

SSB 5492 - H COMM AMD
By Committee on Public Safety

NOT ADOPTED 04/16/2019

1 Strike everything after the enacting clause and insert the
2 following:

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

5 (1) Notwithstanding the provisions of RCW 9.94A.701 and 9.94A.702
6 and subject to the provisions of this section, a court may sentence
7 an offender to community custody for a period of six to twelve months
8 when the midpoint of the standard sentence range is greater than one
9 year and the person is being sentenced for one of the following
10 crimes:

- 11 (a) Theft of a motor vehicle (RCW 9A.56.065);
- 12 (b) Possession of a stolen vehicle (RCW 9A.56.068);
- 13 (c) Taking a motor vehicle without permission in the first degree
14 (RCW 9A.56.070);
- 15 (d) Taking a motor vehicle without permission in the second
16 degree (RCW 9A.56.075); or
- 17 (e) Attempt of (a) or (b) of this subsection.

18 (2) The department shall conduct an assessment of the offender
19 and identify programming and services that would be appropriate to
20 address the offender's needs. To the extent possible, the department
21 shall make available the programming identified by the assessment
22 while the offender is on community custody.

23 (3) For purposes of this section, the offender's sentence of
24 incarceration may not exceed the mid-point of the standard sentence
25 range reduced by one-half of the ordered term of community custody.

26 (4) An offender receiving a sentence under this section is not
27 eligible for earned release time under RCW 9.94A.729 in excess of
28 one-third of the total sentence.

29 (5) No later than November 1, 2025, the department shall submit a
30 report to the governor and the appropriate committees of the
31 legislature analyzing the effectiveness of supervision in reducing
32 recidivism among offenders committing felonies relating to the theft

1 or taking of a motor vehicle. The department shall consult with the
2 Washington state institute for public policy in guiding its data
3 tracking efforts and preparing the report.

4 (6) This section expires June 30, 2026.

5 **Sec. 2.** RCW 9.94A.501 and 2016 sp.s. c 28 s 1 are each amended
6 to read as follows:

7 (1) The department shall supervise the following offenders who
8 are sentenced to probation in superior court, pursuant to RCW
9 9.92.060, 9.95.204, or 9.95.210:

10 (a) Offenders convicted of:

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

12 (ii) Custodial sexual misconduct second degree;

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

14 (iv) Violation of RCW 9A.44.132(2) (failure to register); and

15 (b) Offenders who have:

16 (i) A current conviction for a repetitive domestic violence
17 offense where domestic violence has been pleaded and proven after
18 August 1, 2011; and

19 (ii) A prior conviction for a repetitive domestic violence
20 offense or domestic violence felony offense where domestic violence
21 has been pleaded and proven after August 1, 2011.

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
26 sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702
27 whose risk assessment classifies the offender as one who is at a high
28 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
33 violent offense and was sentenced to a term of community custody
34 pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

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

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

1 (d) Has a current conviction for violating RCW 9A.44.132(1)
2 (failure to register) and was sentenced to a term of community
3 custody pursuant to RCW 9.94A.701;

4 (e) (i) Has a current conviction for a domestic violence felony
5 offense where domestic violence has been pleaded and proven after
6 August 1, 2011, and a prior conviction for a repetitive domestic
7 violence offense or domestic violence felony offense where domestic
8 violence was pleaded and proven after August 1, 2011. This subsection
9 (4) (e) (i) applies only to offenses committed prior to July 24, 2015;

10 (ii) Has a current conviction for a domestic violence felony
11 offense where domestic violence was pleaded and proven. The state and
12 its officers, agents, and employees shall not be held criminally or
13 civilly liable for its supervision of an offender under this
14 subsection (4) (e) (ii) unless the state and its officers, agents, and
15 employees acted with gross negligence;

16 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,
17 (~~(e)~~) 9.94A.670, or section 1 of this act;

18 (g) Is subject to supervision pursuant to RCW 9.94A.745; or

19 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
20 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
21 (felony DUI), or RCW 46.61.504(6) (felony physical control).

22 (5) The department shall supervise any offender who is released
23 by the indeterminate sentence review board and who was sentenced to
24 community custody or subject to community custody under the terms of
25 release.

26 (6) The department is not authorized to, and may not, supervise
27 any offender sentenced to a term of community custody or any
28 probationer unless the offender or probationer is one for whom
29 supervision is required under this section or RCW 9.94A.5011.

30 (7) The department shall conduct a risk assessment for every
31 felony offender sentenced to a term of community custody who may be
32 subject to supervision under this section or RCW 9.94A.5011.

33 (8) The period of time the department is authorized to supervise
34 an offender under this section may not exceed the duration of
35 community custody specified under RCW 9.94B.050, 9.94A.701 (1)
36 through (8), or 9.94A.702, except in cases where the court has
37 imposed an exceptional term of community custody under RCW 9.94A.535.

38 **Sec. 3.** RCW 9.94A.505 and 2015 c 287 s 10 and 2015 c 81 s 1 are
39 each reenacted and amended to read as follows:

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

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

5 (i) Unless another term of confinement applies, a sentence within
6 the standard sentence range established in RCW 9.94A.510 or
7 9.94A.517;

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

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

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

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

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

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

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

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

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

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

22 (xii) RCW 9.94A.603, relating to felony driving while under the
23 influence of intoxicating liquor or any drug and felony physical
24 control of a vehicle while under the influence of intoxicating liquor
25 or any drug;

26 (xiii) Section 1 of this act, relating to the theft or taking of
27 a motor vehicle.

28 (b) If a standard sentence range has not been established for the
29 offender's crime, the court shall impose a determinate sentence which
30 may include not more than one year of confinement; community
31 restitution work; a term of community custody under RCW 9.94A.702 not
32 to exceed one year; and/or other legal financial obligations. The
33 court may impose a sentence which provides more than one year of
34 confinement and a community custody term under RCW 9.94A.701 if the
35 court finds reasons justifying an exceptional sentence as provided in
36 RCW 9.94A.535.

37 (3) If the court imposes a sentence requiring confinement of
38 thirty days or less, the court may, in its discretion, specify that
39 the sentence be served on consecutive or intermittent days. A
40 sentence requiring more than thirty days of confinement shall be

1 served on consecutive days. Local jail administrators may schedule
2 court-ordered intermittent sentences as space permits.

3 (4) If a sentence imposed includes payment of a legal financial
4 obligation, it shall be imposed as provided in RCW 9.94A.750,
5 9.94A.753, 9.94A.760, and 43.43.7541.

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

10 (6) The sentencing court shall give the offender credit for all
11 confinement time served before the sentencing if that confinement was
12 solely in regard to the offense for which the offender is being
13 sentenced.

14 (7) The sentencing court shall not give the offender credit for
15 any time the offender was required to comply with an electronic
16 monitoring program prior to sentencing if the offender was convicted
17 of one of the following offenses:

18 (a) A violent offense;

19 (b) Any sex offense;

20 (c) Any drug offense;

21 (d) Reckless burning in the first or second degree as defined in
22 RCW 9A.48.040 or 9A.48.050;

23 (e) Assault in the third degree as defined in RCW 9A.36.031;

24 (f) Assault of a child in the third degree;

25 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

26 (h) Harassment as defined in RCW 9A.46.020.

27 (8) The court shall order restitution as provided in RCW
28 9.94A.750 and 9.94A.753.

29 (9) As a part of any sentence, the court may impose and enforce
30 crime-related prohibitions and affirmative conditions as provided in
31 this chapter. "Crime-related prohibitions" may include a prohibition
32 on the use or possession of alcohol or controlled substances if the
33 court finds that any chemical dependency or substance abuse
34 contributed to the offense.

35 (10) In any sentence of partial confinement, the court may
36 require the offender to serve the partial confinement in work
37 release, in a program of home detention, on work crew, or in a
38 combined program of work crew and home detention."

39 Correct the title.

EFFECT: Reduces the upper limit on the offender's sentence of incarceration when sentenced under the provisions of the bill to the mid-point of the standard range reduced by one-half, rather than by one-third, of the ordered term of community custody. Retains all other provisions of the underlying bill.

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