

# FINAL BILL REPORT

## E2SHB 2015

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C 460 L 05

Synopsis as Enacted

**Brief Description:** Changing provisions relating to judicially supervised substance abuse treatment.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Kagi, O'Brien, Hinkle, Fromhold, Darneille, Upthegrove, Tom, Kenney and Dickerson).

**House Committee on Criminal Justice & Corrections**

**House Committee on Appropriations**

**Senate Committee on Judiciary**

### **Background:**

The Drug Offender Sentencing Alternative (DOSA) is an alternative sentencing program that allows a court to waive imposition of an offender's sentence within the standard sentencing range.

If the court determines that a DOSA sentence is appropriate for an offender then it may impose an alternative 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, within available resources, substance abuse treatment and counseling.

The offender must spend the remainder of the midpoint of the standard sentencing range in community custody following incarceration. The community custody portion of the sentence must include alcohol and substance abuse treatment which has been approved by the Division of Alcohol and Substance Abuse (DASA) of the Department of Social and Health Services. Offenders may also be required to adhere to crime related prohibitions and affirmative conditions as part of their sentence, as well as pay a \$30 per month fee while on community custody to offset the cost of monitoring.

*DOSA Eligibility.* An offender is eligible for the prison-based DOSA program if he or she:

- is convicted of a felony that is not a sex or violent offense and the violation does not involve a sentence enhancement;
- has no current or prior convictions for a sex offense;
- has no current or prior convictions for a violent offense;
- would receive a standard sentence range for the current offense which is greater than one year;
- is not subject to a deportation detainer or order; and
- has committed a Violation of the Uniform Controlled Substance Act (VUSCA) where the offense only involves a small quantity of drugs as determined by the court.

If an offender violates or fails to complete the DOSA sentencing conditions, a violation hearing must be held by the Department of Corrections (DOC). If the DOC finds that conditions have been willfully violated, the offender may be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing judge. If an offender is reclassified to serve the unexpired term of his or her sentence, the offender will be subject to all rules relating to earned early release time.

**Summary:**

In addition to the original prison-based DOSA, where incarceration in prison is a portion of a DOSA sentence, a new residential chemical dependency treatment-based alternative (residential treatment DOSA program) is created. Courts have the option to sentence a nonviolent offender with a substance abuse addiction to either the current prison-based DOSA or the new residential chemical dependency treatment-based alternative.

*DOSA Eligibility.* In addition to the current DOSA eligibility requirements, both DOSA programs require that:

- the offender not have been convicted of a violent offense in the last 10 years;
- the offender has never been convicted of a sex offense;
- the standard sentence range for the current offense is greater than one year for the offense that the offender is charged with; and
- the offender has not received a DOSA sentence more than once in the prior ten years before the current offense.

A motion for a DOSA sentence may be made by the court, the offender, or the state. If the court determines that the offender is eligible for a DOSA sentence, the court may order an examination of the offender. The examination report must contain information on the offender's addiction issues to be addressed and a proposed treatment plan. The treatment plan must contain: (1) a proposed DASA licensed or certified treatment provider; (2) the recommended frequency and length of treatment, including both residential chemical dependency treatment and community-based treatment; (3) a proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and (4) recommended crime-related prohibitions and affirmative conditions. After receipt of the examination report, the court may impose a DOSA sentence (either prison-based DOSA or the new residential chemical dependency treatment-based alternative) if it is determined to be appropriate.

Costs of the examinations and preparing treatment plans may be paid from funds provided to a county from the criminal justice treatment account.

The court may bring an offender participating in a DOSA program back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred. If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions. The sanctions may include ordering the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community

custody if the offender violates the conditions of the sentence or if the court finds that the offender is failing to make satisfactory progress in treatment. If an offender is ordered to serve a term of total confinement then he or she will receive credit for any time previously served.

*Residential Chemical Dependency Treatment-Based Alternative (DOSA) Sentence, Treatment, & Sanctions.* If a court determines a DOSA sentence is appropriate for an offender, the court may order the offender to a prison-based DOSA sentence or a residential chemical dependency treatment-based alternative DOSA sentence. The residential chemical dependency treatment-based alternative is only available to an offender if the midpoint of his or her standard sentence range is twenty-four months or less. If a residential chemical dependency treatment-based alternative DOSA sentence is ordered then the court must impose a term of community custody equal to one-half of the midpoint of the standard sentence or two years, whichever is greater. The community custody sentence is conditioned upon the offender entering and remaining in a certified residential treatment program for a period of three to six months as set by the court.

In addition, the court must impose, as conditions of community custody, treatment and any other conditions as stated in the offender's treatment and monitoring plans. An offender may also be required to adhere to crime related prohibitions and affirmative conditions as part of his or her sentence. If the court imposes a residential community custody sentence, the DOC must, within available resources, make chemical dependency assessments and treatment available to the offender.

The court must schedule a treatment termination hearing three months prior to the offender's anticipated completion date of community custody. Prior to the treatment termination hearing, the treatment provider and the DOC must submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding the offender's termination from treatment.

At the treatment termination hearing, the court may: (1) authorize the DOC to terminate the offender's community custody on the scheduled expiration date; (2) modify the conditions of the community custody and continue the hearing to a date before the expiration date of the offender's community custody; or (3) impose a term of incarceration equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody. If the court imposes a term of incarceration, the DOC must, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

**Votes on Final Passage:**

House	58	37	
Senate	46	1	(Senate amended)
House	64	34	(House concurred)

**Effective:** October 1, 2005