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**SUBSTITUTE SENATE BILL 6162**

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**State of Washington                      61st Legislature                      2009 Regular Session**

**By Senate Ways & Means (originally sponsored by Senator Prentice)**

READ FIRST TIME 04/24/09.

1            AN ACT Relating to criminal justice: Providing for the supervision  
2 of offenders sentenced to community custody regardless of risk  
3 classification if the offender has a current conviction for a serious  
4 violent offense as defined in RCW 9.94A.030; amending RCW 9.94A.501 and  
5 9.94A.501; creating a new section; providing effective dates; providing  
6 an expiration date; and declaring an emergency.

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

8            **Sec. 1.** RCW 9.94A.501 and 2009 c ... (ESSB 5288) s 1 are each  
9 amended to read as follows:

10            (1) The department shall supervise every offender convicted of a  
11 misdemeanor or gross misdemeanor offense who is sentenced to probation  
12 in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for  
13 an offense included in (a) and (b) of this subsection. The superior  
14 court shall order probation for:

15            (a) Offenders convicted of fourth degree assault, violation of a  
16 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,  
17 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,  
18 and who also have a prior conviction for one or more of the following:

19            (i) A violent offense;

1 (ii) A sex offense;

2 (iii) A crime against a person as provided in RCW 9.94A.411;

3 (iv) Fourth degree assault; or

4 (v) Violation of a domestic violence court order; and

5 (b) Offenders convicted of:

6 (i) Sexual misconduct with a minor second degree;

7 (ii) Custodial sexual misconduct second degree;

8 (iii) Communication with a minor for immoral purposes; and

9 (iv) Failure to register pursuant to RCW 9A.44.130.

10 (2) Misdemeanor and gross misdemeanor offenders supervised by the

11 department pursuant to this section shall be placed on community

12 custody.

13 (3) The department shall supervise every felony offender sentenced

14 to community custody whose risk assessment, conducted pursuant to

15 subsection (6) of this section, places the offender in one of the two

16 highest risk categories.

17 (4) Notwithstanding any other provision of this section, the

18 department shall supervise an offender sentenced to community custody

19 regardless of risk classification if the offender:

20 (a) Has a current conviction for a sex offense or a serious violent

21 offense as defined in RCW 9.94A.030;

22 (b) Has been identified by the department as a dangerous mentally

23 ill offender pursuant to RCW 72.09.370;

24 (c) Has an indeterminate sentence and is subject to parole pursuant

25 to RCW 9.95.017;

26 (d) Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or

27 (e) Is subject to supervision pursuant to RCW 9.94A.745.

28 (5) The department is not authorized to, and may not, supervise any

29 offender sentenced to a term of community custody, community placement,

30 or community supervision or any probationer unless the offender or

31 probationer is one for whom supervision is required under subsection

32 (1), (2), (3), or (4) of this section.

33 (6) The department shall conduct a risk assessment for every felony

34 offender sentenced to a term of community custody, community placement,

35 or community supervision who may be subject to supervision under this

36 section.

1           **Sec. 2.** RCW 9.94A.501 and 2009 c ... (ESSB 5288) s 2 are each  
2 amended to read as follows:

3           (1) The department shall supervise every offender convicted of a  
4 misdemeanor or gross misdemeanor offense who is sentenced to probation  
5 in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210, for  
6 an offense included in (a) and (b) of this subsection. The superior  
7 court shall order probation for:

8           (a) Offenders convicted of fourth degree assault, violation of a  
9 domestic violence court order pursuant to RCW 10.99.040, 10.99.050,  
10 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145,  
11 and who also have a prior conviction for one or more of the following:

- 12           (i) A violent offense;  
13           (ii) A sex offense;  
14           (iii) A crime against a person as provided in RCW 9.94A.411;  
15           (iv) Fourth degree assault; or  
16           (v) Violation of a domestic violence court order; and

- 17           (b) Offenders convicted of:  
18           (i) Sexual misconduct with a minor second degree;  
19           (ii) Custodial sexual misconduct second degree;  
20           (iii) Communication with a minor for immoral purposes; and  
21           (iv) Failure to register pursuant to RCW 9A.44.130.

22           (2) Misdemeanor and gross misdemeanor offenders supervised by the  
23 department pursuant to this section shall be placed on community  
24 custody.

25           (3) The department shall supervise every felony offender sentenced  
26 to community custody whose risk assessment, conducted pursuant to  
27 subsection (6) of this section, classifies the offender as one who is  
28 at a high risk to reoffend.

29           (4) Notwithstanding any other provision of this section, the  
30 department shall supervise an offender sentenced to community custody  
31 regardless of risk classification if the offender:

32           (a) Has a current conviction for a sex offense or a serious violent  
33 offense as defined in RCW 9.94A.030;

34           (b) Has been identified by the department as a dangerous mentally  
35 ill offender pursuant to RCW 72.09.370;

36           (c) Has an indeterminate sentence and is subject to parole pursuant  
37 to RCW 9.95.017;

38           (d) Was sentenced under RCW 9.94A.650, 9.94A.660, or 9.94A.670; or

1 (e) Is subject to supervision pursuant to RCW 9.94A.745.

2 (5) The department is not authorized to, and may not, supervise any  
3 offender sentenced to a term of community custody or any probationer  
4 unless the offender or probationer is one for whom supervision is  
5 required under subsection (1), (2), (3), or (4) of this section.

6 (6) The department shall conduct a risk assessment for every felony  
7 offender sentenced to a term of community custody who may be subject to  
8 supervision under this section.

9 NEW SECTION. **Sec. 3.** (1) Section 1 of this act is necessary for  
10 the immediate preservation of the public peace, health, or safety, or  
11 support of the state government and its existing public institutions,  
12 and takes effect immediately, or when section 1, chapter . . . (ESSB  
13 5288), Laws of 2009 takes effect, whichever is later.

14 (2) Section 2 of this act takes effect August 1, 2009.

15 NEW SECTION. **Sec. 4.** Section 1 of this act expires August 1,  
16 2009.

17 NEW SECTION. **Sec. 5.** If Engrossed Substitute Senate Bill No.  
18 5288, as amended by the House, is not enacted into law by August 1,  
19 2009, this act is null and void.

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