
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2015

State of Washington

59th Legislature

2005 Regular Session

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

READ FIRST TIME 03/07/05.

1 AN ACT Relating to judicially supervised substance abuse treatment;
2 reenacting and amending RCW 9.94A.660; creating a new section; and
3 providing an effective date.

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

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

7 (1) An offender is eligible for the special drug offender
8 sentencing alternative if:

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

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

16 (c) For a violation of the Uniform Controlled Substances Act under
17 chapter 69.50 RCW or a criminal solicitation to commit such a violation
18 under chapter 9A.28 RCW, the offense involved only a small quantity of

1 the particular controlled substance as determined by the judge upon
2 consideration of such factors as the weight, purity, packaging, sale
3 price, and street value of the controlled substance; ~~((and))~~

4 (d) The offender has not been found by the United States attorney
5 general to be subject to a deportation detainer or order and does not
6 become subject to a deportation order during the period of the
7 sentence; and

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

10 (2) A motion for a sentence under this section may be made by the
11 court, the offender, or the state. If ~~((the standard sentence range is~~
12 ~~greater than one year and))~~ the sentencing court determines that the
13 offender is eligible for this alternative ~~((and that))~~, the court may
14 order an examination of the offender. The examination shall, at a
15 minimum, address the following issues:

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

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

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

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

25 (3) The examination report must contain:

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

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

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

32 (ii) The recommended frequency and length of treatment, including
33 both residential chemical dependency treatment and treatment in the
34 community;

35 (iii) A proposed monitoring plan, including any requirements
36 regarding living conditions, lifestyle requirements, and monitoring by
37 family members and others; and

1 (iv) Recommended crime-related prohibitions and affirmative
2 conditions.

3 (4) After receipt of the examination report, if the court
4 determines that a sentence under this section is appropriate, the court
5 shall waive imposition of a sentence within the standard sentence range
6 and impose a sentence ~~((that must include))~~ consisting of either a
7 prison-based alternative under subsection (5) of this section or a
8 community-based alternative under subsection (6) of this section.

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

10 (a) A period of total confinement in a state facility for one-half
11 of the midpoint of the standard sentence range. During incarceration
12 in the state facility, offenders sentenced under this subsection shall
13 undergo a comprehensive substance abuse assessment and receive, within
14 available resources, treatment services appropriate for the offender.
15 The treatment services shall be designed by the division of alcohol and
16 substance abuse of the department of social and health services, in
17 cooperation with the department of corrections~~((-))~~;

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

19 ~~(a))~~ (b) The remainder of the midpoint of the standard range as a
20 term of community custody which must include appropriate substance
21 abuse treatment in a program that has been approved by the division of
22 alcohol and substance abuse of the department of social and health
23 services. If the department finds that conditions have been willfully
24 violated, the offender may be reclassified to serve the remaining
25 balance of the original sentence. An offender who fails to complete
26 the program or who is administratively terminated from the program
27 shall be reclassified to serve the unexpired term of his or her
28 sentence as ordered by the sentencing court;

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

31 ~~((c))~~ (d) A requirement to submit to urinalysis or other testing
32 to monitor that status; and

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

36 (6) The community-based alternative shall include:

37 (a) A term of community custody equal to one-half of the midpoint
38 of the standard sentence range or two years, whichever is greater. If

1 the court imposes a term of community custody, the department shall,
2 within available resources, make chemical dependency assessment and
3 treatment services available to the offender during the term of
4 community custody. The court shall impose, as conditions of community
5 custody, treatment and other conditions as proposed in the plan under
6 subsection (3)(b) of this section. The department may impose
7 conditions and sanctions as authorized in RCW 9.94A.715 (2), (3), (6),
8 and (7), 9.94A.737, and 9.94A.740. The court shall schedule a
9 treatment termination hearing for three months before the expiration of
10 the term of community custody;

11 (b) Before the treatment termination hearing, the treatment
12 provider and the department shall submit written reports to the court
13 and parties regarding the offender's compliance with treatment and
14 monitoring requirements, and recommendations regarding termination from
15 treatment. At the hearing, the court may:

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

19 (ii) Continue the hearing to a date before the expiration date of
20 community custody, with or without modifying the conditions of
21 community custody; or

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

25 (c) If the court imposes a term of total confinement under (b)(iii)
26 of this subsection, the department shall, within available resources,
27 make chemical dependency assessment and treatment services available to
28 the offender during the terms of total confinement and community
29 custody.

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

1 ~~((i))~~ (a) Devote time to a specific employment or training;

2 ~~((ii))~~ (b) Remain within prescribed geographical boundaries and
3 notify the court or the community corrections officer before any change
4 in the offender's address or employment;

5 ~~((iii))~~ (c) Report as directed to a community corrections
6 officer;

7 ~~((iv))~~ (d) Pay all court-ordered legal financial obligations;

8 ~~((v))~~ (e) Perform community restitution work;

9 ~~((vi))~~ (f) Stay out of areas designated by the sentencing court;

10 ~~((vii))~~ (g) Such other conditions as the court may require such
11 as affirmative conditions.

12 ~~((3))~~ (8)(a) The court may bring any offender sentenced under
13 this section back into court at any time on its own initiative to
14 evaluate the offender's progress in treatment or to determine if any
15 violations of the conditions of the sentence have occurred.

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

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

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

27 (9) If ~~((the))~~ an offender ~~((violates any of the sentence~~
28 ~~conditions in subsection (2) of this section or))~~ sentenced to the
29 prison-based alternative under subsection (5) of this section is found
30 by the United States attorney general to be subject to a deportation
31 order, a ~~((violation))~~ hearing shall be held by the department unless
32 waived by the offender(~~-~~

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

36 ~~(b))~~, and, if the department finds that the offender is subject to
37 a valid deportation order, the department may administratively

1 terminate the offender from the program and reclassify the offender to
2 serve the remaining balance of the original sentence.

3 ~~((4) The department shall determine the rules for calculating the
4 value of a day fine based on the offender's income and reasonable
5 obligations which the offender has for the support of the offender and
6 any dependents. These rules shall be developed in consultation with
7 the administrator for the courts, the office of financial management,
8 and the commission.~~

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

22 (11) Costs of examinations and preparing treatment plans under
23 subsections (2) and (3) of this section may be paid from funds provided
24 to a county from the criminal justice treatment account under RCW
25 70.96A.350.

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

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

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