

Tolling of Community Supervision Terms

November 2019



The Department of Corrections (DOC) is seeking statutory changes to the tolling of supervision terms that would enhance simplification and transparency for individuals on community supervision, criminal justice system stakeholders and DOC staff.

Issue

Under RCW 9.94A.171 - *Tolling of term of confinement, supervision* - the Department is required to toll individuals on community supervision who are “unavailable” for supervision – when they are unable, or elects not to, report to their Community Corrections Officer (CCO). This can be due to serving jail time, absconding (choosing to not report to their CCO), and confinement by a local jurisdiction, or civil commitment. “Tolling” means that the time spent in confinement or unavailable is not counted towards their term of community custody. Once an individual is “available” the community custody term resumes.

For example, if an individual on community supervision fails to report to their CCO, the number of days between the day they were supposed to report and the day they are returned to DOC supervision is “tolled” – those days are added back to their community supervision sentence, as a consequence for being out of compliance and unavailable for supervision. An individual could have multiple tolling events throughout their time in DOC custody.

Tolling requires that Scheduled End Dates (SEDs) are recalculated throughout an individual's time within DOC custody to account for any events that would necessitate tolling. Because tolling information is not readily available through data systems, manual recalculations of SEDs are required and significant research is needed in order to reconcile the successful time on supervision and the tolled time on supervision to validate the scheduled end date. 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.

“Lengthy probation terms can expand the criminal justice footprint, undermine cost-effectiveness, and dilute supervision for the highest-risk individuals”

CSG Community Supervision:
An effective tool to change behavior
Presentation to Washington SGC,
October 12, 2018.

Proposed Changes

The Department is seeking changes that would authorize the tolling of community supervision terms **only** for the time when an individual is serving original jail time (jail time ordered by the Court at sentencing that requires the individual to serve a designated period of time in confinement prior to the commencement of supervision) or has absconded from supervision. 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 sentence of confinement.

Advantages to Proposed Changes


The Sentencing Guidelines commission report dated July 2019, drawing from the work of the Council of State Governments (CSG) Justice Center and Harvard Kennedy Executive Sessions, states in part that “lengthy supervision terms expand the criminal justice footprint. The length of time individuals spend on supervision has increased recently in Washington, based on the DOC policy of imposing supervision terms consecutively rather than concurrently when the judgment and sentence from the court is silent on the relationship between terms. Experts agree that maximum supervision terms should not exceed five years for even higher risk levels as the impacts of supervision diminishes after a few years.” The Department also incurs additional risk the longer we are responsible for the supervision of individuals in the community. Decreased supervision time assumes less inherent risk.

These changes would enhance simplification and transparency for individuals on supervision and DOC staff. In addition, these changes would mitigate the inherent and documented risks with tolling entries in general.

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