

FINAL BILL REPORT

ESHB 2400

PARTIAL VETO

C 176 L 04

Synopsis as Enacted

Brief Description: Strengthening sentences for sex offenders.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives McMahan, Carrell, Mielke, Talcott, Crouse, Bush, Ahern, Newhouse, G. Simpson, Woods and Orcutt).

House Committee on Criminal Justice & Corrections

House Committee on Appropriations

Background:

The Special Sex Offender Sentencing Alternative (SSOSA) is an alternative to standard sentencing wherein the court suspends the offender's sentence in exchange for treatment and other conditions.

Eligibility for a SSOSA

An offender is eligible for a SSOSA sentence if he or she:

- is convicted of a sex offense other than a serious violent offense or rape in the second degree;
- has no prior conviction for a sex offense; and
- has a standard sentence range that includes the possibility of imprisonment for 11 years or less.

Deciding Whether to Grant a SSOSA

Prior to ordering a SSOSA, the court orders the offender to be examined. The examiner must submit a report of the examination and a proposed treatment plan to the court. After receipt of the report, the court must consider:

- whether the offender and the community would benefit from the use of a SSOSA; and
- the opinion of the victim.

Terms of a SSOSA Sentence

If a court decides to grant a SSOSA disposition, it enters a sentence and suspends its execution. The court must impose the following conditions of the suspended sentence:

- treatment for any period up to three years; and
- a term of community custody.

Also, the court has the option to impose a variety of conditions of the suspended sentence, including up to six months of confinement (not to exceed the sentence range for the offense), crime-related prohibitions, and community restitution.

Supervision of SSOSA Offenders

Offenders who receive SSOSA sentences are supervised in the community by the Department of Corrections (DOC). During the term of treatment, the treatment provider must provide quarterly reports to the court. If a violation of the terms of the suspended sentence occurs during community custody, the DOC may handle the violation administratively or refer the violation to the court. The court may revoke the suspended sentence if the offender violates any of the conditions of suspension or does not make satisfactory progress in treatment.

Treatment Termination

When imposing a SSOSA sentence, the court must set a treatment termination hearing for three months prior to the end of treatment. Prior to the hearing, the treatment provider and the DOC must report to the court and the parties regarding the offender's compliance with the conditions of his or her sentence and recommendations regarding treatment termination. Either party may request another evaluation, which the court has the option to grant. The offender must pay for the second evaluation unless the court finds him or her to be indigent, in which case the state pays. After the treatment termination hearing, the court may modify the conditions of community custody, terminate treatment, or extend treatment for up to the remaining term of community custody.

Summary:

The Special Sex Offender Sentencing Alternative

Eligibility for a SSOSA

The eligibility criteria for a SSOSA are expanded. The following persons are ineligible for a SSOSA:

- persons with adult convictions for violent offenses committed within five years of the current offense;
- persons who caused substantial bodily harm to the victim; and
- persons who had no connection with the victim other than the offense itself.

Deciding Whether to Grant a SSOSA

The proposed treatment plan must contain an identification of behaviors or activities that are precursors to the offender's offense cycle to the extent that they are known.

The court must consider the following factors when deciding whether to grant a SSOSA sentence:

- whether the offender had multiple victims;
- whether the offender is amenable to treatment. An admission to the offense, by itself, does not constitute amenability to treatment;

- the risk the offender poses to the community, the victim, or persons similarly situated to the victim; and
- whether the alternative is too lenient in light of the extent and circumstances of the offense.

The court must give great weight to the victim's opinion. If the court orders a sentence that is contrary to the victim's opinion, the court must state its reasons in writing.

Terms of a SSOSA Sentence

As a condition of the suspended sentence, the court must impose a term of incarceration of up to 12 months or the maximum of the standard range, whichever is less. The court may increase this term of incarceration up to the statutory maximum sentence for the crime for aggravating circumstances. The term may not be reduced by earned release credits and may be served in partial confinement. The court must also order prohibitions and affirmative conditions regarding known behaviors or activities that serve as precursors to the offender's offense cycle.

The maximum for the initial treatment term is increased from three years to five years. The treatment provider that provided the offender's initial examination may not be the same provider that provides treatment to the offender during the SSOSA sentence, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical.

Supervision of SSOSA Offenders

The court must conduct a hearing on the offender's progress in treatment at least once a year. The court must provide notice and the opportunity to be heard at the hearing to the victim. The court may modify community custody terms, including crime-related prohibitions and affirmative conditions relating to behaviors or activities that serve as precursors to the offender's offense cycle, or revoke the suspended sentence at the hearing.

Upon a second violation of a prohibition against precursor behaviors or activities, the DOC must refer the offender back to the court and recommend revocation of the suspended sentence.

Treatment Termination

The court must provide the victim with notice and the opportunity to be heard at the treatment termination hearing. The court may order another evaluation prior to the hearing, which may not be performed by the same treatment provider who provided treatment to the offender, unless the court has ordered written findings that such an evaluation is in the best interest of the victim and that a successful evaluation of the offender would otherwise be impractical. The provision allowing the state to pay for the evaluation if the offender is indigent is removed. After the treatment termination hearing, the court may extend treatment in two year increments.

Miscellaneous

The Washington Institute for Public Policy must perform a comprehensive analysis and evaluation of the impact and effectiveness of current sex offender sentencing policies, including the SSOSA and DOC treatment programs for incarcerated offenders, and the validity of the risk assessment tool used by the End of Sentence Review Committee. The analysis must examine whether changes to sentencing policies and sex offender programming can increase public safety. The institute analysis and evaluation of the SSOSA must include an investigation of victim impacts.

The Sentencing Guidelines Commission must examine the following issues:

- eligibility for a SSOSA;
- minimum terms of incarceration;
- appropriate conditions or restrictions that should be placed on SSOSA offenders; and
- standards for a SSOSA revocation.

The institute and the commission must report their results and recommendations to the Legislature no later than December 31, 2004.

Votes on Final Passage:

House	93	2	
Senate	40	7	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

July 1, 2005 (Sections 2-6)

Partial Veto Summary: The intent section of the bill was vetoed.