

SENATE BILL REPORT

E2SHB 1006

As Reported By Senate Committee On:
Judiciary, March 29, 1999
Human Services & Corrections, April 1, 1999
Ways & Means, April 5, 1999

Title: An act relating to sentencing for crimes involving drugs or alcohol.

Brief Description: Revising sentencing options for drug and alcohol offenders.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, O'Brien, Benson, Radcliff, Quall, Mitchell, Dickerson, Cairnes, Hurst, Alexander and Lambert).

Brief History: Passed House 3/11/99, 96-0.

Committee Activity: Judiciary: 3/22/99, 3/29/99 [DPA-HSC].

Human Services & Corrections: 4/1/99 [DPA-WM].

Ways & Means: 4/2/99, 4/5/99 [DPA (HSC)].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended and be referred to Committee on Human Services & Corrections.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Thibaudeau and Zarelli.

Staff: Harry Steinmetz (786-7421)

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles, Long, Patterson, Sheahan and Stevens.

Staff: Fara Daun (786-7459)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended by Committee on Human Services & Corrections.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Honeyford, Kline, Kohl-Welles, Long, Rasmussen, Rossi, B. Sheldon, Snyder, Spanel, West, Winsley, Wojahn and Zarelli.

Staff: Bryon Moore (786-7726)

Background: Under current law, the drug offender sentencing alternative (DOSA) is available only to those persons convicted of violating the Uniformed Controlled Substances Act, or of a solicitation to violate the act. Offenders who have committed felonies related to their chemical dependency but which are not drug offenses are not eligible for DOSA. Concerns exist that this restriction has resulted in less utilization of DOSA than anticipated.

The Work Ethic Camp (WEC) is a sentencing alternative for offenders convicted of felonies other than sex offenses or violent offenses. Current law permits drug offenders to participate in WEC. WEC does not provide drug treatment.

Several counties have established drug courts to address nonviolent offenses where the offender is chemically dependent or the offense is related to the offender's substance abuse. Drug courts are presently located in King, Pierce, Spokane, Skagit, Clallam and Thurston counties and several other counties are in the process of implementing drug court. Most drug courts are initially funded with a combination of local and federal monies, but federal funding is time limited and several counties are near the end of this funding resource. Drug courts are distinct from DOSA.

Summary of Amended Bill: DOSA is expanded to include offenders convicted of any felony that is not a violent or sex offense, where the offender has no current or prior violent or sex offenses and is not subject to deportation. If the felony is a drug offense, to be eligible, the offense must have involved only a small quantity of the controlled substance.

Where chemical dependency contributed to an offense, the court may order rehabilitative treatment or other affirmative conduct reasonably related to the circumstances of the crime and reasonably necessary or beneficial to the offender or community in rehabilitating the offender. This provision applies to any sentence that includes a term other than, or in addition to, total confinement including a suspended sentence.

Unless specifically waived by the court, prior to sentencing, the court must require a chemical dependency screening and a presentence report for all offenders convicted of violations of the Uniform Controlled Substances Act, or where the court has reason to believe that the offender is chemically dependent and that contributed to his or her offense.

An offender is eligible to be sentenced to the Work Ethic Camp if he or she was sentenced to between one and three years, has no current or prior violent or sex offenses, and has no current violations of the Uniform Controlled Substances Act, is not subject to a federal deportation detainer or order, and has not previously participated in the Work Ethic Camp. The legislation strikes the prohibition on accruing good time at WEC and the three-to-one time conversion formula for WEC participants.

When sentencing an offender under DOSA, the defendant is incarcerated in the Department of Corrections for one half of the midpoint of the defendant's sentencing range. Subsequently, the defendant is in community custody for the remainder of his or her sentence and must be in an approved substance abuse treatment program. The court may prohibit the offender from using alcohol or controlled substances and impose other conditions including affirmative conditions. If an offender fails to complete DOSA, is administratively terminated from DOSA, or otherwise violates release conditions, the department must hold a hearing, unless waived by the offender, and the offender may be reclassified to serve the remainder

of his or her sentence as ordered by the sentencing court. If reclassified, the offender is subject to all early release provisions.

Counties may convert jail confinement to an available county supervised option for offenders convicted of crimes other than violent and sex offenses and require affirmative conduct including treatment.

Counties are authorized to establish drug court programs to accept offenders that the courts have diverted from the normal course of prosecution for drug offenses. A drug court– is a court that has special calendars or dockets designed to reduce recidivism and substance abuse among nonviolent, substance abusing offenders by increasing their likelihood for successful rehabilitation through judicially supervised treatment, mandatory periodic drug testing, and appropriate sanctions and other rehabilitation services. Counties are required to fully exhaust all available federal drug court funding and make a dollar-for-dollar match before seeking state funds for drug court programs. DSHS is required to contract with the counties to provide treatment services for drug court programs.

The Washington State Institute for Public Policy and the Sentencing Guidelines Commission must conduct a five-year study on the effect of the changes in the DOSA program.

Judiciary Amended Bill Compared to Substitute Bill: Offenders convicted of solicitation of drug offenses are specifically made eligible for the DOSA program and are specifically made ineligible for Work Ethic Camp. The Sentencing Guidelines Commission is directed to conduct a five year study on the effect of the changes in the DOSA program. Technical changes were made in the language to harmonize it with the Governor’s Community Corrections bill.

Human Services & Corrections Amended Bill Compared to Judiciary Amended Bill: Requires the study to be conducted by the Washington State Institute for Public Policy in conjunction with the commission, restricts the null and void clause to the drug court sections of the bill, and makes technical changes.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For (Judiciary): This bill is the result of a working group during the interim. Everyone from the prosecutors and the defense attorneys to the treatment providers and the police officers was included in the discussion and everyone has agreed this is a good bill. This is a measure that gets tough on those who have a substance abuse problem, but also stops the revolving door to the prisons. It gives the offender the treatment he needs so he is less likely to offend again, while still requiring confinement. Many offenders feel it is more difficult to do a drug treatment program than to simply serve their time. Allowing the counties to create drug courts has proven very effective in fighting drug crimes. For every \$1 spent, there has been shown to be \$2 in savings and recidivism has been reduced by 60 percent. This a way to hold the offender accountable while addressing the addiction.

Testimony Against (Judiciary): None.

Testified (Judiciary): PRO: Jim Crane, King County Office of Public Defense; Roger Lake, Washington State Narcotics Investigators Association; Steve Freng, NW HIDTA; Patty Terry, DOC; Russ Hauge, Kitsap County Prosecutor and WAPA; Doug Blair, Yakima County Sheriff and WASPC; Roger Goodman, Sentencing Guidelines Commission; Ken Stark, DSHS/DASA; Judge Rick Strophy, Thurston County Superior Court; Terree Schmidt-Whalen, Pierce County Drug Court; Bill Jaquette, WDA and WACDL.

Testimony For (Human Services & Corrections): Brings all the stake holders together to hold these offenders accountable in a way that will reduce recidivism from 25 percent to 9 percent. It is more difficult for the offender and more effective than jail.

Testimony Against (Human Services & Corrections): The prerequisite of exhausting federal funds should be amended to consider federal budget timing.

Testified (Human Services & Corrections): PRO: Representative Ida Ballasiotes, prime sponsor; Mike Seely, Mothers Against Violence in America; Steven Fraug, Washington Drug Court Association; Honorable Rick Strophy, Thurston County Superior Court; Bill Jaquette, Washington Defenders Association (concerns).

Testimony For (Ways & Means): This bill has been long in coming. Drug courts have proven to be a cost-effective way of stopping the revolving door of justice for drug offenders. State funding and support is necessary to keep drug courts in King, Pierce and Spokane counties in operation.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Mary Taylor, King County Drug Court; Nicole MacInnes, King County Drug Court; Jim Crane, King County Office of Public Defense; Steve Fraug, Washington Drug Court Association.