

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL 6204

Chapter 6, Laws of 2012

62nd Legislature
2012 1st Special Session

COMMUNITY SUPERVISION

EFFECTIVE DATE: 06/01/12 - Except section 2, which becomes effective 05/02/12; and section 10, which becomes effective 08/01/12.

Passed by the Senate April 10, 2012
YEAS 45 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House April 10, 2012
YEAS 77 NAYS 21

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL 6204** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved May 2, 2012, 1:49 p.m.

FILED

May 2, 2012

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SECOND ENGROSSED SECOND SUBSTITUTE SENATE BILL 6204

AS AMENDED BY THE HOUSE

Passed Legislature - 2012 1st Special Session

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, except if the offender's
16 underlying offense is a felony offense listed in RCW 9.94A.737(5), in
17 which case the department will hold the offender for thirty days from
18 the time of arrest or until a prosecuting attorney charges the offender
19 with a crime, whichever occurs first. This does not affect the
20 department's authority under RCW 9.94A.737.

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

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

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

36 (b) In lieu of confinement, an offender may be sanctioned with work
37 release, home detention with electronic monitoring, work crew,

1 community restitution, inpatient treatment, daily reporting, curfew,
2 educational or counseling sessions, supervision enhanced through
3 electronic monitoring, or any other community-based sanctions
4 (~~available in the community~~)).

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

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

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

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

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

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

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

31 (3) If a probationer is being supervised by the department pursuant
32 to RCW 9.92.060, 9.95.204, or 9.95.210, the probationer may be
33 sanctioned pursuant to subsection (1) of this section. The department
34 shall have authority to issue a warrant for the arrest of an offender
35 who violates a condition of community custody, as provided in RCW
36 9.94A.716. Any sanctions shall be imposed by the department pursuant
37 to RCW 9.94A.737. (~~The department shall provide a copy of the~~

1 ~~violation hearing report to the sentencing court in a timely manner.))~~

2 Nothing in this subsection is intended to limit the power of the
3 sentencing court to respond to a probationer's violation of conditions.

4 (4) The parole or probation of an offender who is charged with a
5 new felony offense may be suspended and the offender placed in total
6 confinement pending disposition of the new criminal charges if:

- 7 (a) The offender is on parole pursuant to RCW 9.95.110(1); or
- 8 (b) The offender is being supervised pursuant to RCW 9.94A.745 and
9 is on parole or probation pursuant to the laws of another state.

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

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

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

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

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

- 26 (a) Report as directed to a community corrections officer;
- 27 (b) Remain within prescribed geographical boundaries;
- 28 (c) Notify the community corrections officer of any change in the
29 offender's address or employment;
- 30 (d) Pay the supervision fee assessment; and
- 31 (e) Disclose the fact of supervision to any mental health or
32 chemical dependency treatment provider, as required by RCW 9.94A.722.

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

36 (5) If the offender was sentenced pursuant to a conviction for a
37 sex offense, the department may impose electronic monitoring. Within

1 the resources made available by the department for this purpose, the
2 department shall carry out any electronic monitoring using the most
3 appropriate technology given the individual circumstances of the
4 offender. As used in this section, "electronic monitoring" means the
5 monitoring of an offender using an electronic offender tracking system
6 including, but not limited to, a system using radio frequency or active
7 or passive global positioning system technology.

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

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

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

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

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

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

32 (b) The board may impose conditions in addition to court-ordered
33 conditions. The board must consider and may impose department-
34 recommended conditions.

35 (c) By the close of the next business day, after receiving notice
36 of a condition imposed by the board or the department, an offender may
37 request an administrative hearing under rules adopted by the board.

1 The condition shall remain in effect unless the hearing examiner finds
2 that it is not reasonably related to any of the following:

- 3 (i) The crime of conviction;
- 4 (ii) The offender's risk of reoffending;
- 5 (iii) The safety of the community.

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

15 ~~((10))~~ (11) In setting, modifying, and enforcing conditions of
16 community custody, the department shall be deemed to be performing a
17 quasi-judicial function.

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

20 (1) No offender sentenced to a term of community custody under the
21 supervision of the department may own, use, or possess firearms ~~((or))~~,
22 ammunition, or explosives. ~~((Offenders who own, use, or are found to~~
23 ~~be in))~~ An offender's actual or constructive possession of firearms
24 ~~((or))~~, ammunition, or explosives shall be ~~((subject to the violation~~
25 ~~process and))~~ reported to local law enforcement or local prosecution
26 for consideration of new charges and subject to sanctions under RCW
27 9.94A.633 ~~((, 9.94A.716, and))~~ or 9.94A.737.

28 (2) For the purposes of this section:

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

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

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

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

1 ~~(1) ((If an offender has not completed his or her maximum term of~~
2 ~~total confinement and is subject to a third violation hearing pursuant~~
3 ~~to RCW 9.94A.737 for any violation of community custody and is found to~~
4 ~~have committed the violation, the department shall return the offender~~
5 ~~to total confinement in a state correctional facility to serve up to~~
6 ~~the remaining portion of his or her sentence, unless it is determined~~
7 ~~that returning the offender to a state correctional facility would~~
8 ~~substantially interfere with the offender's ability to maintain~~
9 ~~necessary community supports or to participate in necessary treatment~~
10 ~~or programming and would substantially increase the offender's~~
11 ~~likelihood of reoffending.~~

12 ~~(2))~~ The department may work with the Washington association of
13 sheriffs and police chiefs to establish and operate an electronic
14 monitoring program for ~~((low-risk))~~ offenders who violate the terms of
15 their community custody.

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

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

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

31 (2) A community corrections officer, if he or she has reasonable
32 cause to believe an offender has violated a condition of community
33 custody, may suspend the person's community custody status and arrest
34 or cause the arrest and detention in total confinement of the offender,
35 pending the determination of the secretary as to whether the violation
36 has occurred. The community corrections officer shall report to the

1 secretary all facts and circumstances and the reasons for the action of
2 suspending community custody status.

3 (3) If an offender has been arrested by the department for a new
4 felony offense while under community custody, ~~the ((department shall~~
5 ~~hold the offender in total confinement until a hearing before the~~
6 ~~department as provided in this section or until the offender has been~~
7 ~~formally charged for the new felony offense, whichever is earlier))~~
8 facts and circumstances of the conduct of the offender shall be
9 reported by the community corrections officer to local law enforcement
10 or local prosecution for consideration of new charges. The community
11 corrections officer's report shall serve as notice that the department
12 will hold the offender in total confinement for not more than three
13 days from the time of such notice for the new crime, except if the
14 offender's underlying offense is a felony offense listed in RCW
15 9.94A.737(5), in which case the department will hold the offender for
16 thirty days from the time of arrest or until a prosecuting attorney
17 charges the offender with a crime, whichever occurs first. Nothing in
18 this subsection shall be construed as to permit the department to hold
19 an offender past his or her maximum term of total confinement if the
20 offender has not completed the maximum term of total confinement or to
21 permit the department to hold an offender past the offender's term of
22 community custody.

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

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

29 (1) If an offender is accused of violating any condition or
30 requirement of community custody, ~~((he or she is entitled to a hearing~~
31 ~~before the department prior to the imposition of sanctions. The~~
32 ~~hearing shall be considered as))~~ the department shall address the
33 violation behavior. The department may hold offender disciplinary
34 proceedings ~~((and shall))~~ not ~~((be))~~ subject to chapter 34.05 RCW. The
35 department shall ~~((develop hearing procedures and a structure of~~
36 ~~graduated sanctions))~~ notify the offender in writing of the violation
37 process.

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

8 (b) After an offender has committed and been sanctioned for five
9 low level violations, all subsequent violations committed by that
10 offender shall automatically be considered high level violations.

11 (c)(i) The department must define aggravating factors that indicate
12 the offender may present a current and ongoing foreseeable risk and
13 which therefore, elevate an offender's behavior to a high level
14 violation process.

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

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

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

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

27 (i) The department shall develop rules to ensure that each offender
28 subject to a short term confinement sanction is provided the
29 opportunity to respond to the alleged violation prior to imposition of
30 total confinement.

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

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

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

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

6 (5) If the offender's underlying offense is one of the following
7 felonies and the violation behavior constitutes a new misdemeanor,
8 gross misdemeanor or felony, the offender shall be held in total
9 confinement pending a sanction hearing, and until the sanction expires
10 or until if a prosecuting attorney files new charges against the
11 offender, whichever occurs first:

12 (a) Assault in the first degree, as defined in RCW 9A.36.011;

13 (b) Assault of a child in the first degree, as defined in RCW
14 9A.36.120;

15 (c) Assault of a child in the second degree, as defined in RCW
16 9A.36.130;

17 (d) Burglary in the first degree, as defined in RCW 9A.52.020;

18 (e) Child molestation in the first degree, as defined in RCW
19 9A.44.083;

20 (f) Commercial sexual abuse of a minor, as defined in RCW
21 9.68A.100;

22 (g) Dealing in depictions of a minor engaged in sexually explicit
23 conduct, as defined in RCW 9.68A.050;

24 (h) Homicide by abuse, as defined in RCW 9A.32.055;

25 (i) Indecent liberties with forcible compulsion, as defined in RCW
26 9A.44.100(1)(a);

27 (j) Indecent liberties with a person capable of consent, as defined
28 in RCW 9A.44.100(1)(b);

29 (k) Kidnapping in the first degree, as defined in RCW 9A.40.020;

30 (l) Murder in the first degree, as defined in RCW 9A.32.030;

31 (m) Murder in the second degree, as defined in RCW 9A.32.050;

32 (n) Promoting commercial sexual abuse of a minor, as defined in RCW
33 9.68A.101;

34 (o) Rape in the first degree, as defined in RCW 9A.44.040;

35 (p) Rape in the second degree, as defined in RCW 9A.44.050;

36 (q) Rape of a child in the first degree, as defined in RCW
37 9A.44.073;

1 (r) Rape of a child in the second degree, as defined in RCW
2 9A.44.076;

3 (s) Robbery in the first degree, as defined in RCW 9A.56.200;

4 (t) Sexual exploitation of a minor, as defined in RCW 9.68A.040; or

5 (u) Vehicular homicide while under the influence of intoxicating
6 liquor or any drug, as defined in RCW 46.61.520(1)(a).

7 (6) The department shall adopt rules creating hearing procedures
8 for high level violations. The hearings are offender disciplinary
9 proceedings and are not subject to chapter 34.05 RCW. The procedures
10 shall include the following:

11 ~~((Hearing officers shall report through a chain of command~~
12 ~~separate from that of community corrections officers;~~

13 ~~(b))~~ The department shall provide the offender with written notice
14 of the alleged violation~~((7))~~ and the evidence ~~((relied upon, and the~~
15 ~~reasons the particular sanction was imposed))~~ supporting it. The
16 notice ~~((shall))~~ must include a statement of the rights specified in
17 this subsection, and the offender's right to file a personal restraint
18 petition under court rules after the final decision ~~((of the~~
19 ~~department))~~;

20 ~~((c) The hearing shall be held))~~ (b) Unless ~~((waived by))~~ the
21 offender waives the right to a hearing, the department shall hold a
22 hearing, and shall ~~((be))~~ record it electronically ~~((recorded))~~. For
23 offenders not in total confinement, the department shall hold a hearing
24 ~~((shall be held))~~ within fifteen ~~((working))~~ business days, but not
25 less than twenty-four hours, after written notice of the alleged
26 violation. For offenders in total confinement, the department shall
27 hold a hearing ~~((shall be held))~~ within five ~~((working))~~ business days,
28 but not less than twenty-four hours, after written notice of the
29 alleged violation;

30 ~~((d))~~ (c) The offender shall have the right to: (i) Be present
31 at the hearing; (ii) have the assistance of a person qualified to
32 assist the offender in the hearing, appointed by the hearing officer if
33 the offender has a language or communications barrier; (iii) testify or
34 remain silent; (iv) call witnesses and present documentary evidence;
35 ~~((and))~~ (v) question witnesses who appear and testify; and (vi) receive
36 a written summary of the reasons for the hearing officer's decision;
37 and

1 ~~((e))~~ (d) The sanction shall take effect if affirmed by the
2 hearing officer. ~~((Within seven days after the hearing officer's
3 decision, the offender may appeal the decision))~~ The offender may
4 appeal the sanction to a panel of three reviewing officers designated
5 by the secretary or by the secretary's designee. The offender's appeal
6 must be in writing and hand-delivered to department staff, or
7 postmarked, within seven days after the sanction was imposed. The
8 ~~((sanction shall be reversed or modified))~~ appeals panel shall affirm,
9 reverse, modify, vacate, or remand based on its findings. If a
10 majority of the panel finds that the sanction was not reasonably
11 related to any of the following: (i) The crime of conviction; (ii) the
12 violation committed; (iii) the offender's risk of reoffending; or (iv)
13 the safety of the community, then the panel will reverse, vacate,
14 remand, or modify the sanction.

15 ~~((3))~~ (7) For purposes of this section, ~~((no finding of a
16 violation of conditions may be based on unconfirmed or unconfirmable
17 allegations))~~ the hearings officer may not rely on unconfirmed or
18 unconfirmable allegations to find that the offender violated a
19 condition.

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

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

24 (1) When an offender is arrested pursuant to RCW 9.94A.631 or
25 9.94A.716, the department shall compensate the local jurisdiction at
26 the office of financial management's adjudicated rate, in accordance
27 with RCW 70.48.440, until the department releases its detainer.

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

32 (3) For confinement sanctions imposed by the department under RCW
33 9.94A.670, the local correctional facility shall be financially
34 responsible.

35 (4) The department, in consultation with the Washington association
36 of sheriffs and police chiefs and those counties in which the sheriff
37 does not operate a correctional facility, shall establish a methodology

1 for determining the department's local correctional facilities bed
2 utilization rate, for each county in calendar year 1998, for offenders
3 being held for violations of conditions of community custody.

4 (5) Except as provided in subsections (1) and (2) of this section,
5 the local correctional facility shall continue to be financially
6 responsible to the extent of the calendar year 1998 bed utilization
7 rate for confinement sanctions imposed by the department pursuant to
8 RCW 9.94A.737. If the department's use of bed space in local
9 correctional facilities of any county for such confinement sanctions
10 exceeds the 1998 bed utilization rate for the county, the department
11 shall compensate the county for the excess use at the per diem rate
12 equal to the lowest rate charged by the county under its contract with
13 a municipal government during the year in which the use occurs.

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

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

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

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

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

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

33 (5) If the probationer has been ordered to make restitution and the
34 superior court has ordered supervision, the officer supervising the
35 probationer shall make a reasonable effort to ascertain whether
36 restitution has been made. If the superior court has ordered
37 supervision and restitution has not been made as ordered, the officer
38 shall inform the prosecutor of that violation of the terms of probation

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

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

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

12 (1)(a) Except as provided in (b) of this subsection in granting
13 probation, the superior court may suspend the imposition or the
14 execution of the sentence and may direct that the suspension may
15 continue upon such conditions and for such time as it shall designate,
16 not exceeding the maximum term of sentence or two years, whichever is
17 longer.

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

33 (2) In the order granting probation and as a condition thereof, the
34 superior court may in its discretion imprison the defendant in the
35 county jail for a period not exceeding one year and may fine the
36 defendant any sum not exceeding the statutory limit for the offense
37 committed, and court costs. As a condition of probation, the superior

1 court shall require the payment of the penalty assessment required by
2 RCW 7.68.035. The superior court may also require the defendant to
3 make such monetary payments, on such terms as it deems appropriate
4 under the circumstances, as are necessary: (a) To comply with any
5 order of the court for the payment of family support; (b) to make
6 restitution to any person or persons who may have suffered loss or
7 damage by reason of the commission of the crime in question or when the
8 offender pleads guilty to a lesser offense or fewer offenses and agrees
9 with the prosecutor's recommendation that the offender be required to
10 pay restitution to a victim of an offense or offenses which are not
11 prosecuted pursuant to a plea agreement; (c) to pay such fine as may be
12 imposed and court costs, including reimbursement of the state for costs
13 of extradition if return to this state by extradition was required; (d)
14 following consideration of the financial condition of the person
15 subject to possible electronic monitoring, to pay for the costs of
16 electronic monitoring if that monitoring was required by the court as
17 a condition of release from custody or as a condition of probation; (e)
18 to contribute to a county or interlocal drug fund; and (f) to make
19 restitution to a public agency for the costs of an emergency response
20 under RCW 38.52.430, and may require bonds for the faithful observance
21 of any and all conditions imposed in the probation.

22 (3) The superior court shall order restitution in all cases where
23 the victim is entitled to benefits under the crime victims'
24 compensation act, chapter 7.68 RCW. If the superior court does not
25 order restitution and the victim of the crime has been determined to be
26 entitled to benefits under the crime victims' compensation act, the
27 department of labor and industries, as administrator of the crime
28 victims' compensation program, may petition the superior court within
29 one year of imposition of the sentence for entry of a restitution
30 order. Upon receipt of a petition from the department of labor and
31 industries, the superior court shall hold a restitution hearing and
32 shall enter a restitution order.

33 (4) In granting probation, the superior court may order the
34 probationer to report to the secretary of corrections or such officer
35 as the secretary may designate and as a condition of the probation to
36 follow the instructions of the secretary for up to twelve months. If
37 the county legislative authority has elected to assume responsibility
38 for the supervision of superior court misdemeanor probationers within

1 its jurisdiction, the superior court misdemeanor probationer shall
2 report to a probation officer employed or contracted for by the county.
3 In cases where a superior court misdemeanor probationer is sentenced
4 in one county, but resides within another county, there must be
5 provisions for the probationer to report to the agency having
6 supervision responsibility for the probationer's county of residence.

7 (5) If the probationer has been ordered to make restitution and the
8 superior court has ordered supervision, the officer supervising the
9 probationer shall make a reasonable effort to ascertain whether
10 restitution has been made. If the superior court has ordered
11 supervision and restitution has not been made as ordered, the officer
12 shall inform the prosecutor of that violation of the terms of probation
13 not less than three months prior to the termination of the probation
14 period. The secretary of corrections will promulgate rules and
15 regulations for the conduct of the person during the term of probation.
16 For defendants found guilty in district court, like functions as the
17 secretary performs in regard to probation may be performed by probation
18 officers employed for that purpose by the county legislative authority
19 of the county wherein the court is located.

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

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

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

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

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

36 (iii) Applying evidence-based treatment and evaluation principles

1 to address offenders' criminogenic and chemical dependency needs and
2 therefore pairing the offender with the appropriate treatment; and

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

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

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

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

17 (c) Perform outreach to the criminal justice training commission
18 and local law enforcement agencies to ensure law enforcement is
19 informed of changes in procedures for holding offenders pending the
20 filing of charges for a new crime and establish ongoing channels of
21 communication with local law enforcement for conveying information
22 about individual offenders who have committed new crimes;

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

25 (3) The department shall report to the governor, appropriate
26 committees of the legislature, and the stakeholder groups as identified
27 in subsection (2)(a) of this section on its progress and activities in
28 implementing this act, steps taken to improve the efficacy of chemical
29 dependency treatment, evidence of outcomes achieved as reported by
30 providers through submission of performance measure data, and including
31 any recommended changes in legislation, no later than December 1, 2012,
32 and December 1, 2013.

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

34 NEW SECTION. **Sec. 12.** This act applies retroactively and
35 prospectively regardless of the date of an offender's underlying
36 offense.

1 NEW SECTION. **Sec. 13.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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

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

13 NEW SECTION. **Sec. 16.** Section 9 of this act expires August 1,
14 2012.

15 NEW SECTION. **Sec. 17.** Section 10 of this act takes effect August
16 1, 2012.

Passed by the Senate April 10, 2012.

Passed by the House April 10, 2012.

Approved by the Governor May 2, 2012.

Filed in Office of Secretary of State May 2, 2012.