
HOUSE BILL 2066

State of Washington

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2011 Regular Session

By Representative Darneille

Read first time 04/09/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to reducing sentences in order to generate
2 correctional cost savings; amending RCW 9.94A.171 and 9.94A.728; adding
3 a new section to chapter 9.94A RCW; creating new sections; and
4 declaring an emergency.

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

6 **Sec. 1.** RCW 9.94A.171 and 2008 c 231 s 28 are each amended to read
7 as follows:

8 (1) A term of confinement ordered in a sentence pursuant to this
9 chapter shall be tolled by any period of time during which the offender
10 has absented himself or herself from confinement without the prior
11 approval of the entity in whose custody the offender has been placed.
12 A term of partial confinement shall be tolled during any period of time
13 spent in total confinement pursuant to a new conviction (~~or pursuant~~
14 ~~to sanctions for violation of sentence conditions on a separate felony~~
15 ~~conviction)).~~

16 (2) Any term of community custody shall be tolled by any period of
17 time during which the offender has absented himself or herself from
18 supervision without prior approval of the entity under whose
19 supervision the offender has been placed.

1 (3)(a) For offenders other than sex offenders serving a sentence
2 for a sex offense as defined in RCW 9.94A.030, any period of community
3 custody shall be tolled during any period of time the offender is in
4 confinement for any reason(~~(. However, if an)) unless the~~ offender is
5 detained pursuant to RCW 9.94A.740 or 9.94A.631 (~~and is later found~~
6 not to have violated a condition or requirement of community custody,
7 time spent in confinement due to such detention shall not toll the
8 period of community custody)) for the period of time prior to the
9 hearing or for confinement pursuant to sanctions imposed for violation
10 of sentence conditions, in which case, the period of community custody
11 shall not toll. However, sanctions that result in the imposition of
12 the remaining sentence or the original sentence will continue to toll
13 the period of community custody. In addition, inpatient treatment
14 ordered by the court in lieu of jail time shall not toll the period of
15 community custody.

16 (b) For sex offenders serving a sentence for a sex offense as
17 defined in RCW 9.94A.030, any period of community custody shall be
18 tolled during any period of time the sex offender is in confinement for
19 any reason.

20 (4) For terms of confinement or community custody, the date for the
21 tolling of the sentence shall be established by the entity responsible
22 for the confinement or supervision.

23 (5) For the purposes of this section, "tolling" means the period of
24 time in which community custody or confinement time is paused and for
25 which the offender does not receive credit towards the term ordered.

26 **Sec. 2.** RCW 9.94A.728 and 2010 c 224 s 6 are each amended to read
27 as follows:

28 No person serving a sentence imposed pursuant to this chapter and
29 committed to the custody of the department shall leave the confines of
30 the correctional facility or be released prior to the expiration of the
31 sentence except as follows:

32 (1) An offender may earn early release time as authorized by RCW
33 9.94A.729;

34 (2) An offender may leave a correctional facility pursuant to an
35 authorized furlough or leave of absence. In addition, offenders may
36 leave a correctional facility when in the custody of a corrections
37 officer or officers;

1 (3)(a) The secretary may authorize an extraordinary medical
2 placement for an offender when all of the following conditions exist:

3 (i) The offender has a medical condition that is serious and is
4 expected to require costly care or treatment;

5 (ii) The offender poses a low risk to the community because he or
6 she is currently physically incapacitated due to age or the medical
7 condition or is expected to be so at the time of release; and

8 (iii) It is expected that granting the extraordinary medical
9 placement will result in a cost savings to the state.

10 (b) An offender sentenced to death or to life imprisonment without
11 the possibility of release or parole is not eligible for an
12 extraordinary medical placement.

13 (c) The secretary shall require electronic monitoring for all
14 offenders in extraordinary medical placement unless the electronic
15 monitoring equipment interferes with the function of the offender's
16 medical equipment or results in the loss of funding for the offender's
17 medical care, in which case, an alternative type of monitoring shall be
18 utilized. The secretary shall specify who shall provide the monitoring
19 services and the terms under which the monitoring shall be performed.

20 (d) The secretary may revoke an extraordinary medical placement
21 under this subsection at any time.

22 (e) Persistent offenders are not eligible for extraordinary medical
23 placement;

24 (4) The governor, upon recommendation from the clemency and pardons
25 board, may grant an extraordinary release for reasons of serious health
26 problems, senility, advanced age, extraordinary meritorious acts, or
27 other extraordinary circumstances;

28 (5) No more than the final six months of the offender's term of
29 confinement may be served in partial confinement designed to aid the
30 offender in finding work and reestablishing himself or herself in the
31 community or no more than the final twelve months of the offender's
32 term of confinement may be served in partial confinement as part of the
33 parenting program in RCW 9.94A.6551. This is in addition to that
34 period of earned early release time that may be exchanged for partial
35 confinement pursuant to RCW 9.94A.729(5)(d);

36 (6) The governor may pardon any offender;

37 (7) The department may release an offender from confinement any

1 time within ten days before a release date calculated under this
2 section and section 3 of this act;

3 (8) An offender may leave a correctional facility prior to
4 completion of his or her sentence if the sentence has been reduced as
5 provided in RCW 9.94A.870 or section 3 of this act; and

6 (9) Notwithstanding any other provisions of this section, an
7 offender sentenced for a felony crime listed in RCW 9.94A.540 as
8 subject to a mandatory minimum sentence of total confinement shall not
9 be released from total confinement before the completion of the listed
10 mandatory minimum sentence for that felony crime of conviction unless
11 allowed under RCW 9.94A.540.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW
13 to read as follows:

14 (1) Except as provided in subsections (3) and (4) of this section,
15 the department shall credit any offender serving a sentence of total
16 confinement imposed pursuant to this chapter and committed to a
17 correctional facility operated by the department with a reduction of
18 one hundred twenty days in his or her release date in accordance with
19 procedures adopted by the department.

20 (2) The reduction applies to an offender's term of confinement
21 after the application of any earned early release time pursuant to RCW
22 9.94A.729.

23 (3) This section does not apply to offenders sentenced to life
24 without parole or offenders serving a sentence for a sex offense as
25 defined in RCW 9.94A.030, a violent offense as defined in RCW
26 9.94A.030, or a crime against a person as defined in RCW 9.94A.411.

27 (4) Under no circumstance may an offender be released before the
28 expiration of his or her mandatory minimum sentence as provided in RCW
29 9.94A.540.

30 (5) The failure of the department to promptly release an offender
31 on the new release date as calculated under this section does not
32 create a liberty interest and in no circumstance gives rise to a cause
33 of action on the part of the offender.

34 NEW SECTION. **Sec. 4.** The provisions of this act apply to persons
35 convicted before, on, or after the effective date of this section.

1 NEW SECTION. **Sec. 5.** On or before July 1, 2011, the department of
2 corrections shall recalculate the amount of time an offender has spent
3 on community custody pursuant to the provisions of section 1 of this
4 act. The department shall reset the date that community custody will
5 end for those offenders. The recalculation shall not extend a term of
6 community custody beyond that to which an offender is currently
7 subject.

8 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
9 preservation of the public peace, health, or safety, or support of the
10 state government and its existing public institutions, and takes effect
11 immediately.

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