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**HOUSE BILL 1192**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Representatives Simmons and Peterson

Prefiled 01/08/25.

1 AN ACT Relating to disciplinary hearings held by the department  
2 of corrections for individuals in partial and total confinement or  
3 serving a term of community custody; amending RCW 9.94A.737 and  
4 72.09.130; adding a new section to chapter 72.09 RCW; and providing  
5 an effective date.

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

7 **Sec. 1.** RCW 9.94A.737 and 2020 c 82 s 1 are each amended to read  
8 as follows:

9 (1) If an offender is accused of violating any condition or  
10 requirement of community custody, the department shall address the  
11 violation behavior. The department may hold offender disciplinary  
12 proceedings not subject to chapter 34.05 RCW. The department shall  
13 notify the offender in writing of the violation process.

14 (2)(a) The offender's violation behavior shall determine the  
15 sanction the department imposes. The department shall adopt rules  
16 creating a structured violation process that includes presumptive  
17 sanctions, aggravating and mitigating factors, and definitions for  
18 low level violations and high level violations.

19 (b) After an offender has committed and been sanctioned for five  
20 low level violations, subsequent violations committed by that  
21 offender may be considered high level violations, provided that any

1 decision to elevate a violation complies with policies and rules  
2 established by the department.

3 (c) (i) The department must define aggravating factors that  
4 indicate the offender may present a current and ongoing foreseeable  
5 risk and which therefore elevate an offender's behavior to a high  
6 level violation process.

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

12 (3) The department may intervene when an offender commits a low  
13 level violation by sanctioning the offender to one or more  
14 nonconfinement sanctions or to not more than three days in total  
15 confinement.

16 (a) The department shall develop rules to ensure that each  
17 offender subject to a short-term confinement sanction is provided the  
18 opportunity to respond to the alleged violation prior to imposition  
19 of total confinement.

20 (b) The offender may appeal the short-term confinement sanction  
21 to a panel of three reviewing officers designated by the secretary or  
22 by the secretary's designee. The offender's appeal must be in writing  
23 and hand-delivered to department staff, or postmarked, within seven  
24 days after the sanction is imposed.

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

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

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

33 (5) If the offender's underlying offense is one of the following  
34 felonies provided in this subsection and the violation behavior  
35 constitutes a new misdemeanor, gross misdemeanor, or felony, the  
36 offender shall be held in total confinement pending a sanction  
37 hearing, and until the earlier of: The date the sanction expires; the  
38 date a prosecuting attorney files new charges against the offender;  
39 or the date a prosecuting attorney provides the department with  
40 written notice that new charges will not be filed for the violation

1 behavior. The following underlying offenses apply to the restrictions  
2 in this subsection:

- 3 (a) Assault in the first degree, as defined in RCW 9A.36.011;
- 4 (b) Assault of a child in the first degree, as defined in RCW  
5 9A.36.120;
- 6 (c) Assault of a child in the second degree, as defined in RCW  
7 9A.36.130;
- 8 (d) Burglary in the first degree, as defined in RCW 9A.52.020;
- 9 (e) Child molestation in the first degree, as defined in RCW  
10 9A.44.083;
- 11 (f) Commercial sexual abuse of a minor, as defined in RCW  
12 9.68A.100;
- 13 (g) Dealing in depictions of a minor engaged in sexually explicit  
14 conduct, as defined in RCW 9.68A.050;
- 15 (h) Homicide by abuse, as defined in RCW 9A.32.055;
- 16 (i) Indecent liberties with forcible compulsion, as defined in  
17 RCW 9A.44.100(1)(a);
- 18 (j) Indecent liberties with a person capable of consent, as  
19 defined in RCW 9A.44.100(1)(b);
- 20 (k) Kidnapping in the first degree, as defined in RCW 9A.40.020;
- 21 (l) Murder in the first degree, as defined in RCW 9A.32.030;
- 22 (m) Murder in the second degree, as defined in RCW 9A.32.050;
- 23 (n) Promoting commercial sexual abuse of a minor, as defined in  
24 RCW 9.68A.101;
- 25 (o) Rape in the first degree, as defined in RCW 9A.44.040;
- 26 (p) Rape in the second degree, as defined in RCW 9A.44.050;
- 27 (q) Rape of a child in the first degree, as defined in RCW  
28 9A.44.073;
- 29 (r) Rape of a child in the second degree, as defined in RCW  
30 9A.44.076;
- 31 (s) Robbery in the first degree, as defined in RCW 9A.56.200;
- 32 (t) Sexual exploitation of a minor, as defined in RCW 9.68A.040;
- 33 or
- 34 (u) Vehicular homicide while under the influence of intoxicating  
35 liquor or any drug, as defined in RCW 46.61.520(1)(a).
- 36 (6) The department shall adopt rules creating hearing procedures  
37 for high level violations. The hearings are offender disciplinary  
38 proceedings and are not subject to chapter 34.05 RCW. The procedures  
39 shall include the following:

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

6 (b) Unless the offender waives the right to a hearing, the  
7 department shall hold a hearing, and shall record it electronically.  
8 For offenders not in total confinement, the department shall hold a  
9 hearing within fifteen business days, but not less than twenty-four  
10 hours, after written notice of the alleged violation. For offenders  
11 in total confinement, the department shall hold a hearing within five  
12 business days, but not less than twenty-four hours, after written  
13 notice of the alleged violation;

14 (c) The offender shall have the right to: (i) Be present at the  
15 hearing; (ii) have the assistance of a person qualified to assist the  
16 offender in the hearing, appointed by the hearing officer if the  
17 offender has a language or communications barrier; (iii) testify or  
18 remain silent; (iv) call witnesses and present documentary evidence;  
19 (v) question witnesses who appear and testify; and (vi) receive a  
20 written summary of the reasons for the hearing officer's decision;  
21 and

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

34 (7) For purposes of this section, the hearings officer may not  
35 rely on unconfirmed or unconfirmable allegations to find that the  
36 offender violated a condition. Any alleged violations of the  
37 conditions of community custody must be proven beyond a reasonable  
38 doubt.

39 (8) Hearing officers shall report through a chain of command  
40 separate from that of community corrections officers.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 72.09  
2    RCW to read as follows:

3        (1) In any hearing for an alleged violation of the disciplinary  
4    rules of total confinement, the alleged violation must be proven by a  
5    preponderance of the evidence. If the hearing officer finds the  
6    incarcerated individual not guilty of a violation, disciplinary  
7    sanctions shall not be imposed on the incarcerated individual for  
8    that violation.

9        (2) In any hearing for an alleged violation of the disciplinary  
10   rules or required conditions of partial confinement, the alleged  
11   violation must be proven beyond a reasonable doubt. If the hearing  
12   officer determines that the allegation has not been proven beyond a  
13   reasonable doubt at the hearing, the partial confinement status of  
14   the individual must continue.

15        (3) The department shall adopt rules necessary to implement this  
16   section.

17        **Sec. 3.**    RCW 72.09.130 and 1995 1st sp.s. c 19 s 6 are each  
18   amended to read as follows:

19        (1) The department shall adopt, by rule, a system that clearly  
20   links an inmate's behavior and participation in available education  
21   and work programs with the receipt or denial of earned early release  
22   days and other privileges. The system shall include increases or  
23   decreases in the degree of liberty granted the inmate within the  
24   programs operated by the department, access to or withholding of  
25   privileges available within correctional institutions, and  
26   recommended increases or decreases in the number of earned early  
27   release days that an inmate can earn for good conduct and good  
28   performance.

29        (2) Earned early release days shall be recommended by the  
30   department as a reward for accomplishment. The system shall be fair,  
31   measurable, and understandable to offenders, staff, and the public.  
32   At least once in each twelve-month period, the department shall  
33   inform the offender in writing as to his or her conduct and  
34   performance. This written evaluation shall include reasons for  
35   awarding or not awarding recommended earned early release days for  
36   good conduct and good performance. An inmate is not eligible to  
37   receive earned early release days during any time in which he or she  
38   refuses to participate in an available education or work program into  
39   which he or she has been placed under RCW 72.09.460.

1           (3) The department shall provide each offender in its custody a  
2 written description of the system created under this section. The  
3 system created under this section must conform to section 2 of this  
4 act.

5           NEW SECTION.   **Sec. 4.** This act takes effect January 1, 2026.

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