

# SENATE BILL REPORT

## SB 6282

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As of February 5, 2014

**Title:** An act relating to improving the drug offender sentencing alternatives.

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

**Sponsors:** Senators O'Ban, Hargrove and Darneille.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/03/14.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Shani Bauer (786-7468)

**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. Offenders are eligible for DOSA if they:

- are convicted of a felony that is not a sex or violent offense, if the violation does not involve a sentence enhancement;
- are convicted of a felony that is not a felony driving under the influence of liquor or a drug;
- have no current or prior convictions for a sex offense or a violent offense within ten years of the current offense;
- would receive a standard sentence range for the current offense which is greater than one year;
- are not subject to a deportation detainer or order;
- have committed a violation of the Uniform Controlled Substance Act where the offense only involves a small quantity of drugs; and
- have not received a DOSA sentence in the prior ten years.

If an offender is eligible for a DOSA sentence, the court may order an examination of the offender. Contents of the examination report are specified, including an evaluation of the offender, a proposed treatment plan, a proposed monitoring plan, and recommended conditions of sentence.

If a court determines that 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

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treatment-based alternative DOSA sentence. The residential alternative is only available if the midpoint of the standard range is 24 months or less. If the offender is sentenced to the residential alternative, the recommendations in the examination report are incorporated into the offender's sentence. If the offender is sentenced to a prison-based alternative, the offender is reevaluated by the Department of Corrections once in the facility.

When sentencing an offender to a prison-based DOSA, the court must sentence an offender to confinement for one-half the midpoint of the standard sentence range or 12 months, whichever is greater, and a community custody term for one-half the midpoint of the standard sentence range.

**Summary of Bill:** A residential DOSA sentence is available if the midpoint of the standard range for the offender's crime is 36 months or less. At a progress hearing or treatment termination hearing, the court may consider revocation of the residential DOSA sentence.

The court may bring an offender sentenced to either a prison-based DOSA or residential DOSA back into court at any time to evaluate the offender's progress or to determine if the offender has violated conditions of the sentence. The court may order the offender to serve a term of confinement followed by a term of community custody. If the court orders the offender to a term of total confinement, the offender must be credited with any time already served in total confinement or in-patient treatment. Time served on community custody must not be credited to the total confinement time absent an order by the sentencing court that some or all of the community custody should be credited. Time spent on community custody before revocation that is not credited to total confinement must be credited to any period of community custody still to be served.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This bill expands eligibility for residential DOSA and takes away the major roadblock for it being a successful program. Forty-six percent of offenders fail out of residential DOSA after one year in the community. Because they get a day-for-day credit for that time, they have no incentive to participate and are able to walk away at the end of the program. This is a fair trade; more people get into treatment and have more incentive to fully participate.

**Persons Testifying:** PRO: Russ Hauge, WA Assn. of Prosecuting Attorneys; Ramona Brandes, WA Assn. of Criminal Defense Lawyers, WA Defenders' Assn.