

E2SHB 2015 - S AMD 496

By Senators Kline, Hargrove

ADOPTED 04/12/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.94A.660 and 2002 c 290 s 20 and 2002 c 175 s 10 are
4 each reenacted and amended to read as follows:

5 (1) An offender is eligible for the special drug offender
6 sentencing alternative if:

7 (a) The offender is convicted of a felony that is not a violent
8 offense or sex offense and the violation does not involve a sentence
9 enhancement under RCW 9.94A.533 (3) or (4);

10 (b) The offender has no current or prior convictions for a sex
11 offense at any time or violent offense within ten years before
12 conviction of the current offense, in this state, another state, or the
13 United States;

14 (c) For a violation of the Uniform Controlled Substances Act under
15 chapter 69.50 RCW or a criminal solicitation to commit such a violation
16 under chapter 9A.28 RCW, the offense involved only a small quantity of
17 the particular controlled substance as determined by the judge upon
18 consideration of such factors as the weight, purity, packaging, sale
19 price, and street value of the controlled substance; ~~((and))~~

20 (d) The offender has not been found by the United States attorney
21 general to be subject to a deportation detainer or order and does not
22 become subject to a deportation order during the period of the
23 sentence; and

24 (e) The standard sentence range for the current offense is greater
25 than one year.

26 (2) A motion for a sentence under this section may be made by the
27 court, the offender, or the state. If ~~((the standard sentence range is~~
28 ~~greater than one year and))~~ the sentencing court determines that the
29 offender is eligible for this alternative ~~((and that))~~, the court may

1 order an examination of the offender. The examination shall, at a
2 minimum, address the following issues:

3 (a) Whether the offender suffers from drug addiction;

4 (b) Whether the addiction is such that there is a probability that
5 criminal behavior will occur in the future;

6 (c) Whether effective treatment for the offender's addiction is
7 available from a provider that has been licensed or certified by the
8 division of alcohol and substance abuse of the department of social and
9 health services; and

10 (d) Whether the offender and the community will benefit from the
11 use of the alternative(~~(, the judge may)~~).

12 (3) The examination report must contain:

13 (a) Information on the issues required to be addressed in
14 subsection (2) of this section; and

15 (b) A proposed treatment plan that must, at a minimum, contain:

16 (i) A proposed treatment provider that has been licensed or
17 certified by the division of alcohol and substance abuse of the
18 department of social and health services;

19 (ii) The recommended frequency and length of treatment, including
20 both residential chemical dependency treatment and treatment in the
21 community;

22 (iii) A proposed monitoring plan, including any requirements
23 regarding living conditions, lifestyle requirements, and monitoring by
24 family members and others; and

25 (iv) Recommended crime-related prohibitions and affirmative
26 conditions.

27 (4) After receipt of the examination report, if the court
28 determines that a sentence under this section is appropriate, the court
29 shall waive imposition of a sentence within the standard sentence range
30 and impose a sentence (~~that must include~~) consisting of either a
31 prison-based alternative under subsection (5) of this section or a
32 residential chemical dependency treatment-based alternative under
33 subsection (6) of this section. The residential chemical dependency
34 treatment-based alternative is only available if the midpoint of the
35 standard range is twenty-four months or less.

36 (5) The prison-based alternative shall include:

37 (a) A period of total confinement in a state facility for one-half
38 of the midpoint of the standard sentence range. During incarceration

1 in the state facility, offenders sentenced under this subsection shall
2 undergo a comprehensive substance abuse assessment and receive, within
3 available resources, treatment services appropriate for the offender.
4 The treatment services shall be designed by the division of alcohol and
5 substance abuse of the department of social and health services, in
6 cooperation with the department of corrections(~~(-)~~);

7 ~~((The court shall also impose:~~

8 ~~(a))~~ (b) The remainder of the midpoint of the standard range as a
9 term of community custody which must include appropriate substance
10 abuse treatment in a program that has been approved by the division of
11 alcohol and substance abuse of the department of social and health
12 services. If the department finds that conditions have been willfully
13 violated, the offender may be reclassified to serve the remaining
14 balance of the original sentence. An offender who fails to complete
15 the program or who is administratively terminated from the program
16 shall be reclassified to serve the unexpired term of his or her
17 sentence as ordered by the sentencing court;

18 ~~((b))~~ (c) Crime-related prohibitions including a condition not to
19 use illegal controlled substances;

20 ~~((e))~~ (d) A requirement to submit to urinalysis or other testing
21 to monitor that status; and

22 ~~((d))~~ (e) A term of community custody pursuant to RCW 9.94A.715
23 to be imposed upon failure to complete or administrative termination
24 from the special drug offender sentencing alternative program.

25 (6) The residential chemical dependency treatment-based alternative
26 shall include:

27 (a) A term of community custody equal to one-half of the midpoint
28 of the standard sentence range or two years, whichever is greater,
29 conditioned on the offender entering and remaining in residential
30 chemical dependency treatment certified under chapter 70.96A RCW for a
31 period set by the court between three and six months. If the court
32 imposes a term of community custody, the department shall, within
33 available resources, make chemical dependency assessment and treatment
34 services available to the offender during the term of community
35 custody. The court shall impose, as conditions of community custody,
36 treatment and other conditions as proposed in the plan under subsection
37 (3)(b) of this section. The department may impose conditions and
38 sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7),

1 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing
2 during the period of residential chemical dependency treatment, and
3 schedule a treatment termination hearing for three months before the
4 expiration of the term of community custody;

5 (b) Before the progress hearing and treatment termination hearing,
6 the treatment provider and the department shall submit written reports
7 to the court and parties regarding the offender's compliance with
8 treatment and monitoring requirements, and recommendations regarding
9 termination from treatment. At the hearing, the court may:

10 (i) Authorize the department to terminate the offender's community
11 custody status on the expiration date determined under (a) of this
12 subsection; or

13 (ii) Continue the hearing to a date before the expiration date of
14 community custody, with or without modifying the conditions of
15 community custody; or

16 (iii) Impose a term of total confinement equal to one-half the
17 midpoint of the standard sentence range, followed by a term of
18 community custody under RCW 9.94A.715;

19 (c) If the court imposes a term of total confinement under (b)(iii)
20 of this subsection, the department shall, within available resources,
21 make chemical dependency assessment and treatment services available to
22 the offender during the terms of total confinement and community
23 custody.

24 (7) If the court imposes a sentence under this section, the court
25 may prohibit the offender from using alcohol or controlled substances
26 and may require that the monitoring for controlled substances be
27 conducted by the department or by a treatment alternatives to street
28 crime program or a comparable court or agency-referred program. The
29 offender may be required to pay thirty dollars per month while on
30 community custody to offset the cost of monitoring. In addition, the
31 court ((shall)) may impose ((three or more)) any of the following
32 conditions:

33 ((+i)) (a) Devote time to a specific employment or training;

34 ((+ii)) (b) Remain within prescribed geographical boundaries and
35 notify the court or the community corrections officer before any change
36 in the offender's address or employment;

37 ((+iii)) (c) Report as directed to a community corrections
38 officer;

1 ~~((iv))~~ (d) Pay all court-ordered legal financial obligations;
2 ~~((v))~~ (e) Perform community restitution work;
3 ~~((vi))~~ (f) Stay out of areas designated by the sentencing court;
4 ~~((vii))~~ (g) Such other conditions as the court may require such
5 as affirmative conditions.

6 ~~((3))~~ (8)(a) The court may bring any offender sentenced under
7 this section back into court at any time on its own initiative to
8 evaluate the offender's progress in treatment or to determine if any
9 violations of the conditions of the sentence have occurred.

10 (b) If the offender is brought back to court, the court may modify
11 the terms of the community custody or impose sanctions under (c) of
12 this subsection.

13 (c) The court may order the offender to serve a term of total
14 confinement within the standard range of the offender's current offense
15 at any time during the period of community custody if the offender
16 violates the conditions of the sentence or if the offender is failing
17 to make satisfactory progress in treatment.

18 (d) An offender ordered to serve a term of total confinement under
19 (c) of this subsection shall receive credit for any time previously
20 served under this section.

21 (9) If ~~((the))~~ an offender ~~((violates any of the sentence~~
22 ~~conditions in subsection (2) of this section or))~~ sentenced to the
23 prison-based alternative under subsection (5) of this section is found
24 by the United States attorney general to be subject to a deportation
25 order, a ~~((violation))~~ hearing shall be held by the department unless
26 waived by the offender~~((-~~

27 ~~((a))~~ ~~If the department finds that conditions have been willfully~~
28 ~~violated, the offender may be reclassified to serve the remaining~~
29 ~~balance of the original sentence.~~

30 ~~((b))~~ , and, if the department finds that the offender is subject to
31 a valid deportation order, the department may administratively
32 terminate the offender from the program and reclassify the offender to
33 serve the remaining balance of the original sentence.

34 ~~((4))~~ ~~The department shall determine the rules for calculating the~~
35 ~~value of a day fine based on the offender's income and reasonable~~
36 ~~obligations which the offender has for the support of the offender and~~
37 ~~any dependents. These rules shall be developed in consultation with~~

1 ~~the administrator for the courts, the office of financial management,~~
2 ~~and the commission.~~

3 ~~(5)) (10) An offender ((who fails to complete the special drug~~
4 ~~offender sentencing alternative program or who is administratively~~
5 ~~terminated from the program shall be reclassified to serve the~~
6 ~~unexpired term of his or her sentence as ordered by the sentencing~~
7 ~~court and)) sentenced under this section shall be subject to all rules~~
8 ~~relating to earned release time with respect to any period served in~~
9 ~~total confinement. ((An offender who violates any conditions of~~
10 ~~supervision as defined by the department shall be sanctioned.~~
11 ~~Sanctions may include, but are not limited to, reclassifying the~~
12 ~~offender to serve the unexpired term of his or her sentence as ordered~~
13 ~~by the sentencing court. If an offender is reclassified to serve the~~
14 ~~unexpired term of his or her sentence, the offender shall be subject to~~
15 ~~all rules relating to earned release time.))~~

16 (11) Costs of examinations and preparing treatment plans under
17 subsections (2) and (3) of this section may be paid, at the option of
18 the county, from funds provided to the county from the criminal justice
19 treatment account under RCW 70.96A.350.

20 NEW SECTION. Sec. 2. This act applies to sentences imposed on or
21 after the effective date of this act.

22 NEW SECTION. Sec. 3. This act takes effect October 1, 2005."

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23 On page 1, line 1 of the title, after "treatment;" strike the
24 remainder of the title and insert "reenacting and amending RCW
25 9.94A.660; creating a new section; and providing an effective date."

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