
SUBSTITUTE HOUSE BILL 2390

State of Washington

68th Legislature

2024 Regular Session

By House Community Safety, Justice, & Reentry (originally sponsored by Representatives Shavers and Rule)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to penalties related to eluding police vehicles
2 and resisting arrest; amending RCW 46.55.113, 46.55.360, 46.55.370,
3 13.40.040, 9.94A.501, 9.94A.701, 9.94A.703, and 13.40.210; adding a
4 new section to chapter 46.61 RCW; and adding a new section to chapter
5 10.21 RCW.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61
8 RCW to read as follows:

9 (1) A vehicle used to commit the crime of attempting to elude a
10 police vehicle is subject to impoundment as provided for in chapter
11 46.55 RCW.

12 (2) If an operator has previously had a vehicle impounded due to
13 attempting to elude a police vehicle, regardless of whether a
14 criminal charge or a conviction resulted from that conduct, and the
15 operator is convicted of a subsequent offense of attempting to elude
16 a police vehicle or a comparable municipal ordinance, the vehicle
17 operated by the operator is subject to forfeiture as follows:

18 (a) No property may be forfeited under this section until after
19 the operator is convicted of the crime of attempting to elude a
20 police vehicle under RCW 46.61.024 and a finding is made that the
21 operator used the vehicle to commit such crime.

1 (b) A forfeiture of property encumbered by a bona fide security
2 interest is subject to the interest of the secured party if at the
3 time the security interest was created, the secured party neither had
4 knowledge of nor consented to the commission of the offense.

5 (c) A vehicle subject to forfeiture under this section may be
6 seized by any law enforcement officer of this state upon process
7 issued by any court having jurisdiction over the property. However,
8 seizure of the vehicle may be made without process if:

9 (i) The seizure is incident to an arrest or search under a search
10 warrant; or

11 (ii) The vehicle subject to seizure has been the subject of a
12 prior judgment in favor of the seizing agency in a forfeiture
13 proceeding based on this section; or

14 (iii) A law enforcement officer has probable cause to believe
15 that the vehicle was used or is intended to be used in the commission
16 of a felony.

17 (d) In the event of a seizure pursuant to this section,
18 proceedings for forfeiture shall be deemed commenced by the seizure.
19 The law enforcement agency under whose authority the seizure was made
20 shall cause notice to be serviced within 15 days following the
21 seizure on the owner of the property seized and the person in charge
22 thereof and any person having any known right or interest therein,
23 including any community property interest, of the seizure and
24 intended forfeiture of the seized property. The notice of the seizure
25 may be served by any method authorized by law or court rule
26 including, but not limited to, service by certified mail with return
27 receipt requested. Service by mail shall be deemed complete upon
28 mailing within the 15-day period following the seizure. Notice of
29 seizure in the case of property subject to a security interest that
30 has been perfected by filing a financing statement in accordance with
31 chapter 62A.9A RCW, or a certificate of title shall be made by
32 service upon the secured party or the secured party's assignee at the
33 address shown on the financing statement or the certificate of title.

34 (e) If no person notifies the seizing law enforcement agency in
35 writing of the person's claim of ownership or right to possession of
36 items specified in subsection (1) of this section within 60 days of
37 the seizure, the item seized shall either be deemed forfeited if the
38 operator is convicted as provided for in this section, or the vehicle
39 shall be returned to the owner of record if the operator is not
40 convicted as provided for in (a) of this subsection.

1 (f) If a person notifies the seizing law enforcement agency in
2 writing of the person's claim of ownership or right to possession of
3 the seized property within 60 days of the seizure, the law
4 enforcement agency shall give the person or persons a reasonable
5 opportunity to be heard as to the claim or right. The hearing shall
6 be before the chief law enforcement officer of the seizing agency or
7 the chief law enforcement officer's designee, except where the
8 seizing agency is a state agency as defined in RCW 34.12.020, the
9 hearing shall be before the chief law enforcement officer of the
10 seizing agency or an administrative law judge appointed under chapter
11 34.12 RCW, except that any person asserting a claim or right may
12 remove the matter to a court of competent jurisdiction. Removal may
13 only be accomplished according to the rules of civil procedure. The
14 person seeking removal of the matter must serve process against the
15 state, county, political subdivision, or municipality that operates
16 the seizing agency, and any other party of interest, in accordance
17 with RCW 4.28.080 or 4.92.020, within 45 days after the person
18 seeking removal has notified the seizing law enforcement agency of
19 the person's claim of ownership or right to possession. The court to
20 which the matter is to be removed shall be the municipal court of the
21 municipality that operates the seizing agency, or if there is no such
22 municipal court, the district court when the aggregate value of the
23 property is within the jurisdictional limit set forth in RCW
24 3.66.020. A hearing before the seizing agency and any appeal
25 therefrom shall be under Title 34 RCW. In a court hearing between two
26 or more claimants to the property involved, the prevailing party
27 shall be entitled to a judgment for costs and reasonable attorneys'
28 fees. The burden of producing evidence shall be upon the person
29 claiming to be the lawful owner or the person claiming to have the
30 lawful right to possession of the property. The seizing law
31 enforcement agency shall promptly return the property to the claimant
32 upon a determination by the administrative law judge or court that
33 the claimant is the present lawful owner or is lawfully entitled to
34 possession of the property.

35 (g) When property is forfeited under this chapter, after
36 satisfying any court-ordered victim restitution, the seizing law
37 enforcement agency may:

38 (i) Retain it for official use upon application by any law
39 enforcement agency of this state to release such property to such
40 agency for the exclusive use of enforcing the criminal law; or

1 (ii) Sell that which is not required to be destroyed by law and
2 which is not harmful to the public, and use the proceeds to fund
3 personnel, programs, services, and equipment related to the
4 enforcement and processing of attempt to elude a police vehicle
5 violations, or to address and improve general traffic safety, within
6 the seizing agency's jurisdiction.

7 **Sec. 2.** RCW 46.55.113 and 2023 c 283 s 6 are each amended to
8 read as follows:

9 (1) Whenever the driver of a vehicle is arrested for a violation
10 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary
11 impoundment, pursuant to the terms and conditions of an applicable
12 local ordinance or state agency rule at the direction of a law
13 enforcement officer.

14 (2) In addition, a police officer may take custody of a vehicle,
15 at his or her discretion, and provide for its prompt removal to a
16 place of safety under any of the following circumstances:

17 (a) Whenever a police officer finds a vehicle standing upon the
18 roadway in violation of any of the provisions of RCW 46.61.560, the
19 officer may provide for the removal of the vehicle or require the
20 driver or other person in charge of the vehicle to move the vehicle
21 to a position off the roadway;

22 (b) Whenever a police officer finds a vehicle unattended upon a
23 highway where the vehicle constitutes an obstruction to traffic or
24 jeopardizes public safety;

25 (c) Whenever a police officer finds an unattended vehicle at the
26 scene of an accident or when the driver of a vehicle involved in an
27 accident is physically or mentally incapable of deciding upon steps
28 to be taken to protect his or her property;

29 (d) Whenever the driver of a vehicle is arrested and taken into
30 custody by a police officer;

31 (e) Whenever the driver of a vehicle is arrested for a violation
32 of RCW 46.61.502 or 46.61.504;

33 (f) Whenever a police officer discovers a vehicle that the
34 officer determines to be a stolen vehicle;

35 (g) Whenever a vehicle without a special license plate, placard,
36 or decal indicating that the vehicle is being used to transport a
37 person with disabilities under RCW 46.19.010 is parked in a stall or
38 space clearly and conspicuously marked under RCW 46.61.581 which

1 space is provided on private property without charge or on public
2 property;

3 (h) Upon determining that a person is operating a motor vehicle
4 without a valid and, if required, a specially endorsed driver's
5 license or with a license that has been expired for 90 days or more;

6 (i) When a vehicle is illegally occupying a truck, commercial
7 loading zone, restricted parking zone, bus, loading, hooded-meter,
8 taxi, street construction or maintenance, or other similar zone
9 where, by order of the director of transportation or chiefs of police
10 or fire or their designees, parking is limited to designated classes
11 of vehicles or is prohibited during certain hours, on designated days
12 or at all times, if the zone has been established with signage for at
13 least 24 hours and where the vehicle is interfering with the proper
14 and intended use of the zone. Signage must give notice to the public
15 that a vehicle will be removed if illegally parked in the zone;

16 (j) When a vehicle with an expired registration of more than 45
17 days is parked on a public street;

18 (k) Upon determining that a person restricted to use of only a
19 motor vehicle equipped with a functioning ignition interlock device
20 is operating a motor vehicle that is not equipped with such a device
21 in violation of RCW 46.20.740(2);

22 (l) Whenever the driver of a vehicle is arrested for illegal
23 racing conduct in violation of RCW 46.61.500 or 46.61.530 or a
24 comparable municipal ordinance;

25 (m) Whenever the driver of a vehicle is arrested for attempting
26 to elude a police vehicle in violation of RCW 46.61.024 or a
27 comparable municipal ordinance;

28 (n) Whenever a police officer has probable cause to believe the
29 vehicle has been used to commit the crime of attempting to elude a
30 police vehicle in violation of RCW 46.61.024.

31 (3) When an arrest is made for a violation of RCW 46.20.342, if
32 the vehicle is a commercial vehicle or farm transport vehicle and the
33 driver of the vehicle is not the owner of the vehicle, before the
34 summary impoundment directed under subsection (1) of this section,
35 the police officer shall attempt in a reasonable and timely manner to
36 contact the owner of the vehicle and may release the vehicle to the
37 owner if the owner is reasonably available, as long as the owner was
38 not in the vehicle at the time of the stop and arrest and the owner
39 has not received a prior release under this subsection or RCW
40 46.55.120(1)(b)(ii).

1 (4) The additional procedures outlined in RCW 46.55.360 apply to
2 any impoundment of a vehicle under subsection (2)(e) of this section.

3 (5) Nothing in this section may derogate from the powers of
4 police officers under the common law. For the purposes of this
5 section, a place of safety may include the business location of a
6 registered tow truck operator.

7 (6) For purposes of this section "farm transport vehicle" means a
8 motor vehicle owned by a farmer and that is being actively used in
9 the transportation of the farmer's or another farmer's farm, orchard,
10 aquatic farm, or dairy products, including livestock and plant or
11 animal wastes, from point of production to market or disposal, or
12 supplies or commodities to be used on the farm, orchard, aquatic
13 farm, or dairy, and that has a gross vehicle weight rating of 7,258
14 kilograms (16,001 pounds) or more.

15 **Sec. 3.** RCW 46.55.360 and 2023 c 283 s 7 are each amended to
16 read as follows:

17 (1)(a) When a driver of a vehicle is arrested for a violation of
18 RCW 46.61.502 or 46.61.504, attempting to elude a police vehicle
19 under RCW 46.61.024, or illegal racing conduct under RCW 46.61.500 or
20 46.61.530 or a comparable municipal ordinance, and the officer
21 directs the impoundment of the vehicle under RCW 46.55.113(2) (e) or
22 (1), the vehicle must be impounded and retained under the process
23 outlined in this section. With the exception of the holds mandated
24 under this section, the procedures for notice, redemption, storage,
25 auction, and sale shall remain the same as for other impounded
26 vehicles under this chapter.

27 (b) If the police officer directing that a vehicle be impounded
28 under RCW 46.55.113(2) (e) or (1) has:

29 (i) Waited 30 minutes after the police officer contacted the
30 police dispatcher requesting a registered tow truck operator and the
31 tow truck responding has not arrived, or

32 (ii) If the police officer is presented with exigent
33 circumstances such as being called to another incident or due to
34 limited available resources being required to return to patrol,
35 the police officer may place the completed impound order and
36 inventory inside the vehicle and secure the vehicle by closing the
37 windows and locking the doors before leaving.

38 (c) If a police officer has secured the vehicle and left it
39 pursuant to (b) of this subsection, the police officer and the

1 government or agency employing the police officer shall not be liable
2 for any damages to or theft of the vehicle or its contents that occur
3 between the time the officer leaves and the time that the registered
4 tow truck operator takes custody of the vehicle, or for the actions
5 of any person who takes or removes the vehicle before the registered
6 tow truck operator arrives.

7 (2) (a) When a vehicle is impounded under RCW 46.55.113(2) (e) and
8 the driver is a registered owner of the vehicle, the impounded
9 vehicle may not be redeemed within a 12-hour period following the
10 time the impounded vehicle arrives at the registered tow truck
11 operator's storage facility as noted in the registered tow truck
12 operator's master log, unless there are two or more registered owners
13 of the vehicle or there is a legal owner of the vehicle that is not
14 the driver of the vehicle. A registered owner who is not the driver
15 of the vehicle or a legal owner who is not the driver of the vehicle
16 may redeem the impounded vehicle after it arrives at the registered
17 tow truck operator's storage facility as noted in the registered tow
18 truck operator's master log.

19 (b) When a vehicle is impounded under RCW 46.55.113(2) (e) and the
20 driver is a registered owner of the vehicle, the police officer
21 directing the impound shall notify the driver that the impounded
22 vehicle may not be redeemed within a 12-hour period following the
23 time the impounded vehicle arrives at the registered tow truck
24 operator's storage facility as noted in the registered tow truck
25 operator's master log, unless there are two or more registered owners
26 or there is a legal owner who is not the driver of the vehicle. The
27 police officer directing the impound shall notify the driver that the
28 impounded vehicle may be redeemed by either a registered owner or
29 legal owner, who is not the driver of the vehicle, after the
30 impounded vehicle arrives at the registered tow truck operator's
31 storage facility as noted in the registered tow truck operator's
32 master log.

33 (c) When a vehicle is impounded under RCW 46.55.113(2) (l) or
34 (m), the driver is arrested for racing or attempting to elude a
35 police vehicle, and the driver is a registered owner of the vehicle,
36 the impounded vehicle may not be redeemed for a period of 72 hours
37 from the time the impounded vehicle arrives at the registered tow
38 truck operator's storage facility as noted in the registered tow
39 truck operator's master log, unless there are two or more registered
40 owners of the vehicle or there is a legal owner of the vehicle that

1 is not the driver of the vehicle. A registered owner who is not the
2 driver of the vehicle or a legal owner who is not the driver of the
3 vehicle may redeem the impounded vehicle after it arrives at the
4 registered tow truck operator's storage facility as noted in the
5 registered tow truck operator's master log.

6 (d) When a vehicle is impounded under RCW 46.55.113(2) (l) or
7 (m), the driver is arrested for racing or attempting to elude a
8 police vehicle, and the driver is a registered owner of the vehicle,
9 the police officer directing the impound shall notify the driver that
10 the impounded vehicle may not be redeemed for 72 hours from the time
11 the impounded vehicle arrives at the registered tow truck operator's
12 storage facility as noted in the registered tow truck operator's
13 master log, unless there are two or more registered owners or there
14 is a legal owner who is not the driver of the vehicle. The police
15 officer directing the impound shall notify the driver that the
16 impounded vehicle may be redeemed by either a registered owner or
17 legal owner, who is not the driver of the vehicle, after the
18 impounded vehicle arrives at the registered tow truck operator's
19 storage facility as noted in the registered tow truck operator's
20 master log.

21 (3)(a) When a vehicle is impounded under RCW 46.55.113(2) (~~(e)~~)
22 and the driver is not a registered owner of the vehicle, the
23 impounded vehicle may be redeemed by a registered owner or legal
24 owner, who is not the driver of the vehicle, after the impounded
25 vehicle arrives at the registered tow truck operator's storage
26 facility as noted in the registered tow truck operator's master log.

27 (b) When a vehicle is impounded under RCW 46.55.113(2) (e) and the
28 driver is not a registered owner of the vehicle, the police officer
29 directing the impound shall notify the driver that the impounded
30 vehicle may be redeemed by a registered owner or legal owner, who is
31 not the driver of the vehicle, after the impounded vehicle arrives at
32 the registered tow truck operator's storage facility as noted in the
33 registered tow truck operator's master log.

34 (c) When a vehicle is impounded under RCW 46.55.113(2) (l) or
35 (m), the driver is arrested for racing or attempting to elude a
36 police vehicle, and the driver is not a registered owner of the
37 vehicle, the impounded vehicle may be redeemed by a registered owner
38 or legal owner, who is not the driver of the vehicle, after the
39 impounded vehicle arrives at the registered tow truck operator's

1 storage facility as noted in the registered tow truck operator's
2 master log.

3 (d) When a vehicle is impounded under RCW 46.55.113(2) (l) or
4 (m), the driver is arrested for racing or attempting to elude a
5 police vehicle, and the driver is not a registered owner of the
6 vehicle, the police officer directing the impound shall notify the
7 driver that the impounded vehicle may be redeemed by a registered
8 owner or legal owner, who is not the driver of the vehicle, after the
9 impounded vehicle arrives at the registered tow truck operator's
10 storage facility as noted in the registered tow truck operator's
11 master log.

12 (e) If the vehicle is a commercial vehicle or farm transport
13 vehicle and the driver of the vehicle is not the owner of the
14 vehicle, prior to determining that no reasonable alternatives to
15 impound exist and directing impoundment of the vehicle under RCW
16 46.55.113(2) (e) (~~(e)~~), (l) or (m), the police officer must have
17 attempted in a reasonable and timely manner to contact the owner, and
18 release the vehicle to the owner if the owner was reasonably
19 available, not under the influence of alcohol or any drug, and not a
20 party to the racing or attempting to elude a police vehicle conduct
21 that subjects the vehicle to impound.

22 (f) The registered tow truck operator shall notify the agency
23 that ordered that the vehicle be impounded when the vehicle arrives
24 at the registered tow truck operator's storage facility and has been
25 entered into the master log starting any mandatory hold period
26 provided for in this section.

27 (4) A registered tow truck operator that releases an impounded
28 vehicle pursuant to the requirements stated in this section is not
29 liable for injuries or damages sustained by the operator of the
30 vehicle or sustained by third parties that may result from the
31 vehicle driver's intoxicated state or illegal conduct relating to
32 racing or attempting to elude a police vehicle.

33 (5) For purposes of this section "farm transport vehicle" means a
34 motor vehicle owned by a farmer and that is being actively used in
35 the transportation of the farmer's or another farmer's farm, orchard,
36 aquatic farm, or dairy products, including livestock and plant or
37 animal wastes, from point of production to market or disposal, or
38 supplies or commodities to be used on the farm, orchard, aquatic
39 farm, or dairy, and that has a gross vehicle weight rating of 7,258
40 kilograms (16,001 pounds) or more.

1 **Sec. 4.** RCW 46.55.370 and 2023 c 283 s 8 are each amended to
2 read as follows:

3 If an impoundment arising from an alleged violation of RCW
4 46.61.502 or 46.61.504, attempting to elude a police vehicle under
5 RCW 46.61.024, or illegal racing under RCW 46.61.500 or 46.61.530, or
6 a comparable ordinance is determined to be in violation of this
7 chapter, then the police officer directing the impoundment and the
8 government employing the officer are not liable for damages for loss
9 of use of the vehicle if the officer had reasonable suspicion to
10 believe that the driver of the vehicle was driving the vehicle in
11 violation of RCW 46.61.502 or 46.61.504, or conducting illegal racing
12 in violation of RCW 46.61.500 or 46.61.530, attempting to elude a
13 police vehicle under RCW 46.61.024, or comparable municipal
14 ordinance.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 10.21
16 RCW to read as follows:

17 When any person charged with attempting to elude a police vehicle
18 under RCW 46.61.024 or resisting arrest under RCW 9A.76.040 is
19 released from custody at arraignment or trial, on bail or personal
20 recognizance, the court authorizing release may require, as a
21 condition of release, that the person be placed on electronic
22 monitoring as defined in RCW 9.94A.030, with proof of installation of
23 the monitoring device filed with the court by the person or the
24 monitoring agency within five business days of the date of release
25 from custody or as soon thereafter as determined by the court on
26 availability within the jurisdiction.

27 **Sec. 6.** RCW 13.40.040 and 2017 3rd sp.s. c 6 s 606 are each
28 amended to read as follows:

29 (1) A juvenile may be taken into custody:

30 (a) Pursuant to a court order if a complaint is filed with the
31 court alleging, and the court finds probable cause to believe, that
32 the juvenile has committed an offense or has violated terms of a
33 disposition order or release order; or

34 (b) Without a court order, by a law enforcement officer if
35 grounds exist for the arrest of an adult in identical circumstances.
36 Admission to, and continued custody in, a court detention facility
37 shall be governed by subsection (2) of this section; or

1 (c) Pursuant to a court order that the juvenile be held as a
2 material witness; or

3 (d) Where the secretary or the secretary's designee has suspended
4 the parole of a juvenile offender.

5 (2) A juvenile may not be held in detention unless there is
6 probable cause to believe that:

7 (a) The juvenile has committed an offense or has violated the
8 terms of a disposition order; and

9 (i) The juvenile will likely fail to appear for further
10 proceedings; or

11 (ii) Detention is required to protect the juvenile from himself
12 or herself; or

13 (iii) The juvenile is a threat to community safety; or

14 (iv) The juvenile will intimidate witnesses or otherwise
15 unlawfully interfere with the administration of justice; or

16 (v) The juvenile has committed a crime while another case was
17 pending; or

18 (b) The juvenile is a fugitive from justice; or

19 (c) The juvenile's parole has been suspended or modified; or

20 (d) The juvenile is a material witness.

21 (3) Notwithstanding subsection (2) of this section, and within
22 available funds, a juvenile who has been found guilty of one of the
23 following offenses shall be detained pending disposition: Rape in the
24 first or second degree (RCW 9A.44.040 and 9A.44.050); or rape of a
25 child in the first degree (RCW 9A.44.073).

26 (4) Upon a finding that members of the community have threatened
27 the health of a juvenile taken into custody, at the juvenile's
28 request the court may order continued detention pending further order
29 of the court.

30 (5) Except as provided in RCW 9.41.280, a juvenile detained under
31 this section may be released upon posting a probation bond set by the
32 court. The juvenile's parent or guardian may sign for the probation
33 bond. A court authorizing such a release shall issue an order
34 containing a statement of conditions imposed upon the juvenile and
35 shall set the date of his or her next court appearance. The court
36 shall advise the juvenile of any conditions specified in the order
37 and may at any time amend such an order in order to impose additional
38 or different conditions of release upon the juvenile or to return the
39 juvenile to custody for failing to conform to the conditions imposed.
40 In addition to requiring the juvenile to appear at the next court

1 date, the court may condition the probation bond on the juvenile's
2 compliance with conditions of release. The juvenile's parent or
3 guardian may notify the court that the juvenile has failed to conform
4 to the conditions of release or the provisions in the probation bond.
5 If the parent notifies the court of the juvenile's failure to comply
6 with the probation bond, the court shall notify the surety. As
7 provided in the terms of the bond, the surety shall provide notice to
8 the court of the offender's noncompliance. A juvenile may be released
9 only to a responsible adult or the department of children, youth, and
10 families. Failure to appear on the date scheduled by the court
11 pursuant to this section shall constitute the crime of bail jumping.

12 (6) The court may require any juvenile charged with attempting to
13 elude a police vehicle (RCW 46.61.024) or resisting arrest (RCW
14 9A.76.040), who is released under subsection (5) of this section, to
15 submit to electronic monitoring pending disposition of the charge.

16 **Sec. 7.** RCW 9.94A.501 and 2021 c 242 s 2 are each amended to
17 read as follows:

18 (1) The department shall supervise the following offenders who
19 are sentenced to probation in superior court, pursuant to RCW
20 9.92.060, 9.95.204, or 9.95.210:

21 (a) Offenders convicted of:

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

23 (ii) Custodial sexual misconduct second degree;

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

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

26 (b) Offenders who have:

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

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

33 (2) Misdemeanor and gross misdemeanor offenders supervised by the
34 department pursuant to this section shall be placed on community
35 custody.

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

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

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

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

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

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

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

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

26 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660,
27 9.94A.670, 9.94A.711, or 9.94A.695;

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

29 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular
30 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6)
31 (felony DUI), ~~((~~or~~))~~ RCW 46.61.504(6) (felony physical control), or
32 RCW 46.61.024 (attempting to elude a police vehicle).

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

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

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

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

9 (9) The period of time the department is authorized to supervise
10 an offender under this section may be reduced by the earned award of
11 supervision compliance credit pursuant to RCW 9.94A.717.

12 **Sec. 8.** RCW 9.94A.701 and 2021 c 242 s 6 are each amended to
13 read as follows:

14 (1) If an offender is sentenced to the custody of the department
15 for one of the following crimes, the court shall, in addition to the
16 other terms of the sentence, sentence the offender to community
17 custody for three years:

18 (a) A sex offense not sentenced under RCW 9.94A.507; or

19 (b) A serious violent offense.

20 (2) A court shall, in addition to the other terms of the
21 sentence, sentence an offender to community custody for eighteen
22 months when the court sentences the person to the custody of the
23 department for a violent offense that is not considered a serious
24 violent offense.

25 (3) A court shall, in addition to the other terms of the
26 sentence, sentence an offender to community custody for one year when
27 the court sentences the person to the custody of the department for:

28 (a) Any crime against persons under RCW 9.94A.411(2);

29 (b) An offense involving the unlawful possession of a firearm
30 under RCW 9.41.040, where the offender is a criminal street gang
31 member or associate;

32 (c) A felony offense under chapter 69.50 or 69.52 RCW, committed
33 on or after July 1, 2000; (~~(e)~~)

34 (d) A violation of RCW 46.61.024 (attempting to elude a police
35 vehicle); or

36 (e) A felony violation of RCW 9A.44.132(1) (failure to register)
37 that is the offender's first violation for a felony failure to
38 register.

1 (4) If an offender is sentenced under the drug offender
2 sentencing alternative, the court shall impose community custody as
3 provided in RCW 9.94A.660.

4 (5) If an offender is sentenced under the special sex offender
5 sentencing alternative, the court shall impose community custody as
6 provided in RCW 9.94A.670.

7 (6) If an offender is sentenced to a work ethic camp, the court
8 shall impose community custody as provided in RCW 9.94A.690.

9 (7) If an offender is sentenced under the parenting sentencing
10 alternative, the court shall impose a term of community custody as
11 provided in RCW 9.94A.655.

12 (8) If the offender is sentenced under the mental health
13 sentencing alternative, the court shall impose a term of community
14 custody as provided in RCW 9.94A.695.

15 (9) If a sex offender is sentenced as a nonpersistent offender
16 pursuant to RCW 9.94A.507, the court shall impose community custody
17 as provided in that section.

18 (10) The term of community custody specified by this section
19 shall be reduced by the court whenever an offender's standard range
20 term of confinement in combination with the term of community custody
21 exceeds the statutory maximum for the crime as provided in RCW
22 9A.20.021.

23 **Sec. 9.** RCW 9.94A.703 and 2022 c 29 s 8 are each amended to read
24 as follows:

25 When a court sentences a person to a term of community custody,
26 the court shall impose conditions of community custody as provided in
27 this section.

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

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

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

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

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

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

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

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

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

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

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

16 (a) Remain within, or outside of, a specified geographical
17 boundary;

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

20 (c) Participate in crime-related treatment or counseling
21 services;

22 (d) Participate in rehabilitative programs or otherwise perform
23 affirmative conduct reasonably related to the circumstances of the
24 offense, the offender's risk of reoffending, or the safety of the
25 community;

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

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

28 (4) **Special conditions.**

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

35 (b) (i) In sentencing an offender convicted of an alcohol or drug-
36 related traffic offense, the court shall require the offender to
37 complete a diagnostic evaluation by a substance use disorder
38 treatment program approved by the department of social and health
39 services or a qualified probation department, defined under RCW
40 46.61.516, that has been approved by the department of social and

1 health services. If the offense was pursuant to chapter 46.61 RCW,
2 the report shall be forwarded to the department of licensing. If the
3 offender is found to have an alcohol or drug problem that requires
4 treatment, the offender shall complete treatment in an approved
5 substance use disorder treatment program as defined in chapter 71.24
6 RCW. If the offender is found not to have an alcohol or drug problem
7 that requires treatment, the offender shall complete a course in an
8 alcohol and drug information school licensed or certified by the
9 department of health under chapter 70.96A RCW. The offender shall pay
10 all costs for any evaluation, education, or treatment required by
11 this section, unless the offender is eligible for an existing program
12 offered or approved by the department of social and health services.

13 (ii) For purposes of this section, "alcohol or drug-related
14 traffic offense" means the following: Driving while under the
15 influence as defined by RCW 46.61.502, actual physical control while
16 under the influence as defined by RCW 46.61.504, vehicular homicide
17 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by
18 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW
19 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

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

24 (c) In sentencing an offender convicted of attempting to elude a
25 police vehicle under RCW 46.61.024, the court may require the
26 offender to be placed on electronic monitoring as defined in RCW
27 9.94A.030 for the duration of the offender's term of community
28 custody.

29 **Sec. 10.** RCW 13.40.210 and 2023 c 150 s 9 are each amended to
30 read as follows:

31 (1) The secretary shall set a release date for each juvenile
32 committed to its custody. The release date shall be within the
33 prescribed range to which a juvenile has been committed under RCW
34 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320
35 concerning offenders the department determines are eligible for the
36 juvenile offender basic training camp program. Such dates shall be
37 determined prior to the expiration of sixty percent of a juvenile's
38 minimum term of confinement included within the prescribed range to
39 which the juvenile has been committed. The secretary shall release

1 any juvenile committed to the custody of the department within four
2 calendar days prior to the juvenile's release date or on the release
3 date set under this chapter. Days spent in the custody of the
4 department shall be tolled by any period of time during which a
5 juvenile has absented himself or herself from the department's
6 supervision without the prior approval of the secretary or the
7 secretary's designee.

8 (2) The secretary shall monitor the average daily population of
9 the state's juvenile residential facilities. When the secretary
10 concludes that in-residence population of residential facilities
11 exceeds one hundred five percent of the rated bed capacity specified
12 in statute, or in absence of such specification, as specified by the
13 department in rule, the secretary may recommend reductions to the
14 governor. On certification by the governor that the recommended
15 reductions are necessary, the secretary has authority to
16 administratively release a sufficient number of offenders to reduce
17 in-residence population to one hundred percent of rated bed capacity.
18 The secretary shall release those offenders who have served the
19 greatest proportion of their sentence. However, the secretary may
20 deny release in a particular case at the request of an offender, or
21 if the secretary finds that there is no responsible custodian, as
22 determined by the department, to whom to release the offender, or if
23 the release of the offender would pose a clear danger to society. The
24 department shall notify the committing court of the release at the
25 time of release if any such early releases have occurred as a result
26 of excessive in-residence population. In no event shall an offender
27 adjudicated of a violent offense be granted release under the
28 provisions of this subsection.

29 (3) (a) Following the release of any juvenile under subsection (1)
30 of this section, the secretary may require the juvenile to comply
31 with a program of parole to be administered by the department in his
32 or her community which shall last no longer than eighteen months,
33 except that in the case of a juvenile sentenced for a sex offense as
34 defined under RCW 9.94A.030 the period of parole shall be twenty-four
35 months and, in the discretion of the secretary, may be up to thirty-
36 six months when the secretary finds that an additional period of
37 parole is necessary and appropriate in the interests of public safety
38 or to meet the ongoing needs of the juvenile. A parole program is
39 mandatory for offenders released under subsection (2) of this section
40 and for offenders who receive a juvenile residential commitment

1 sentence for theft of a motor vehicle, possession of a stolen motor
2 vehicle, attempting to elude a police vehicle, or taking a motor
3 vehicle without permission 1. A juvenile adjudicated for unlawful
4 possession of a firearm, possession of a stolen firearm, theft of a
5 firearm, or drive-by shooting may participate in aggression
6 replacement training, functional family therapy, or functional family
7 parole aftercare if the juvenile meets eligibility requirements for
8 these services. The decision to place an offender in an evidence-
9 based parole program shall be based on an assessment by the
10 department of the offender's risk for reoffending upon release and an
11 assessment of the ongoing treatment needs of the juvenile. The
12 department shall prioritize available parole resources to provide
13 supervision and services to offenders at moderate to high risk for
14 reoffending.

15 (b) The secretary shall, for the period of parole, facilitate the
16 juvenile's reintegration into his or her community and to further
17 this goal shall require the juvenile to refrain from possessing a
18 firearm or using a deadly weapon and refrain from committing new
19 offenses and may require the juvenile to: (i) Undergo available
20 medical, psychiatric, drug and alcohol, sex offender, mental health,
21 and other offense-related treatment services; (ii) report as directed
22 to a parole officer and/or designee; (iii) pursue a course of study,
23 vocational training, or employment; (iv) notify the parole officer of
24 the current address where he or she resides; (v) be present at a
25 particular address during specified hours; (vi) remain within
26 prescribed geographical boundaries; (vii) submit to electronic
27 monitoring; (viii) refrain from using illegal drugs and alcohol, and
28 submit to random urinalysis when requested by the assigned parole
29 officer; (ix) refrain from contact with specific individuals or a
30 specified class of individuals; (x) meet other conditions determined
31 by the parole officer to further enhance the juvenile's reintegration
32 into the community; (xi) pay any court-ordered fines or restitution;
33 and (xii) perform community restitution.

34 Community restitution for the purpose of this section means
35 compulsory service, without compensation, performed for the benefit
36 of the community by the offender. Community restitution may be
37 performed through public or private organizations or through work
38 crews.

39 (c) The secretary may further require up to twenty-five percent
40 of the highest risk juvenile offenders who are placed on parole to

1 participate in an intensive supervision program. Offenders
2 participating in an intensive supervision program shall be required
3 to comply with all terms and conditions listed in (b) of this
4 subsection and shall also be required to comply with the following
5 additional terms and conditions: (i) Obey all laws and refrain from
6 any conduct that threatens public safety; (ii) report at least once a
7 week to an assigned community case manager; and (iii) meet all other
8 requirements imposed by the community case manager related to
9 participating in the intensive supervision program. As a part of the
10 intensive supervision program, the secretary may require day
11 reporting.

12 (d) After termination of the parole period, the juvenile shall be
13 discharged from the department's supervision.

14 (4) (a) The department may also modify parole for violation
15 thereof. If, after affording a juvenile all of the due process rights
16 to which he or she would be entitled if the juvenile were an adult,
17 the secretary finds that a juvenile has violated a condition of his
18 or her parole, the secretary shall order one of the following which
19 is reasonably likely to effectuate the purpose of the parole and to
20 protect the public: (i) Continued supervision under the same
21 conditions previously imposed; (ii) intensified supervision with
22 increased reporting requirements; (iii) additional conditions of
23 supervision authorized by this chapter; (iv) except as provided in
24 (a) (v) and (vi) of this subsection, imposition of a period of
25 confinement not to exceed thirty days in a facility operated by or
26 pursuant to a contract with the state of Washington or any city or
27 county for a portion of each day or for a certain number of days each
28 week with the balance of the days or weeks spent under supervision;
29 (v) the secretary may order any of the conditions or may return the
30 offender to confinement for the remainder of the sentence range if
31 the offense for which the offender was sentenced is rape in the first
32 or second degree, rape of a child in the first or second degree,
33 child molestation in the first degree, indecent liberties with
34 forcible compulsion, or a sex offense that is also a serious violent
35 offense as defined by RCW 9.94A.030; and (vi) the secretary may order
36 any of the conditions or may return the offender to confinement for
37 the remainder of the sentence range if the youth has completed the
38 basic training camp program as described in RCW 13.40.320.

39 (b) The secretary may modify parole and order any of the
40 conditions or may return the offender to confinement for up to

1 twenty-four weeks if the offender was sentenced for a sex offense as
2 defined under RCW 9A.44.128 and is known to have violated the terms
3 of parole. Confinement beyond thirty days is intended to only be used
4 for a small and limited number of sex offenders. It shall only be
5 used when other graduated sanctions or interventions have not been
6 effective or the behavior is so egregious it warrants the use of the
7 higher level intervention and the violation: (i) Is a known pattern
8 of behavior consistent with a previous sex offense that puts the
9 youth at high risk for reoffending sexually; (ii) consists of sexual
10 behavior that is determined to be predatory as defined in RCW
11 71.09.020; or (iii) requires a review under chapter 71.09 RCW, due to
12 a recent overt act. The total number of days of confinement for
13 violations of parole conditions during the parole period shall not
14 exceed the number of days provided by the maximum sentence imposed by
15 the disposition for the underlying offense pursuant to RCW
16 13.40.0357. The department shall not aggregate multiple parole
17 violations that occur prior to the parole revocation hearing and
18 impose consecutive (~~twenty-four~~) 24 week periods of confinement for
19 each parole violation. The department is authorized to engage in rule
20 making pursuant to chapter 34.05 RCW, to implement this subsection,
21 including narrowly defining the behaviors that could lead to this
22 higher level intervention.

23 (c) If the department finds that any juvenile in a program of
24 parole has possessed a firearm or used a deadly weapon during the
25 program of parole, the department shall modify the parole under (a)
26 of this subsection and confine the juvenile for at least thirty days.
27 Confinement shall be in a facility operated by or pursuant to a
28 contract with the state or any county.

29 (5) A parole officer of the department of children, youth, and
30 families shall have the power to arrest a juvenile under his or her
31 supervision on the same grounds as a law enforcement officer would be
32 authorized to arrest the person.

33 (6) If so requested and approved under chapter 13.06 RCW, the
34 secretary shall permit a county or group of counties to perform
35 functions under subsections (3) through (5) of this section.

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