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**SUBSTITUTE SENATE BILL 5848**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senate Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille and Nguyen; by request of Department of Corrections)

READ FIRST TIME 02/21/19.

1 AN ACT Relating to individuals under the department of  
2 corrections' jurisdiction; amending RCW 9.94A.589, 9.94B.050,  
3 9.94A.729, 9.94A.737, 9.94A.631, and 9.94A.716; adding a new section  
4 to chapter 9.94A RCW; creating new sections; providing an effective  
5 date; providing an expiration date; and declaring an emergency.

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

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

9 (1) Any offender sentenced for a drug offense committed prior to  
10 July 1, 2004, and serving a term of incarceration for that drug  
11 offense on the effective date of this section, is entitled to a  
12 resentencing hearing. The prosecuting attorney for the county in  
13 which any offender was sentenced and to whom this section applies  
14 must review the sentencing documents. If the offender is serving a  
15 term of incarceration for a drug offense committed prior to July 1,  
16 2004, the prosecuting attorney shall, or the offender may, make a  
17 motion for relief from sentence to the original sentencing court.

18 (2) The sentencing court shall grant the motion if it finds that  
19 the offender is serving a sentence for a drug offense committed prior  
20 to July 1, 2004, and shall immediately set an expedited date for  
21 resentencing. At resentencing, the court shall sentence the offender

1 as if sections 7 through 11 and 14 through 23, chapter 290, Laws of  
2 2002 were effective at the time the original sentence was imposed.

3 (3) In no case may the resentencing under this order result in  
4 the offender serving a greater term of total confinement.

5 (4) This section expires July 1, 2021.

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

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

24 (b) Whenever a person is convicted of two or more serious violent  
25 offenses arising from separate and distinct criminal conduct, the  
26 standard sentence range for the offense with the highest seriousness  
27 level under RCW 9.94A.515 shall be determined using the offender's  
28 prior convictions and other current convictions that are not serious  
29 violent offenses in the offender score and the standard sentence  
30 range for other serious violent offenses shall be determined by using  
31 an offender score of zero. The standard sentence range for any  
32 offenses that are not serious violent offenses shall be determined  
33 according to (a) of this subsection. All sentences imposed under this  
34 subsection (1) (b) shall be served consecutively to each other and  
35 concurrently with sentences imposed under (a) of this subsection.  
36 However, unless the court expressly orders that the community custody  
37 terms run consecutively to each other, the terms of community custody  
38 shall run concurrently to each other even if the court orders the  
39 confinement terms to run consecutively to each other.

1 (c) If an offender is convicted under RCW 9.41.040 for unlawful  
2 possession of a firearm in the first or second degree and for the  
3 felony crimes of theft of a firearm or possession of a stolen  
4 firearm, or both, the standard sentence range for each of these  
5 current offenses shall be determined by using all other current and  
6 prior convictions, except other current convictions for the felony  
7 crimes listed in this subsection (1)(c), as if they were prior  
8 convictions. The offender shall serve consecutive sentences for each  
9 conviction of the felony crimes listed in this subsection (1)(c), and  
10 for each firearm unlawfully possessed.

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

14 (2) (a) (~~Except as provided in (b) of this subsection,~~) Whenever  
15 a person while under sentence for conviction of a felony commits  
16 another felony and is sentenced to another term of confinement, the  
17 latter term of confinement shall not begin until expiration of all  
18 prior terms of confinement. However, any terms of community custody  
19 shall run concurrently to each other, unless the court pronouncing  
20 the current sentence expressly orders that they be served  
21 consecutively.

22 (b) Whenever a second or later felony conviction results in  
23 consecutive community (~~supervision~~) custody with conditions not  
24 currently in effect, under the prior sentence or sentences of  
25 community (~~supervision~~) custody the court may require that the  
26 conditions of community (~~supervision~~) custody contained in the  
27 second or later sentence begin during the immediate term of community  
28 (~~supervision~~) custody and continue throughout the duration of the  
29 consecutive term of community (~~supervision~~) custody.

30 (3) Subject to subsections (1) and (2) of this section, whenever  
31 a person is sentenced for a felony that was committed while the  
32 person was not under sentence for conviction of a felony, the  
33 sentence shall run concurrently with any felony sentence which has  
34 been imposed by any court in this or another state or by a federal  
35 court subsequent to the commission of the crime being sentenced  
36 unless the court pronouncing the current sentence expressly orders  
37 that (~~they~~) the confinement terms be served consecutively to each  
38 other. Unless the court expressly orders that the community custody  
39 terms run consecutively, such terms of community custody run

1 concurrently to each other even if the court orders the confinement  
2 terms to run consecutively to each other.

3 (4) Whenever any person granted probation under RCW 9.95.210 or  
4 9.92.060, or both, has the probationary sentence revoked and a prison  
5 sentence imposed, that sentence shall run consecutively to any  
6 sentence imposed pursuant to this chapter, unless the court  
7 pronouncing the subsequent sentence expressly orders that they be  
8 served concurrently.

9 (5) In the case of consecutive sentences, all periods of total  
10 confinement shall be served before any partial confinement, community  
11 restitution, community supervision, or any other requirement or  
12 conditions of any of the sentences. Except for exceptional sentences  
13 as authorized under RCW 9.94A.535, if two or more sentences that run  
14 consecutively include periods of community supervision, the aggregate  
15 of the community supervision period shall not exceed twenty-four  
16 months.

17 **Sec. 3.** RCW 9.94B.050 and 2003 c 379 s 4 are each amended to  
18 read as follows:

19 When a court sentences an offender to a term of total confinement  
20 in the custody of the department for any of the offenses specified in  
21 this section, the court shall also sentence the offender to a term of  
22 community placement as provided in this section. Except as provided  
23 in RCW 9.94A.501, the department shall supervise any sentence of  
24 community placement imposed under this section.

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

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

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

31 (i) Assault in the second degree;

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

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

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

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

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

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

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

11 (3) The community placement ordered under this section shall  
12 begin either upon completion of the term of confinement or at such  
13 time as the offender is transferred to community custody in lieu of  
14 earned release. When the court sentences an offender to the statutory  
15 maximum sentence then the community placement portion of the sentence  
16 shall consist entirely of the community custody to which the offender  
17 may become eligible. Any period of community custody actually served  
18 shall be credited against the community placement portion of the  
19 sentence. The community placement shall run concurrently to any  
20 period of probation, parole, community supervision, community  
21 placement, or community custody previously imposed by any court in  
22 any jurisdiction, unless the court pronouncing the current sentence  
23 expressly orders that they be served consecutively to each other.

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

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

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

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

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

35 (e) The residence location and living arrangements shall be  
36 subject to the prior approval of the department during the period of  
37 community placement.

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

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

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

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

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

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

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

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

18 **Sec. 4.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to  
19 read as follows:

20 (1)(a) The term of the sentence of an offender committed to a  
21 correctional facility operated by the department may be reduced by  
22 earned release time in accordance with procedures that shall be  
23 developed and adopted by the correctional agency having jurisdiction  
24 in which the offender is confined. The earned release time shall be  
25 for good behavior and good performance, as determined by the  
26 correctional agency having jurisdiction. The correctional agency  
27 shall not credit the offender with earned release credits in advance  
28 of the offender actually earning the credits.

29 (b) Any program established pursuant to this section shall allow  
30 an offender to earn early release credits for presentence  
31 incarceration. If an offender is transferred from a county jail to  
32 the department, the administrator of a county jail facility shall  
33 certify to the department the amount of time spent in custody at the  
34 facility and the number of days of early release credits lost or not  
35 earned. The department may approve a jail certification from a  
36 correctional agency that calculates early release time based on the  
37 actual amount of confinement time served by the offender before  
38 sentencing when an erroneous calculation of confinement time served  
39 by the offender before sentencing appears on the judgment and

1 sentence. The department must adjust an offender's rate of early  
2 release listed on the jail certification to be consistent with the  
3 rate applicable to offenders in the department's facilities. However,  
4 the department is not authorized to adjust the number of presentence  
5 early release days that the jail has certified as lost or not earned.

6 (2) An offender who has been convicted of a felony committed  
7 after July 23, 1995, that involves any applicable deadly weapon  
8 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not  
9 receive any good time credits or earned release time for that portion  
10 of his or her sentence that results from any deadly weapon  
11 enhancements.

12 (3) An offender may earn early release time as follows:

13 (a) In the case of an offender sentenced pursuant to RCW  
14 10.95.030(3) or 10.95.035, the offender may not receive any earned  
15 early release time during the minimum term of confinement imposed by  
16 the court; for any remaining portion of the sentence served by the  
17 offender, the aggregate earned release time may not exceed ten  
18 percent of the sentence.

19 (b) In the case of an offender convicted of a serious violent  
20 offense, or a sex offense that is a class A felony, committed on or  
21 after July 1, 1990, and before July 1, 2003, the aggregate earned  
22 release time may not exceed fifteen percent of the sentence.

23 (c) In the case of an offender convicted of a serious violent  
24 offense, or a sex offense that is a class A felony, committed on or  
25 after July 1, 2003, the aggregate earned release time may not exceed  
26 ten percent of the sentence.

27 (d) An offender is qualified to earn up to fifty percent of  
28 aggregate earned release time if he or she:

29 (i) Is not classified as an offender who is at a high risk to  
30 reoffend as provided in subsection (4) of this section;

31 (ii) Is not confined pursuant to a sentence for:

32 (A) A sex offense;

33 (B) A violent offense;

34 (C) A crime against persons as defined in RCW 9.94A.411;

35 (D) A felony that is domestic violence as defined in RCW  
36 10.99.020;

37 (E) A violation of RCW 9A.52.025 (residential burglary);

38 (F) A violation of, or an attempt, solicitation, or conspiracy to  
39 violate, RCW 69.50.401 by manufacture or delivery or possession with  
40 intent to deliver methamphetamine; or

1 (G) A violation of, or an attempt, solicitation, or conspiracy to  
2 violate, RCW 69.50.406 (delivery of a controlled substance to a  
3 minor);

4 (iii) Has no prior conviction for the offenses listed in (d)(ii)  
5 of this subsection;

6 (iv) Participates in programming or activities as directed by the  
7 offender's individual reentry plan as provided under RCW 72.09.270 to  
8 the extent that such programming or activities are made available by  
9 the department; and

10 (v) Has not committed a new felony after July 22, 2007, while  
11 under community custody.

12 (e) In the case of an offender convicted on or after July 1,  
13 2019, the aggregate earned release time may not exceed fifty percent  
14 of the sentence when the conviction is for an offense that is not  
15 classified as a:

16 (i) Sex offense;

17 (ii) Violent offense; or

18 (iii) Crime against a person as defined in RCW 9.94A.411.

19 (f) In no other case shall the aggregate earned release time  
20 exceed one-third of the total sentence.

21 (4) The department shall perform a risk assessment of each  
22 offender who may qualify for earned early release under subsection  
23 (3)(d) of this section utilizing the risk assessment tool recommended  
24 by the Washington state institute for public policy. Subsection  
25 (3)(d) of this section does not apply to offenders convicted after  
26 July 1, 2010.

27 (5)(a) A person who is eligible for earned early release as  
28 provided in this section and who will be supervised by the department  
29 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
30 community custody in lieu of earned release time;

31 (b) The department shall, as a part of its program for release to  
32 the community in lieu of earned release, require the offender to  
33 propose a release plan that includes an approved residence and living  
34 arrangement. All offenders with community custody terms eligible for  
35 release to community custody in lieu of earned release shall provide  
36 an approved residence and living arrangement prior to release to the  
37 community;

38 (c) The department may deny transfer to community custody in lieu  
39 of earned release time if the department determines an offender's  
40 release plan, including proposed residence location and living



1 arrangements, may violate the conditions of the sentence or  
2 conditions of supervision, place the offender at risk to violate the  
3 conditions of the sentence, place the offender at risk to reoffend,  
4 or present a risk to victim safety or community safety. The  
5 department's authority under this section is independent of any  
6 court-ordered condition of sentence or statutory provision regarding  
7 conditions for community custody;

8 (d) If the department is unable to approve the offender's release  
9 plan, the department may do one or more of the following:

10 (i) Transfer an offender to partial confinement in lieu of earned  
11 early release for a period not to exceed three months. The three  
12 months in partial confinement is in addition to that portion of the  
13 offender's term of confinement that may be served in partial  
14 confinement as provided in RCW 9.94A.728(~~(5)~~) (1)(e);

15 (ii) Provide rental vouchers to the offender for a period not to  
16 exceed three months if rental assistance will result in an approved  
17 release plan.

18 A voucher must be provided in conjunction with additional  
19 transition support programming or services that enable an offender to  
20 participate in services including, but not limited to, substance  
21 abuse treatment, mental health treatment, sex offender treatment,  
22 educational programming, or employment programming;

23 (e) The department shall maintain a list of housing providers  
24 that meets the requirements of RCW 72.09.285. If more than two  
25 voucher recipients will be residing per dwelling unit, as defined in  
26 RCW 59.18.030, rental vouchers for those recipients may only be paid  
27 to a housing provider on the department's list;

28 (f) For each offender who is the recipient of a rental voucher,  
29 the department shall gather data as recommended by the Washington  
30 state institute for public policy in order to best demonstrate  
31 whether rental vouchers are effective in reducing recidivism.

32 (6) An offender serving a term of confinement imposed under RCW  
33 9.94A.670(5)(a) is not eligible for earned release credits under this  
34 section.

35 **Sec. 5.** RCW 9.94A.737 and 2012 1st sp.s. c 6 s 7 are each  
36 amended to read as follows:

37 (1) If an offender is accused of violating any condition or  
38 requirement of community custody, the department shall address the  
39 violation behavior. The department may hold offender disciplinary

1 proceedings not subject to chapter 34.05 RCW. The department shall  
2 notify the offender in writing of the violation process.

3 (2) (a) The offender's violation behavior shall determine the  
4 sanction the department imposes. The department shall adopt rules  
5 creating a structured violation process that includes presumptive  
6 sanctions, aggravating and mitigating factors, and definitions for  
7 low level violations and high level violations.

8 ~~(b) ((After an offender has committed and been sanctioned for  
9 five low level violations, all subsequent violations committed by  
10 that offender shall automatically be considered high level  
11 violations.~~

12 ~~(c))~~ (i) The department must define aggravating factors that  
13 indicate the offender may present a current and ongoing foreseeable  
14 risk and which therefore ~~((r))~~ elevate an offender's behavior to a  
15 high level violation process.

16 (ii) The state and its officers, agents, and employees may not be  
17 held criminally or civilly liable for a decision to elevate or not to  
18 elevate an offender's behavior to a high level violation process  
19 under this subsection unless the state or its officers, agents, and  
20 employees acted with reckless disregard.

21 (3) The department may intervene when an offender commits a low  
22 level violation ~~((as follows:~~

23 ~~(a) For a first low level violation, the department may  
24 sanction))~~ by sanctioning the offender to one or more nonconfinement  
25 sanctions ~~((.~~

26 ~~(b) For a second or subsequent low level violation, the  
27 department may sanction the offender))~~ or to not more than three days  
28 in total confinement.

29 ~~((i))~~ (a) The department shall develop rules to ensure that  
30 each offender subject to a short-term confinement sanction is  
31 provided the opportunity to respond to the alleged violation prior to  
32 imposition of total confinement.

33 ~~((ii))~~ (b) The offender may appeal the short-term confinement  
34 sanction to a panel of three reviewing officers designated by the  
35 secretary or by the secretary's designee. The offender's appeal must  
36 be in writing and hand-delivered to department staff, or postmarked,  
37 within seven days after the sanction is imposed.

38 (4) If an offender is accused of committing a high level  
39 violation, the department may sanction the offender to not more than  
40 thirty days in total confinement per hearing.

1 (a) The offender is entitled to a hearing prior to the imposition  
2 of sanctions; and

3 (b) The offender may be held in total confinement pending a  
4 sanction hearing. Prehearing time served must be credited to the  
5 offender's sanction time.

6 (5) ~~((If the offender's underlying offense is one of the  
7 following felonies and the violation behavior constitutes a new  
8 misdemeanor, gross misdemeanor or felony, the offender shall be held  
9 in total confinement pending a sanction hearing, and until the  
10 sanction expires or until if a prosecuting attorney files new charges  
11 against the offender, whichever occurs first:~~

12 ~~(a) Assault in the first degree, as defined in RCW 9A.36.011;~~

13 ~~(b) Assault of a child in the first degree, as defined in RCW  
14 9A.36.120;~~

15 ~~(c) Assault of a child in the second degree, as defined in RCW  
16 9A.36.130;~~

17 ~~(d) Burglary in the first degree, as defined in RCW 9A.52.020;~~

18 ~~(e) Child molestation in the first degree, as defined in RCW  
19 9A.44.083;~~

20 ~~(f) Commercial sexual abuse of a minor, as defined in RCW  
21 9.68A.100;~~

22 ~~(g) Dealing in depictions of a minor engaged in sexually explicit  
23 conduct, as defined in RCW 9.68A.050;~~

24 ~~(h) Homicide by abuse, as defined in RCW 9A.32.055;~~

25 ~~(i) Indecent liberties with forcible compulsion, as defined in  
26 RCW 9A.44.100(1)(a);~~

27 ~~(j) Indecent liberties with a person capable of consent, as  
28 defined in RCW 9A.44.100(1)(b);~~

29 ~~(k) Kidnapping in the first degree, as defined in RCW 9A.40.020;~~

30 ~~(l) Murder in the first degree, as defined in RCW 9A.32.030;~~

31 ~~(m) Murder in the second degree, as defined in RCW 9A.32.050;~~

32 ~~(n) Promoting commercial sexual abuse of a minor, as defined in  
33 RCW 9.68A.101;~~

34 ~~(o) Rape in the first degree, as defined in RCW 9A.44.040;~~

35 ~~(p) Rape in the second degree, as defined in RCW 9A.44.050;~~

36 ~~(q) Rape of a child in the first degree, as defined in RCW  
37 9A.44.073;~~

38 ~~(r) Rape of a child in the second degree, as defined in RCW  
39 9A.44.076;~~

40 ~~(s) Robbery in the first degree, as defined in RCW 9A.56.200;~~

1       ~~(t) Sexual exploitation of a minor, as defined in RCW 9.68A.040;~~  
2       ~~or~~  
3       ~~(u) Vehicular homicide while under the influence of intoxicating~~  
4       ~~liquor or any drug, as defined in RCW 46.61.520(1)(a).~~

5       (6)) The department shall adopt rules creating hearing  
6 procedures for high level violations. The hearings are offender  
7 disciplinary proceedings and are not subject to chapter 34.05 RCW.  
8 The procedures shall include the following:

9       (a) The department shall provide the offender with written notice  
10 of the alleged violation and the evidence supporting it. The notice  
11 must include a statement of the rights specified in this subsection,  
12 and the offender's right to file a personal restraint petition under  
13 court rules after the final decision;

14       (b) Unless the offender waives the right to a hearing, the  
15 department shall hold a hearing, and shall record it electronically.  
16 For offenders not in total confinement, the department shall hold a  
17 hearing within fifteen business days, but not less than twenty-four  
18 hours, after written notice of the alleged violation. For offenders  
19 in total confinement, the department shall hold a hearing within five  
20 business days, but not less than twenty-four hours, after written  
21 notice of the alleged violation;

22       (c) The offender shall have the right to: (i) Be present at the  
23 hearing; (ii) have the assistance of a person qualified to assist the  
24 offender in the hearing, appointed by the hearing officer if the  
25 offender has a language or communications barrier; (iii) testify or  
26 remain silent; (iv) call witnesses and present documentary evidence;  
27 (v) question witnesses who appear and testify; and (vi) receive a  
28 written summary of the reasons for the hearing officer's decision;  
29 and

30       (d) The sanction shall take effect if affirmed by the hearing  
31 officer. The offender may appeal the sanction to a panel of three  
32 reviewing officers designated by the secretary or by the secretary's  
33 designee. The offender's appeal must be in writing and hand-delivered  
34 to department staff, or postmarked, within seven days after the  
35 sanction was imposed. The appeals panel shall affirm, reverse,  
36 modify, vacate, or remand based on its findings. If a majority of the  
37 panel finds that the sanction was not reasonably related to any of  
38 the following: (i) The crime of conviction; (ii) the violation  
39 committed; (iii) the offender's risk of reoffending; or (iv) the

1 safety of the community, then the panel will reverse, vacate, remand,  
2 or modify the sanction.

3 ~~((7))~~ (6) For purposes of this section, the hearings officer  
4 may not rely on unconfirmed or unconfirmable allegations to find that  
5 the offender violated a condition.

6 ~~((8))~~ (7) Hearing officers shall report through a chain of  
7 command separate from that of community corrections officers.

8 **Sec. 6.** RCW 9.94A.631 and 2012 1st sp.s. c 6 s 1 are each  
9 amended to read as follows:

10 (1) If an offender violates any condition or requirement of a  
11 sentence, a community corrections officer may arrest or cause the  
12 arrest of the offender without a warrant, pending a determination by  
13 the court or by the department. If there is reasonable cause to  
14 believe that an offender has violated a condition or requirement of  
15 the sentence, a community corrections officer may require an offender  
16 to submit to a search and seizure of the offender's person,  
17 residence, automobile, or other personal property.

18 (2) For the safety and security of department staff, an offender  
19 may be required to submit to pat searches, or other limited security  
20 searches, by community corrections officers, correctional officers,  
21 and other agency approved staff, without reasonable cause, when in or  
22 on department premises, grounds, or facilities, or while preparing to  
23 enter department premises, grounds, facilities, or vehicles. Pat  
24 searches of offenders shall be conducted only by staff who are the  
25 same gender as the offender, except in emergency situations.

26 (3) A community corrections officer may also arrest an offender  
27 for any crime committed in his or her presence. The facts and  
28 circumstances of the conduct of the offender shall be reported by the  
29 community corrections officer, with recommendations, to the court,  
30 local law enforcement, or local prosecution for consideration of new  
31 charges. The community corrections officer's report shall serve as  
32 the notice that the department will hold the offender for not more  
33 than three days from the time of such notice for the new crime(~~(7~~  
34 ~~except if the offender's underlying offense is a felony offense~~  
35 ~~listed in RCW 9.94A.737(5), in which case the department will hold~~  
36 ~~the offender for thirty days from the time of arrest or until a~~  
37 ~~prosecuting attorney charges the offender with a crime, whichever~~  
38 ~~occurs first)). This does not affect the department's authority under  
39 RCW 9.94A.737.~~

1 If a community corrections officer arrests or causes the arrest  
2 of an offender under this section, the offender shall be confined and  
3 detained in the county jail of the county in which the offender was  
4 taken into custody, and the sheriff of that county shall receive and  
5 keep in the county jail, where room is available, all prisoners  
6 delivered to the jail by the community corrections officer, and such  
7 offenders shall not be released from custody on bail or personal  
8 recognizance, except upon approval of the court or authorized  
9 department staff, pursuant to a written order.

10 **Sec. 7.** RCW 9.94A.716 and 2012 1st sp.s. c 6 s 6 are each  
11 amended to read as follows:

12 (1) The secretary may issue warrants for the arrest of any  
13 offender who violates a condition of community custody. The arrest  
14 warrants shall authorize any law enforcement or peace officer or  
15 community corrections officer of this state or any other state where  
16 such offender may be located, to arrest the offender and place him or  
17 her in total confinement pending disposition of the alleged violation  
18 pursuant to RCW 9.94A.633.

19 (2) A community corrections officer, if he or she has reasonable  
20 cause to believe an offender has violated a condition of community  
21 custody, may suspend the person's community custody status and arrest  
22 or cause the arrest and detention in total confinement of the  
23 offender, pending the determination of the secretary as to whether  
24 the violation has occurred. The community corrections officer shall  
25 report to the secretary all facts and circumstances and the reasons  
26 for the action of suspending community custody status.

27 (3) If an offender has been arrested by the department for a new  
28 felony offense while under community custody, the facts and  
29 circumstances of the conduct of the offender shall be reported by the  
30 community corrections officer to local law enforcement or local  
31 prosecution for consideration of new charges. The community  
32 corrections officer's report shall serve as notice that the  
33 department will hold the offender in total confinement for not more  
34 than three days from the time of such notice for the new crime(~~(7~~  
35 ~~except if the offender's underlying offense is a felony offense~~  
36 ~~listed in RCW 9.94A.737(5), in which case the department will hold~~  
37 ~~the offender for thirty days from the time of arrest or until a~~  
38 ~~prosecuting attorney charges the offender with a crime, whichever~~  
39 ~~occurs first)). Nothing in this subsection shall be construed as to~~

1 permit the department to hold an offender past his or her maximum  
2 term of total confinement if the offender has not completed the  
3 maximum term of total confinement or to permit the department to hold  
4 an offender past the offender's term of community custody.

5 (4) A violation of a condition of community custody shall be  
6 deemed a violation of the sentence for purposes of RCW 9.94A.631. The  
7 authority granted to community corrections officers under this  
8 section shall be in addition to that set forth in RCW 9.94A.631.

9 NEW SECTION. **Sec. 8.** The legislature declares that the  
10 department of corrections' recalculations of community custody terms  
11 pursuant to sections 2 and 3 of this act do not create any  
12 expectations that a particular community custody term will end before  
13 July 1, 2019, and offenders have no reason to conclude that the  
14 recalculation of their community custody terms before July 1, 2019,  
15 is an entitlement or creates any liberty interest in their community  
16 custody term ending before July 1, 2019. The department of  
17 corrections is authorized to take the time reasonably necessary to  
18 complete the recalculations of community custody terms after the  
19 effective date of this section.

20 NEW SECTION. **Sec. 9.** The department of corrections has the  
21 authority to begin implementing this act upon the effective date of  
22 this section.

23 NEW SECTION. **Sec. 10.** Sections 2, 3, 5, 6, and 7 of this act  
24 apply retroactively and prospectively regardless of the date of an  
25 offender's underlying offense.

26 NEW SECTION. **Sec. 11.** The legislature declares that the changes  
27 to the maximum percentages of earned release time in RCW 9.94A.729 do  
28 not create any expectation that the percentage of earned release time  
29 cannot be revised and offenders have no reason to conclude that the  
30 maximum percentage of earned release time is an entitlement or  
31 creates any liberty interest. The legislature retains full control  
32 over the right to revise the percentages of earned release time  
33 available to offenders at any time. This section applies to persons  
34 convicted on or after the effective date of this section.

1        NEW SECTION.    **Sec. 12.**    This act is necessary for the immediate  
2    preservation of the public peace, health, or safety, or support of  
3    the state government and its existing public institutions, and takes  
4    effect July 1, 2019.

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