

## Community Custody for Felony and Misdemeanor Offenses in Superior Court

### Felonies

#### I. Community custody is **mandatory** when:

##### A. Prison sentence

1. A sex offense for which an indeterminate sentence is imposed: for any period of time the defendant is released from total confinement before the expiration of the maximum sentence. RCW 9.94A.507(5).  
*DOC must supervise. RCW 9.94A.501(4)(a).*
2. A sex offense for which a determinate sentence is imposed: for 3 years. RCW 9.94A.701(1)(a).  
*DOC must supervise. RCW 9.94A.501(4)(a).*
3. A serious violent offense: for 3 years. RCW 9.94A.701(b).  
*DOC must supervise. RCW 9.94A.501(4)(a).*
4. A violent offense that is not a serious violent offense: for 18 months. RCW 9.94A.701(2).  
*DOC will supervise only if offender is a dangerous mentally ill offender (RCW 72.09.370), or if the risk assessment classifies the offender at high risk to reoffend. RCW 9.94A.501(5); 501(4)(b); 501(3).*
5. A crime against persons (Specifically, these crimes are murder, manslaughter, kidnapping, Assault 1, 2, and 3, assault of a child, rape, rape of a child, robbery, Arson 1, Burg 1, ID theft, extortion, indecent liberties, incest, vehicular homicide, vehicular assault, child molest, Promoting Prostitution 1, intimidating a juror, comm. w/ minor, intim a witness, intim a public servant, bomb threat (if against a person), unlawful imprisonment, promoting a suicide attempt, riot (if against a person), stalking, custodial assault, DV court order viol, counterfeiting (if a violation of RCW 9.16.035(4), felony DUI, felony Phys Control, felony viol of RCW 69.50 or 69.52 or an attempt, conspiracy or solicitation to commit such a crime, and felony FTR.):  
for 1 year. RCW 9.94A.701(3)(a).  
*DOC will supervise only if offender is a dangerous mentally ill offender (RCW 72.09.370) or if the risk assessment classifies the offender at high risk to reoffend. RCW 9.94A.501(5); 501(4)(b); 501(3).*
6. An offense involving the unlawful possession of a firearm under RCW 9.41.040, when the offender is a criminal street gang member or associate: for 1 year. RCW 9.94A.701(3)(b).  
*DOC will supervise only if offender is a dangerous mentally ill offender (RCW 72.09.370) or if the risk assessment classifies the offender at high risk to reoffend. RCW 9.94A.501(5); 501(4)(b); 501(3).*
7. A felony offense under RCW 69.50 or 69.52, committed on or after 7/1/2000: for 1 year. RCW 9.94A.701(3)(c).  
*DOC will supervise only if offender is a dangerous mentally ill offender (RCW 72.09.370) or if the risk assessment classifies the offender at high risk to reoffend. RCW 9.94A.501(5); 501(4)(b); 501(3).*

8. A felony FTR that is the offender's first felony FTR: for 1 year.  
RCW 9.94A.701(3)(d).  
*DOC must supervise. RCW 9.94A.501(4)(d).*
9. A felony sentenced under the **Prison-based Drug Offender Sentencing Alternative**: for a term equal to ½ the midpoint of the standard sentence range. RCW 9.94A.701(4); 9.94A.662(1)(b).  
*DOC must supervise. RCW 9.94A.501(4)(e).*

NB: If the standard range term of confinement combined with the term of community custody specified above were to exceed the statutory maximum for the crime, then the term of community custody shall be reduced so as to not exceed the statutory maximum. RCW 9.94A.701(9).

- B. **Residential Chemical Dependency Treatment-Based Alternative**: for a term equal to ½ the midpoint of the standard sentence range or 2 years, whichever is greater. RCW 9.94A.664(1).  
*DOC must supervise. RCW 9.94A.501(4)(e).*
- C. **Special Sex Offender Sentencing Alternative**: for a term equal to the length of the suspended sentence, the length of the maximum term imposed pursuant to RCW 9.94A.507, or three years, whichever is greater. RCW 9.94A.670(5)(b).  
*DOC must supervise. RCW 9.94A.501(4)(e).*
- D. **Parenting Sentencing Alternative**: for 12 months. RCW 9.94A.655.  
*DOC must supervise. RCW 9.94A.501(4)(e).*

II. Community custody is **discretionary** when:

- A. **First Time Offender Waiver**: for up to 1 year, unless treatment is ordered, in which case the term may include up to the period of treatment but shall not exceed 2 years. RCW 9.94A.650(3).  
*DOC must supervise. RCW 9.94A.501(4)(e).*
- B. **Jail sentence for a sex offense**: for up to 1 year. RCW 9.94A.702(1)(a).  
*DOC must supervise. RCW 9.94A.501(4)(a).*
- C. **Jail sentence for a violent offense; a crime against a person** (see list above); **a felony violation of RCW 9A.69.50 or 69.52 or an attempt, conspiracy, or solicitation to commit such a crime; or a felony FTR with no prior FTR**: for up to 1 year. RCW 9.94A.702(1)(b); 702(1)(c); 702(1)(d); 702(1)(e).

*DOC will supervise only if offender is a dangerous mentally ill offender (RCW 72.09.370) or if the risk assessment classifies the offender at high risk to reoffend. RCW 9.94A.501(5); 501(4)(b); 501(3).*

NB: Generally, we are not recommending community custody for drug offenses with jail sentences.

## **Misdemeanors and Gross Misdemeanors**

- I. Probation is **mandatory** when:
  - A. Current offense is **Fourth Degree Assault or Violation of DV Court Order, and** there is a prior conviction for at least one of the following: a violent offense; a sex offense; a crime against a person (see list above); Fourth Degree Assault; or Violation of a DV Court Order: up to two years. RCW 9.94A.501(1)(a); RCW 9.95.210(1).  
*DOC must supervise. RCW 9.94A.501(1)(a); 501(2).*  
NB: Courts of limited jurisdiction may impose up to five years of probation on DV offenses. RCW 3.66.068; 3.50.330; 35.20.255.
  - B. Current offense is **Sexual Misconduct with a Minor 2, Custodial Sexual Misconduct 2, Communication with a Minor for Immoral Purposes, or Failure to Register:** up to two years. RCW 9.94A.501(1)(b); RCW 9.95.210(1).  
*DOC must supervise. RCW 9.94A.501(b); 501(2).*
  - C. Current offense is **DUI, and** the jail sentence imposed is less than one year: up to five years. RCW 46.61.5055(11)(a); RCW 9.95.210(1).  
*DOC will not supervise. RCW 9.94A.501(5).*  
County Council may authorize a contract with DOC to transfer supervision of misdemeanants convicted in Superior Court. RCW 9.95.204(2). This has not been done. File gross misdemeanor DUI's in District Court to assure supervision of mandatory conditions.
- II. Probation is **discretionary** for **all other** misdemeanors and gross misdemeanors. RCW 9.92.060.

*DOC will not supervise. RCW 9.94A.501(5).*

County Council may authorize a contract with DOC to transfer supervision of misdemeanants convicted in Superior Court. RCW 9.95.204(2). This has not been done. If supervision of probation is needed, file the case in District Court.