
SENATE BILL 6370

State of Washington

66th Legislature

2020 Regular Session

By Senators Nguyen, Padden, Dhingra, Darneille, Stanford, and Das

1 AN ACT Relating to individuals under the department of
2 corrections' jurisdiction; amending RCW 9.94A.589 and 9.94B.050;
3 creating new sections; providing an effective date; and declaring an
4 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 NEW SECTION. **Sec. 3.** The legislature declares that the
36 department of corrections' recalculations of community custody terms
37 pursuant to sections 1 and 2 of this act do not create any
38 expectations that a particular community custody term will end before
39 June 1, 2020, and offenders have no reason to conclude that the

1 recalculation of their community custody terms before June 1, 2020,
2 is an entitlement or creates any liberty interest in their community
3 custody term ending before June 1, 2020. The department of
4 corrections is authorized to take the time reasonably necessary to
5 complete the recalculations of community custody terms after the
6 effective date of this section.

7 NEW SECTION. **Sec. 4.** The department of corrections has the
8 authority to begin implementing this act upon the effective date of
9 this section.

10 NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act apply
11 retroactively and prospectively regardless of the date of an
12 offender's underlying offense.

13 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of
15 the state government and its existing public institutions, and takes
16 effect June 1, 2020.

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