

**Chapter 9.92 RCW
PUNISHMENT**

Sections

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Court to fix maximum sentence: RCW 9.95.010.

Excessive bail or fines, cruel punishment prohibited: State Constitution Art. 1 s 14.

Juvenile offenders—Commitment: Chapter 13.04 RCW.

RCW 9.92.005 Penalty assessments in addition to fine or bail forfeiture—Crime victims compensation account. See RCW 7.68.035.

RCW 9.92.010 Punishment of felony when not fixed by statute. Every person convicted of a felony for which no maximum punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence, shall be punished by confinement or fine which shall not exceed confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of not more than twenty thousand dollars, or by both such confinement and fine and the offense shall be classified as a class B felony. [1996 c 44 s 2; 1982 1st ex.s. c 47 s 5; 1909 c 249 s 13; RRS s 2265.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

Classification of crimes: Chapter 9A.20 RCW.

RCW 9.92.020 Punishment of gross misdemeanor when not fixed by statute. Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine. [2011 c 96 s 10; 1982 1st ex.s. c 47 s 6; 1909 c 249 s 15; RRS s 2267.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

RCW 9.92.030 Punishment of misdemeanor when not fixed by statute. Every person convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence, shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars or both such imprisonment and fine. [1982 1st ex.s. c 47 s 7; 1909 c 249 s 14; Code 1881 s 785; RRS s 2266.]

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

RCW 9.92.040 Punishment for contempt. A criminal act which at the same time constitutes contempt of court, and has been punished as such, may also be punished as a crime, but in such case the punishment for contempt may be considered in mitigation. [1909 c 249 s 21; RRS s 2273.]

Contempt: Chapter 7.21 RCW.

RCW 9.92.060 Suspending sentences. (1) Whenever any person is convicted of any crime except murder, burglary in the first degree, arson in the first degree, robbery, rape of a child, or rape, the superior court may, in its discretion, at the time of imposing sentence upon such person, direct that such sentence be stayed and suspended until otherwise ordered by the superior court, and, upon such terms as the superior court may determine, that the sentenced person be placed under the charge of:

(a) A community corrections officer employed by the department of corrections, if the person is subject to supervision under RCW 9.94A.501 or *9.94A.5011; or

(b) A probation officer employed or contracted for by the county, if the county has elected to assume responsibility for the supervision of superior court misdemeanant probationers.

(2) As a condition to suspension of sentence, the superior court may require the convicted person to make such monetary payments, on such terms as the superior court deems appropriate under the circumstances, as are necessary: (a) To comply with any order of the

court for the payment of family support; (b) to make restitution to any person or persons who may have suffered loss or damage by reason of the commission of the crime in question or when the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement; (c) to pay any fine imposed and not suspended and the court or other costs incurred in the prosecution of the case, including reimbursement of the state for costs of extradition if return to this state by extradition was required; and (d) to contribute to a county or interlocal drug fund.

(3) At any time, including at sentencing, the court may determine that the offender is not required to pay, or may relieve the offender of the requirement to pay, full or partial restitution and accrued interest on restitution where the entity to whom restitution is owed is an insurer or a state agency, except for restitution owed to the department of labor and industries under chapter 7.68 RCW, if the court finds that the offender does not have the current or likely future ability to pay. A person does not have the current ability to pay if the person is indigent as defined in RCW 10.01.160(3). For the purposes of this subsection, the terms "insurer" and "state agency" have the same meanings as provided in RCW 9.94A.750(3).

(4) As a condition of the suspended sentence, the superior court may order the probationer to report to the secretary of corrections or such officer as the secretary may designate and as a condition of the probation to follow the instructions of the secretary. If the county legislative authority has elected to assume responsibility for the supervision of superior court misdemeanor probationers within its jurisdiction, the superior court misdemeanor probationer shall report to a probation officer employed or contracted for by the county. In cases where a superior court misdemeanor probationer is sentenced in one county, but resides within another county, there must be provisions for the probationer to report to the agency having supervision responsibility for the probationer's county of residence.

(5) If restitution to the victim has been ordered under subsection (2)(b) of this section and the superior court has ordered supervision, the officer supervising the probationer shall make a reasonable effort to ascertain whether restitution has been made as ordered. If the superior court has ordered supervision and restitution has not been made, the officer shall inform the prosecutor of that violation of the terms of the suspended sentence not less than three months prior to the termination of the suspended sentence. [2023 c 449 s 7; 2022 c 260 s 6; 2011 1st sp.s. c 40 s 5; 2005 c 362 s 2; 1996 c 298 s 5; 1995 1st sp.s. c 19 s 30; 1987 c 202 s 142; 1982 1st ex.s. c 47 s 8; 1982 1st ex.s. c 8 s 4; 1979 c 29 s 1; 1967 c 200 s 7; 1957 c 227 s 1; 1949 c 76 s 1; 1921 c 69 s 1; 1909 c 249 s 28; 1905 c 24 s 1; Rem. Supp. 1949 s 2280.]

***Reviser's note:** RCW 9.94A.5011 expired August 1, 2014.

Effective date—2023 c 449: See note following RCW 13.40.058.

Construction—Effective date—2022 c 260: See notes following RCW 3.66.120.

Application—Recalculation of community custody terms—2011 1st sp.s. c 40: See note following RCW 9.94A.501.

Effective date—2011 1st sp.s. c 40 ss 1-9, 42: See note following RCW 9.94A.501.

Effective date—2005 c 362: See note following RCW 9.94A.501.

Findings—Purpose—Short title—Severability—Effective date—1995 1st sp.s. c 19: See notes following RCW 72.09.450.

Intent—1987 c 202: See note following RCW 2.04.190.

Applicability—1984 c 209: See RCW 9.92.900.

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

Intent—Reports—1982 1st ex.s. c 8: See note following RCW 7.68.035.

Severability—1967 c 200: See note following RCW 9.45.122.

Probation: RCW 9.95.200 through 9.95.250.

Probation and parole services, provision by counties: RCW 36.01.070.

Restitution

alternative to fine: RCW 9A.20.030.

condition of probation: RCW 9.95.210.

disposition when victim not found or dead: RCW 7.68.290.

RCW 9.92.062 Suspended sentence—Termination date—Application.

In all cases prior to August 9, 1971, wherein the execution of sentence has been suspended pursuant to RCW 9.92.060, such person may apply to the court by which he or she was convicted and sentenced to establish a definite termination date for the suspended sentence. The court shall set a date no later than the time the original sentence would have elapsed and may provide for an earlier termination of the suspended sentence. [2011 c 336 s 330; 1971 ex.s. c 188 s 1.]

Applicability—1984 c 209: See RCW 9.92.900.

RCW 9.92.064 Suspended sentence—Termination date, establishment—Modification of terms.

In the case of a person granted a suspended sentence under the provisions of RCW 9.92.060, the court shall establish a definite termination date for the suspended sentence. The court shall set a date no later than the time the original sentence would have elapsed and may provide for an earlier termination of the suspended sentence. Prior to the entry of an order formally terminating a suspended sentence the court may modify the terms and conditions of the suspension or extend the period of the suspended sentence. [1982 1st ex.s. c 47 s 9; 1971 ex.s. c 188 s 2.]

Applicability—1984 c 209: See RCW 9.92.900.

Severability—1982 1st ex.s. c 47: See note following RCW 9.41.190.

RCW 9.92.066 Termination of suspended sentence—Restoration of civil rights—Vacation of conviction. (1) Upon termination of any suspended sentence under RCW 9.92.060 or 9.95.210, such person may apply to the court for restoration of his or her civil rights not already restored by RCW 29A.08.520. Thereupon the court may in its discretion enter an order directing that such defendant shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he or she has been convicted.

(2) (a) Upon termination of a suspended sentence under RCW 9.92.060 or 9.95.210, the person may apply to the sentencing court for a vacation of the person's record of conviction under RCW 9.94A.640. The court may, in its discretion, clear the record of conviction if it finds the person has met the equivalent of the tests in RCW 9.94A.640(2) as those tests would be applied to a person convicted of a crime committed before July 1, 1984.

(b) The clerk of the court in which the vacation order is entered shall immediately transmit the order vacating the conviction to the Washington state patrol identification section and to the local police agency, if any, which holds criminal history information for the person who is the subject of the conviction. The Washington state patrol and any such local police agency shall immediately update their records to reflect the vacation of the conviction, and shall transmit the order vacating the conviction to the federal bureau of investigation. A conviction that has been vacated under this section may not be disseminated or disclosed by the state patrol or local law enforcement agency to any person, except other criminal justice enforcement agencies. [2009 c 325 s 2; 2003 c 66 s 2; 1971 ex.s. c 188 s 3.]

Applicability—1984 c 209: See RCW 9.92.900.

RCW 9.92.070 Payment of fine and costs in installments.

Hereafter whenever any judge of any superior court or a district or municipal judge shall sentence any person to pay any fines, penalties, assessments, fees, and costs, the judge may, in the judge's discretion, provide that such fines, penalties, assessments, fees, and costs may be paid in certain designated installments, or within certain designated period or periods. If the court finds that the defendant is indigent as defined in RCW 10.01.160(3), the court shall allow for payment in certain designated installments or within certain designated periods. If such fines, penalties, assessments, fees, and costs shall be paid by the defendant in accordance with such order no commitment or imprisonment of the defendant shall be made for failure to pay such fine or costs. PROVIDED, that the provisions of this section shall not apply to any sentence given for the violation of any of the liquor laws of this state. [2022 c 260 s 21; 2018 c 269 s 11; 1987 c 3 s 4; 1923 c 15 s 1; RRS s 2280-1.]

Construction—Effective date—2022 c 260: See notes following RCW 3.66.120.

Construction—2018 c 269: See note following RCW 10.82.090.

Severability—1987 c 3: See note following RCW 3.70.010.

Applicability—1984 c 209: See RCW 9.92.900.

Collection and disposition of fines and costs: Chapter 10.82 RCW.

Payment of fine and costs in installments: RCW 10.01.170.

RCW 9.92.080 Sentence on two or more convictions or counts. (1)

Whenever a person while under sentence of felony shall commit another felony and be sentenced to another term of imprisonment, such latter term shall not begin until the expiration of all prior terms: PROVIDED, That any person granted probation pursuant to the provisions of RCW 9.95.210 and/or 9.92.060 shall not be considered to be under sentence of a felony for the purposes of this subsection.

(2) Whenever a person is convicted of two or more offenses which arise from a single act or omission, the sentences imposed therefor shall run concurrently, unless the court, in pronouncing sentence, expressly orders the service of said sentences to be consecutive.

(3) In all other cases, whenever a person is convicted of two or more offenses arising from separate and distinct acts or omissions, and not otherwise governed by the provisions of subsections (1) and (2) of this section, the sentences imposed therefor shall run consecutively, unless the court, in pronouncing the second or other subsequent sentences, expressly orders concurrent service thereof.

(4) The sentencing court may require the secretary of corrections, or his or her designee, to provide information to the court concerning the existence of all prior judgments against the defendant, the terms of imprisonment imposed, and the status thereof. [2011 c 336 s 331; 1981 c 136 s 35; 1971 ex.s. c 295 s 1; 1925 ex.s. c 109 s 2; 1909 c 249 s 33; RRS s 2285.]

Applicability—1984 c 209: See RCW 9.92.900.

Effective date—1981 c 136: See RCW 72.09.900.

RCW 9.92.090 Habitual criminals. Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been twice convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be adjudged to be an habitual criminal and shall be punished by imprisonment in a state correctional facility for not less than ten years.

Every person convicted in this state of any crime of which fraud or intent to defraud is an element, or of petit larceny, or of any felony, who shall previously have been twice convicted, whether in this state or elsewhere, of any crime which under the laws of this state would amount to a felony, or who shall previously have been four

times convicted, whether in this state or elsewhere, of petit larceny, or of any misdemeanor or gross misdemeanor of which fraud or intent to defraud is an element, shall be punished by imprisonment in a state correctional facility for life. [1992 c 7 s 18; 1909 c 249 s 34; 1903 c 86 ss 1, 2; RRS s 2286.]

Applicability—1984 c 209: See RCW 9.92.900.

RCW 9.92.110 Convicts protected—Forfeitures abolished. Every person sentenced to imprisonment in any penal institution shall be under the protection of the law, and any unauthorized injury to his or her person shall be punished in the same manner as if he or she were not so convicted or sentenced. A conviction of crime shall not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures in the nature of deodands, or in case of suicide or where a person flees from justice, are abolished. [2011 c 336 s 332; 1909 c 249 s 36; RRS s 2288.]

Inheritance rights of slayers or abusers: Chapter 11.84 RCW.

RCW 9.92.120 Conviction of public officer forfeits trust. The conviction of a public officer of any felony or malfeasance in office shall entail, in addition to such other penalty as may be imposed, the forfeiture of his or her office, and shall disqualify him or her from ever afterward holding any public office in this state. [2011 c 336 s 333; 1909 c 249 s 37; RRS s 2289.]

Forfeiture or impeachment, rights preserved: RCW 42.04.040.

Misconduct of public officers: Chapter 42.20 RCW.

Vacancy of public office, causes: RCW 42.12.010.

RCW 9.92.130 City jail prisoners may be compelled to work. When a person has been sentenced by any municipal or district judge in this state to a term of imprisonment in a city jail, whether in default of payment of a fine or otherwise, such person may be compelled on each day of such term, except Sundays, to perform eight hours' labor upon the streets, public buildings, and grounds of such city. [1987 c 202 s 144; Code 1881 s 2075; RRS s 10189.]

Intent—1987 c 202: See note following RCW 2.04.190.

RCW 9.92.140 County jail prisoners may be compelled to work. When a person has been sentenced by a district judge or a judge of the superior court to a term of imprisonment in the county jail, whether in default of payment of a fine, or costs or otherwise; such person may be compelled to work eight hours, each day of such term, in and about the county buildings, public roads, streets and grounds: PROVIDED, This section and RCW 9.92.130 shall not apply to persons committed in default of bail. [1987 c 202 s 145; Code 1881 s 2076; 1867 p 56 s 24; 1858 p 10 s 1; RRS s 10190.]

Intent—1987 c 202: See note following RCW 2.04.190.

Employment of prisoners: RCW 36.28.100.

Working out fine: Chapter 10.82 RCW.

RCW 9.92.151 Early release for good behavior. (1) Except as provided in subsection (2) of this section, the sentence of a prisoner confined in a county jail facility for a felony, gross misdemeanor, or misdemeanor conviction may be reduced by earned release credits in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction. The earned early release time shall be for good behavior and good performance as determined by the correctional agency having jurisdiction. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case may the aggregate earned early release time exceed one-third of the total sentence.

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

(3) If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. [2013 2nd sp.s. c 14 s 3; 2009 c 28 s 3; 2004 c 176 s 5; 1990 c 3 s 201; 1989 c 248 s 1.]

Application—Recalculation of earned release date—Compilation of sentencing information—Report—Effective date—2013 2nd sp.s. c 14: See notes following RCW 9.94A.517.

Effective date—2009 c 28: See note following RCW 2.24.040.

Severability—Effective date—2004 c 176: See notes following RCW 9.94A.515.

Application—1989 c 248: "This act applies only to sentences imposed for crimes committed on or after July 1, 1989." [1989 c 248 s 5.]

RCW 9.92.200 Chapter not to affect dispositions under juvenile justice act. No provision of this chapter shall authorize a court to suspend or defer the imposition or the execution of a disposition under chapter 13.40 RCW, as now law or hereafter amended. [1981 c 299 s 21.]

RCW 9.92.900 RCW *9.92.050 through 9.92.090 inapplicable to felonies committed on or after July 1, 1984. The following sections of law do not apply to any felony offense committed on or after July 1, 1984: RCW *9.92.050, 9.92.060, 9.92.062, 9.92.064, 9.92.066, 9.92.070, 9.92.080, and 9.92.090. [1984 c 209 s 2; 1981 c 137 s 31.]

***Reviser's note:** RCW 9.92.050 was repealed by 1992 c 7 s 64.

Effective dates—1984 c 209: See note following RCW 9.94A.030.