served on consecutive days. Local jail administrators may schedule
25 court-ordered intermittent sentences as space permits.

26 (4) If a sentence imposed includes payment of a legal financial
27 obligation, it shall be imposed as provided in RCW 9.94A.750,
28 9.94A.753, 9.94A.760, and 43.43.7541.

29 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
30 court may not impose a sentence providing for a term of confinement
31 or community custody that exceeds the statutory maximum for the crime
32 as provided in chapter 9A.20 RCW.

33 (6) The sentencing court shall give the offender credit for all
34 confinement time served before the sentencing if that confinement was
35 solely in regard to the offense for which the offender is being
36 sentenced.

37 (7) The court shall order restitution as provided in RCW
38 9.94A.750 and 9.94A.753.

39 (8) As a part of any sentence, the court may impose and enforce
40 crime-related prohibitions and affirmative conditions as provided in

1 this chapter. "Crime-related prohibitions" may include a prohibition
2 on the use or possession of alcohol or controlled substances if the
3 court finds that any chemical dependency or substance abuse
4 contributed to the offense.

5 (9) In any sentence of partial confinement, the court may require
6 the offender to serve the partial confinement in work release, in a
7 program of home detention, on work crew, or in a combined program of
8 work crew and home detention.

9 **Sec. 2.** RCW 9.94A.607 and 1999 c 197 s 2 are each amended to
10 read as follows:

11 (1) Where the court finds that the offender has ((a)) any
12 chemical dependency that has contributed to his or her offense, the
13 court may, as a condition of the sentence and subject to available
14 resources, order the offender to participate in rehabilitative
15 programs or otherwise to perform affirmative conduct reasonably
16 related to the circumstances of the crime for which the offender has
17 been convicted and reasonably necessary or beneficial to the offender
18 and the community in rehabilitating the offender. A rehabilitative
19 program may include a directive that the offender obtain an
20 evaluation as to the need for chemical dependency treatment related
21 to the use of alcohol or controlled substances, regardless of the
22 particular substance that contributed to the commission of the
23 offense. The court may also impose a prohibition on the use or
24 possession of alcohol or controlled substances regardless of whether
25 a chemical dependency evaluation is ordered.

26 (2) This section applies to sentences which include any term
27 other than, or in addition to, a term of total confinement, including
28 suspended sentences.

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

31 When a court sentences a person to a term of community custody,
32 the court shall impose conditions of community custody as provided in
33 this section.

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

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

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

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

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

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

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

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

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

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

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

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

24 (a) Remain within, or outside of, a specified geographical
25 boundary;

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

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

30 (d) Participate in rehabilitative programs or otherwise perform
31 affirmative conduct reasonably related to the circumstances of the
32 offense, the offender's risk of reoffending, or the safety of the
33 community;

34 (e) Refrain from possessing or consuming alcohol; or

35 (f) Comply with any crime-related prohibitions.

36 (4) **Special conditions.**

37 (a) In sentencing an offender convicted of a crime of domestic
38 violence, as defined in RCW 10.99.020, if the offender has a minor
39 child, or if the victim of the offense for which the offender was
40 convicted has a minor child, the court may order the offender to

1 participate in a domestic violence perpetrator program approved under
2 RCW 26.50.150.

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

21 (ii) For purposes of this section, "alcohol or drug-related
22 traffic offense" means the following: Driving while under the
23 influence as defined by RCW 46.61.502, actual physical control while
24 under the influence as defined by RCW 46.61.504, vehicular homicide
25 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by
26 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW
27 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

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

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