
HOUSE BILL 1393

State of Washington

58th Legislature

2003 Regular Session

By Representatives O'Brien, Moeller, Delvin, Sullivan, Kagi, Cooper, Simpson, McIntire, Flannigan and Darneille

Read first time 01/24/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to first-time offenders; amending RCW 9.94A.650;
2 adding a new section to chapter 9.94A RCW; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that there is strong
5 public support for use of first offender waiver programs for those
6 charged with nonviolent offenses. The legislature finds that the first
7 offender waiver program results in significant savings of public funds.
8 The legislature also finds that there is evidence that when the first
9 offender waiver is used for drug offenses, the rates of conviction for
10 a subsequent felony are considerably lower for those drug offenders who
11 receive the first offender waiver when compared with those who are
12 eligible but do not receive it. The legislature further finds that
13 there is strong public support for saving public funds by reinstating
14 the first offender waiver for drug offenses.

15 It is the intent of the legislature to reduce prison overcrowding,
16 reduce recidivism, and save public funds by reinstating the first
17 offender waiver for those charged with drug offenses.

1 **Sec. 2.** RCW 9.94A.650 and 2002 c 175 s 9 are each amended to read
2 as follows:

3 (1) This section applies to offenders who have never been
4 previously convicted of a felony in this state, federal court, or
5 another state, and who have never participated in a program of deferred
6 prosecution for a felony, and who are:

7 (a) Except as provided in (b) of this subsection, convicted of a
8 felony that is not:

9 ~~((a))~~ (i) Classified as a violent offense or a sex offense under
10 this chapter;

11 ~~((b))~~ (ii) Manufacture, delivery, or possession with intent to
12 manufacture or deliver a controlled substance classified in Schedule I
13 or II that is a narcotic drug or flunitrazepam classified in Schedule
14 IV;

15 ~~((c))~~ (iii) Manufacture, delivery, or possession with intent to
16 deliver a methamphetamine, its salts, isomers, and salts of its isomers
17 as defined in RCW 69.50.206(d)(2); or

18 ~~((d))~~ (iv) The selling for profit of any controlled substance or
19 counterfeit substance classified in Schedule I, RCW 69.50.204, except
20 leaves and flowering tops of marijuana; or

21 (b)(i) Convicted of the manufacture, delivery, or possession with
22 the intent to manufacture or deliver a controlled substance classified
23 in schedule I, RCW 69.50.204, or schedule II, RCW 69.50.206, or the
24 selling for profit of any controlled substance or counterfeit substance
25 classified in schedule I, RCW 69.50.204, who the court determines to be
26 in need of treatment for drug abuse; or

27 (ii) An offender determined by the court not to be in need of
28 treatment for drug abuse, and who is otherwise eligible for the
29 first-time offender option under this section, and the court determines
30 that the offender had a minimal role in the offense or acted under
31 duress not constituting a defense or that there are other strong
32 mitigating circumstances, then the court may order a sentence employing
33 the first-time offender option under this section.

34 (2) In sentencing a first-time offender the court may waive the
35 imposition of a sentence within the standard sentence range and impose
36 a sentence which may include up to ninety days of confinement in a
37 facility operated or utilized under contract by the county and a
38 requirement that the offender refrain from committing new offenses.

1 The sentence may also include a term of community supervision or
2 community custody as specified in subsection (3) of this section,
3 which, in addition to crime-related prohibitions, may include
4 requirements that the offender perform any one or more of the
5 following:

- 6 (a) Devote time to a specific employment or occupation;
- 7 (b) Undergo available outpatient treatment for up to the period
8 specified in subsection (3) of this section, or inpatient treatment not
9 to exceed the standard range of confinement for that offense;
- 10 (c) Pursue a prescribed, secular course of study or vocational
11 training;
- 12 (d) Remain within prescribed geographical boundaries and notify the
13 community corrections officer prior to any change in the offender's
14 address or employment;
- 15 (e) Report as directed to a community corrections officer; or
- 16 (f) Pay all court-ordered legal financial obligations as provided
17 in RCW 9.94A.030 and/or perform community restitution work.

18 (3) The terms and statuses applicable to sentences under subsection
19 (2) of this section are:

20 (a) For sentences imposed on or after July 25, 1999, for crimes
21 committed before July 1, 2000, up to one year of community supervision.
22 If treatment is ordered, the period of community supervision may
23 include up to the period of treatment, but shall not exceed two years;
24 and

25 (b) For crimes committed on or after July 1, 2000, up to one year
26 of community custody unless treatment is ordered, in which case the
27 period of community custody may include up to the period of treatment,
28 but shall not exceed two years. Any term of community custody imposed
29 under this section is subject to conditions and sanctions as authorized
30 in this section and in RCW 9.94A.715 (2) and (3).

31 (4) The department shall discharge from community supervision any
32 offender sentenced under this section before July 25, 1999, who has
33 served at least one year of community supervision and has completed any
34 treatment ordered by the court.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW
36 to read as follows:

37 Offenders who are in prison who were sentenced for a drug offense

1 since July 1, 1988, and who would have been eligible for the first-time
2 offender option under RCW 9.94A.650 had it been in effect at the time
3 of sentencing, may request review by the sentencing court and
4 resentencing to a first-time offender option to include a drug
5 treatment program acceptable to the court. The request for review must
6 include a presentation of an appropriate proposed course of treatment.

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