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**SUBSTITUTE HOUSE BILL 2303**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** House Community Safety, Justice, & Reentry (originally sponsored by Representatives Goodman, Simmons, and Peterson)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to modification of conditions of community  
2 custody; amending RCW 9.94A.704, 9.94A.703, 9.94A.709, 9.94A.730,  
3 9.95.420, 9.95.435, and 10.73.100; reenacting and amending RCW  
4 10.95.030; creating a new section; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.704 and 2022 c 29 s 9 are each amended to read  
7 as follows:

8 (1) Every person who is sentenced to a period of community  
9 custody shall report to and be placed under the supervision of the  
10 department, subject to RCW 9.94A.501.

11 (2)(a) The department shall assess the offender's risk of  
12 reoffense and may establish and modify additional conditions of  
13 community custody based upon the risk to community safety.

14 (b) Within the funds available for community custody, the  
15 department shall determine conditions (~~on the basis of risk to~~  
16 ~~community safety~~) as provided for in this section, and shall  
17 supervise offenders during community custody on the basis of risk to  
18 community safety and conditions imposed by the court. The secretary  
19 shall adopt rules to implement the provisions of this subsection  
20 (2)(b).

1 (3) If the offender is supervised by the department, the  
2 department shall at a minimum instruct the offender to:

3 (a) Report as directed to a community corrections officer;

4 (b) Remain within prescribed geographical boundaries;

5 (c) Notify the community corrections officer of any change in the  
6 offender's address or employment; and

7 (d) Disclose the fact of supervision to any mental health,  
8 chemical dependency, or domestic violence treatment provider, as  
9 required by RCW 9.94A.722.

10 (4) The department may require the offender to participate in  
11 rehabilitative programs, or otherwise perform affirmative conduct,  
12 and to obey all laws.

13 (5) If the offender was sentenced pursuant to a conviction for a  
14 sex offense or domestic violence, the department may:

15 (a) Require the offender to refrain from direct or indirect  
16 contact with the victim of the crime or immediate family member of  
17 the victim of the crime. If a victim or an immediate family member of  
18 a victim has requested that the offender not contact him or her after  
19 notice as provided in RCW 72.09.340, the department shall require the  
20 offender to refrain from contact with the requestor. Where the victim  
21 is a minor, the parent or guardian of the victim may make a request  
22 on the victim's behalf. This subsection is not intended to reduce the  
23 preexisting authority of the department to impose no-contact  
24 conditions regardless of the offender's crime and regardless of who  
25 is protected by the no-contact condition, where such condition is  
26 based on risk to community safety.

27 (b) Impose electronic monitoring. Within the resources made  
28 available by the department for this purpose, the department shall  
29 carry out any electronic monitoring using the most appropriate  
30 technology given the individual circumstances of the offender. As  
31 used in this section, "electronic monitoring" has the same meaning as  
32 in RCW 9.94A.030.

33 (6) The department may not impose conditions that are contrary to  
34 those ordered by the court and may not contravene or decrease court-  
35 imposed conditions.

36 (7) (a) The department shall notify the offender in writing of any  
37 additional conditions or modifications.

38 (b) (~~By the close of the next business day after~~) Within 10  
39 business days of receiving notice of a condition imposed or modified  
40 by the department, an offender may request an administrative review

1 under rules adopted by the department. The condition shall remain in  
2 effect (~~(unless)~~) if the reviewing officer finds that it is (~~(not)~~)  
3 reasonably related to (~~(the)~~) at least one of the following: The  
4 crime of conviction, the offender's risk of reoffending, or the  
5 safety of the community.

6 (8) The department shall notify the offender in writing upon  
7 community custody intake of the department's violation process.

8 (9) The department may require offenders to pay for special  
9 services rendered including electronic monitoring, day reporting, and  
10 telephone reporting, dependent on the offender's ability to pay. The  
11 department may pay for these services for offenders who are not able  
12 to pay.

13 (10)(a) When an offender on community custody is under the  
14 authority of the board, the department shall assess the offender's  
15 risk of recidivism and shall recommend to the board any additional or  
16 modified conditions based upon the offender's crime of conviction,  
17 risk of reoffense, or risk to community safety and may recommend  
18 affirmative conduct or electronic monitoring consistent with  
19 subsections (4) through (6) of this section.

20 (b) The board may impose or modify conditions in addition to  
21 court-ordered conditions. The board may not impose conditions that  
22 are contrary to those ordered by the court and may not contravene or  
23 decrease court-imposed conditions. The board must consider and may  
24 impose department-recommended conditions. The board must impose a  
25 condition requiring the offender to refrain from contact with the  
26 victim or immediate family member of the victim as provided in  
27 subsection (5)(a) of this section. Regardless of the offender's date  
28 of sentencing, additional conditions imposed or modified by the board  
29 may be based upon the offender's crime of conviction, risk of  
30 reoffense, or risk to community safety. The additional conditions of  
31 community custody need not be crime-related if the conditions  
32 reasonably relate to either the risk of reoffense or risk to  
33 community safety.

34 (c) (~~(By the close of the next business day, after)~~) Within 10  
35 business days of receiving notice of a condition imposed by the board  
36 or the department, an offender may request an administrative hearing  
37 under rules adopted by the board. The condition shall remain in  
38 effect (~~(unless)~~) if the hearing examiner finds that it is (~~(not)~~)  
39 reasonably related to (~~(any)~~) at least one of the following:

40 (i) The crime of conviction;

- 1 (ii) The offender's risk of reoffending;
- 2 (iii) The safety of the community; or
- 3 (iv) The offender's risk of domestic violence reoffense.

4 (d) If the department finds that an emergency exists requiring  
5 the immediate imposition of additional conditions in order to prevent  
6 the offender from committing a crime, the department may impose such  
7 conditions. The department may not impose conditions that are  
8 contrary to those set by the board or the court and may not  
9 contravene or decrease court-imposed or board-imposed conditions.  
10 Conditions imposed under this subsection shall take effect  
11 immediately after notice to the offender by personal service, but  
12 shall not remain in effect longer than seven working days unless  
13 approved by the board.

14 (e) The board shall notify the offender in writing of any  
15 additional or modified conditions.

16 (11) In setting, modifying, and enforcing conditions of community  
17 custody, the department shall be deemed to be performing a  
18 quasi-judicial function.

19 **Sec. 2.** RCW 9.94A.703 and 2022 c 29 s 8 are each amended to read  
20 as follows:

21 When a court sentences a person to a term of community custody,  
22 the court shall impose conditions of community custody as provided in  
23 this section.

24 (1) **Mandatory conditions.** As part of any term of community  
25 custody, the court shall:

26 (a) Require the offender to inform the department of court-  
27 ordered treatment upon request by the department;

28 (b) Require the offender to comply with any conditions imposed by  
29 the department under RCW 9.94A.704;

30 (c) If the offender was sentenced under RCW 9.94A.507 for an  
31 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense  
32 was under 18 years of age at the time of the offense, prohibit the  
33 offender from residing in a community protection zone;

34 (d) If the offender was sentenced under RCW 9A.36.120, prohibit  
35 the offender from serving in any paid or volunteer capacity where he  
36 or she has control or supervision of minors under the age of 13.

37 (2) **Waivable conditions.** Unless waived by the court, as part of  
38 any term of community custody, the court shall order an offender to:

1 (a) Report to and be available for contact with the assigned  
2 community corrections officer as directed;

3 (b) Work at department-approved education, employment, or  
4 community restitution, or any combination thereof;

5 (c) Refrain from possessing or consuming controlled substances  
6 except pursuant to lawfully issued prescriptions; and

7 (d) Obtain prior approval of the department for the offender's  
8 residence location and living arrangements.

9 (3) **Discretionary conditions.** As part of any term of community  
10 custody, the court may order an offender to:

11 (a) Remain within, or outside of, a specified geographical  
12 boundary;

13 (b) Refrain from direct or indirect contact with the victim of  
14 the crime or a specified class of individuals;

15 (c) Participate in crime-related treatment or counseling  
16 services;

17 (d) Participate in rehabilitative programs or otherwise perform  
18 affirmative conduct reasonably related to the circumstances of the  
19 offense, the offender's risk of reoffending, or the safety of the  
20 community;

21 (e) Refrain from possessing or consuming alcohol; or

22 (f) Comply with any crime-related prohibitions.

23 (4) **Special conditions.**

24 (a) In sentencing an offender convicted of a crime of domestic  
25 violence, as defined in RCW 10.99.020, if the offender has a minor  
26 child, or if the victim of the offense for which the offender was  
27 convicted has a minor child, the court may order the offender to  
28 participate in a domestic violence perpetrator program approved under  
29 RCW 43.20A.735.

30 (b) (i) In sentencing an offender convicted of an alcohol or drug-  
31 related traffic offense, the court shall require the offender to  
32 complete a diagnostic evaluation by a substance use disorder  
33 treatment program approved by the department of social and health  
34 services or a qualified probation department, defined under RCW  
35 46.61.516, that has been approved by the department of social and  
36 health services. If the offense was pursuant to chapter 46.61 RCW,  
37 the report shall be forwarded to the department of licensing. If the  
38 offender is found to have an alcohol or drug problem that requires  
39 treatment, the offender shall complete treatment in an approved  
40 substance use disorder treatment program as defined in chapter 71.24

1 RCW. If the offender is found not to have an alcohol or drug problem  
2 that requires treatment, the offender shall complete a course in an  
3 alcohol and drug information school licensed or certified by the  
4 department of health under chapter 70.96A RCW. The offender shall pay  
5 all costs for any evaluation, education, or treatment required by  
6 this section, unless the offender is eligible for an existing program  
7 offered or approved by the department of social and health services.

8 (ii) For purposes of this section, "alcohol or drug-related  
9 traffic offense" means the following: Driving while under the  
10 influence as defined by RCW 46.61.502, actual physical control while  
11 under the influence as defined by RCW 46.61.504, vehicular homicide  
12 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by  
13 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW  
14 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

15 (iii) This subsection (4)(b) does not require the department of  
16 social and health services to add new treatment or assessment  
17 facilities nor affect its use of existing programs and facilities  
18 authorized by law.

19 (5)(a) On the motion of the offender, the court may amend the  
20 substantive conditions of community custody imposed by the court.

21 (b) The offender shall have the burden of proving by a  
22 preponderance of the evidence that there has been a substantial  
23 change in circumstances such that the condition of community custody  
24 is no longer necessary for community safety. In determining whether  
25 there has been a substantial change in circumstances, the court may  
26 not base its determination solely on the fact that time has passed  
27 without a violation.

28 (c) An offender may file a motion to modify substantive  
29 conditions of community custody imposed by the court no more than  
30 once in every six-month period that the order is in effect, starting  
31 from the date of the order.

32 (d) The time limit for collateral attacks established under RCW  
33 10.73.090 does not apply to any motion filed pursuant to this  
34 subsection.

35 **Sec. 3.** RCW 9.94A.709 and 2008 c 231 s 14 are each amended to  
36 read as follows:

37 (1) At any time prior to the completion or termination of a sex  
38 offender's term of community custody, if the court finds that public  
39 safety would be enhanced, the court may impose and enforce an order

1 extending any or all of the conditions of community custody for a  
2 period up to the maximum allowable sentence for the crime as it is  
3 classified in chapter 9A.20 RCW, regardless of the expiration of the  
4 offender's term of community custody.

5 (2)(a) On the motion of the offender, the court may amend the  
6 substantive conditions of community custody imposed by the court.

7 (b) The offender shall have the burden of proving by a  
8 preponderance of the evidence that there has been a substantial  
9 change in circumstances such that the condition of community custody  
10 is no longer necessary for community safety. In determining whether  
11 there has been a substantial change in circumstances, the court may  
12 not base its determination solely on the fact that time has passed  
13 without a violation.

14 (c) An offender may file a motion to modify substantive  
15 conditions of community custody imposed by the court no more than  
16 once in every six-month period that the order is in effect, starting  
17 from the date of the order.

18 (d) The time limit for collateral attacks established under RCW  
19 10.73.090 does not apply to any motion filed pursuant to this  
20 subsection.

21 (3) If a violation of a condition extended under this section  
22 occurs after the expiration of the offender's term of community  
23 custody, it shall be deemed a violation of the sentence for the  
24 purposes of RCW 9.94A.631 and may be punishable as contempt of court  
25 as provided for in RCW 7.21.040.

26 ~~((3))~~ (4) If the court extends a condition beyond the  
27 expiration of the term of community custody, the department is not  
28 responsible for supervision of the offender's compliance with the  
29 condition.

30 **Sec. 4.** RCW 9.94A.730 and 2015 c 134 s 6 are each amended to  
31 read as follows:

32 (1) Notwithstanding any other provision of this chapter, any  
33 person convicted of one or more crimes committed prior to the  
34 person's ~~((eighteenth))~~ 18th birthday may petition the indeterminate  
35 sentence review board for early release after serving no less than  
36 ~~((twenty))~~ 20 years of total confinement, provided the person has not  
37 been convicted for any crime committed subsequent to the person's  
38 ~~((eighteenth))~~ 18th birthday, the person has not committed a  
39 disqualifying serious infraction as defined by the department in the

1 ((~~twelve~~)) 12 months prior to filing the petition for early release,  
2 and the current sentence was not imposed under RCW 10.95.030 or  
3 9.94A.507.

4 (2) No later than five years prior to the date the offender will  
5 be eligible to petition for release, the department shall conduct an  
6 assessment of the offender and identify programming and services that  
7 would be appropriate to prepare the offender for return to the  
8 community. To the extent possible, the department shall make  
9 programming available as identified by the assessment.

10 (3) No later than ((~~one hundred eighty~~)) 180 days from receipt of  
11 the petition for early release, the department shall conduct, and the  
12 offender shall participate in, an examination of the person,  
13 incorporating methodologies that are recognized by experts in the  
14 prediction of dangerousness, and including a prediction of the  
15 probability that the person will engage in future criminal behavior  
16 if released on conditions to be set by the board. The board may  
17 consider a person's failure to participate in an evaluation under  
18 this subsection in determining whether to release the person. The  
19 board shall order the person released under such affirmative and  
20 other conditions as the board determines appropriate, unless the  
21 board determines by a preponderance of the evidence that, despite  
22 such conditions, it is more likely than not that the person will  
23 commit new criminal law violations if released. The board shall give  
24 public safety considerations the highest priority when making all  
25 discretionary decisions regarding the ability for release and  
26 conditions of release.

27 (4) In a hearing conducted under subsection (3) of this section,  
28 the board shall provide opportunities for victims and survivors of  
29 victims of any crimes for which the offender has been convicted to  
30 present statements as set forth in RCW 7.69.032. The procedures for  
31 victim and survivor of victim input shall be provided by rule. To  
32 facilitate victim and survivor of victim involvement, county  
33 prosecutor's offices shall ensure that any victim impact statements  
34 and known contact information for victims of record and survivors of  
35 victims are forwarded as part of the judgment and sentence.

36 (5) Any person released by the board pursuant to this section  
37 shall comply with conditions imposed or modified pursuant to RCW  
38 9.94A.704(10), in addition to court-imposed conditions.

39 (6) An offender released by the board is subject to the  
40 supervision of the department for a period of time to be determined



1 by the board, up to the length of the court-imposed term of  
2 incarceration. The department shall monitor the offender's compliance  
3 with conditions of community custody imposed by the court or board  
4 and promptly report any violations to the board. Any violation of  
5 conditions of community custody established or modified by the board  
6 are subject to the provisions of RCW 9.95.425 through 9.95.440.

7 ((+6)) (7) An offender whose petition for release is denied may  
8 file a new petition for release five years from the date of denial or  
9 at an earlier date as may be set by the board.

10 ((+7)) (8) An offender released under the provisions of this  
11 section may be returned to the institution at the discretion of the  
12 board if the offender is found to have violated a condition of  
13 community custody. The offender is entitled to a hearing pursuant to  
14 RCW 9.95.435. If the board finds that the offender has committed a  
15 new violation, the board may return the offender to the institution  
16 for up to the remainder of the court-imposed term of incarceration.  
17 The offender may file a new petition for release five years from the  
18 date of return to the institution or at an earlier date as may be set  
19 by the board.

20 **Sec. 5.** RCW 9.95.420 and 2009 c 138 s 3 are each amended to read  
21 as follows:

22 (1)(a) Except as provided in (c) of this subsection, before the  
23 expiration of the minimum term, as part of the end of sentence review  
24 process under RCW 72.09.340, 72.09.345, and where appropriate,  
25 72.09.370, the department shall conduct, and the offender shall  
26 participate in, an examination of the offender, incorporating  
27 methodologies that are recognized by experts in the prediction of  
28 sexual dangerousness, and including a prediction of the probability  
29 that the offender will engage in sex offenses if released.

30 (b) The board may contract for an additional, independent  
31 examination, subject to the standards in this section.

32 (c) If at the time the sentence is imposed by the superior court  
33 the offender's minimum term has expired or will expire within (~~one~~  
34 ~~hundred twenty~~) 120 days of the sentencing hearing, the department  
35 shall conduct, within (~~ninety~~) 90 days of the offender's arrival at  
36 a department of corrections facility, and the offender shall  
37 participate in, an examination of the offender, incorporating  
38 methodologies that are recognized by experts in the prediction of

1 sexual dangerousness, and including a prediction of the probability  
2 that the offender will engage in sex offenses if released.

3 (2) The board shall impose the conditions and instructions  
4 provided for in RCW 9.94A.704. The board shall consider the  
5 department's recommendations and may impose conditions in addition to  
6 those recommended by the department. The board may impose or modify  
7 conditions of community custody following notice to the offender. The  
8 additional conditions may be based upon the crime of conviction, risk  
9 of reoffense, or risk to community safety. The additional conditions  
10 of community custody need not be crime-related if the conditions  
11 reasonably relate to either the risk of reoffense or risk to  
12 community safety.

13 (3) (a) Except as provided in (b) of this subsection, no later  
14 than ninety days before expiration of the minimum term, but after the  
15 board receives the results from the end of sentence review process  
16 and the recommendations for additional or modified conditions of  
17 community custody from the department, the board shall conduct a  
18 hearing to determine whether it is more likely than not that the  
19 offender will engage in sex offenses if released on conditions to be  
20 set by the board. The board may consider an offender's failure to  
21 participate in an evaluation under subsection (1) of this section in  
22 determining whether to release the offender. The board shall order  
23 the offender released, under such affirmative and other conditions as  
24 the board determines appropriate, unless the board determines by a  
25 preponderance of the evidence that, despite such conditions, it is  
26 more likely than not that the offender will commit sex offenses if  
27 released. If the board does not order the offender released, the  
28 board shall establish a new minimum term as provided in RCW 9.95.011.

29 (b) If at the time the offender's minimum term has expired or  
30 will expire within (~~one hundred twenty~~) 120 days of the offender's  
31 arrival at a department of correction's facility, then no later than  
32 (~~one hundred twenty~~) 120 days after the offender's arrival at a  
33 department of corrections facility, but after the board receives the  
34 results from the end of sentence review process and the  
35 recommendations for additional or modified conditions of community  
36 custody from the department, the board shall conduct a hearing to  
37 determine whether it is more likely than not that the offender will  
38 engage in sex offenses if released on conditions to be set by the  
39 board. The board may consider an offender's failure to participate in  
40 an evaluation under subsection (1) of this section in determining

1 whether to release the offender. The board shall order the offender  
2 released, under such affirmative and other conditions as the board  
3 determines appropriate, unless the board determines by a  
4 preponderance of the evidence that, despite such conditions, it is  
5 more likely than not that the offender will commit sex offenses if  
6 released. If the board does not order the offender released, the  
7 board shall establish a new minimum term as provided in RCW 9.95.011.

8 (4) In a hearing conducted under subsection (3) of this section,  
9 the board shall provide opportunities for the victims of any crimes  
10 for which the offender has been convicted to present statements as  
11 set forth in RCW 7.69.032. The procedures for victim input shall be  
12 developed by rule. To facilitate victim involvement, county  
13 prosecutor's offices shall ensure that any victim impact statements  
14 and known contact information for victims of record are forwarded as  
15 part of the judgment and sentence.

16 **Sec. 6.** RCW 9.95.435 and 2014 c 130 s 7 are each amended to read  
17 as follows:

18 (1) If an offender released by the board under RCW 9.95.420,  
19 10.95.030(~~((3))~~) (2), or 9.94A.730 violates any condition or  
20 requirement of community custody, the board may transfer the offender  
21 to a more restrictive confinement status to serve up to the remaining  
22 portion of the sentence, less credit for any period actually spent in  
23 community custody or in detention awaiting disposition of an alleged  
24 violation and subject to the limitations of subsection (2) of this  
25 section.

26 (2) Following the hearing specified in subsection (3) of this  
27 section, the board may impose sanctions such as work release, home  
28 detention with electronic monitoring, work crew, community  
29 restitution, inpatient treatment, daily reporting, curfew,  
30 educational or counseling sessions, supervision enhanced through  
31 electronic monitoring, or any other sanctions available in the  
32 community, or may suspend the release and sanction up to sixty days'  
33 confinement in a local correctional facility for each violation, or  
34 revoke the release to community custody whenever an offender released  
35 by the board under RCW 9.95.420, 10.95.030(~~((3))~~) (2), or 9.94A.730  
36 violates any condition or requirement of community custody.

37 (3) If an offender released by the board under RCW 9.95.420,  
38 10.95.030(~~((3))~~) (2), or 9.94A.730 is accused of violating any  
39 condition or requirement of community custody, he or she is entitled

1 to a hearing before the board or a designee of the board prior to the  
2 imposition of sanctions. The hearing shall be considered as offender  
3 disciplinary proceedings and shall not be subject to chapter 34.05  
4 RCW. The board shall develop hearing procedures and a structure of  
5 graduated sanctions consistent with the hearing procedures and  
6 graduated sanctions developed pursuant to RCW 9.94A.737. The board  
7 may suspend the offender's release to community custody and confine  
8 the offender in a correctional institution owned, operated by, or  
9 operated under contract with the state prior to the hearing unless  
10 the offender has been arrested and confined for a new criminal  
11 offense.

12 (4) The hearing procedures required under subsection (3) of this  
13 section shall be developed by rule and include the following:

14 (a) Hearings shall be conducted by members or designees of the  
15 board unless the board enters into an agreement with the department  
16 to use the hearing officers established under RCW 9.94A.737;

17 (b) The board shall provide the offender with findings and  
18 conclusions which include the evidence relied upon, and the reasons  
19 the particular sanction was imposed. The board shall notify the  
20 offender of the right to appeal the sanction and the right to file a  
21 personal restraint petition under court rules after the final  
22 decision of the board;

23 (c) The hearing shall be held unless waived by the offender, and  
24 shall be electronically recorded. For offenders not in total  
25 confinement, the hearing shall be held within (~~(thirty)~~) 30 days of  
26 service of notice of the violation, but not less than (~~(twenty-four)~~)  
27 24 hours after notice of the violation. For offenders in total  
28 confinement, the hearing shall be held within (~~(thirty)~~) 30 days of  
29 service of notice of the violation, but not less than (~~(twenty-four)~~)  
30 24 hours after notice of the violation. The board or its designee  
31 shall make a determination whether probable cause exists to believe  
32 the violation or violations occurred. The determination shall be made  
33 within (~~(forty-eight)~~) 48 hours of receipt of the allegation;

34 (d) The offender shall have the right to: (i) Be present at the  
35 hearing; (ii) have the assistance of a person qualified to assist the  
36 offender in the hearing, appointed by the presiding hearing officer  
37 if the offender has a language or communications barrier; (iii)  
38 testify or remain silent; (iv) call witnesses and present documentary  
39 evidence; (v) question witnesses who appear and testify; and (vi) be  
40 represented by counsel if revocation of the release to community

1 custody upon a finding of violation is a probable sanction for the  
2 violation. The board may not revoke the release to community custody  
3 of any offender who was not represented by counsel at the hearing,  
4 unless the offender has waived the right to counsel; and

5 (e) The sanction shall take effect if affirmed by the presiding  
6 hearing officer.

7 (5) Within seven days after the presiding hearing officer's  
8 decision, the offender may appeal the decision to the full board or  
9 to a panel of three reviewing examiners designated by the chair of  
10 the board or by the chair's designee. The sanction shall be reversed  
11 or modified if a majority of the panel finds that the sanction was  
12 not reasonably related to ~~((any))~~ at least one of the following: (a)  
13 The crime of conviction; (b) the violation committed; (c) the  
14 offender's risk of reoffending; or (d) the safety of the community.

15 (6) For purposes of this section, no finding of a violation of  
16 conditions may be based on unconfirmed or unconfirmable allegations.

17 **Sec. 7.** RCW 10.95.030 and 2023 c 102 s 23 and 2023 c 102 s 20  
18 are each reenacted and amended to read as follows:

19 (1) Except as provided in subsection (2) of this section, any  
20 person convicted of the crime of aggravated first degree murder shall  
21 be sentenced to life imprisonment without possibility of release or  
22 parole. A person sentenced to life imprisonment under this section  
23 shall not have that sentence suspended, deferred, or commuted by any  
24 judicial officer and the indeterminate sentence review board or its  
25 successor may not parole such prisoner nor reduce the period of  
26 confinement in any manner whatsoever including but not limited to any  
27 sort of good-time calculation. The department of social and health  
28 services or its successor or any executive official may not permit  
29 such prisoner to participate in any sort of release or furlough  
30 program.

31 (2) (a) (i) Any person convicted of the crime of aggravated first  
32 degree murder for an offense committed prior to the person's  
33 ~~((sixteenth))~~ 16th birthday shall be sentenced to a maximum term of  
34 life imprisonment and a minimum term of total confinement of  
35 ~~((twenty-five))~~ 25 years.

36 (ii) Any person convicted of the crime of aggravated first degree  
37 murder for an offense committed when the person is at least  
38 ~~((sixteen))~~ 16 years old but less than ~~((eighteen))~~ 18 years old  
39 shall be sentenced to a maximum term of life imprisonment and a

1 minimum term of total confinement of no less than (~~twenty-five~~) 25  
2 years.

3 (b) In setting a minimum term, the court must take into account  
4 mitigating factors that account for the diminished culpability of  
5 youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012)  
6 including, but not limited to, the age of the individual, the youth's  
7 childhood and life experience, the degree of responsibility the youth  
8 was capable of exercising, and the youth's chances of becoming  
9 rehabilitated.

10 (c) A person sentenced under this subsection shall serve the  
11 sentence in a facility or institution operated, or utilized under  
12 contract, by the state. During the minimum term of total confinement,  
13 the person shall not be eligible for community custody, earned  
14 release time, furlough, home detention, partial confinement, work  
15 crew, work release, or any other form of early release authorized  
16 under RCW 9.94A.728, or any other form of authorized leave or absence  
17 from the correctional facility while not in the direct custody of a  
18 corrections officer. The provisions of this subsection shall not  
19 apply: (i) In the case of an offender in need of emergency medical  
20 treatment; or (ii) for an extraordinary medical placement when  
21 authorized under RCW 9.94A.728(1)(c).

22 (d) Any person sentenced pursuant to this subsection shall be  
23 subject to community custody under the supervision of the department  
24 of corrections and the authority of the indeterminate sentence review  
25 board. As part of any sentence under this subsection, the court shall  
26 require the person to comply with any conditions imposed by the  
27 board.

28 (e) Any person sentenced pursuant to this subsection shall comply  
29 with conditions imposed or modified pursuant to RCW 9.94A.704(10), in  
30 addition to court-imposed conditions.

31 (f) No later than five years prior to the expiration of the  
32 person's minimum term, the department of corrections shall conduct an  
33 assessment of the offender and identify programming and services that  
34 would be appropriate to prepare the offender for return to the  
35 community. To the extent possible, the department shall make  
36 programming available as identified by the assessment.

37 (~~(f)~~) (g) No later than (~~one hundred eighty~~) 180 days prior  
38 to the expiration of the person's minimum term, the department of  
39 corrections shall conduct, and the offender shall participate in, an  
40 examination of the person, incorporating methodologies that are

1 recognized by experts in the prediction of dangerousness, and  
2 including a prediction of the probability that the person will engage  
3 in future criminal behavior if released on conditions to be set by  
4 the board. The board may consider a person's failure to participate  
5 in an evaluation under this subsection in determining whether to  
6 release the person. The board shall order the person released, under  
7 such affirmative and other conditions as the board determines  
8 appropriate, unless the board determines by a preponderance of the  
9 evidence that, despite such conditions, it is more likely than not  
10 that the person will commit new criminal law violations if released.  
11 If the board does not order the person released, the board shall set  
12 a new minimum term not to exceed five additional years. The board  
13 shall give public safety considerations the highest priority when  
14 making all discretionary decisions regarding the ability for release  
15 and conditions of release.

16 ~~((g))~~ (h) In a hearing conducted under ~~((f))~~ (g) of this  
17 subsection, the board shall provide opportunities for victims and  
18 survivors of victims of any crimes for which the offender has been  
19 convicted to present statements as set forth in RCW 7.69.032. The  
20 procedures for victim and survivor of victim input shall be provided  
21 by rule. To facilitate victim and survivor of victim involvement,  
22 county prosecutor's offices shall ensure that any victim impact  
23 statements and known contact information for victims of record and  
24 survivors of victims are forwarded as part of the judgment and  
25 sentence.

26 ~~((h))~~ (i) An offender released by the board is subject to the  
27 supervision of the department of corrections for a period of time to  
28 be determined by the board. The department shall monitor the  
29 offender's compliance with conditions of community custody imposed by  
30 the court or board and promptly report any violations to the board.  
31 Any violation of conditions of community custody established or  
32 modified by the board are subject to the provisions of RCW 9.95.425  
33 through 9.95.440.

34 ~~((i))~~ (j) An offender released or discharged under this section  
35 may be returned to the institution at the discretion of the board if  
36 the offender is found to have violated a condition of community  
37 custody. The offender is entitled to a hearing pursuant to RCW  
38 9.95.435. The board shall set a new minimum term of incarceration not  
39 to exceed five years.

1       **Sec. 8.** RCW 10.73.100 and 1989 c 395 s 2 are each amended to  
2 read as follows:

3       The time limit specified in RCW 10.73.090 does not apply to a  
4 petition or motion that is based solely on one or more of the  
5 following grounds:

6       (1) Newly discovered evidence, if the defendant acted with  
7 reasonable diligence in discovering the evidence and filing the  
8 petition or motion;

9       (2) The statute that the defendant was convicted of violating was  
10 unconstitutional on its face or as applied to the defendant's  
11 conduct;

12       (3) The conviction was barred by double jeopardy under Amendment  
13 V of the United States Constitution or Article I, section 9 of the  
14 state Constitution;

15       (4) The defendant (~~pled~~) pleaded not guilty and the evidence  
16 introduced at trial was insufficient to support the conviction;

17       (5) The sentence imposed was in excess of the court's  
18 jurisdiction; (~~or~~)

19       (6) A motion for a modification of conditions of community  
20 custody pursuant to RCW 9.94A.703 and 9.94A.709; or

21       (7) There has been a significant change in the law, whether  
22 substantive or procedural, which is material to the conviction,  
23 sentence, or other order entered in a criminal or civil proceeding  
24 instituted by the state or local government, and either the  
25 legislature has expressly provided that the change in the law is to  
26 be applied retroactively, or a court, in interpreting a change in the  
27 law that lacks express legislative intent regarding retroactive  
28 application, determines that sufficient reasons exist to require  
29 retroactive application of the changed legal standard.

30       NEW SECTION.       **Sec. 9.** This act applies to all offenders  
31 sentenced to a term of community custody before, on, or after the  
32 effective date of this section.

33       NEW SECTION.       **Sec. 10.** If any provision of this act or its  
34 application to any person or circumstance is held invalid, the  
35 remainder of the act or the application of the provision to other  
36 persons or circumstances is not affected.



1        NEW SECTION.    **Sec. 11.**    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 immediately.

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