
SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL 6204

State of Washington 62nd Legislature 2012 1st Special Session

By Senate Ways & Means (originally sponsored by Senator Hargrove; by request of Department of Corrections)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to community supervision; amending RCW 9.94A.631,
2 9.94A.704, 9.94A.706, 9.94A.714, 9.94A.716, 9.94A.737, 9.94A.740,
3 9.95.210, and 9.95.210; reenacting and amending RCW 9.94A.633; creating
4 new sections; providing effective dates; providing expiration dates;
5 and declaring an emergency.

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

7 **Sec. 1.** RCW 9.94A.631 and 2009 c 390 s 1 are each amended to read
8 as follows:

9 (1) If an offender violates any condition or requirement of a
10 sentence, a community corrections officer may arrest or cause the
11 arrest of the offender without a warrant, pending a determination by
12 the court or (~~a department of corrections hearing officer~~) by the
13 department. If there is reasonable cause to believe that an offender
14 has violated a condition or requirement of the sentence, a community
15 corrections officer may require an offender to submit to a search and
16 seizure of the offender's person, residence, automobile, or other
17 personal property.

18 (2) For the safety and security of department staff, an offender
19 may be required to submit to pat searches, or other limited security

1 searches, by community corrections officers, correctional officers, and
2 other agency approved staff, without reasonable cause, when in or on
3 department premises, grounds, or facilities, or while preparing to
4 enter department premises, grounds, facilities, or vehicles. Pat
5 searches of offenders shall be conducted only by staff who are the same
6 gender as the offender, except in emergency situations.

7 (3) A community corrections officer may also arrest an offender for
8 any crime committed in his or her presence. The facts and
9 circumstances of the conduct of the offender shall be reported by the
10 community corrections officer, with recommendations, to the court (~~or~~
11 ~~department of corrections hearing officer~~), local law enforcement, or
12 local prosecution for consideration of new charges. The community
13 corrections officer's report shall serve as the notice that the
14 department will hold the offender for not more than three days from the
15 time of such notice for the new crime. This does not affect the
16 department's authority under RCW 9.94A.737.

17 If a community corrections officer arrests or causes the arrest of
18 an offender under this section, the offender shall be confined and
19 detained in the county jail of the county in which the offender was
20 taken into custody, and the sheriff of that county shall receive and
21 keep in the county jail, where room is available, all prisoners
22 delivered to the jail by the community corrections officer, and such
23 offenders shall not be released from custody on bail or personal
24 recognizance, except upon approval of the court or authorized
25 department staff, pursuant to a written order.

26 **Sec. 2.** RCW 9.94A.633 and 2010 c 258 s 1 and 2010 c 224 s 12 are
27 each reenacted and amended to read as follows:

28 (1)(a) An offender who violates any condition or requirement of a
29 sentence may be sanctioned by the court with up to sixty days'
30 confinement for each violation or by the department with up to thirty
31 days' confinement as provided in RCW 9.94A.737.

32 (b) In lieu of confinement, an offender may be sanctioned with work
33 release, home detention with electronic monitoring, work crew,
34 community restitution, inpatient treatment, daily reporting, curfew,
35 educational or counseling sessions, supervision enhanced through
36 electronic monitoring, or any other community-based sanctions
37 (~~(available in the community)~~).

1 (2) If an offender was under community custody pursuant to one of
2 the following statutes, the offender may be sanctioned as follows:

3 (a) If the offender was transferred to community custody in lieu of
4 earned early release in accordance with RCW 9.94A.728, the offender may
5 be transferred to a more restrictive confinement status to serve up to
6 the remaining portion of the sentence, less credit for any period
7 actually spent in community custody or in detention awaiting
8 disposition of an alleged violation.

9 (b) If the offender was sentenced under the drug offender
10 sentencing alternative set out in RCW 9.94A.660, the offender may be
11 sanctioned in accordance with that section.

12 (c) If the offender was sentenced under the parenting sentencing
13 alternative set out in RCW 9.94A.655, the offender may be sanctioned in
14 accordance with that section.

15 (d) If the offender was sentenced under the special sex offender
16 sentencing alternative set out in RCW 9.94A.670, the suspended sentence
17 may be revoked and the offender committed to serve the original
18 sentence of confinement.

19 (e) If the offender was sentenced to a work ethic camp pursuant to
20 RCW 9.94A.690, the offender may be reclassified to serve the unexpired
21 term of his or her sentence in total confinement.

22 (f) If a sex offender was sentenced pursuant to RCW 9.94A.507, the
23 offender may be transferred to a more restrictive confinement status to
24 serve up to the remaining portion of the sentence, less credit for any
25 period actually spent in community custody or in detention awaiting
26 disposition of an alleged violation.

27 (3) If a probationer is being supervised by the department pursuant
28 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be
29 sanctioned pursuant to subsection (1) of this section. The department
30 shall have authority to issue a warrant for the arrest of an offender
31 who violates a condition of community custody, as provided in RCW
32 9.94A.716. Any sanctions shall be imposed by the department pursuant
33 to RCW 9.94A.737. (~~The department shall provide a copy of the~~
34 ~~violation hearing report to the sentencing court in a timely manner.~~)
35 Nothing in this subsection is intended to limit the power of the
36 sentencing court to respond to a probationer's violation of conditions.

37 (4) The parole or probation of an offender who is charged with a

1 new felony offense may be suspended and the offender placed in total
2 confinement pending disposition of the new criminal charges if:

3 (a) The offender is on parole pursuant to RCW 9.95.110(1); or

4 (b) The offender is being supervised pursuant to RCW 9.94A.745 and
5 is on parole or probation pursuant to the laws of another state.

6 **Sec. 3.** RCW 9.94A.704 and 2009 c 375 s 6 are each amended to read
7 as follows:

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

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

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

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

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

23 (b) Remain within prescribed geographical boundaries;

24 (c) Notify the community corrections officer of any change in the
25 offender's address or employment;

26 (d) Pay the supervision fee assessment; and

27 (e) Disclose the fact of supervision to any mental health or
28 chemical dependency treatment provider, as required by RCW 9.94A.722.

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

32 (5) If the offender was sentenced pursuant to a conviction for a
33 sex offense, the department may impose electronic monitoring. Within
34 the resources made available by the department for this purpose, the
35 department shall carry out any electronic monitoring using the most
36 appropriate technology given the individual circumstances of the
37 offender. As used in this section, "electronic monitoring" means the

1 monitoring of an offender using an electronic offender tracking system
2 including, but not limited to, a system using radio frequency or active
3 or passive global positioning system technology.

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

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

9 (b) By the close of the next business day after receiving notice of
10 a condition imposed or modified by the department, an offender may
11 request an administrative review under rules adopted by the department.
12 The condition shall remain in effect unless the reviewing officer finds
13 that it is not reasonably related to the crime of conviction, the
14 offender's risk of reoffending, or the safety of the community.

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

17 (9) The department may require offenders to pay for special
18 services rendered including electronic monitoring, day reporting, and
19 telephone reporting, dependent on the offender's ability to pay. The
20 department may pay for these services for offenders who are not able to
21 pay.

22 ((+9)) (10)(a) When a sex offender has been sentenced pursuant to
23 RCW 9.94A.507, the department shall assess the offender's risk of
24 recidivism and shall recommend to the board any additional or modified
25 conditions based upon the offender's risk to community safety and may
26 recommend affirmative conduct or electronic monitoring consistent with
27 subsections (4) through (6) of this section.

28 (b) The board may impose conditions in addition to court-ordered
29 conditions. The board must consider and may impose department-
30 recommended conditions.

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

36 (i) The crime of conviction;

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

38 (iii) The safety of the community.

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

10 ~~((10))~~ (11) In setting, modifying, and enforcing conditions of
11 community custody, the department shall be deemed to be performing a
12 quasi-judicial function.

13 **Sec. 4.** RCW 9.94A.706 and 2008 c 231 s 11 are each amended to read
14 as follows:

15 (1) No offender sentenced to a term of community custody under the
16 supervision of the department may own, use, or possess firearms ~~((or))~~,
17 ammunition, or explosives. ~~((Offenders who own, use, or are found to~~
18 ~~be in))~~ An offender's actual or constructive possession of firearms
19 ~~((or))~~, ammunition, or explosives shall be ~~((subject to the violation~~
20 ~~process and))~~ reported to local law enforcement or local prosecution
21 for consideration of new charges and subject to sanctions under RCW
22 9.94A.633 ~~((, 9.94A.716, and))~~ or 9.94A.737.

23 (2) For the purposes of this section:

24 (a) "Constructive possession" ~~((as used in this section))~~ means the
25 power and intent to control the firearm ~~((or))~~, ammunition, or
26 explosives.

27 (b) "Explosives" has the same definition as in RCW 46.04.170.

28 (c) "Firearm" ~~((as used in this section))~~ has the same definition
29 as in RCW 9.41.010.

30 **Sec. 5.** RCW 9.94A.714 and 2008 c 231 s 16 are each amended to read
31 as follows:

32 ~~(1) ((If an offender has not completed his or her maximum term of~~
33 ~~total confinement and is subject to a third violation hearing pursuant~~
34 ~~to RCW 9.94A.737 for any violation of community custody and is found to~~
35 ~~have committed the violation, the department shall return the offender~~
36 ~~to total confinement in a state correctional facility to serve up to~~

1 ~~the remaining portion of his or her sentence, unless it is determined~~
2 ~~that returning the offender to a state correctional facility would~~
3 ~~substantially interfere with the offender's ability to maintain~~
4 ~~necessary community supports or to participate in necessary treatment~~
5 ~~or programming and would substantially increase the offender's~~
6 ~~likelihood of reoffending.~~

7 (2)) The department may work with the Washington association of
8 sheriffs and police chiefs to establish and operate an electronic
9 monitoring program for ((low-risk)) offenders who violate the terms of
10 their community custody.

11 ((3)) (2) Local governments, their subdivisions and employees,
12 the department and its employees, and the Washington association of
13 sheriffs and police chiefs and its employees are immune from civil
14 liability for damages arising from incidents involving ((low-risk))
15 offenders who are placed on electronic monitoring unless it is shown
16 that an employee acted with gross negligence or bad faith.

17 **Sec. 6.** RCW 9.94A.716 and 2008 c 231 s 21 are each amended to read
18 as follows:

19 (1) The secretary may issue warrants for the arrest of any offender
20 who violates a condition of community custody. The arrest warrants
21 shall authorize any law enforcement or peace officer or community
22 corrections officer of this state or any other state where such
23 offender may be located, to arrest the offender and place him or her in
24 total confinement pending disposition of the alleged violation pursuant
25 to RCW 9.94A.633.

26 (2) A community corrections officer, if he or she has reasonable
27 cause to believe an offender has violated a condition of community
28 custody, may suspend the person's community custody status and arrest
29 or cause the arrest and detention in total confinement of the offender,
30 pending the determination of the secretary as to whether the violation
31 has occurred. The community corrections officer shall report to the
32 secretary all facts and circumstances and the reasons for the action of
33 suspending community custody status.

34 (3) If an offender has been arrested by the department for a new
35 felony offense while under community custody, the ((department shall
36 hold the offender in total confinement until a hearing before the
37 department as provided in this section or until the offender has been

1 ~~formally charged for the new felony offense, whichever is earlier))~~
2 facts and circumstances of the conduct of the offender shall be
3 reported by the community corrections officer to local law enforcement
4 or local prosecution for consideration of new charges. The community
5 corrections officer's report shall serve as notice that the department
6 will hold the offender in total confinement for not more than three
7 days from the time of such notice for the new crime. Nothing in this
8 subsection shall be construed as to permit the department to hold an
9 offender past his or her maximum term of total confinement if the
10 offender has not completed the maximum term of total confinement or to
11 permit the department to hold an offender past the offender's term of
12 community custody.

13 (4) A violation of a condition of community custody shall be deemed
14 a violation of the sentence for purposes of RCW 9.94A.631. The
15 authority granted to community corrections officers under this section
16 shall be in addition to that set forth in RCW 9.94A.631.

17 **Sec. 7.** RCW 9.94A.737 and 2008 c 231 s 20 are each amended to read
18 as follows:

19 (1) If an offender is accused of violating any condition or
20 requirement of community custody, ~~((he or she is entitled to a hearing~~
21 ~~before the department prior to the imposition of sanctions. The~~
22 ~~hearing shall be considered as))~~ the department shall address the
23 violation behavior. The department may hold offender disciplinary
24 proceedings ~~((and shall))~~ not ~~((be))~~ subject to chapter 34.05 RCW. The
25 department shall ~~((develop hearing procedures and a structure of~~
26 ~~graduated sanctions))~~ notify the offender in writing of the violation
27 process.

28 (2) ~~((The hearing procedures required under subsection (1) of this~~
29 ~~section shall be developed by rule and include the following:))~~ (a) The
30 offender's violation behavior shall determine the sanction the
31 department imposes. The department shall adopt rules creating a
32 structured violation process that includes presumptive sanctions,
33 aggravating and mitigating factors, and definitions for low level
34 violations and high level violations.

35 (b)(i) The department must define aggravating factors that indicate
36 the offender may present a current and ongoing foreseeable risk and

1 which therefore, elevate an offender's behavior to a high level
2 violation process.

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

8 (3) The department may intervene when an offender commits a low
9 level violation as follows:

10 (a) For a first low level violation, the department may sanction
11 the offender to one or more nonconfinement sanctions.

12 (b) For a second or subsequent low level violation, the department
13 may sanction the offender to not more than three days in total
14 confinement.

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

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

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

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

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

32 (5) The department shall adopt rules creating hearing procedures
33 for high level violations. The hearings are offender disciplinary
34 proceedings and are not subject to chapter 34.05 RCW. The procedures
35 shall include the following:

36 (a) (~~Hearing officers shall report through a chain of command~~
37 ~~separate from that of community corrections officers;~~

1 ~~(b)~~) The department shall provide the offender with written notice
2 of the alleged violation~~((7))~~ and the evidence ~~((relied upon, and the~~
3 ~~reasons—the particular sanction was imposed))~~ supporting it. The
4 notice ~~((shall))~~ must include a statement of the rights specified in
5 this subsection, and the offender's right to file a personal restraint
6 petition under court rules after the final decision ~~((of—the~~
7 ~~department))~~;

8 ~~((c)—The hearing shall be held))~~ (b) Unless ~~((waived by))~~ the
9 offender waives the right to a hearing, the department shall hold a
10 hearing, and shall ~~((be))~~ record it electronically ~~((recorded))~~. For
11 offenders not in total confinement, the department shall hold a hearing
12 ~~((shall be held))~~ within fifteen ~~((working))~~ business days, but not
13 less than twenty-four hours, after written notice of the alleged
14 violation. For offenders in total confinement, the department shall
15 hold a hearing ~~((shall be held))~~ within five ~~((working))~~ business days,
16 but not less than twenty-four hours, after written notice of the
17 alleged violation;

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

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

1 the safety of the community, then the panel will reverse, vacate,
2 remand, or modify the sanction.

3 ~~((3))~~ (6) For purposes of this section, ~~((no finding of a~~
4 ~~violation of conditions may be based on unconfirmed or unconfirmable~~
5 ~~allegations))~~ the hearings officer may not rely on unconfirmed or
6 unconfirmable allegations to find that the offender violated a
7 condition.

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

10 **Sec. 8.** RCW 9.94A.740 and 2008 c 231 s 22 are each amended to read
11 as follows:

12 (1) When an offender is arrested pursuant to RCW 9.94A.631 or
13 9.94A.716, the department shall compensate the local jurisdiction at
14 the office of financial management's adjudicated rate, in accordance
15 with RCW 70.48.440, until the department releases its detainer.

16 (2) Inmates, as defined in RCW 72.09.015, who have been transferred
17 to community custody and who are detained in a local correctional
18 facility are the financial responsibility of the department of
19 corrections, except as provided in subsection (3) of this section.

20 (3) For confinement sanctions imposed by the department under RCW
21 9.94A.670, the local correctional facility shall be financially
22 responsible.

23 (4) The department, in consultation with the Washington association
24 of sheriffs and police chiefs and those counties in which the sheriff
25 does not operate a correctional facility, shall establish a methodology
26 for determining the department's local correctional facilities bed
27 utilization rate, for each county in calendar year 1998, for offenders
28 being held for violations of conditions of community custody.

29 (5) Except as provided in subsections (1) and (2) of this section,
30 the local correctional facility shall continue to be financially
31 responsible to the extent of the calendar year 1998 bed utilization
32 rate for confinement sanctions imposed by the department pursuant to
33 RCW 9.94A.737. If the department's use of bed space in local
34 correctional facilities of any county for such confinement sanctions
35 exceeds the 1998 bed utilization rate for the county, the department
36 shall compensate the county for the excess use at the per diem rate

1 equal to the lowest rate charged by the county under its contract with
2 a municipal government during the year in which the use occurs.

3 **Sec. 9.** RCW 9.95.210 and 2011 1st sp.s. c 40 s 7 are each amended
4 to read as follows:

5 (1) In granting probation, the superior court may suspend the
6 imposition or the execution of the sentence and may direct that the
7 suspension may continue upon such conditions and for such time as it
8 shall designate, not exceeding the maximum term of sentence or two
9 years, whichever is longer.

10 (2) In the order granting probation and as a condition thereof, the
11 superior court may in its discretion imprison the defendant in the
12 county jail for a period not exceeding one year and may fine the
13 defendant any sum not exceeding the statutory limit for the offense
14 committed, and court costs. As a condition of probation, the superior
15 court shall require the payment of the penalty assessment required by
16 RCW 7.68.035. The superior court may also require the defendant to
17 make such monetary payments, on such terms as it deems appropriate
18 under the circumstances, as are necessary: (a) To comply with any
19 order of the court for the payment of family support; (b) to make
20 restitution to any person or persons who may have suffered loss or
21 damage by reason of the commission of the crime in question or when the
22 offender pleads guilty to a lesser offense or fewer offenses and agrees
23 with the prosecutor's recommendation that the offender be required to
24 pay restitution to a victim of an offense or offenses which are not
25 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
26 imposed and court costs, including reimbursement of the state for costs
27 of extradition if return to this state by extradition was required; (d)
28 following consideration of the financial condition of the person
29 subject to possible electronic monitoring, to pay for the costs of
30 electronic monitoring if that monitoring was required by the court as
31 a condition of release from custody or as a condition of probation; (e)
32 to contribute to a county or interlocal drug fund; and (f) to make
33 restitution to a public agency for the costs of an emergency response
34 under RCW 38.52.430, and may require bonds for the faithful observance
35 of any and all conditions imposed in the probation.

36 (3) The superior court shall order restitution in all cases where
37 the victim is entitled to benefits under the crime victims'

1 compensation act, chapter 7.68 RCW. If the superior court does not
2 order restitution and the victim of the crime has been determined to be
3 entitled to benefits under the crime victims' compensation act, the
4 department of labor and industries, as administrator of the crime
5 victims' compensation program, may petition the superior court within
6 one year of imposition of the sentence for entry of a restitution
7 order. Upon receipt of a petition from the department of labor and
8 industries, the superior court shall hold a restitution hearing and
9 shall enter a restitution order.

10 (4) In granting probation, the superior court may order the
11 probationer to report to the secretary of corrections or such officer
12 as the secretary may designate and as a condition of the probation to
13 follow the instructions of the secretary for up to twelve months. If
14 the county legislative authority has elected to assume responsibility
15 for the supervision of superior court misdemeanor probationers within
16 its jurisdiction, the superior court misdemeanor probationer shall
17 report to a probation officer employed or contracted for by the county.
18 In cases where a superior court misdemeanor probationer is sentenced
19 in one county, but resides within another county, there must be
20 provisions for the probationer to report to the agency having
21 supervision responsibility for the probationer's county of residence.

22 (5) If the probationer has been ordered to make restitution and the
23 superior court has ordered supervision, the officer supervising the
24 probationer shall make a reasonable effort to ascertain whether
25 restitution has been made. If the superior court has ordered
26 supervision and restitution has not been made as ordered, the officer
27 shall inform the prosecutor of that violation of the terms of probation
28 not less than three months prior to the termination of the probation
29 period. The secretary of corrections will promulgate rules and
30 regulations for the conduct of the person during the term of probation.
31 For defendants found guilty in district court, like functions as the
32 secretary performs in regard to probation may be performed by probation
33 officers employed for that purpose by the county legislative authority
34 of the county wherein the court is located.

35 (6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
36 sentences imposed under this section.

1 **Sec. 10.** RCW 9.95.210 and 2012 c 183 s 4 are each amended to read
2 as follows:

3 (1)(a) Except as provided in (b) of this subsection in granting
4 probation, the superior court may suspend the imposition or the
5 execution of the sentence and may direct that the suspension may
6 continue upon such conditions and for such time as it shall designate,
7 not exceeding the maximum term of sentence or two years, whichever is
8 longer.

9 (b) For a defendant sentenced under RCW 46.61.5055, the superior
10 court may suspend the imposition or the execution of the sentence and
11 may direct that the suspension continue upon such conditions and for
12 such time as the court shall designate, not to exceed five years. The
13 court shall have continuing jurisdiction and authority to suspend the
14 execution of all or any part of the sentence upon stated terms,
15 including installment payment of fines. A defendant who has been
16 sentenced, and who then fails to appear for any hearing to address the
17 defendant's compliance with the terms of probation when ordered to do
18 so by the court shall have the term of probation tolled until such time
19 as the defendant makes his or her presence known to the court on the
20 record. Any time before entering an order terminating probation, the
21 court may modify or revoke its order suspending the imposition or
22 execution of the sentence if the defendant violates or fails to carry
23 out any of the conditions of the suspended sentence.

24 (2) In the order granting probation and as a condition thereof, the
25 superior court may in its discretion imprison the defendant in the
26 county jail for a period not exceeding one year and may fine the
27 defendant any sum not exceeding the statutory limit for the offense
28 committed, and court costs. As a condition of probation, the superior
29 court shall require the payment of the penalty assessment required by
30 RCW 7.68.035. The superior court may also require the defendant to
31 make such monetary payments, on such terms as it deems appropriate
32 under the circumstances, as are necessary: (a) To comply with any
33 order of the court for the payment of family support; (b) to make
34 restitution to any person or persons who may have suffered loss or
35 damage by reason of the commission of the crime in question or when the
36 offender pleads guilty to a lesser offense or fewer offenses and agrees
37 with the prosecutor's recommendation that the offender be required to
38 pay restitution to a victim of an offense or offenses which are not

1 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
2 imposed and court costs, including reimbursement of the state for costs
3 of extradition if return to this state by extradition was required; (d)
4 following consideration of the financial condition of the person
5 subject to possible electronic monitoring, to pay for the costs of
6 electronic monitoring if that monitoring was required by the court as
7 a condition of release from custody or as a condition of probation; (e)
8 to contribute to a county or interlocal drug fund; and (f) to make
9 restitution to a public agency for the costs of an emergency response
10 under RCW 38.52.430, and may require bonds for the faithful observance
11 of any and all conditions imposed in the probation.

12 (3) The superior court shall order restitution in all cases where
13 the victim is entitled to benefits under the crime victims'
14 compensation act, chapter 7.68 RCW. If the superior court does not
15 order restitution and the victim of the crime has been determined to be
16 entitled to benefits under the crime victims' compensation act, the
17 department of labor and industries, as administrator of the crime
18 victims' compensation program, may petition the superior court within
19 one year of imposition of the sentence for entry of a restitution
20 order. Upon receipt of a petition from the department of labor and
21 industries, the superior court shall hold a restitution hearing and
22 shall enter a restitution order.

23 (4) In granting probation, the superior court may order the
24 probationer to report to the secretary of corrections or such officer
25 as the secretary may designate and as a condition of the probation to
26 follow the instructions of the secretary for up to twelve months. If
27 the county legislative authority has elected to assume responsibility
28 for the supervision of superior court misdemeanor probationers within
29 its jurisdiction, the superior court misdemeanor probationer shall
30 report to a probation officer employed or contracted for by the county.
31 In cases where a superior court misdemeanor probationer is sentenced
32 in one county, but resides within another county, there must be
33 provisions for the probationer to report to the agency having
34 supervision responsibility for the probationer's county of residence.

35 (5) If the probationer has been ordered to make restitution and the
36 superior court has ordered supervision, the officer supervising the
37 probationer shall make a reasonable effort to ascertain whether
38 restitution has been made. If the superior court has ordered

1 supervision and restitution has not been made as ordered, the officer
2 shall inform the prosecutor of that violation of the terms of probation
3 not less than three months prior to the termination of the probation
4 period. The secretary of corrections will promulgate rules and
5 regulations for the conduct of the person during the term of probation.
6 For defendants found guilty in district court, like functions as the
7 secretary performs in regard to probation may be performed by probation
8 officers employed for that purpose by the county legislative authority
9 of the county wherein the court is located.

10 (6) The provisions of RCW 9.94A.501 and 9.94A.5011 apply to
11 sentences imposed under this section.

12 NEW SECTION. **Sec. 11.** (1)(a) Research shows that traditional
13 mechanisms of surveillance-based supervision and sanctioning are
14 ineffective in reducing recidivism or improving public safety. The
15 legislature is persuaded by recent studies showing that swift and
16 certain sanctions, in combination with treatment-based interventions
17 that address chemical dependency and criminogenic behaviors, are a more
18 effective and efficient use of public resources to affect future crime.

19 (b) Notwithstanding, this is a new approach for Washington. It is
20 imperative to the success of the state's system of offender supervision
21 that the department of corrections be vigilant in:

22 (i) Monitoring the quality and consistency of applying swift and
23 certain sanctions across the state;

24 (ii) Ensuring that sanctions are commensurate with identified
25 behaviors and, to the extent possible, produce satisfactory results;

26 (iii) Applying evidence-based treatment and evaluation principles
27 to address offenders' criminogenic and chemical dependency needs and
28 therefore pairing the offender with the appropriate treatment; and

29 (iv) Maintaining good relations and open communication with law
30 enforcement to assist in identifying offenders that pose the greatest
31 risk to public safety.

32 (2) In implementing the provisions of this act, the department of
33 corrections is directed to:

34 (a) Form stakeholder groups, that may include but are not limited
35 to local community corrections officers, law enforcement, prosecuting
36 attorneys, superior court judges, chemical dependency treatment and
37 other community providers, and victim advocates;

1 (b) Within available resources, provide inpatient or outpatient
2 chemical dependency treatment to offenders initially assessed as in
3 need of treatment based on an evaluation of the offender's needs by a
4 certified staff or chemical dependency provider utilizing evidence-
5 based tools for evaluation;

6 (c) Perform outreach to the criminal justice training commission
7 and local law enforcement agencies to ensure law enforcement is
8 informed of changes in procedures for holding offenders pending the
9 filing of charges for a new crime and establish ongoing channels of
10 communication with local law enforcement for conveying information
11 about individual offenders who have committed new crimes;

12 (d) Survey community corrections officers on a periodic basis to
13 gather input and suggestions.

14 (3) The department shall report to the governor, appropriate
15 committees of the legislature, and the stakeholder groups as identified
16 in subsection (2)(a) of this section on its progress and activities in
17 implementing this act, steps taken to improve the efficacy of chemical
18 dependency treatment, evidence of outcomes achieved as reported by
19 providers through submission of performance measure data, and including
20 any recommended changes in legislation, no later than December 1, 2012,
21 and December 1, 2013.

22 (4) This section expires December 31, 2013.

23 NEW SECTION. **Sec. 12.** This act applies retroactively and
24 prospectively regardless of the date of an offender's underlying
25 offense.

26 NEW SECTION. **Sec. 13.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 14.** Section 2 of this act is necessary for the
31 immediate preservation of the public peace, health, or safety, or
32 support of the state government and its existing public institutions,
33 and takes effect immediately.

1 NEW SECTION. **Sec. 15.** Sections 1, 3 through 9, and 11 through 14
2 of this act are necessary for the immediate preservation of the public
3 peace, health, or safety, or support of the state government and its
4 existing public institutions, and take effect June 1, 2012.

5 NEW SECTION. **Sec. 16.** Section 9 of this act expires August 1,
6 2012.

7 NEW SECTION. **Sec. 17.** Section 10 of this act takes effect August
8 1, 2012.

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