

# HOUSE BILL REPORT

## EHB 2340

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### As Passed Legislature

**Title:** An act relating to the termination of offenders from the special drug offender sentencing alternative.

**Brief Description:** Providing for removal of offenders from the drug offender sentencing alternative who are subject to a deportation order.

**Sponsors:** Representatives O'Brien, Ballasiotes, Carlson, Hurst and Talcott; by request of Sentencing Guidelines Commission.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 1/19/00 [DP].

#### Floor Activity:

Passed House: 1/27/00, 96-0.

Passed Senate: 3/2/00, 47-0.

Passed Legislature.

### Brief Summary of Bill

- Authorizes the Department Of Corrections to administratively terminate an offender from the Drug Offender Sentencing Alternative program if he or she has been found by the United States Attorney General to be subject to a deportation order.
- Requires any offender who fails to complete the Drug Offender Sentencing Alternative program or who is administratively terminated from the program to serve the unexpired term of his or her sentence as well as a period of community custody.

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HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

**Staff:** Yvonne Walker (786-7841).

**Background:**

The Drug Offender Sentencing Alternative (DOSA) allows a court to waive imposition of a drug offender's sentence within the standard sentencing range. An offender with any prior or current convictions for a sex or violent felony offense is prohibited from participating in the program. Under the DOSA program the court imposes a sentence that includes confinement in a state facility for one-half of the midpoint of the standard sentencing range. While in confinement, the offender must complete a substance abuse assessment and receive substance abuse treatment and counseling.

Following incarceration, the offender must spend the remainder of the midpoint of the standard sentencing range on community custody, which must also include crime-related prohibitions, drug testing, and some type of alcohol and substance abuse treatment. Courts may also impose conditions such as affirmative conditions as part of the offender's sentence.

If the offender violates or fails to complete the DOSA sentencing, conditions he or she will have a violation hearing held by the DOC. If the department finds that the conditions of the sentence have been willfully violated, then the offender may be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing judge.

Illegal Aliens. An offender who has been found by the United States Attorney General to be subject to a deportation order or detainer is ineligible for the DOSA program.

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**Summary of Bill:**

Illegal Aliens. An offender who is found by the United States attorney general to be subject to a deportation order, after the offender has already begun his or her DOSA sentence, will be subject to a violation hearing held by the DOC. At the violation hearing, if the offender is confirmed to be subject to a deportation order then the DOC may administratively terminate the offender from the program.

Any offender who fails to complete the DOSA program or who is administratively terminated from the program will be reclassified to serve the unexpired term of his or

her sentence as ordered by the sentencing judge as well as a period of community custody.

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**Appropriation:** None.

**Fiscal Note:** Requested on January 12, 2000.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This legislation was proposed by the Sentencing Guidelines Commission and intends to address several concerns. First, the Legislature has stated that it does not want to admit illegal aliens into the DOSA program or waste valuable resources on a particular offender who is about to be deported. This bill will address that concern by authorizing DOC to administratively terminate any offender from the DOSA program if he or she has been found by the United States Attorney General to be subject to a deportation order. That offender will be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing judge.

Secondly, the way the current statute is written, the DOSA offenders who fail the program are being rewarded as opposed to those who succeed at completing the program. An offender who fails the DOSA program serves his or her sentence and then is released as a free person. An offender who succeeds through the program must not only complete the program, but must also serve a specified time period on community custody.

This bill will correct both of the problems stated above. Both the Sentencing Guidelines Commission and the Department of Corrections believes this is good policy.

**Testimony Against:** None.

**Testified:** (In favor) Joseph D. Lehman, Department of Corrections.