
SENATE BILL 5990

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By Senators Hargrove, Stevens, McAuliffe, Carlson, Regala, Parlette, Rasmussen and Winsley

Read first time 02/27/2003. Referred to Committee on Children & Family Services & Corrections.

1 AN ACT Relating to times and supervision standards for release of
2 offenders; amending RCW 9.94A.728, 9.94A.700, 9.94A.705, 9.94A.715,
3 9.94A.720, and 9.94A.545; reenacting and amending RCW 9.94A.728; adding
4 new sections to chapter 9.94A RCW; creating a new section; providing
5 effective dates; providing expiration dates; and declaring an
6 emergency.

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

8 **Sec. 1.** RCW 9.94A.728 and 2002 c 50 s 2 are each amended to read
9 as follows:

10 No person serving a sentence imposed pursuant to this chapter and
11 committed to the custody of the department shall leave the confines of
12 the correctional facility or be released prior to the expiration of the
13 sentence except as follows:

14 (1)(a) Except as otherwise provided for in subsection ~~((+2))~~ (4)
15 of this section, the term of the sentence of an offender committed to
16 a correctional facility operated by the department may be reduced by
17 earned release time in accordance with procedures that shall be
18 developed and promulgated by the correctional agency having
19 jurisdiction in which the offender is confined. The earned release

1 time shall be for good behavior and good performance, as determined by
2 the correctional agency having jurisdiction. The correctional agency
3 shall not credit the offender with earned release credits in advance of
4 the offender actually earning the credits. Any program established
5 pursuant to this section shall allow an offender to earn early release
6 credits for presentence incarceration. If an offender is transferred
7 from a county jail to the department, the administrator of a county
8 jail facility shall certify to the department the amount of time spent
9 in custody at the facility and the amount of earned release time. An
10 offender who has been convicted of a felony committed after July 23,
11 1995, that involves any applicable deadly weapon enhancements under RCW
12 9.94A.510 (3) or (4), or both, shall not receive any good time credits
13 or earned release time for that portion of his or her sentence that
14 results from any deadly weapon enhancements. In the case of an
15 offender convicted of a serious violent offense, or a sex offense that
16 is a class A felony, committed on or after July 1, 1990, and before
17 July 1, 2003, the aggregate earned release time may not exceed fifteen
18 percent of the sentence. In the case of an offender convicted of a
19 serious violent offense, or a sex offense that is a class A felony,
20 committed on or after July 1, 2003, the aggregate earned release time
21 may not exceed ten percent of the sentence.

22 (b) In the case of an offender who qualifies under subsection (2)
23 of this section, the aggregate earned release time may not exceed fifty
24 percent of the sentence.

25 (c) In no other case shall the aggregate earned release time exceed
26 one-third of the total sentence;

27 (2) An offender may earn up to fifty percent earned release time if
28 he or she is not confined pursuant to a sentence for an offense that is
29 a violent offense, sex offense, manufacture or delivery or possession
30 with intent to deliver methamphetamine, delivery of a controlled
31 substance to a minor, or a crime against a person as defined in RCW
32 9.94A.411 and he or she:

33 (a) Has no prior conviction for a sex offense, serious violent
34 offense, manufacture or delivery or possession with intent to deliver
35 methamphetamine, or delivery of a controlled substance to a minor;

36 (b) Is not subject to court-ordered chemical dependency treatment
37 under RCW 9.94A.660 or the provisions of chapter 290, Laws of 2002; and

38 (c) Has an offender score of less than seven.

1 (3)(a) The department shall recalculate the earned release time and
2 reschedule the expected release dates for each eligible offender under
3 subsections (1) and (2) of this section.

4 (b) Subsection (2) of this section applies retroactively to
5 eligible offenders serving terms of total confinement in a state
6 correctional facility as of the effective date of this section.

7 (c) Subsections (1)(b) and (2) of this section do not apply to
8 offenders convicted after July 1, 2010.

9 (4)(a) A person convicted of a sex offense or an offense
10 categorized as a serious violent offense, assault in the second degree,
11 vehicular homicide, vehicular assault, assault of a child in the second
12 degree, any crime against persons where it is determined in accordance
13 with RCW 9.94A.602 that the offender or an accomplice was armed with a
14 deadly weapon at the time of commission, or any felony offense under
15 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
16 eligible, in accordance with a program developed by the department, for
17 transfer to community custody status in lieu of earned release time
18 pursuant to subsection (1) of this section;

19 (b) A person convicted of a sex offense, a violent offense, any
20 crime against persons under RCW 9.94A.411(2), or a felony offense under
21 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may
22 become eligible, in accordance with a program developed by the
23 department, for transfer to community custody status in lieu of earned
24 release time pursuant to subsection (1) of this section;

25 (c) The department shall, as a part of its program for release to
26 the community in lieu of earned release, require the offender to
27 propose a release plan that includes an approved residence and living
28 arrangement. All offenders with community placement or community
29 custody terms eligible for release to community custody status in lieu
30 of earned release shall provide an approved residence and living
31 arrangement prior to release to the community;

32 (d) The department may deny transfer to community custody status in
33 lieu of earned release time pursuant to subsection (1) of this section
34 if the department determines an offender's release plan, including
35 proposed residence location and living arrangements, may violate the
36 conditions of the sentence or conditions of supervision, place the
37 offender at risk to violate the conditions of the sentence, place the
38 offender at risk to reoffend, or present a risk to victim safety or

1 community safety. The department's authority under this section is
2 independent of any court-ordered condition of sentence or statutory
3 provision regarding conditions for community custody or community
4 placement;

5 ~~((+3))~~ (5) An offender may leave a correctional facility pursuant
6 to an authorized furlough or leave of absence. In addition, offenders
7 may leave a correctional facility when in the custody of a corrections
8 officer or officers;

9 ~~((+4))~~ (6)(a) The secretary may authorize an extraordinary medical
10 placement for an offender when all of the following conditions exist:

11 (i) The offender has a medical condition that is serious enough to
12 require costly care or treatment;

13 (ii) The offender poses a low risk to the community because he or
14 she is physically incapacitated due to age or the medical condition;
15 and

16 (iii) Granting the extraordinary medical placement will result in
17 a cost savings to the state.

18 (b) An offender sentenced to death or to life imprisonment without
19 the possibility of release or parole is not eligible for an
20 extraordinary medical placement.

21 (c) The secretary shall require electronic monitoring for all
22 offenders in extraordinary medical placement unless the electronic
23 monitoring equipment interferes with the function of the offender's
24 medical equipment or results in the loss of funding for the offender's
25 medical care. The secretary shall specify who shall provide the
26 monitoring services and the terms under which the monitoring shall be
27 performed.

28 (d) The secretary may revoke an extraordinary medical placement
29 under this subsection at any time.

30 ~~((+5))~~ (7) The governor, upon recommendation from the clemency and
31 pardons board, may grant an extraordinary release for reasons of
32 serious health problems, senility, advanced age, extraordinary
33 meritorious acts, or other extraordinary circumstances;

34 ~~((+6))~~ (8) No more than the final six months of the sentence may
35 be served in partial confinement designed to aid the offender in
36 finding work and reestablishing himself or herself in the community;

37 ~~((+7))~~ (9) The governor may pardon any offender;

1 ~~((+8))~~ (10) The department may release an offender from
2 confinement any time within ten days before a release date calculated
3 under this section; and

4 ~~((+9))~~ (11) An offender may leave a correctional facility prior to
5 completion of his or her sentence if the sentence has been reduced as
6 provided in RCW 9.94A.870.

7 Notwithstanding any other provisions of this section, an offender
8 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
9 mandatory minimum sentence of total confinement shall not be released
10 from total confinement before the completion of the listed mandatory
11 minimum sentence for that felony crime of conviction unless allowed
12 under RCW 9.94A.540, however persistent offenders are not eligible for
13 extraordinary medical placement.

14 **Sec. 2.** RCW 9.94A.728 and 2002 c 290 s 21 and 2002 c 50 s 2 are
15 each reenacted and amended to read as follows:

16 No person serving a sentence imposed pursuant to this chapter and
17 committed to the custody of the department shall leave the confines of
18 the correctional facility or be released prior to the expiration of the
19 sentence except as follows:

20 (1)(a) Except as otherwise provided for in subsection ~~((+2))~~ (4)
21 of this section, the term of the sentence of an offender committed to
22 a correctional facility operated by the department may be reduced by
23 earned release time in accordance with procedures that shall be
24 developed and promulgated by the correctional agency having
25 jurisdiction in which the offender is confined. The earned release
26 time shall be for good behavior and good performance, as determined by
27 the correctional agency having jurisdiction. The correctional agency
28 shall not credit the offender with earned release credits in advance of
29 the offender actually earning the credits. Any program established
30 pursuant to this section shall allow an offender to earn early release
31 credits for presentence incarceration. If an offender is transferred
32 from a county jail to the department, the administrator of a county
33 jail facility shall certify to the department the amount of time spent
34 in custody at the facility and the amount of earned release time. An
35 offender who has been convicted of a felony committed after July 23,
36 1995, that involves any applicable deadly weapon enhancements under RCW
37 9.94A.533 (3) or (4), or both, shall not receive any good time credits

1 or earned release time for that portion of his or her sentence that
2 results from any deadly weapon enhancements. In the case of an
3 offender convicted of a serious violent offense, or a sex offense that
4 is a class A felony, committed on or after July 1, 1990, and before
5 July 1, 2003, the aggregate earned release time may not exceed fifteen
6 percent of the sentence. In the case of an offender convicted of a
7 serious violent offense, or a sex offense that is a class A felony,
8 committed on or after July 1, 2003, the aggregate earned release time
9 may not exceed ten percent of the sentence.

10 (b) In the case of an offender who qualifies under subsection (2)
11 of this section, the aggregate earned release time may not exceed fifty
12 percent of the sentence.

13 (c) In no other case shall the aggregate earned release time exceed
14 one-third of the total sentence;

15 (2) An offender may earn up to fifty percent earned release time if
16 he or she is not confined pursuant to a sentence for an offense that is
17 a violent offense, sex offense, manufacture or delivery or possession
18 with intent to deliver methamphetamine, delivery of a controlled
19 substance to a minor, or a crime against a person as defined in RCW
20 9.94A.411 and he or she:

21 (a) Has no prior conviction for a sex offense, serious violent
22 offense, manufacture or delivery or possession with intent to deliver
23 methamphetamine, or delivery of a controlled substance to a minor;

24 (b) Is not subject to court-ordered chemical dependency treatment
25 under RCW 9.94A.660 or the provisions of chapter 290, Laws of 2002; and

26 (c) Has an offender score of less than seven.

27 (3)(a) The department shall recalculate the earned release time and
28 reschedule the expected release dates for each eligible offender under
29 subsections (1) and (2) of this section.

30 (b) Subsection (2) of this section applies retroactively to
31 eligible offenders serving terms of total confinement in a state
32 correctional facility as of the effective date of this section.

33 (c) Subsections (1)(b) and (2) of this section do not apply to
34 offenders convicted after July 1, 2010.

35 (4)(a) A person convicted of a sex offense or an offense
36 categorized as a serious violent offense, assault in the second degree,
37 vehicular homicide, vehicular assault, assault of a child in the second
38 degree, any crime against persons where it is determined in accordance

1 with RCW 9.94A.602 that the offender or an accomplice was armed with a
2 deadly weapon at the time of commission, or any felony offense under
3 chapter 69.50 or 69.52 RCW, committed before July 1, 2000, may become
4 eligible, in accordance with a program developed by the department, for
5 transfer to community custody status in lieu of earned release time
6 pursuant to subsection (1) of this section;

7 (b) A person convicted of a sex offense, a violent offense, any
8 crime against persons under RCW 9.94A.411(2), or a felony offense under
9 chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may
10 become eligible, in accordance with a program developed by the
11 department, for transfer to community custody status in lieu of earned
12 release time pursuant to subsection (1) of this section;

13 (c) The department shall, as a part of its program for release to
14 the community in lieu of earned release, require the offender to
15 propose a release plan that includes an approved residence and living
16 arrangement. All offenders with community placement or community
17 custody terms eligible for release to community custody status in lieu
18 of earned release shall provide an approved residence and living
19 arrangement prior to release to the community;

20 (d) The department may deny transfer to community custody status in
21 lieu of earned release time pursuant to subsection (1) of this section
22 if the department determines an offender's release plan, including
23 proposed residence location and living arrangements, may violate the
24 conditions of the sentence or conditions of supervision, place the
25 offender at risk to violate the conditions of the sentence, place the
26 offender at risk to reoffend, or present a risk to victim safety or
27 community safety. The department's authority under this section is
28 independent of any court-ordered condition of sentence or statutory
29 provision regarding conditions for community custody or community
30 placement;

31 ~~((+3))~~ (5) An offender may leave a correctional facility pursuant
32 to an authorized furlough or leave of absence. In addition, offenders
33 may leave a correctional facility when in the custody of a corrections
34 officer or officers;

35 ~~((+4))~~ (6)(a) The secretary may authorize an extraordinary medical
36 placement for an offender when all of the following conditions exist:

37 (i) The offender has a medical condition that is serious enough to
38 require costly care or treatment;

1 (ii) The offender poses a low risk to the community because he or
2 she is physically incapacitated due to age or the medical condition;
3 and

4 (iii) Granting the extraordinary medical placement will result in
5 a cost savings to the state.

6 (b) An offender sentenced to death or to life imprisonment without
7 the possibility of release or parole is not eligible for an
8 extraordinary medical placement.

9 (c) The secretary shall require electronic monitoring for all
10 offenders in extraordinary medical placement unless the electronic
11 monitoring equipment interferes with the function of the offender's
12 medical equipment or results in the loss of funding for the offender's
13 medical care. The secretary shall specify who shall provide the
14 monitoring services and the terms under which the monitoring shall be
15 performed.

16 (d) The secretary may revoke an extraordinary medical placement
17 under this subsection at any time.

18 ~~((+5))~~ (7) The governor, upon recommendation from the clemency and
19 pardons board, may grant an extraordinary release for reasons of
20 serious health problems, senility, advanced age, extraordinary
21 meritorious acts, or other extraordinary circumstances;

22 ~~((+6))~~ (8) No more than the final six months of the sentence may
23 be served in partial confinement designed to aid the offender in
24 finding work and reestablishing himself or herself in the community;

25 ~~((+7))~~ (9) The governor may pardon any offender;

26 ~~((+8))~~ (10) The department may release an offender from
27 confinement any time within ten days before a release date calculated
28 under this section; and

29 ~~((+9))~~ (11) An offender may leave a correctional facility prior to
30 completion of his or her sentence if the sentence has been reduced as
31 provided in RCW 9.94A.870.

32 Notwithstanding any other provisions of this section, an offender
33 sentenced for a felony crime listed in RCW 9.94A.540 as subject to a
34 mandatory minimum sentence of total confinement shall not be released
35 from total confinement before the completion of the listed mandatory
36 minimum sentence for that felony crime of conviction unless allowed
37 under RCW 9.94A.540, however persistent offenders are not eligible for
38 extraordinary medical placement.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW
2 to read as follows:

3 The legislature declares that the changes to the maximum
4 percentages of earned release time in this act do not create any
5 expectation that the percentage of earned release time cannot be
6 revised and offenders have no reason to conclude that the maximum
7 percentage of earned release time is an entitlement or creates any
8 liberty interest. The legislature retains full control over the right
9 to revise the percentages of earned release time available to offenders
10 at any time. This section applies to persons convicted on or after the
11 effective date of this section.

12 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.94A RCW
13 to read as follows:

14 (1) When the department performs a risk assessment pursuant to RCW
15 9.94A.500, or to determine a person's conditions of supervision, the
16 risk assessment shall classify the offender into one of at least four
17 risk categories. The department shall supervise every offender
18 sentenced to a term of community custody, community placement, or
19 community supervision whose risk assessment places that offender in one
20 of the two highest risk categories. The department is not authorized
21 to, and may not, supervise any offender sentenced to a term of
22 community custody, community placement, or community supervision whose
23 risk assessment places that offender in any risk category other than
24 the two highest unless the offender is one for whom supervision is
25 required under subsection (2) of this section.

26 (2) Notwithstanding an offender's classification in a risk category
27 other than the two highest risk categories, the department shall
28 supervise the offender if:

29 (a) He or she has a prior conviction for an offense that is a
30 serious violent offense, sex offense, manufacture or delivery or
31 possession with intent to deliver methamphetamine, or delivery of a
32 controlled substance to a minor; or

33 (b) He or she is subject to court-ordered chemical dependency
34 treatment under RCW 9.94A.660 or the provisions of chapter 290, Laws of
35 2002, or he or she was sentenced under RCW 9.94A.670.

36 (3) This section expires July 1, 2010.

1 **Sec. 5.** RCW 9.94A.700 and 2002 c 175 s 13 are each amended to read
2 as follows:

3 When a court sentences an offender to a term of total confinement
4 in the custody of the department for any of the offenses specified in
5 this section, the court shall also sentence the offender to a term of
6 community placement as provided in this section. Except as provided in
7 section 4 of this act, the department shall supervise any sentence of
8 community placement imposed under this section.

9 (1) The court shall order a one-year term of community placement
10 for the following:

11 (a) A sex offense or a serious violent offense committed after July
12 1, 1988, but before July 1, 1990; or

13 (b) An offense committed on or after July 1, 1988, but before July
14 25, 1999, that is:

15 (i) Assault in the second degree;

16 (ii) Assault of a child in the second degree;

17 (iii) A crime against persons where it is determined in accordance
18 with RCW 9.94A.602 that the offender or an accomplice was armed with a
19 deadly weapon at the time of commission; or

20 (iv) A felony offense under chapter 69.50 or 69.52 RCW not
21 sentenced under RCW 9.94A.660.

22 (2) The court shall sentence the offender to a term of community
23 placement of two years or up to the period of earned release awarded
24 pursuant to RCW 9.94A.728, whichever is longer, for:

25 (a) An offense categorized as a sex offense committed on or after
26 July 1, 1990, but before June 6, 1996, including those sex offenses
27 also included in other offense categories;

28 (b) A serious violent offense other than a sex offense committed on
29 or after July 1, 1990, but before July 1, 2000; or

30 (c) A vehicular homicide or vehicular assault committed on or after
31 July 1, 1990, but before July 1, 2000.

32 (3) The community placement ordered under this section shall begin
33 either upon completion of the term of confinement or at such time as
34 the offender is transferred to community custody in lieu of earned
35 release. When the court sentences an offender to the statutory maximum
36 sentence then the community placement portion of the sentence shall
37 consist entirely of the community custody to which the offender may

1 become eligible. Any period of community custody actually served shall
2 be credited against the community placement portion of the sentence.

3 (4) Unless a condition is waived by the court, the terms of any
4 community placement imposed under this section shall include the
5 following conditions:

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

8 (b) The offender shall work at department-approved education,
9 employment, or community restitution, or any combination thereof;

10 (c) The offender shall not possess or consume controlled substances
11 except pursuant to lawfully issued prescriptions;

12 (d) The offender shall pay supervision fees as determined by the
13 department; and

14 (e) The residence location and living arrangements shall be subject
15 to the prior approval of the department during the period of community
16 placement.

17 (5) As a part of any terms of community placement imposed under
18 this section, the court may also order one or more of the following
19 special conditions:

20 (a) The offender shall remain within, or outside of, a specified
21 geographical boundary;

22 (b) The offender shall not have direct or indirect contact with the
23 victim of the crime or a specified class of individuals;

24 (c) The offender shall participate in crime-related treatment or
25 counseling services;

26 (d) The offender shall not consume alcohol; or

27 (e) The offender shall comply with any crime-related prohibitions.

28 (6) An offender convicted of a felony sex offense against a minor
29 victim after June 6, 1996, shall comply with any terms and conditions
30 of community placement imposed by the department relating to contact
31 between the sex offender and a minor victim or a child of similar age
32 or circumstance as a previous victim.

33 (7) Prior to or during community placement, upon recommendation of
34 the department, the sentencing court may remove or modify any
35 conditions of community placement so as not to be more restrictive.

36 **Sec. 6.** RCW 9.94A.705 and 2000 c 28 s 23 are each amended to read
37 as follows:

1 Except for persons sentenced under RCW 9.94A.700(2) or 9.94A.710,
2 when a court sentences a person to a term of total confinement to the
3 custody of the department for a violent offense, any crime against
4 persons under RCW 9.94A.411(2), or any felony offense under chapter
5 69.50 or 69.52 RCW not sentenced under RCW 9.94A.660, committed on or
6 after July 25, 1999, but before July 1, 2000, the court shall in
7 addition to the other terms of the sentence, sentence the offender to
8 a one-year term of community placement beginning either upon completion
9 of the term of confinement or at such time as the offender is
10 transferred to community custody in lieu of earned release in
11 accordance with RCW 9.94A.728 (1) and (~~(2)~~) (4). When the court
12 sentences the offender under this section to the statutory maximum
13 period of confinement, then the community placement portion of the
14 sentence shall consist entirely of such community custody to which the
15 offender may become eligible, in accordance with RCW 9.94A.728 (1) and
16 (~~(2)~~) (4). Any period of community custody actually served shall be
17 credited against the community placement portion of the sentence.
18 Except as provided in section 4 of this act, the department shall
19 supervise any sentence of community placement or community custody
20 imposed under this section.

21 **Sec. 7.** RCW 9.94A.715 and 2001 2nd sp.s. c 12 s 302 are each
22 amended to read as follows:

23 (1) When a court sentences a person to the custody of the
24 department for a sex offense not sentenced under RCW 9.94A.712, a
25 violent offense, any crime against persons under RCW 9.94A.411(2), or
26 a felony offense under chapter 69.50 or 69.52 RCW, committed on or
27 after July 1, 2000, the court shall in addition to the other terms of
28 the sentence, sentence the offender to community custody for the
29 community custody range established under RCW 9.94A.850 or up to the
30 period of earned release awarded pursuant to RCW 9.94A.728 (1) and
31 (~~(2)~~) (4), whichever is longer. The community custody shall begin:
32 (a) Upon completion of the term of confinement; (b) at such time as the
33 offender is transferred to community custody in lieu of earned release
34 in accordance with RCW 9.94A.728 (1) and (~~(2)~~) (4); or (c) with
35 regard to offenders sentenced under RCW 9.94A.660, upon failure to
36 complete or administrative termination from the special drug offender

1 sentencing alternative program. Except as provided in section 4 of
2 this act, the department shall supervise any sentence of community
3 custody imposed under this section.

4 (2)(a) Unless a condition is waived by the court, the conditions of
5 community custody shall include those provided for in RCW 9.94A.700(4).
6 The conditions may also include those provided for in RCW 9.94A.700(5).
7 The court may also order the offender to participate in rehabilitative
8 programs or otherwise perform affirmative conduct reasonably related to
9 the circumstances of the offense, the offender's risk of reoffending,
10 or the safety of the community, and the department shall enforce such
11 conditions pursuant to subsection (6) of this section.

12 (b) As part of any sentence that includes a term of community
13 custody imposed under this subsection, the court shall also require the
14 offender to comply with any conditions imposed by the department under
15 RCW 9.94A.720. The department shall assess the offender's risk of
16 reoffense and may establish and modify additional conditions of the
17 offender's community custody based upon the risk to community safety.
18 In addition, the department may require the offender to participate in
19 rehabilitative programs, or otherwise perform affirmative conduct, and
20 to obey all laws.

21 (c) The department may not impose conditions that are contrary to
22 those ordered by the court and may not contravene or decrease court
23 imposed conditions. The department shall notify the offender in
24 writing of any such conditions or modifications. In setting,
25 modifying, and enforcing conditions of community custody, the
26 department shall be deemed to be performing a quasi-judicial function.

27 (3) If an offender violates conditions imposed by the court or the
28 department pursuant to this section during community custody, the
29 department may transfer the offender to a more restrictive confinement
30 status and impose other available sanctions as provided in RCW
31 9.94A.737 and 9.94A.740.

32 (4) Except for terms of community custody under RCW 9.94A.670, the
33 department shall discharge the offender from community custody on a
34 date determined by the department, which the department may modify,
35 based on risk and performance of the offender, within the range or at
36 the end of the period of earned release, whichever is later.

37 (5) At any time prior to the completion or termination of a sex
38 offender's term of community custody, if the court finds that public

1 safety would be enhanced, the court may impose and enforce an order
2 extending any or all of the conditions imposed pursuant to this section
3 for a period up to the maximum allowable sentence for the crime as it
4 is classified in chapter 9A.20 RCW, regardless of the expiration of the
5 offender's term of community custody. If a violation of a condition
6 extended under this subsection occurs after the expiration of the
7 offender's term of community custody, it shall be deemed a violation of
8 the sentence for the purposes of RCW 9.94A.631 and may be punishable as
9 contempt of court as provided for in RCW 7.21.040. If the court
10 extends a condition beyond the expiration of the term of community
11 custody, the department is not responsible for supervision of the
12 offender's compliance with the condition.

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

19 (7) By the close of the next business day after receiving notice of
20 a condition imposed or modified by the department, an offender may
21 request an administrative review under rules adopted by the department.
22 The condition shall remain in effect unless the reviewing officer finds
23 that it is not reasonably related to any of the following: (a) The
24 crime of conviction; (b) the offender's risk of reoffending; or (c) the
25 safety of the community.

26 **Sec. 8.** RCW 9.94A.720 and 2002 c 175 s 14 are each amended to read
27 as follows:

28 (1)(a) Except as provided in section 4 of this act, all offenders
29 sentenced to terms involving community supervision, community
30 restitution, community placement, or community custody(~~(, or legal~~
31 ~~financial obligation))~~) shall be under the supervision of the department
32 and shall follow explicitly the instructions and conditions of the
33 department. The department may require an offender to perform
34 affirmative acts it deems appropriate to monitor compliance with the
35 conditions of the sentence imposed. The department may only supervise
36 the offender's compliance with payment of the legal financial

1 obligations during any period in which the department is authorized to
2 supervise the offender in the community under section 4 of this act.

3 (b) The instructions shall include, at a minimum, reporting as
4 directed to a community corrections officer, remaining within
5 prescribed geographical boundaries, notifying the community corrections
6 officer of any change in the offender's address or employment, and
7 paying the supervision fee assessment.

8 (c) For offenders sentenced to terms involving community custody
9 for crimes committed on or after June 6, 1996, the department may
10 include, in addition to the instructions in (b) of this subsection, any
11 appropriate conditions of supervision, including but not limited to,
12 prohibiting the offender from having contact with any other specified
13 individuals or specific class of individuals.

14 (d) For offenders sentenced to terms of community custody for
15 crimes committed on or after July 1, 2000, the department may impose
16 conditions as specified in RCW 9.94A.715.

17 The conditions authorized under (c) of this subsection may be
18 imposed by the department prior to or during an offender's community
19 custody term. If a violation of conditions imposed by the court or the
20 department pursuant to RCW 9.94A.710 occurs during community custody,
21 it shall be deemed a violation of community placement for the purposes
22 of RCW 9.94A.740 and shall authorize the department to transfer an
23 offender to a more restrictive confinement status as provided in RCW
24 9.94A.737. At any time prior to the completion of an offender's term
25 of community custody, the department may recommend to the court that
26 any or all of the conditions imposed by the court or the department
27 pursuant to RCW 9.94A.710 or 9.94A.715 be continued beyond the
28 expiration of the offender's term of community custody as authorized in
29 RCW 9.94A.715 (3) or (5).

30 The department may require offenders to pay for special services
31 rendered on or after July 25, 1993, including electronic monitoring,
32 day reporting, and telephone reporting, dependent upon the offender's
33 ability to pay. The department may pay for these services for
34 offenders who are not able to pay.

35 (2) No offender sentenced to terms involving community supervision,
36 community restitution, community custody, or community placement under
37 the supervision of the department may own, use, or possess firearms or
38 ammunition. Offenders who own, use, or are found to be in actual or

1 constructive possession of firearms or ammunition shall be subject to
2 the violation process and sanctions under RCW 9.94A.634, 9.94A.737, and
3 9.94A.740. "Constructive possession" as used in this subsection means
4 the power and intent to control the firearm or ammunition. "Firearm"
5 as used in this subsection has the same definition as in RCW 9.41.010.

6 **Sec. 9.** RCW 9.94A.545 and 2000 c 28 s 13 are each amended to read
7 as follows:

8 On all sentences of confinement for one year or less, in which the
9 offender is convicted of a sex offense, a violent offense, a crime
10 against a person under RCW 9.94A.411, or felony violation of chapter
11 69.50 or 69.52 RCW or an attempt, conspiracy, or solicitation to commit
12 such a crime, the court may impose up to one year of community custody,
13 subject to conditions and sanctions as authorized in RCW 9.94A.715 and
14 9.94A.720. An offender shall be on community custody as of the date of
15 sentencing. However, during the time for which the offender is in
16 total or partial confinement pursuant to the sentence or a violation of
17 the sentence, the period of community custody shall toll.

18 NEW SECTION. **Sec. 10.** The Washington state institute for public
19 policy shall study the results of the changes in earned release under
20 sections 1 and 2 of this act. The study shall determine whether the
21 changes in earned release affect the rate of recidivism or the type of
22 offenses committed by persons whose release dates were affected by the
23 changes in this act. The Washington state institute for public policy
24 shall report its findings to the governor and the appropriate
25 committees of the legislature no later than December 1, 2008.

26 NEW SECTION. **Sec. 11.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
31 preservation of the public peace, health, or safety, or support of the
32 state government and its existing public institutions, and takes effect
33 July 1, 2003, except for section 2 of this act, which takes effect July

1 1, 2004.

2 NEW SECTION. **Sec. 13.** Section 1 of this act expires July 1, 2004.

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