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HOUSE BILL 2303

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State of Washington

68th Legislature

2024 Regular Session

By Representatives Goodman, Simmons, and Peterson

Read first time 01/11/24. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to modification of conditions of community  
2 custody; amending RCW 9.94A.704, 9.94A.709, 9.94A.730, 9.95.420,  
3 9.95.435, and 10.73.100; reenacting and amending RCW 10.95.030;  
4 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 offender's crime of conviction, risk  
14 of reoffense, or risk to community safety. Regardless of the  
15 offender's date of sentencing, the additional conditions of community  
16 custody need not be crime-related if the conditions relate to either  
17 the risk of reoffense or risk to community safety.

18 (b) Within the funds available for community custody, the  
19 department shall determine conditions (~~on the basis of risk to~~  
20 ~~community safety~~) as provided for in this section, and shall  
21 supervise offenders during community custody on the basis of risk to

1 community safety and conditions imposed by the court. The secretary  
2 shall adopt rules to implement the provisions of this subsection  
3 (2)(b).

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

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

7 (b) Remain within prescribed geographical boundaries;

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

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

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

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

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

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

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

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

1 (b) By the close of the next business day after receiving notice  
2 of a condition imposed or modified by the department, an offender may  
3 request an administrative review under rules adopted by the  
4 department. The condition shall remain in effect ~~((unless))~~ if the  
5 reviewing officer finds that it is ~~((not))~~ reasonably related to  
6 ~~((the))~~ at least one of the following: The crime of conviction, the  
7 offender's risk of reoffending, or the safety of the community.

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

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

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

22 (b) The board may impose or modify conditions in addition to  
23 court-ordered conditions. The board must consider and may impose  
24 department-recommended conditions. The board must impose a condition  
25 requiring the offender to refrain from contact with the victim or  
26 immediate family member of the victim as provided in subsection  
27 (5)(a) of this section. Regardless of the offender's date of  
28 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 relate  
32 to either the risk of reoffense or risk to community safety.

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

39 (i) The crime of conviction;

40 (ii) The offender's risk of reoffending;

1 (iii) The safety of the community; or

2 (iv) The offender's risk of domestic violence reoffense.

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

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

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

18 (12) On the motion of the defendant the court may amend the  
19 substantive conditions of community custody set by the department if  
20 the court determines that there is no substantial risk to community  
21 safety. The time limit for collateral attacks established under RCW  
22 10.73.090 does not apply to any motion filed pursuant to this  
23 subsection.

24 **Sec. 2.** RCW 9.94A.709 and 2008 c 231 s 14 are each amended to  
25 read as follows:

26 (1) At any time prior to the completion or termination of ((a  
27 ~~sex~~) an offender's term of community custody, if the court finds  
28 that public safety would be enhanced, the court may impose and  
29 enforce an order extending any or all of the conditions of community  
30 custody for a period up to the maximum allowable sentence for the  
31 crime as it is classified in chapter 9A.20 RCW, regardless of the  
32 expiration of the offender's term of community custody.

33 (2) On the motion of the defendant at any time prior to the  
34 completion or termination of an offender's term of community custody,  
35 if the court determines that there is no substantial risk to public  
36 safety, the court may amend the substantive conditions of community  
37 custody. The time limit for collateral attacks established under RCW  
38 10.73.090 does not apply to any motion filed pursuant to this  
39 subsection.

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

6       ~~((3))~~ (4) If the court extends a condition beyond the  
7 expiration of the term of community custody, the department is not  
8 responsible for supervision of the offender's compliance with the  
9 condition.

10       **Sec. 3.** RCW 9.94A.730 and 2015 c 134 s 6 are each amended to  
11 read as follows:

12       (1) Notwithstanding any other provision of this chapter, any  
13 person convicted of one or more crimes committed prior to the  
14 person's ~~((eighteenth))~~ 18th birthday may petition the indeterminate  
15 sentence review board for early release after serving no less than  
16 ~~((twenty))~~ 20 years of total confinement, provided the person has not  
17 been convicted for any crime committed subsequent to the person's  
18 ~~((eighteenth))~~ 18th birthday, the person has not committed a  
19 disqualifying serious infraction as defined by the department in the  
20 ~~((twelve))~~ 12 months prior to filing the petition for early release,  
21 and the current sentence was not imposed under RCW 10.95.030 or  
22 9.94A.507.

23       (2) No later than five years prior to the date the offender will  
24 be eligible to petition for release, the department shall conduct an  
25 assessment of the offender and identify programming and services that  
26 would be appropriate to prepare the offender for return to the  
27 community. To the extent possible, the department shall make  
28 programming available as identified by the assessment.

29       (3) No later than ~~((one hundred eighty))~~ 180 days from receipt of  
30 the petition for early release, the department shall conduct, and the  
31 offender shall participate in, an examination of the person,  
32 incorporating methodologies that are recognized by experts in the  
33 prediction of dangerousness, and including a prediction of the  
34 probability that the person will engage in future criminal behavior  
35 if released on conditions to be set by the board. The board may  
36 consider a person's failure to participate in an evaluation under  
37 this subsection in determining whether to release the person. The  
38 board shall order the person released under such affirmative and  
39 other conditions as the board determines appropriate, unless the

1 board determines by a preponderance of the evidence that, despite  
2 such conditions, it is more likely than not that the person will  
3 commit new criminal law violations if released. The board shall give  
4 public safety considerations the highest priority when making all  
5 discretionary decisions regarding the ability for release and  
6 conditions of release.

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

16 (5) Any person released by the board pursuant to this section  
17 shall comply with conditions imposed or modified pursuant to RCW  
18 9.94A.704(10), in addition to court-imposed conditions.

19 (6) An offender released by the board is subject to the  
20 supervision of the department for a period of time to be determined  
21 by the board, up to the length of the court-imposed term of  
22 incarceration. The department shall monitor the offender's compliance  
23 with conditions of community custody imposed by the court or board  
24 and promptly report any violations to the board. Any violation of  
25 conditions of community custody established or modified by the board  
26 are subject to the provisions of RCW 9.95.425 through 9.95.440.

27 ~~((6))~~ (7) An offender whose petition for release is denied may  
28 file a new petition for release five years from the date of denial or  
29 at an earlier date as may be set by the board.

30 ~~((7))~~ (8) An offender released under the provisions of this  
31 section may be returned to the institution at the discretion of the  
32 board if the offender is found to have violated a condition of  
33 community custody. The offender is entitled to a hearing pursuant to  
34 RCW 9.95.435. If the board finds that the offender has committed a  
35 new violation, the board may return the offender to the institution  
36 for up to the remainder of the court-imposed term of incarceration.  
37 The offender may file a new petition for release five years from the  
38 date of return to the institution or at an earlier date as may be set  
39 by the board.

1       **Sec. 4.** RCW 9.95.420 and 2009 c 138 s 3 are each amended to read  
2 as follows:

3       (1)(a) Except as provided in (c) of this subsection, before the  
4 expiration of the minimum term, as part of the end of sentence review  
5 process under RCW 72.09.340, 72.09.345, and where appropriate,  
6 72.09.370, the department shall conduct, and the offender shall  
7 participate in, an examination of the offender, incorporating  
8 methodologies that are recognized by experts in the prediction of  
9 sexual dangerousness, and including a prediction of the probability  
10 that the offender will engage in sex offenses if released.

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

13       (c) If at the time the sentence is imposed by the superior court  
14 the offender's minimum term has expired or will expire within (~~one~~  
15 ~~hundred twenty~~) 120 days of the sentencing hearing, the department  
16 shall conduct, within (~~ninety~~) 90 days of the offender's arrival at  
17 a department of corrections facility, and the offender shall  
18 participate in, an examination of the offender, incorporating  
19 methodologies that are recognized by experts in the prediction of  
20 sexual dangerousness, and including a prediction of the probability  
21 that the offender will engage in sex offenses if released.

22       (2) The board shall impose the conditions and instructions  
23 provided for in RCW 9.94A.704. The board shall consider the  
24 department's recommendations and may impose conditions in addition to  
25 those recommended by the department. The board may impose or modify  
26 conditions of community custody following notice to the offender. The  
27 additional conditions may be based upon the crime of conviction, risk  
28 of reoffense, or risk to community safety. The additional conditions  
29 of community custody need not be crime-related if the conditions  
30 relate to either the risk of reoffense or risk to community safety.

31       (3)(a) Except as provided in (b) of this subsection, no later  
32 than ninety days before expiration of the minimum term, but after the  
33 board receives the results from the end of sentence review process  
34 and the recommendations for additional or modified conditions of  
35 community custody from the department, the board shall conduct a  
36 hearing to determine whether it is more likely than not that the  
37 offender will engage in sex offenses if released on conditions to be  
38 set by the board. The board may consider an offender's failure to  
39 participate in an evaluation under subsection (1) of this section in  
40 determining whether to release the offender. The board shall order

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

7 (b) If at the time the offender's minimum term has expired or  
8 will expire within (~~(one hundred twenty)~~) 120 days of the offender's  
9 arrival at a department of correction's facility, then no later than  
10 (~~(one hundred twenty)~~) 120 days after the offender's arrival at a  
11 department of corrections facility, but after the board receives the  
12 results from the end of sentence review process and the  
13 recommendations for additional or modified conditions of community  
14 custody from the department, the board shall conduct a hearing to  
15 determine whether it is more likely than not that the offender will  
16 engage in sex offenses if released on conditions to be set by the  
17 board. The board may consider an offender's failure to participate in  
18 an evaluation under subsection (1) of this section in determining  
19 whether to release the offender. The board shall order the offender  
20 released, under such affirmative and other conditions as the board  
21 determines appropriate, unless the board determines by a  
22 preponderance of the evidence that, despite such conditions, it is  
23 more likely than not that the offender will commit sex offenses if  
24 released. If the board does not order the offender released, the  
25 board shall establish a new minimum term as provided in RCW 9.95.011.

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

34 **Sec. 5.** RCW 9.95.435 and 2014 c 130 s 7 are each amended to read  
35 as follows:

36 (1) If an offender released by the board under RCW 9.95.420,  
37 10.95.030(~~(+3)~~) (2), or 9.94A.730 violates any condition or  
38 requirement of community custody, the board may transfer the offender  
39 to a more restrictive confinement status to serve up to the remaining



1 portion of the sentence, less credit for any period actually spent in  
2 community custody or in detention awaiting disposition of an alleged  
3 violation and subject to the limitations of subsection (2) of this  
4 section.

5 (2) Following the hearing specified in subsection (3) of this  
6 section, the board may impose sanctions such as work release, home  
7 detention with electronic monitoring, work crew, community  
8 restitution, inpatient treatment, daily reporting, curfew,  
9 educational or counseling sessions, supervision enhanced through  
10 electronic monitoring, or any other sanctions available in the  
11 community, or may suspend the release and sanction up to sixty days'  
12 confinement in a local correctional facility for each violation, or  
13 revoke the release to community custody whenever an offender released  
14 by the board under RCW 9.95.420, 10.95.030(~~((3))~~) (2), or 9.94A.730  
15 violates any condition or requirement of community custody.

16 (3) If an offender released by the board under RCW 9.95.420,  
17 10.95.030(~~((3))~~) (2), or 9.94A.730 is accused of violating any  
18 condition or requirement of community custody, he or she is entitled  
19 to a hearing before the board or a designee of the board prior to the  
20 imposition of sanctions. The hearing shall be considered as offender  
21 disciplinary proceedings and shall not be subject to chapter 34.05  
22 RCW. The board shall develop hearing procedures and a structure of  
23 graduated sanctions consistent with the hearing procedures and  
24 graduated sanctions developed pursuant to RCW 9.94A.737. The board  
25 may suspend the offender's release to community custody and confine  
26 the offender in a correctional institution owned, operated by, or  
27 operated under contract with the state prior to the hearing unless  
28 the offender has been arrested and confined for a new criminal  
29 offense.

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

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

35 (b) The board shall provide the offender with findings and  
36 conclusions which include the evidence relied upon, and the reasons  
37 the particular sanction was imposed. The board shall notify the  
38 offender of the right to appeal the sanction and the right to file a  
39 personal restraint petition under court rules after the final  
40 decision of the board;

1 (c) The hearing shall be held unless waived by the offender, and  
2 shall be electronically recorded. For offenders not in total  
3 confinement, the hearing shall be held within (~~(thirty)~~) 30 days of  
4 service of notice of the violation, but not less than (~~(twenty-four)~~)  
5 24 hours after notice of the violation. For offenders in total  
6 confinement, the hearing shall be held within (~~(thirty)~~) 30 days of  
7 service of notice of the violation, but not less than (~~(twenty-four)~~)  
8 24 hours after notice of the violation. The board or its designee  
9 shall make a determination whether probable cause exists to believe  
10 the violation or violations occurred. The determination shall be made  
11 within (~~(forty-eight)~~) 48 hours of receipt of the allegation;

12 (d) The offender shall have the right to: (i) Be present at the  
13 hearing; (ii) have the assistance of a person qualified to assist the  
14 offender in the hearing, appointed by the presiding hearing officer  
15 if the offender has a language or communications barrier; (iii)  
16 testify or remain silent; (iv) call witnesses and present documentary  
17 evidence; (v) question witnesses who appear and testify; and (vi) be  
18 represented by counsel if revocation of the release to community  
19 custody upon a finding of violation is a probable sanction for the  
20 violation. The board may not revoke the release to community custody  
21 of any offender who was not represented by counsel at the hearing,  
22 unless the offender has waived the right to counsel; and

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

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

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

35 **Sec. 6.** RCW 10.95.030 and 2023 c 102 s 23 and 2023 c 102 s 20  
36 are each reenacted and amended to read as follows:

37 (1) Except as provided in subsection (2) of this section, any  
38 person convicted of the crime of aggravated first degree murder shall  
39 be sentenced to life imprisonment without possibility of release or

1 parole. A person sentenced to life imprisonment under this section  
2 shall not have that sentence suspended, deferred, or commuted by any  
3 judicial officer and the indeterminate sentence review board or its  
4 successor may not parole such prisoner nor reduce the period of  
5 confinement in any manner whatsoever including but not limited to any  
6 sort of good-time calculation. The department of social and health  
7 services or its successor or any executive official may not permit  
8 such prisoner to participate in any sort of release or furlough  
9 program.

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

15 (ii) Any person convicted of the crime of aggravated first degree  
16 murder for an offense committed when the person is at least  
17 (~~sixteen~~) 16 years old but less than (~~eighteen~~) 18 years old  
18 shall be sentenced to a maximum term of life imprisonment and a  
19 minimum term of total confinement of no less than (~~twenty-five~~) 25  
20 years.

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

28 (c) A person sentenced under this subsection shall serve the  
29 sentence in a facility or institution operated, or utilized under  
30 contract, by the state. During the minimum term of total confinement,  
31 the person shall not be eligible for community custody, earned  
32 release time, furlough, home detention, partial confinement, work  
33 crew, work release, or any other form of early release authorized  
34 under RCW 9.94A.728, or any other form of authorized leave or absence  
35 from the correctional facility while not in the direct custody of a  
36 corrections officer. The provisions of this subsection shall not  
37 apply: (i) In the case of an offender in need of emergency medical  
38 treatment; or (ii) for an extraordinary medical placement when  
39 authorized under RCW 9.94A.728(1) (c).

1 (d) Any person sentenced pursuant to this subsection shall be  
2 subject to community custody under the supervision of the department  
3 of corrections and the authority of the indeterminate sentence review  
4 board. As part of any sentence under this subsection, the court shall  
5 require the person to comply with any conditions imposed by the  
6 board.

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

10 (f) No later than five years prior to the expiration of the  
11 person's minimum term, the department of corrections shall conduct an  
12 assessment of the offender and identify programming and services that  
13 would be appropriate to prepare the offender for return to the  
14 community. To the extent possible, the department shall make  
15 programming available as identified by the assessment.

16 (~~(f)~~) (g) No later than (~~one hundred eighty~~) 180 days prior  
17 to the expiration of the person's minimum term, the department of  
18 corrections shall conduct, and the offender shall participate in, an  
19 examination of the person, incorporating methodologies that are  
20 recognized by experts in the prediction of dangerousness, and  
21 including a prediction of the probability that the person will engage  
22 in future criminal behavior if released on conditions to be set by  
23 the board. The board may consider a person's failure to participate  
24 in an evaluation under this subsection in determining whether to  
25 release the person. The board shall order the person released, under  
26 such affirmative and other conditions as the board determines  
27 appropriate, unless the board determines by a preponderance of the  
28 evidence that, despite such conditions, it is more likely than not  
29 that the person will commit new criminal law violations if released.  
30 If the board does not order the person released, the board shall set  
31 a new minimum term not to exceed five additional years. The board  
32 shall give public safety considerations the highest priority when  
33 making all discretionary decisions regarding the ability for release  
34 and conditions of release.

35 (~~(g)~~) (h) In a hearing conducted under (~~(f)~~) (g) of this  
36 subsection, the board shall provide opportunities for victims and  
37 survivors of victims of any crimes for which the offender has been  
38 convicted to present statements as set forth in RCW 7.69.032. The  
39 procedures for victim and survivor of victim input shall be provided  
40 by rule. To facilitate victim and survivor of victim involvement,

1 county prosecutor's offices shall ensure that any victim impact  
2 statements and known contact information for victims of record and  
3 survivors of victims are forwarded as part of the judgment and  
4 sentence.

5 ~~((h))~~ (i) An offender released by the board is subject to the  
6 supervision of the department of corrections for a period of time to  
7 be determined by the board. The department shall monitor the  
8 offender's compliance with conditions of community custody imposed by  
9 the court or board and promptly report any violations to the board.  
10 Any violation of conditions of community custody established or  
11 modified by the board are subject to the provisions of RCW 9.95.425  
12 through 9.95.440.

13 ~~((i))~~ (j) An offender released or discharged under this section  
14 may be returned to the institution at the discretion of the board if  
15 the offender is found to have violated a condition of community  
16 custody. The offender is entitled to a hearing pursuant to RCW  
17 9.95.435. The board shall set a new minimum term of incarceration not  
18 to exceed five years.

19 **Sec. 7.** RCW 10.73.100 and 1989 c 395 s 2 are each amended to  
20 read as follows:

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

24 (1) Newly discovered evidence, if the defendant acted with  
25 reasonable diligence in discovering the evidence and filing the  
26 petition or motion;

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

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

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

35 (5) The sentence imposed was in excess of the court's  
36 jurisdiction; ~~((e))~~

37 (6) A defendant's motion for a modification of conditions of  
38 community custody pursuant to RCW 9.94A.704 and 9.94A.709; or

1       (7) There has been a significant change in the law, whether  
2 substantive or procedural, which is material to the conviction,  
3 sentence, or other order entered in a criminal or civil proceeding  
4 instituted by the state or local government, and either the  
5 legislature has expressly provided that the change in the law is to  
6 be applied retroactively, or a court, in interpreting a change in the  
7 law that lacks express legislative intent regarding retroactive  
8 application, determines that sufficient reasons exist to require  
9 retroactive application of the changed legal standard.

10       NEW SECTION.       **Sec. 8.** This act applies to all offenders  
11 sentenced to a term of community custody before, on, or after the  
12 effective date of this section.

13       NEW SECTION.       **Sec. 9.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected.

17       NEW SECTION.       **Sec. 10.** This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of  
19 the state government and its existing public institutions, and takes  
20 effect immediately.

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