
SENATE BILL 5848

State of Washington

66th Legislature

2019 Regular Session

By Senators Darneille and Nguyen; by request of Department of Corrections

1 AN ACT Relating to individuals under the department of
2 corrections' jurisdiction; amending RCW 9.94A.589, 9.94B.050,
3 9.94A.729, 9.94A.737, 9.94A.631, and 9.94A.716; creating new
4 sections; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.589 and 2015 2nd sp.s. c 3 s 13 are each
7 amended to read as follows:

8 (1)(a) Except as provided in (b), (c), or (d) of this subsection,
9 whenever a person is to be sentenced for two or more current
10 offenses, the sentence range for each current offense shall be
11 determined by using all other current and prior convictions as if
12 they were prior convictions for the purpose of the offender score:
13 PROVIDED, That if the court enters a finding that some or all of the
14 current offenses encompass the same criminal conduct then those
15 current offenses shall be counted as one crime. Sentences imposed
16 under this subsection shall be served concurrently. Consecutive
17 sentences may only be imposed under the exceptional sentence
18 provisions of RCW 9.94A.535. "Same criminal conduct," as used in this
19 subsection, means two or more crimes that require the same criminal
20 intent, are committed at the same time and place, and involve the
21 same victim. This definition applies in cases involving vehicular

1 assault or vehicular homicide even if the victims occupied the same
2 vehicle.

3 (b) Whenever a person is convicted of two or more serious violent
4 offenses arising from separate and distinct criminal conduct, the
5 standard sentence range for the offense with the highest seriousness
6 level under RCW 9.94A.515 shall be determined using the offender's
7 prior convictions and other current convictions that are not serious
8 violent offenses in the offender score and the standard sentence
9 range for other serious violent offenses shall be determined by using
10 an offender score of zero. The standard sentence range for any
11 offenses that are not serious violent offenses shall be determined
12 according to (a) of this subsection. All sentences imposed under this
13 subsection (1)(b) shall be served consecutively to each other and
14 concurrently with sentences imposed under (a) of this subsection.
15 However, unless the court expressly orders that the community custody
16 terms run consecutively to each other, the terms of community custody
17 shall run concurrently to each other even if the court orders the
18 confinement terms to run consecutively to each other.

19 (c) If an offender is convicted under RCW 9.41.040 for unlawful
20 possession of a firearm in the first or second degree and for the
21 felony crimes of theft of a firearm or possession of a stolen
22 firearm, or both, the standard sentence range for each of these
23 current offenses shall be determined by using all other current and
24 prior convictions, except other current convictions for the felony
25 crimes listed in this subsection (1)(c), as if they were prior
26 convictions. The offender shall serve consecutive sentences for each
27 conviction of the felony crimes listed in this subsection (1)(c), and
28 for each firearm unlawfully possessed.

29 (d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6),
30 or 46.61.5055(4) shall be served consecutively to any sentences
31 imposed under RCW 46.20.740 and 46.20.750.

32 (2)(a) (~~Except as provided in (b) of this subsection,~~) Whenever
33 a person while under sentence for conviction of a felony commits
34 another felony and is sentenced to another term of confinement, the
35 latter term of confinement shall not begin until expiration of all
36 prior terms of confinement. However, any terms of community custody
37 shall run concurrently to each other, unless the court pronouncing
38 the current sentence expressly orders that they be served
39 consecutively.

1 (b) Whenever a second or later felony conviction results in
2 consecutive community (~~(supervision)~~) custody with conditions not
3 currently in effect, under the prior sentence or sentences of
4 community (~~(supervision)~~) custody the court may require that the
5 conditions of community (~~(supervision)~~) custody contained in the
6 second or later sentence begin during the immediate term of community
7 (~~(supervision)~~) custody and continue throughout the duration of the
8 consecutive term of community (~~(supervision)~~) custody.

9 (3) Subject to subsections (1) and (2) of this section, whenever
10 a person is sentenced for a felony that was committed while the
11 person was not under sentence for conviction of a felony, the
12 sentence shall run concurrently with any felony sentence which has
13 been imposed by any court in this or another state or by a federal
14 court subsequent to the commission of the crime being sentenced
15 unless the court pronouncing the current sentence expressly orders
16 that (~~they~~) the confinement terms be served consecutively to each
17 other. Unless the court expressly orders that the community custody
18 terms run consecutively, such terms of community custody run
19 concurrently to each other even if the court orders the confinement
20 terms to run consecutively to each other.

21 (4) Whenever any person granted probation under RCW 9.95.210 or
22 9.92.060, or both, has the probationary sentence revoked and a prison
23 sentence imposed, that sentence shall run consecutively to any
24 sentence imposed pursuant to this chapter, unless the court
25 pronouncing the subsequent sentence expressly orders that they be
26 served concurrently.

27 (5) In the case of consecutive sentences, all periods of total
28 confinement shall be served before any partial confinement, community
29 restitution, community supervision, or any other requirement or
30 conditions of any of the sentences. Except for exceptional sentences
31 as authorized under RCW 9.94A.535, if two or more sentences that run
32 consecutively include periods of community supervision, the aggregate
33 of the community supervision period shall not exceed twenty-four
34 months.

35 **Sec. 2.** RCW 9.94B.050 and 2003 c 379 s 4 are each amended to
36 read as follows:

37 When a court sentences an offender to a term of total confinement
38 in the custody of the department for any of the offenses specified in
39 this section, the court shall also sentence the offender to a term of

1 community placement as provided in this section. Except as provided
2 in RCW 9.94A.501, the department shall supervise any sentence of
3 community placement imposed under this section.

4 (1) The court shall order a one-year term of community placement
5 for the following:

6 (a) A sex offense or a serious violent offense committed after
7 July 1, 1988, but before July 1, 1990; or

8 (b) An offense committed on or after July 1, 1988, but before
9 July 25, 1999, that is:

10 (i) Assault in the second degree;

11 (ii) Assault of a child in the second degree;

12 (iii) A crime against persons where it is determined in
13 accordance with RCW (~~9.94A.602~~) 9.94A.825 that the offender or an
14 accomplice was armed with a deadly weapon at the time of commission;
15 or

16 (iv) A felony offense under chapter 69.50 or 69.52 RCW not
17 sentenced under RCW 9.94A.660.

18 (2) The court shall sentence the offender to a term of community
19 placement of two years or up to the period of earned release awarded
20 pursuant to RCW 9.94A.728, whichever is longer, for:

21 (a) An offense categorized as a sex offense committed on or after
22 July 1, 1990, but before June 6, 1996, including those sex offenses
23 also included in other offense categories;

24 (b) A serious violent offense other than a sex offense committed
25 on or after July 1, 1990, but before July 1, 2000; or

26 (c) A vehicular homicide or vehicular assault committed on or
27 after July 1, 1990, but before July 1, 2000.

28 (3) The community placement ordered under this section shall
29 begin either upon completion of the term of confinement or at such
30 time as the offender is transferred to community custody in lieu of
31 earned release. When the court sentences an offender to the statutory
32 maximum sentence then the community placement portion of the sentence
33 shall consist entirely of the community custody to which the offender
34 may become eligible. Any period of community custody actually served
35 shall be credited against the community placement portion of the
36 sentence. The community placement shall run concurrently to any
37 period of probation, parole, community supervision, community
38 placement, or community custody previously imposed by any court in
39 any jurisdiction, unless the court pronouncing the current sentence
40 expressly orders that they be served consecutively to each other.

1 (4) Unless a condition is waived by the court, the terms of any
2 community placement imposed under this section shall include the
3 following conditions:

4 (a) The offender shall report to and be available for contact
5 with the assigned community corrections officer as directed;

6 (b) The offender shall work at department-approved education,
7 employment, or community restitution, or any combination thereof;

8 (c) The offender shall not possess or consume controlled
9 substances except pursuant to lawfully issued prescriptions;

10 (d) The offender shall pay supervision fees as determined by the
11 department; and

12 (e) The residence location and living arrangements shall be
13 subject to the prior approval of the department during the period of
14 community placement.

15 (5) As a part of any terms of community placement imposed under
16 this section, the court may also order one or more of the following
17 special conditions:

18 (a) The offender shall remain within, or outside of, a specified
19 geographical boundary;

20 (b) The offender shall not have direct or indirect contact with
21 the victim of the crime or a specified class of individuals;

22 (c) The offender shall participate in crime-related treatment or
23 counseling services;

24 (d) The offender shall not consume alcohol; or

25 (e) The offender shall comply with any crime-related
26 prohibitions.

27 (6) An offender convicted of a felony sex offense against a minor
28 victim after June 6, 1996, shall comply with any terms and conditions
29 of community placement imposed by the department relating to contact
30 between the sex offender and a minor victim or a child of similar age
31 or circumstance as a previous victim.

32 (7) Prior to or during community placement, upon recommendation
33 of the department, the sentencing court may remove or modify any
34 conditions of community placement so as not to be more restrictive.

35 **Sec. 3.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
36 read as follows:

37 (1)(a) The term of the sentence of an offender committed to a
38 correctional facility operated by the department may be reduced by
39 earned release time in accordance with procedures that shall be

1 developed and adopted by the correctional agency having jurisdiction
2 in which the offender is confined. The earned release time shall be
3 for good behavior and good performance, as determined by the
4 correctional agency having jurisdiction. The correctional agency
5 shall not credit the offender with earned release credits in advance
6 of the offender actually earning the credits.

7 (b) Any program established pursuant to this section shall allow
8 an offender to earn early release credits for presentence
9 incarceration. If an offender is transferred from a county jail to
10 the department, the administrator of a county jail facility shall
11 certify to the department the amount of time spent in custody at the
12 facility and the number of days of early release credits lost or not
13 earned. The department may approve a jail certification from a
14 correctional agency that calculates early release time based on the
15 actual amount of confinement time served by the offender before
16 sentencing when an erroneous calculation of confinement time served
17 by the offender before sentencing appears on the judgment and
18 sentence. The department must adjust an offender's rate of early
19 release listed on the jail certification to be consistent with the
20 rate applicable to offenders in the department's facilities. However,
21 the department is not authorized to adjust the number of presentence
22 early release days that the jail has certified as lost or not earned.

23 (2) An offender who has been convicted of a felony committed
24 after July 23, 1995, that involves any applicable deadly weapon
25 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not
26 receive any good time credits or earned release time for that portion
27 of his or her sentence that results from any deadly weapon
28 enhancements.

29 (3) An offender may earn early release time as follows:

30 (a) In the case of an offender sentenced pursuant to RCW
31 10.95.030(3) or 10.95.035, the offender may not receive any earned
32 early release time during the minimum term of confinement imposed by
33 the court; for any remaining portion of the sentence served by the
34 offender, the aggregate earned release time may not exceed ten
35 percent of the sentence.

36 (b) In the case of an offender convicted of a serious violent
37 offense, or a sex offense that is a class A felony, committed on or
38 after July 1, 1990, and before July 1, 2003, the aggregate earned
39 release time may not exceed fifteen percent of the sentence.

1 (c) In the case of an offender convicted of a serious violent
2 offense, or a sex offense that is a class A felony, committed on or
3 after July 1, 2003, the aggregate earned release time may not exceed
4 ten percent of the sentence.

5 (d) An offender is qualified to earn up to fifty percent of
6 aggregate earned release time if he or she:

7 (i) Is not classified as an offender who is at a high risk to
8 reoffend as provided in subsection (4) of this section;

9 (ii) Is not confined pursuant to a sentence for:

10 (A) A sex offense;

11 (B) A violent offense;

12 (C) A crime against persons as defined in RCW 9.94A.411;

13 (D) A felony that is domestic violence as defined in RCW
14 10.99.020;

15 (E) A violation of RCW 9A.52.025 (residential burglary);

16 (F) A violation of, or an attempt, solicitation, or conspiracy to
17 violate, RCW 69.50.401 by manufacture or delivery or possession with
18 intent to deliver methamphetamine; or

19 (G) A violation of, or an attempt, solicitation, or conspiracy to
20 violate, RCW 69.50.406 (delivery of a controlled substance to a
21 minor);

22 (iii) Has no prior conviction for the offenses listed in (d)(ii)
23 of this subsection;

24 (iv) Participates in programming or activities as directed by the
25 offender's individual reentry plan as provided under RCW 72.09.270 to
26 the extent that such programming or activities are made available by
27 the department; and

28 (v) Has not committed a new felony after July 22, 2007, while
29 under community custody.

30 (e) In the case of an offender convicted on or after July 1,
31 2019, the aggregate earned release time may not exceed fifty percent
32 of the sentence when the conviction is for an offense that is not
33 classified as a:

34 (i) Sex offense;

35 (ii) Violent offense; or

36 (iii) Crime against a person as defined in RCW 9.94A.411.

37 (f) In no other case shall the aggregate earned release time
38 exceed one-third of the total sentence.

39 (4) The department shall perform a risk assessment of each
40 offender who may qualify for earned early release under subsection

1 (3)(d) of this section utilizing the risk assessment tool recommended
2 by the Washington state institute for public policy. Subsection
3 (3)(d) of this section does not apply to offenders convicted after
4 July 1, 2010.

5 (5)(a) A person who is eligible for earned early release as
6 provided in this section and who will be supervised by the department
7 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
8 community custody in lieu of earned release time;

9 (b) The department shall, as a part of its program for release to
10 the community in lieu of earned release, require the offender to
11 propose a release plan that includes an approved residence and living
12 arrangement. All offenders with community custody terms eligible for
13 release to community custody in lieu of earned release shall provide
14 an approved residence and living arrangement prior to release to the
15 community;

16 (c) The department may deny transfer to community custody in lieu
17 of earned release time if the department determines an offender's
18 release plan, including proposed residence location and living
19 arrangements, may violate the conditions of the sentence or
20 conditions of supervision, place the offender at risk to violate the
21 conditions of the sentence, place the offender at risk to reoffend,
22 or present a risk to victim safety or community safety. The
23 department's authority under this section is independent of any
24 court-ordered condition of sentence or statutory provision regarding
25 conditions for community custody;

26 (d) If the department is unable to approve the offender's release
27 plan, the department may do one or more of the following:

28 (i) Transfer an offender to partial confinement in lieu of earned
29 early release for a period not to exceed three months. The three
30 months in partial confinement is in addition to that portion of the
31 offender's term of confinement that may be served in partial
32 confinement as provided in RCW 9.94A.728(~~((5))~~) (1)(e);

33 (ii) Provide rental vouchers to the offender for a period not to
34 exceed three months if rental assistance will result in an approved
35 release plan.

36 A voucher must be provided in conjunction with additional
37 transition support programming or services that enable an offender to
38 participate in services including, but not limited to, substance
39 abuse treatment, mental health treatment, sex offender treatment,
40 educational programming, or employment programming;

1 (e) The department shall maintain a list of housing providers
2 that meets the requirements of RCW 72.09.285. If more than two
3 voucher recipients will be residing per dwelling unit, as defined in
4 RCW 59.18.030, rental vouchers for those recipients may only be paid
5 to a housing provider on the department's list;

6 (f) For each offender who is the recipient of a rental voucher,
7 the department shall gather data as recommended by the Washington
8 state institute for public policy in order to best demonstrate
9 whether rental vouchers are effective in reducing recidivism.

10 (6) An offender serving a term of confinement imposed under RCW
11 9.94A.670(5)(a) is not eligible for earned release credits under this
12 section.

13 **Sec. 4.** RCW 9.94A.737 and 2012 1st sp.s. c 6 s 7 are each
14 amended to read as follows:

15 (1) If an offender is accused of violating any condition or
16 requirement of community custody, the department shall address the
17 violation behavior. The department may hold offender disciplinary
18 proceedings not subject to chapter 34.05 RCW. The department shall
19 notify the offender in writing of the violation process.

20 (2)(a) The offender's violation behavior shall determine the
21 sanction the department imposes. The department shall adopt rules
22 creating a structured violation process that includes presumptive
23 sanctions, aggravating and mitigating factors, and definitions for
24 low level violations and high level violations.

25 ~~(b) ((After an offender has committed and been sanctioned for
26 five low level violations, all subsequent violations committed by
27 that offender shall automatically be considered high level
28 violations.~~

29 ~~(e))~~ (i) The department must define aggravating factors that
30 indicate the offender may present a current and ongoing foreseeable
31 risk and which therefore ~~((r))~~ elevate an offender's behavior to a
32 high level violation process.

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

38 (3) The department may intervene when an offender commits a low
39 level violation ~~((as follows:~~

1 ~~(a) For a first low level violation, the department may~~
2 ~~sanction)~~ by sanctioning the offender to one or more nonconfinement
3 sanctions (~~(-~~

4 ~~(b) For a second or subsequent low level violation, the~~
5 ~~department may sanction the offender)~~ or to not more than three days
6 in total confinement.

7 ~~((i))~~ (a) The department shall develop rules to ensure that
8 each offender subject to a short-term confinement sanction is
9 provided the opportunity to respond to the alleged violation prior to
10 imposition of total confinement.

11 ~~((ii))~~ (b) The offender may appeal the short-term confinement
12 sanction to a panel of three reviewing officers designated by the
13 secretary or by the secretary's designee. The offender's appeal must
14 be in writing and hand-delivered to department staff, or postmarked,
15 within seven days after the sanction is imposed.

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

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

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

24 (5) ~~((If the offender's underlying offense is one of the~~
25 ~~following felonies and the violation behavior constitutes a new~~
26 ~~misdemeanor, gross misdemeanor or felony, the offender shall be held~~
27 ~~in total confinement pending a sanction hearing, and until the~~
28 ~~sanction expires or until if a prosecuting attorney files new charges~~
29 ~~against the offender, whichever occurs first:~~

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

31 ~~(b) Assault of a child in the first degree, as defined in RCW~~
32 ~~9A.36.120;~~

33 ~~(c) Assault of a child in the second degree, as defined in RCW~~
34 ~~9A.36.130;~~

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

36 ~~(e) Child molestation in the first degree, as defined in RCW~~
37 ~~9A.44.083;~~

38 ~~(f) Commercial sexual abuse of a minor, as defined in RCW~~
39 ~~9.68A.100;~~

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

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

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

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

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

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

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

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

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

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

15 ~~(q) Rape of a child in the first degree, as defined in RCW~~
16 ~~9A.44.073;~~

17 ~~(r) Rape of a child in the second degree, as defined in RCW~~
18 ~~9A.44.076;~~

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

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

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

24 ~~(6))~~ The department shall adopt rules creating hearing
25 procedures for high level violations. The hearings are offender
26 disciplinary proceedings and are not subject to chapter 34.05 RCW.
27 The procedures shall include the following:

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

33 (b) Unless the offender waives the right to a hearing, the
34 department shall hold a hearing, and shall record it electronically.
35 For offenders not in total confinement, the department shall hold a
36 hearing within fifteen business days, but not less than twenty-four
37 hours, after written notice of the alleged violation. For offenders
38 in total confinement, the department shall hold a hearing within five
39 business days, but not less than twenty-four hours, after written
40 notice of the alleged violation;

1 (c) The offender shall have the right to: (i) Be present at the
2 hearing; (ii) have the assistance of a person qualified to assist the
3 offender in the hearing, appointed by the hearing officer if the
4 offender has a language or communications barrier; (iii) testify or
5 remain silent; (iv) call witnesses and present documentary evidence;
6 (v) question witnesses who appear and testify; and (vi) receive a
7 written summary of the reasons for the hearing officer's decision;
8 and

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

21 ~~((+7))~~ (6) For purposes of this section, the hearings officer
22 may not rely on unconfirmed or unconfirmable allegations to find that
23 the offender violated a condition.

24 ~~((+8))~~ (7) Hearing officers shall report through a chain of
25 command separate from that of community corrections officers.

26 **Sec. 5.** RCW 9.94A.631 and 2012 1st sp.s. c 6 s 1 are each
27 amended to read as follows:

28 (1) If an offender violates any condition or requirement of a
29 sentence, a community corrections officer may arrest or cause the
30 arrest of the offender without a warrant, pending a determination by
31 the court or by the department. If there is reasonable cause to
32 believe that an offender has violated a condition or requirement of
33 the sentence, a community corrections officer may require an offender
34 to submit to a search and seizure of the offender's person,
35 residence, automobile, or other personal property.

36 (2) For the safety and security of department staff, an offender
37 may be required to submit to pat searches, or other limited security
38 searches, by community corrections officers, correctional officers,
39 and other agency approved staff, without reasonable cause, when in or

1 on department premises, grounds, or facilities, or while preparing to
2 enter department premises, grounds, facilities, or vehicles. Pat
3 searches of offenders shall be conducted only by staff who are the
4 same gender as the offender, except in emergency situations.

5 (3) A community corrections officer may also arrest an offender
6 for any crime committed in his or her presence. The facts and
7 circumstances of the conduct of the offender shall be reported by the
8 community corrections officer, with recommendations, to the court,
9 local law enforcement, or local prosecution for consideration of new
10 charges. The community corrections officer's report shall serve as
11 the notice that the department will hold the offender for not more
12 than three days from the time of such notice for the new crime(~~(7~~
13 ~~except if the offender's underlying offense is a felony offense~~
14 ~~listed in RCW 9.94A.737(5), in which case the department will hold~~
15 ~~the offender for thirty days from the time of arrest or until a~~
16 ~~prosecuting attorney charges the offender with a crime, whichever~~
17 ~~occurs first)). This does not affect the department's authority under
18 RCW 9.94A.737.~~

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

28 **Sec. 6.** RCW 9.94A.716 and 2012 1st sp.s. c 6 s 6 are each
29 amended to read as follows:

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

37 (2) A community corrections officer, if he or she has reasonable
38 cause to believe an offender has violated a condition of community
39 custody, may suspend the person's community custody status and arrest

1 or cause the arrest and detention in total confinement of the
2 offender, pending the determination of the secretary as to whether
3 the violation has occurred. The community corrections officer shall
4 report to the secretary all facts and circumstances and the reasons
5 for the action of suspending community custody status.

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

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

27 NEW SECTION. **Sec. 7.** The legislature declares that the
28 department of corrections' recalculations of community custody terms
29 pursuant to sections 1 and 2 of this act do not create any
30 expectations that a particular community custody term will end before
31 July 1, 2019, and offenders have no reason to conclude that the
32 recalculation of their community custody terms before July 1, 2019,
33 is an entitlement or creates any liberty interest in their community
34 custody term ending before July 1, 2019. The department of
35 corrections is authorized to take the time reasonably necessary to
36 complete the recalculations of community custody terms after the
37 effective date of this section.

1 NEW SECTION. **Sec. 8.** The department of corrections has the
2 authority to begin implementing this act upon the effective date of
3 this section.

4 NEW SECTION. **Sec. 9.** Sections 1, 2, 4, 5, and 6 of this act
5 apply retroactively and prospectively regardless of the date of an
6 offender's underlying offense.

7 NEW SECTION. **Sec. 10.** The legislature declares that the changes
8 to the maximum percentages of earned release time in RCW 9.94A.729 do
9 not create any expectation that the percentage of earned release time
10 cannot be revised and offenders have no reason to conclude that the
11 maximum percentage of earned release time is an entitlement or
12 creates any liberty interest. The legislature retains full control
13 over the right to revise the percentages of earned release time
14 available to offenders at any time. This section applies to persons
15 convicted on or after the effective date of this section.

16 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of
18 the state government and its existing public institutions, and takes
19 effect July 1, 2019.

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