

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5104**

Chapter 81, Laws of 2015

64th Legislature  
2015 Regular Session

SENTENCING PROVISIONS--USE OF ALCOHOL OR CONTROLLED SUBSTANCES

EFFECTIVE DATE: 7/24/2015

Passed by the Senate March 4, 2015  
Yeas 49 Nays 0

BRAD OWEN

**President of the Senate**

Passed by the House April 14, 2015  
Yeas 97 Nays 0

FRANK CHOPP

**Speaker of the House of Representatives**

Approved April 24, 2015 3:17 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5104** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

**Secretary**

FILED

April 25, 2015

**Secretary of State  
State of Washington**

---

SENATE BILL 5104

---

Passed Legislature - 2015 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By Senator Padden

Read first time 01/14/15. Referred to Committee on Law & Justice.

1 AN ACT Relating to possession or use of alcohol and controlled  
2 substances in sentencing provisions; amending RCW 9.94A.505 and  
3 9.94A.607; and reenacting and amending RCW 9.94A.703.

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

5 **Sec. 1.** RCW 9.94A.505 and 2010 c 224 s 4 are each amended to  
6 read as follows:

7 (1) When a person is convicted of a felony, the court shall  
8 impose punishment as provided in this chapter.

9 (2)(a) The court shall impose a sentence as provided in the  
10 following sections and as applicable in the case:

11 (i) Unless another term of confinement applies, a sentence within  
12 the standard sentence range established in RCW 9.94A.510 or  
13 9.94A.517;

14 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

15 (iii) RCW 9.94A.570, relating to persistent offenders;

16 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

17 (v) RCW 9.94A.650, relating to the first-time offender waiver;

18 (vi) RCW 9.94A.660, relating to the drug offender sentencing  
19 alternative;

20 (vii) RCW 9.94A.670, relating to the special sex offender  
21 sentencing alternative;

1 (viii) RCW 9.94A.655, relating to the parenting sentencing  
2 alternative;

3 (ix) RCW 9.94A.507, relating to certain sex offenses;

4 (x) RCW 9.94A.535, relating to exceptional sentences;

5 (xi) RCW 9.94A.589, relating to consecutive and concurrent  
6 sentences;

7 (xii) RCW 9.94A.603, relating to felony driving while under the  
8 influence of intoxicating liquor or any drug and felony physical  
9 control of a vehicle while under the influence of intoxicating liquor  
10 or any drug.

11 (b) If a standard sentence range has not been established for the  
12 offender's crime, the court shall impose a determinate sentence which  
13 may include not more than one year of confinement; community  
14 restitution work; a term of community custody under RCW 9.94A.702 not  
15 to exceed one year; and/or other legal financial obligations. The  
16 court may impose a sentence which provides more than one year of  
17 confinement and a community custody term under RCW 9.94A.701 if the  
18 court finds reasons justifying an exceptional sentence as provided in  
19 RCW 9.94A.535.

20 (3) If the court imposes a sentence requiring confinement of  
21 thirty days or less, the court may, in its discretion, specify that  
22 the sentence be served on consecutive or intermittent days. A  
23 sentence requiring more than thirty days of confinement shall be  
24 served on consecutive days. Local jail administrators may schedule  
25 court-ordered intermittent sentences as space permits.

26 (4) If a sentence imposed includes payment of a legal financial  
27 obligation, it shall be imposed as provided in RCW 9.94A.750,  
28 9.94A.753, 9.94A.760, and 43.43.7541.

29 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a  
30 court may not impose a sentence providing for a term of confinement  
31 or community custody that exceeds the statutory maximum for the crime  
32 as provided in chapter 9A.20 RCW.

33 (6) The sentencing court shall give the offender credit for all  
34 confinement time served before the sentencing if that confinement was  
35 solely in regard to the offense for which the offender is being  
36 sentenced.

37 (7) The court shall order restitution as provided in RCW  
38 9.94A.750 and 9.94A.753.

39 (8) As a part of any sentence, the court may impose and enforce  
40 crime-related prohibitions and affirmative conditions as provided in

1 this chapter. "Crime-related prohibitions" may include a prohibition  
2 on the use or possession of alcohol or controlled substances if the  
3 court finds that any chemical dependency or substance abuse  
4 contributed to the offense.

5 (9) In any sentence of partial confinement, the court may require  
6 the offender to serve the partial confinement in work release, in a  
7 program of home detention, on work crew, or in a combined program of  
8 work crew and home detention.

9 **Sec. 2.** RCW 9.94A.607 and 1999 c 197 s 2 are each amended to  
10 read as follows:

11 (1) Where the court finds that the offender has ((a))any chemical  
12 dependency that has contributed to his or her offense, the court may,  
13 as a condition of the sentence and subject to available resources,  
14 order the offender to participate in rehabilitative programs or  
15 otherwise to perform affirmative conduct reasonably related to the  
16 circumstances of the crime for which the offender has been convicted  
17 and reasonably necessary or beneficial to the offender and the  
18 community in rehabilitating the offender. A rehabilitative program  
19 may include a directive that the offender obtain an evaluation as to  
20 the need for chemical dependency treatment related to the use of  
21 alcohol or controlled substances, regardless of the particular  
22 substance that contributed to the commission of the offense. The  
23 court may also impose a prohibition on the use or possession of  
24 alcohol or controlled substances regardless of whether a chemical  
25 dependency evaluation is ordered.

26 (2) This section applies to sentences which include any term  
27 other than, or in addition to, a term of total confinement, including  
28 suspended sentences.

29 **Sec. 3.** RCW 9.94A.703 and 2009 c 214 s 3 and 2009 c 28 s 11 are  
30 each reenacted and amended to read as follows:

31 When a court sentences a person to a term of community custody,  
32 the court shall impose conditions of community custody as provided in  
33 this section.

34 (1) **Mandatory conditions.** As part of any term of community  
35 custody, the court shall:

36 (a) Require the offender to inform the department of court-  
37 ordered treatment upon request by the department;

1 (b) Require the offender to comply with any conditions imposed by  
2 the department under RCW 9.94A.704;

3 (c) If the offender was sentenced under RCW 9.94A.507 for an  
4 offense listed in RCW 9.94A.507(1)(a), and the victim of the offense  
5 was under eighteen years of age at the time of the offense, prohibit  
6 the offender from residing in a community protection zone;

7 (d) If the offender was sentenced under RCW 9A.36.120, prohibit  
8 the offender from serving in any paid or volunteer capacity where he  
9 or she has control or supervision of minors under the age of  
10 thirteen.

11 (2) **Waivable conditions.** Unless waived by the court, as part of  
12 any term of community custody, the court shall order an offender to:

13 (a) Report to and be available for contact with the assigned  
14 community corrections officer as directed;

15 (b) Work at department-approved education, employment, or  
16 community restitution, or any combination thereof;

17 (c) Refrain from possessing or consuming controlled substances  
18 except pursuant to lawfully issued prescriptions;

19 (d) Pay supervision fees as determined by the department; and

20 (e) Obtain prior approval of the department for the offender's  
21 residence location and living arrangements.

22 (3) **Discretionary conditions.** As part of any term of community  
23 custody, the court may order an offender to:

24 (a) Remain within, or outside of, a specified geographical  
25 boundary;

26 (b) Refrain from direct or indirect contact with the victim of  
27 the crime or a specified class of individuals;

28 (c) Participate in crime-related treatment or counseling  
29 services;

30 (d) Participate in rehabilitative programs or otherwise perform  
31 affirmative conduct reasonably related to the circumstances of the  
32 offense, the offender's risk of reoffending, or the safety of the  
33 community;

34 (e) Refrain from possessing or consuming alcohol; or

35 (f) Comply with any crime-related prohibitions.

36 (4) **Special conditions.**

37 (a) In sentencing an offender convicted of a crime of domestic  
38 violence, as defined in RCW 10.99.020, if the offender has a minor  
39 child, or if the victim of the offense for which the offender was  
40 convicted has a minor child, the court may order the offender to

1 participate in a domestic violence perpetrator program approved under  
2 RCW 26.50.150.

3 (b)(i) In sentencing an offender convicted of an alcohol or drug-  
4 related traffic offense, the court shall require the offender to  
5 complete a diagnostic evaluation by an alcohol or drug dependency  
6 agency approved by the department of social and health services or a  
7 qualified probation department, defined under RCW 46.61.516, that has  
8 been approved by the department of social and health services. If the  
9 offense was pursuant to chapter 46.61 RCW, the report shall be  
10 forwarded to the department of licensing. If the offender is found to  
11 have an alcohol or drug problem that requires treatment, the offender  
12 shall complete treatment in a program approved by the department of  
13 social and health services under chapter 70.96A RCW. If the offender  
14 is found not to have an alcohol or drug problem that requires  
15 treatment, the offender shall complete a course in an information  
16 school approved by the department of social and health services under  
17 chapter 70.96A RCW. The offender shall pay all costs for any  
18 evaluation, education, or treatment required by this section, unless  
19 the offender is eligible for an existing program offered or approved  
20 by the department of social and health services.

21 (ii) For purposes of this section, "alcohol or drug-related  
22 traffic offense" means the following: Driving while under the  
23 influence as defined by RCW 46.61.502, actual physical control while  
24 under the influence as defined by RCW 46.61.504, vehicular homicide  
25 as defined by RCW 46.61.520(1)(a), vehicular assault as defined by  
26 RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW  
27 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

28 (iii) This subsection (4)(b) does not require the department of  
29 social and health services to add new treatment or assessment  
30 facilities nor affect its use of existing programs and facilities  
31 authorized by law.

Passed by the Senate March 4, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.