



STATE OF WASHINGTON

## SENTENCING GUIDELINES COMMISSION

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### SUPERVISION SIMPLIFICATION BILL Section By Section Description

#### Introduction

The Sentencing Guidelines Commission (SGC) proposed Supervision Simplification Bill was developed to make the statutes more readable, in response to requests from across the criminal justice community.

These revisions are intended to simplify the SRA and to increase the uniformity of its application. The new statutes are intended to rewrite existing law and to be interpreted in accordance with existing law.

The SGC appreciates the advice and hard work devoted to this effort from a number of experts, especially Snohomish County Superior Court Judge Ellen Fair and Snohomish County Asst. Chief Criminal Deputy Seth Fine.

#### Proposed Title:

An act relating to the sentencing and supervision of criminal offenders.

#### Section 1. Intent and Construction.

The purpose of this act is to simplify the SRA and to increase the uniformity of its application. This act is not intended to either increase or decrease the authority of sentencing courts or the Department. This act is to be interpreted in accordance with existing law.

### PART A. COMMUNITY SUPERVISION

#### Section 2. New section. Community supervision - mandatory terms.

- The Courts' obligation to order mandatory community supervision terms is spelled out in this section.
  - Community supervision is mandatory using a statutory community supervision range for specified crimes or for the period of earned early release in certain circumstances.
  - Community supervision is mandatory for the drug offender sentencing alternative and the special sex offender sentencing alternative as specified in the statutes referenced.

- Community supervision is mandatory for offenders sentenced to work ethic camp.
- Community supervision is mandatory for offenders sentenced under the Nonpersistent Offender statute.

### **Section 3. New section. Community supervision - Discretionary terms.**

- Community supervision may be ordered by a Court:
  - If an offender is sentenced to a term of confinement for one year or less for specified offenses;
  - If an offender is sentenced for an offense for which a standard sentence range has not been established; or
  - If an offender is sentenced to a first-time offender waiver.

### **Section 4. New section. Community supervision - Conditions**

- Offenders' commitment to DOC with reporting obligations is specified, subject to RCW 9.94A.501.
- Mandatory conditions that shall be ordered by a Court include
  - Firearms/ammunition prohibitions
  - Reporting related to court-ordered treatment, and
  - Community protection zone residential prohibitions in certain circumstances.
- Standard conditions are those that are included in a community supervision sentence, unless waived by the Court. They include:
  - Reporting/contact with community correction officers
  - Requirement to work at department-approved education, employment or community restitution
  - No possession/consumption of unlawful controlled substances
  - Payment of supervision fees
  - Residence at department-approved locations
- Special conditions may be ordered at the Court's discretion, they include:
  - Geographic boundaries for offenders
  - No contact orders
  - Participation in crime-related treatment or counseling
  - Rehabilitative programs or affirmative conduct orders
  - Prohibitions against the use of alcohol
  - Crime-related prohibitions
- Other conditions may be required, depending on the circumstances or the crime for which an offender is sentenced.
  - Mental health status evaluation and treatment
  - Domestic Violence perpetrator program
  - Alcohol or drug dependency evaluation (required for certain offenses)
- DOC is required to assess offenders' risk of reoffense and may establish and modify additional conditions related to community safety.
  - DOC must, at a minimum, require offenders to report to a CCO, remain within prescribed boundaries, notify the department about changes in residence or employment, to pay supervision fees and disclose the fact of supervision to treatment providers.
  - DOC may require an offender to obey all laws.
  - DOC may impose electronic monitoring for a sex offender

- The department may not impose conditions that contravene or decrease court-ordered conditions.
- Offenders shall receive a notice in writing about conditions and may appeal within certain timeframes.
- DOC determines conditions based upon risk to the community, within available funds, and shall adopt rules to implement the provisions of the subdivision.
- DOC is performing a quasi-judicial function in setting, modifying and enforcing conditions of community supervision.
- Additional conditions for sex offenders
  - The Indeterminate Sentence Review Board (ISRB) shall exercise the authority listed under DOC's authority (above) for sex offenders sentenced pursuant to the "Nonpersistent Offender" statutes and may impose additional conditions.
  - DOC may recommend to the ISRB additional or modified conditions and may not contravene or decrease board-imposed conditions.
  - DOC may impose additional conditions if an emergency exists.

**Section 5. New section. Community supervision - Beginning of term - Applicability of conditions**

- An offender begins community supervision upon completion of confinement or when s/he is transferred to community supervision in lieu of earned early release.
- Conditions of supervision begin on the date of sentencing, when an offender is sentenced to community supervision, unless otherwise ordered by the court.

**Section 6. New section. Offenders under community supervision - mental health treatment - Sharing of information**

- A CCO may obtain certain information from a supervised offender's mental health treatment provider's status without the offender's consent.
- Information exchange requirements are specified for circumstances when an offender under supervision is involuntarily committed.

**Section 7. New section. Discharge of offenders sentenced to community supervision range**

- Offenders sentenced to a range may be discharged by the department, based on risk and performance of the offender, within the range or at the end of the period of earned early release, whichever is later.

**Section 8. New section. Extension of conditions for sex offenders.**

- Court's may impose and enforce an order extending any or all conditions of community period for a period up to the maximum allowable sentence if public safety would be enhanced.
- Violations of conditions are punishable as contempt of court after expiration of the community supervision term.
- DOC is not responsible to supervise offenders after the term of supervision, regardless of whether the Court has extended a condition.

## **PART B. SANCTIONS FOR SENTENCE VIOLATIONS**

### **Section 9. New section. Violations of sentence requirements - Sanctions**

- Up to 60 days confinement may be imposed on an offender who violates any condition or requirement of a sentence.
- In lieu of confinement, an offender may be sanctioned with specified sanctions in the community.
- Sanctions authority is articulated related to offenders sentenced under specified alternatives, including DOSA, SSOSA, work ethic camp and Nonpersistent Offenders.

### **Section 10. New section. Violations - Sanctions - Where served**

- Offenders in confinement for violation sanctions serve their time in a county or state facility as described in this section, depending on whether the sanction was imposed by a Court, DOC or the ISRB.

### **Section 11. New section. Sanctions - procedures**

- Procedures for imposition of sanctions for the violation of conditions or requirements are specified, depending on the sentencing alternative and/or whether the offender is under the jurisdiction of DOC.

### **Section 12. New section. Sanctions imposed by court**

- A Court may modify its order of judgment and sentence and impose further punishment in accordance with this section, for offenders not under the supervision of DOC.
- Procedures are detailed for court-imposed sanctions for offenders

### **Section 13. RCW 9.94A.737 Sanctions imposed by department**

- DOC must return an offender found to have committed a third violation to total confinement unless certain conditions apply.
- DOC must return an offender to total confinement if the offender is arrested for a new felony offense until a hearing or a formal charge is made.
- Hearing procedures are specified.
- Cooperative agreements are required between DOC, sheriffs and police officers regarding low-risk offenders.

### **Section 14. New section. Community Supervision Violators - Arrest and Detention**

- The secretary of DOC may issue warrants for the arrests of any offender who violates a condition of community supervision.
- CCO's are given the arrest authority and obligations to notify the secretary within certain time periods.

### **Section 15. RCW 9.94A.740 Community supervision violators - Financial responsibility (not yet drafted)**

## **PART C. TERMINOLOGY CHANGES AND TECHNICAL AMENDMENTS - CHAPTER 9.94A RCW**

### **Section 16 RCW 9.94A.030 Definitions**

- “Community Custody”, “Community Placement” and “Postrelease Supervision” are combined into one term - “Community Supervision”.

### **Section 17 RCW 9.94A.501 Risk Assessment - Risk categories - Department must supervise specified offenders**

- Technical amendments are made or consistent terminology.

### **Section 18 RCW 9.94A.505 Sentences**

- Technical amendments are made for consistent terminology.
- Obsolete provisions related to commission of a crime within certain time periods are moved to PART F (see below).
- Mental health and domestic violence provisions are moved to Section 4 (see above).

### **Section 19 RCW 9.94A.515 Table 2 Crimes included within each seriousness level.**

- Technical amendments are made for consistent terminology.

### **Section 20 RCW 9.94A.525 Offender score**

- Technical amendments are made or consistent terminology.

### **Section 21 RCW 9.94A.625 Tolling term of confinement, supervision**

- Technical amendments are made for consistent terminology.

### **Section 22 RCW 9.94A.650 First-time offender waiver**

- Conditions language is moved to Section 4
- Technical amendments are made for consistent terminology.

### **Section 23 RCW 9.94A.660 drug offender sentencing alternative**

- Technical amendments are made for consistent terminology.
- Language is removed if it appears in the consolidated conditions section.
- Language is added that supervision served pre-revocation will not count against a supervision term imposed post-revocation.

### **Section 24 RCW 9.94A.670 Special sex offender sentencing alternative**

- Technical amendments are made for consistent terminology.
- Language is added to regarding conditions and conditions for purpose of clarity related to this sentencing alternative.

### **Section 25 RCW 9.94A.690 Work ethic camp program - Eligibility - Sentencing**

- Technical amendments are made for consistent terminology and corrected references.

**Section 26 RCW 9.94A.712 Sentencing of nonpersistent sex offenders**

- Technical amendments are made for consistent terminology and corrected references.

**Section 27 RCW 9.94A.728 Earned release time**

- Technical amendments are made for consistent terminology and corrected references.
- Certain obsolete time frames are removed.

**Section 28 RCW 9.94A.820 sex offender treatment in the community**

- Technical amendments are made for consistent terminology

**PART D. TERMINOLOGY CHANGES AND TECHNICAL AMENDMENTS - OTHER CHAPTERS**

**Section 29 RCW 4.24.556 Sex offender treatment providers - Affiliate sex offender treatment providers - Limited liability - responsibilities**

- Technical amendments are made for consistent terminology

**Section 30 RCW 9.95.0001 Definitions**

- Technical amendments are made for consistent terminology

**Section 31 New section Community supervision equivalent to parole or probation**

- The interstate compact language from RCW 9.94A.030(10) is amended for consistent terminology.

**Section 32 RCW 9.95.017 Criteria for confinement and parole (pre-SRA)**

- Technical amendments are made for consistent terminology and corrected references

**Section 33 RCW 9.95.064 Conditions of release (pre-SRA)**

- Technical amendments are made for consistent terminology and corrected references

**Section 34 RCW 9.95.110 Parole (pre-SRA)**

- Technical amendments are made for consistent terminology and corrected references

**Section 35 RCW 9.95.123 On-site revocation hearing - Conduct - Witnesses - Subpoenas, enforcement**

- Technical amendments are made for consistent terminology and corrected references

**Section 36 RCW 9.95.126 on-site revocation hearing - Cooperation in providing facilities**

- Technical amendments are made for consistent terminology

**Section 37 RCW 9.95.140 Record of persons under supervision - privacy - Sexual offender information release - Immunity from liability - Cooperation by officials and employees**

- Technical amendments are made for consistent terminology
- Clarification is added regarding inclusion of pre and post SRA offenders.

**Section 38 RCW 9.95.300 Return of parole or supervision violators from another state - Contracts to share costs**

- Technical amendments are made for consistent terminology
- Clarification is added regarding inclusion of pre and post SRA offenders.

**Section 39 RCW 9.95.420 Sex offenders - End of sentence review - Victim input**

- Technical amendments are made for consistent terminology and corrected references

**Section 40 RCW 9.95.425 Sex offenders - Postrelease violations**

- Technical amendments are made for consistent terminology

**Section 41 RCW 9.95.435 Sex offenders - Postrelease transfer to more restrictive confinement**

- Technical amendments are made for consistent terminology

**Section 42 RCW 9.95.440 Sex offenders -Reinstatement of release**

- Technical amendments are made for consistent terminology and corrected references

**Section 43 RCW 46.61.524 Vehicular homicide, assault -Reinstatement of driver's license**

- Technical amendments are made for consistent terminology and corrected references

**Section 44 RCW 72.09.015 Definitions**

- Technical amendments are made to the authority of DOC for consistent terminology and corrected references

**Section 45 RCW 72.09.720 Individual reentry plan**

- Technical amendments are made for consistent terminology

**Section 46 RCW 72.09.310 Community ~~custody~~ supervision violator**

- Technical amendments are made for consistent terminology

**Section 47 RCW 72.09.345 Sex offenders -Release of information to protect public - End-of-sentence review committee-Assessment-records access-review, classification, referral of offenders-Issuance of narrative notices**

- Technical amendments are made for consistent terminology

**Section 48 RCW 72.09.580 Offender records and reports**

- Technical amendments are made for consistent terminology and corrected references

## **PART E. RECODIFICATION OF OBSOLETE PROVISIONS**

### **Section 49 New Section Applicability of this chapter.**

- This chapter codifies sentencing provisions that may be applicable to sentences imposed prior to August 1, 2009.
  - They apply to sentences imposed on or after that date only to the extent that application of chapter 9.94A RCW is constitutionally impermissible.
  - They do not apply to offenses committed on or after the effective date of this act, if sentence was imposed on or after August 1, 2009.
- This chapter supplements chapter 9.94A RCW and should be read in conjunction with that chapter.

### **Section 50 New Section Definitions**

- Definitions are related back to pre-amendment terms for purpose of retroactive application.

### **Section 51 RCW 9.94A.628 Postrelease supervision - Violations - Expenses**

- Clarifications are added regarding the application of this section related to the date of the sentence (and post August 1, 2009 nonapplicability).

### **Section 52 RCW 9.94A.634 Noncompliance with condition or requirement of sentence - Procedure-Penalty**

- Clarifications are added regarding the application of this section related to the date of the sentence (and post August 1, 2009 nonapplicability).

### **Section 53 New Section Transfer to community custody status**

- This section is moved.

## **PART F. EFFECTIVE DATES AND TRANSITIONAL PROVISIONS**

### **Section 54 New Section Applicability of this act.**

- Specifics are included regarding applicability to crime by timeframe,
- And to apply the act retroactively to the extent it is constitutionally permissible.
- Judgment and sentence forms shall specify which statutes are being applied to a sentence.
- The Sentencing Guidelines Commission is required to prepare a summary of the circumstances under which application of this Act is not constitutionally permissible and include it in the Adult Sentencing Manual.
- The act is not intended to affect the enforcement of any sentence imposed prior to August 1, 2009, unless a re-sentencing occurs.

### **Section 55 New Section Codification.**

- Codification is specified.
- The Code reviser is authorized to renumber and improve the organization of chapter 9.94A.

**Section 56 New Section Repealers and savings clause.**

**Section 57 New Section Code reviser and Sentencing Guidelines Commission to report on amendments**

- This section requires the code reviser and the Sentencing Guidelines Commission to report to the 2009 Legislature any changes to further the purposes of the Act.

**APPENDIX A: TEXT OF REPEALED SECTIONS**

**APPENDIX B: TEXT OF SECTIONS RECODIFIED INTO CHAPTER 9.94B**