

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5492

66th Legislature
2019 Regular Session

Passed by the Senate March 5, 2019
Yeas 48 Nays 0

President of the Senate

Passed by the House April 16, 2019
Yeas 96 Nays 2

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5492** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5492

Passed Legislature - 2019 Regular Session

State of Washington

66th Legislature

2019 Regular Session

By Senate Law & Justice (originally sponsored by Senators Billig, Padden, Pedersen, Holy, and Dhingra)

READ FIRST TIME 02/15/19.

1 AN ACT Relating to sentencing of motor vehicle-related felonies;
2 amending RCW 9.94A.501; reenacting and amending RCW 9.94A.505; adding
3 a new section to chapter 9.94A RCW; prescribing penalties; and
4 providing an expiration date.

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

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

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

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

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

6 (3) For purposes of this section, the offender's sentence of
7 incarceration may not exceed the mid-point of the standard sentence
8 range reduced by one-third of the ordered term of community custody.

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

12 (5) No later than November 1, 2025, the department shall submit a
13 report to the governor and the appropriate committees of the
14 legislature analyzing the effectiveness of supervision in reducing
15 recidivism among offenders committing felonies relating to the theft
16 or taking of a motor vehicle. The department shall consult with the
17 Washington state institute for public policy in guiding its data
18 tracking efforts and preparing the report.

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

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

22 (1) The department shall supervise the following offenders who
23 are sentenced to probation in superior court, pursuant to RCW
24 9.92.060, 9.95.204, or 9.95.210:

25 (a) Offenders convicted of:

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

27 (ii) Custodial sexual misconduct second degree;

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

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

30 (b) Offenders who have:

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

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

37 (2) Misdemeanor and gross misdemeanor offenders supervised by the
38 department pursuant to this section shall be placed on community
39 custody.

1 (3) The department shall supervise every felony offender
2 sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702
3 whose risk assessment classifies the offender as one who is at a high
4 risk to reoffend.

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

8 (a) Has a current conviction for a sex offense or a serious
9 violent offense and was sentenced to a term of community custody
10 pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

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

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

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

18 (e)(i) Has a current conviction for a domestic violence felony
19 offense where domestic violence has been pleaded and proven after
20 August 1, 2011, and a prior conviction for a repetitive domestic
21 violence offense or domestic violence felony offense where domestic
22 violence was pleaded and proven after August 1, 2011. This subsection
23 (4)(e)(i) applies only to offenses committed prior to July 24, 2015;

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

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

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

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

36 (5) The department shall supervise any offender who is released
37 by the indeterminate sentence review board and who was sentenced to
38 community custody or subject to community custody under the terms of
39 release.

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

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

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

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

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

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

19 (i) Unless another term of confinement applies, a sentence within
20 the standard sentence range established in RCW 9.94A.510 or
21 9.94A.517;

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

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

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

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

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

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

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

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

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

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

36 (xii) RCW 9.94A.603, relating to felony driving while under the
37 influence of intoxicating liquor or any drug and felony physical
38 control of a vehicle while under the influence of intoxicating liquor
39 or any drug;

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

3 (b) If a standard sentence range has not been established for the
4 offender's crime, the court shall impose a determinate sentence which
5 may include not more than one year of confinement; community
6 restitution work; a term of community custody under RCW 9.94A.702 not
7 to exceed one year; and/or other legal financial obligations. The
8 court may impose a sentence which provides more than one year of
9 confinement and a community custody term under RCW 9.94A.701 if the
10 court finds reasons justifying an exceptional sentence as provided in
11 RCW 9.94A.535.

12 (3) If the court imposes a sentence requiring confinement of
13 thirty days or less, the court may, in its discretion, specify that
14 the sentence be served on consecutive or intermittent days. A
15 sentence requiring more than thirty days of confinement shall be
16 served on consecutive days. Local jail administrators may schedule
17 court-ordered intermittent sentences as space permits.

18 (4) If a sentence imposed includes payment of a legal financial
19 obligation, it shall be imposed as provided in RCW 9.94A.750,
20 9.94A.753, 9.94A.760, and 43.43.7541.

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

25 (6) The sentencing court shall give the offender credit for all
26 confinement time served before the sentencing if that confinement was
27 solely in regard to the offense for which the offender is being
28 sentenced.

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

- 33 (a) A violent offense;
- 34 (b) Any sex offense;
- 35 (c) Any drug offense;
- 36 (d) Reckless burning in the first or second degree as defined in
37 RCW 9A.48.040 or 9A.48.050;
- 38 (e) Assault in the third degree as defined in RCW 9A.36.031;
- 39 (f) Assault of a child in the third degree;
- 40 (g) Unlawful imprisonment as defined in RCW 9A.40.040; or

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

2 (8) The court shall order restitution as provided in RCW
3 9.94A.750 and 9.94A.753.

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

10 (10) In any sentence of partial confinement, the court may
11 require the offender to serve the partial confinement in work
12 release, in a program of home detention, on work crew, or in a
13 combined program of work crew and home detention.

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