

# Improving Public Safety by Positively Changing Lives

## Agency Request Legislation Proposals

2021-23 Biennium

Revised: January 8, 2021



The mission of the Department of Corrections (DOC) is to improve public safety by positively changing lives. The DOC is committed to operating a safe and humane corrections system and maximizing opportunities to collaborate with others to transform lives for a better Washington.

Individuals experiencing incarceration and serving community supervision sentences come from overwhelmingly poor communities, disproportionately communities of color, lacking education and employment opportunities. They face higher levels of homelessness, struggle with substance use disorders, and live with physical and mental health disorders that are often undiagnosed or untreated. As an example of racial disparity, Black individuals constitute approximately 4.2 percent of Washington state residents, but 17.9 percent of incarcerated individuals, and 12.3 percent of people serving a supervision sentence. More than 96 percent of those who are incarcerated will return to their communities, where barriers will be further exacerbated by their criminal histories.

The proposed policies when implemented as part of an overall reform effort, create the opportunity for budget savings, decreased recidivism rates and support best practices for community safety.

### Prisons Population Reductions

(\$23.9M/110.7 FTEs in FY 2022 and \$35.9M/147.4 FTEs in FY 2023)\*

Expansion of partial confinement, earned time for weapons enhancements, and 33% earned time for anyone that did not commit a crime against a person are sentencing changes that are intertwined with one another with regard to the sentencing time served. As a result, these interdependencies need to be considered when calculating impacts.

#### [Amend RCW 9.94A.733 Home Detention - Graduated Re-Entry Program to Allow for the Following Partial Confinement Alternatives](#)

*150 day partial confinement, all sentence types included (retroactive and prospective).*

This proposal would reduce the prison population by allowing incarcerated individuals with approved housing plans, regardless of offense or sentence type, to serve the final 150 days of their sentence in partial confinement on electronic home monitoring. The savings assumptions assumed individuals would serve at least 180 days in prison, and excludes individuals subject to deportation, civil commitment or interstate compact. There will be additional impacts to community corrections, related to the supervision of individuals transferred to partial confinement.

*Property/Other (Non-violent, Non-sex, Non-Crime against a Person, include Drug crimes) would serve little, to no time in a prison facility.*

This proposal reduces the prison population by allowing incarcerated individuals to serve all but 120 days of their sentence in partial confinement on electronic home monitoring. Similar to the Rapid Reentry program, this proposal would not apply to individuals currently serving a sentence(s) for violent, sex or crimes against a person offense nor individuals with deportation orders or who are under the ISRB review.

#### [Amend RCW 9.94A.729 – Earned Release Time – Risk Assessments](#)

*33% earned time – retroactive for all crimes currently eligible for earned time.*

Currently, certain incarcerated individuals are eligible for earned early release for good behavior and good performance. The amount of the sentence eligible for earned early release varies depending on the circumstances of individual's underlying offense and date of conviction. This proposal changes the amount of earned time on a sentence to a maximum of 33 percent for all crimes currently eligible for earned time. This change would be applied retroactively.

### *Allow Earned Time on Enhancements*

The current law does not allow those incarcerated to receive any earned time for the enhancement portion of their sentence, but does allow earned time on the underlying sentence. Establishing consistent sentencing calculations for offenses that carry enhancements supports the agency's efforts to ensure each person's release date is accurate, and meets the requirements of the court order.

This proposal would allow earned time on an incarcerated individual's entire sentence, not just a portion of the sentence. The rate of time earned for the enhancement portion would be consistent to the rate allowed for the underlying sentence.

The Average Daily Population (ADP) savings estimate assumes a retroactive application of the proposed sentencing changes for any incarcerated individual with a sentence that includes an enhancement. It would require any individual currently incarcerated, as of the effective date of this legislative change, to have his or her estimated release date recalculated to reflect the increased percent of earned time allowed. There will be additional indeterminate impacts to community corrections, related to the early release of individuals with a term of community custody.

These proposals were included in the Sentencing Guidelines Commission (SGC) Recommendations as part of the 2019 [Review of the Sentencing Reform Act](#) and by the Criminal Sentencing Taskforce 2020 [Final Report](#).

## **Community Supervision Reforms**

(\$1.2M/11.8 FTEs in FY 2022 and \$3.8M/38.0 FTEs in FY 2023)\*

### [Amend RCW 9.94A.171 – Tolling of Term of Confinement, Supervision](#)

#### *Limit Tolling*

Tolling is when time served toward a community custody sentence is paused due to an individual not being available for supervision. The policy proposal would limit the tolling of community supervision terms to only the time when an individual is serving original jail time, has absconded from supervision, or is serving time for a subsequent felony conviction to include pre-sentence confinement as confirmed by the detaining facility. This change would eliminate tolling for times the individual is returned to total confinement, confined for violations of community custody if serving on a current sex offense, or while serving a separate non-felony sentence of confinement.

Tolling information is not readily available through data systems, therefore manual recalculations of Scheduled End Dates (SEDs) are required and significant research is needed in order to reconcile the successful time on supervision, the tolled time on supervision and compliance credits earned. Sentence recalculation is complex, and changes throughout an individual's time while under the jurisdiction of the department. The vast majority of errors in SEDs would be eliminated if tolling was not required to the extent that it is today.

This proposal was included in the SGC Recommendations as part of the 2019 [Review of the Sentencing Reform Act](#).

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\* The first year, FY 2022, expenditure reductions included above assume 12 full months of savings, which does not take into consideration the needed phase in period that will reduce the overall savings amount. DOC does not know which, if any, of the sentencing reform items would be enacted and therefore is unable to calculate the needed phase in period, which could take six or more months.