
SENATE BILL 6518

State of Washington

65th Legislature

2018 Regular Session

By Senator Darneille; by request of Department of Corrections

1 AN ACT Relating to requiring multiple terms of community custody
2 or community supervision to run concurrently unless the court orders
3 otherwise; amending RCW 9.94A.589 and 9.94B.050; adding a new section
4 to chapter 9.94B RCW; creating new sections; and providing an
5 effective date.

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

7 **Sec. 1.** RCW 9.94A.589 and 2015 2nd sp.s. c 3 s 13 are each
8 amended to read as follows:

9 (1)(a) Except as provided in (b), (c), or (d) of this subsection,
10 whenever a person is to be sentenced for two or more current
11 offenses, the sentence range for each current offense shall be
12 determined by using all other current and prior convictions as if
13 they were prior convictions for the purpose of the offender score:
14 PROVIDED, That if the court enters a finding that some or all of the
15 current offenses encompass the same criminal conduct then those
16 current offenses shall be counted as one crime. Sentences imposed
17 under this subsection shall be served concurrently. Consecutive
18 sentences may only be imposed under the exceptional sentence
19 provisions of RCW 9.94A.535. "Same criminal conduct," as used in this
20 subsection, means two or more crimes that require the same criminal
21 intent, are committed at the same time and place, and involve the

1 same victim. This definition applies in cases involving vehicular
2 assault or vehicular homicide even if the victims occupied the same
3 vehicle.

4 (b) Whenever a person is convicted of two or more serious violent
5 offenses arising from separate and distinct criminal conduct, the
6 standard sentence range for the offense with the highest seriousness
7 level under RCW 9.94A.515 shall be determined using the offender's
8 prior convictions and other current convictions that are not serious
9 violent offenses in the offender score and the standard sentence
10 range for other serious violent offenses shall be determined by using
11 an offender score of zero. The standard sentence range for any
12 offenses that are not serious violent offenses shall be determined
13 according to (a) of this subsection. All sentences imposed under this
14 subsection (1)(b) shall be served consecutively to each other and
15 concurrently with sentences imposed under (a) of this subsection.
16 However, unless the court expressly orders that the community custody
17 terms run consecutively to each other, the terms shall run
18 concurrently to each other even if the court orders the confinement
19 terms to run consecutively to each other.

20 (c) If an offender is convicted under RCW 9.41.040 for unlawful
21 possession of a firearm in the first or second degree and for the
22 felony crimes of theft of a firearm or possession of a stolen
23 firearm, or both, the standard sentence range for each of these
24 current offenses shall be determined by using all other current and
25 prior convictions, except other current convictions for the felony
26 crimes listed in this subsection (1)(c), as if they were prior
27 convictions. The offender shall serve consecutive sentences for each
28 conviction of the felony crimes listed in this subsection (1)(c), and
29 for each firearm unlawfully possessed.

30 (d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6),
31 or 46.61.5055(4) shall be served consecutively to any sentences
32 imposed under RCW 46.20.740 and 46.20.750.

33 (2)(a) (~~Except as provided in (b) of this subsection,~~) Whenever
34 a person while under sentence for conviction of a felony commits
35 another felony and is sentenced to another term of confinement, the
36 latter term of confinement shall not begin until expiration of all
37 prior terms of confinement. However, any terms of community custody
38 shall run concurrently to each other, unless the court pronouncing
39 the current sentence expressly orders that they be served
40 consecutively.

1 (b) Whenever a second or later felony conviction results in
2 consecutive community (~~(supervision)~~) custody with conditions not
3 currently in effect, under the prior sentence or sentences of
4 community (~~(supervision)~~) custody the court may require that the
5 conditions of community (~~(supervision)~~) custody contained in the
6 second or later sentence begin during the immediate term of community
7 (~~(supervision)~~) custody and continue throughout the duration of the
8 consecutive term of community (~~(supervision)~~) custody.

9 (3) Subject to subsections (1) and (2) of this section, whenever
10 a person is sentenced for a felony that was committed while the
11 person was not under sentence for conviction of a felony, the
12 sentence shall run concurrently with any felony sentence which has
13 been imposed by any court in this or another state or by a federal
14 court subsequent to the commission of the crime being sentenced
15 unless the court pronouncing the current sentence expressly orders
16 that (~~they~~) the confinement terms be served consecutively to each
17 other. Unless the court expressly orders that the community custody
18 terms run consecutively, such terms run concurrently to each other
19 even if the court orders the confinement terms to run consecutively
20 to each other.

21 (4) Whenever any person granted probation under RCW 9.95.210 or
22 9.92.060, or both, has the probationary sentence revoked and a prison
23 sentence imposed, that sentence shall run consecutively to any
24 sentence imposed pursuant to this chapter, unless the court
25 pronouncing the subsequent sentence expressly orders that they be
26 served concurrently.

27 (5) (~~(In the case of consecutive sentences,)~~) All periods of
28 total confinement shall be served before any partial confinement,
29 community (~~(restitution, community supervision)~~) custody, or any
30 other requirement or conditions of any of the sentences. (~~Except for~~
31 exceptional sentences as authorized under RCW 9.94A.535, if two or
32 more sentences that run consecutively include periods of community
33 supervision, the aggregate of the community supervision period shall
34 not exceed twenty four months.))

35 **Sec. 2.** RCW 9.94B.050 and 2003 c 379 s 4 are each amended to
36 read as follows:

37 When a court sentences an offender to a term of total confinement
38 in the custody of the department for any of the offenses specified in
39 this section, the court shall also sentence the offender to a term of

1 community placement as provided in this section. Except as provided
2 in RCW 9.94A.501, the department shall supervise any sentence of
3 community placement imposed under this section.

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

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

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

10 (i) Assault in the second degree;

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

12 (iii) A crime against persons where it is determined in
13 accordance with RCW (~~9.94A.602~~) 9.94A.825 that the offender or an
14 accomplice was armed with a deadly weapon at the time of commission;
15 or

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

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

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

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

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

28 (3) The community placement ordered under this section shall
29 begin either upon completion of the term of confinement or at such
30 time as the offender is transferred to community custody in lieu of
31 earned release. When the court sentences an offender to the statutory
32 maximum sentence then the community placement portion of the sentence
33 shall consist entirely of the community custody to which the offender
34 may become eligible. Any period of community custody actually served
35 shall be credited against the community placement portion of the
36 sentence. The community placement shall run concurrently to any
37 period of probation, parole, community supervision, community
38 placement, or community custody previously imposed by any court in
39 any jurisdiction, unless the court pronouncing the current sentence
40 expressly orders that they be served consecutively to each other.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94B
36 RCW to read as follows:

37 Except for exceptional sentences, as authorized under RCW
38 9.94A.535, if two or more sentences that run consecutively include
39 periods of community supervision that the court has expressly ordered

1 to run consecutively, the aggregate of the community supervision
2 period shall not exceed twenty-four months.

3 NEW SECTION. **Sec. 4.** The department of corrections must
4 recalculate the scheduled end dates for terms of community custody,
5 community supervision, and community placement so that they run
6 concurrently to previously imposed sentences of community custody,
7 community supervision, community placement, probation, and parole,
8 unless the court pronouncing the current sentence has expressly
9 required such terms to run consecutively. This section applies to
10 each offender currently in confinement or under active supervision,
11 regardless of whether the offender is sentenced after the effective
12 date of this section, and regardless of whether the offender's date
13 of offense occurred before the effective date of this section or
14 after.

15 NEW SECTION. **Sec. 5.** The legislature declares that the
16 department of corrections' recalculations of community custody terms
17 pursuant to this act do not create any expectations that a particular
18 community custody term will end before July 1, 2018, and offenders
19 have no reason to conclude that the recalculation of their community
20 custody terms before July 1, 2018, is an entitlement or creates any
21 liberty interest in their community custody term ending before July
22 1, 2018.

23 NEW SECTION. **Sec. 6.** The department of corrections has the
24 authority to begin implementing this act upon the effective date of
25 this section.

26 NEW SECTION. **Sec. 7.** This act applies retroactively and
27 prospectively regardless of the date of an offender's underlying
28 offense.

29 NEW SECTION. **Sec. 8.** This act takes effect July 1, 2018.

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