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## Public Safety Committee

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### HB 2484

**Brief Description:** Modifying drug offender sentencing alternatives.

**Sponsors:** Representatives Kagi, Hayes, Roberts, Appleton, Freeman, Hope, Tharinger and Goodman.

<p><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Changes and expands the eligibility requirements for participation in a residential chemical dependency treatment alternative program.</li></ul>
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**Hearing Date:** 1/28/14

**Staff:** Yvonne Walker (786-7841).

**Background:**

For some types of offenses and offenders, sentencing courts have discretion to order alternative sentences. These are statutory alternatives to the standard sentence range for certain offenders who meet the eligibility criteria. One of these alternatives is the Drug Offender Sentencing Alternative (DOSA).

Drug Offender Sentencing Alternative.

If a defendant is charged with an offense under the Violation of the Uniform Controlled Substances Act (VUCSA) or any other felony and the court finds that the offender has a chemical dependency that contributed to the crime, the offender may be eligible for and move the court for a Drug Offender Sentencing Alternative (DOSA), if the following criteria are met:

- the standard sentence range for the offense is more than one year;
- the offender has not previously received a DOSA more than once in the last 10 years;
- the offender has no prior convictions for sex offenses and the current offense is not a sex offense;
- the current offense is nonviolent and the offender has no prior violent offenses in the past 10 years;

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- the current offense is not a felony offense of driving under the influence or physical control;
- no deadly weapon or firearms enhancement applies to the current offense;
- the defendant is not subject to a federal immigration detainer or deportation order; and
- the offense involved a small amount of drugs as determined by the court.

The court must consider four factors in its determination of whether a DOSA is appropriate for the offender:

- whether the offender suffers from a drug addiction;
- whether that addiction makes it probable that criminal behavior will occur in the future;
- whether effective treatment for that addiction is available; and
- whether the offender and the community will benefit from the sentencing alternative.

If the court imposes a DOSA instead of the standard sentence range, the sentence consists of either a prison-based DOSA or a residential chemical dependency treatment-based DOSA.

The residential DOSA is only available if the midpoint of the standard range is 24 months or less. A sentence for residential DOSA includes a term of community custody equal to one-half the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender entering and remaining in residential chemical dependency treatment for three to six months as determined by the court.

The court may bring an offender participating in any 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. Upon that evaluation the court may modify the terms of the community custody or impose sanctions for any violations. 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. An offender ordered to serve a term of total confinement must receive credit for any time previously served.

#### Criminal Justice Treatment Account.

In 2002 the Legislature created the Criminal Justice Treatment Account (Account) in the State Treasury. Moneys in the Account were to be expended solely for: (1) substance abuse treatment and treatment support services for offenders with an addiction, against whom charges are filed by a prosecuting attorney in Washington; (2) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program; (3) the administrative and overhead costs associated with the operation of a drug court; and (4) offsetting reductions in the State General Fund for treatment services provided by counties during the 2011-2013 biennium.

#### **Summary of Bill:**

The eligibility for the residential DOSA is expanded and made available to offenders whose standard sentencing range includes a midpoint of 36 months (instead of 24 months) or less.

The court will continue to have the authority to evaluate an offender's progress while participating in a DOSA program. If such offender is found in violation of his or her sentence conditions or failing to make satisfactory progress in treatment, the court may order the offender to serve a period of community custody following a mandated term of total confinement (within the standard range of the offender's offense) for such violations.

An offender revoked from a DOSA program and ordered to serve a term of confinement must receive credit for any confinement term, including any in-patient treatment time, previously served. Absent a court order, any time spent on community custody pursuant to the DOSA program cannot be credited towards a term of total confinement ordered by the court following a revocation. However, any time spent on community custody before the revocation that is not credited towards total confinement (as ordered by the court) must be credited towards any community custody following a term of total confinement ordered by a court upon revocation.

Costs of the examinations and preparing treatment plans under the DOSA program may be paid from funds provided to a county from the Account.

**Appropriation:** None.

**Fiscal Note:** Requested on January 22, 2014.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.