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**SUBSTITUTE HOUSE BILL 1569**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Kagi, Goodman, Hayes, Holy, Fitzgibbon, and Ormsby)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to improving the drug offender sentencing  
2 alternative; and amending RCW 9.94A.660.

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

4 **Sec. 1.** RCW 9.94A.660 and 2009 c 389 s 3 are each amended to  
5 read as follows:

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

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

11 (b) The offender is convicted of a felony that is not a felony  
12 driving while under the influence of intoxicating liquor or any drug  
13 under RCW 46.61.502(6) or felony physical control of a vehicle while  
14 under the influence of intoxicating liquor or any drug under RCW  
15 46.61.504(6);

16 (c) The offender has no current or prior convictions for a sex  
17 offense at any time or violent offense within ten years before  
18 conviction of the current offense, in this state, another state, or  
19 the United States;

20 (d) For a violation of the Uniform Controlled Substances Act  
21 under chapter 69.50 RCW or a criminal solicitation to commit such a

1 violation under chapter 9A.28 RCW, the offense involved only a small  
2 quantity of the particular controlled substance as determined by the  
3 judge upon consideration of such factors as the weight, purity,  
4 packaging, sale price, and street value of the controlled substance;

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

9 (f) The end of the standard sentence range for the current  
10 offense is greater than one year; and

11 (g) The offender has not received a drug offender sentencing  
12 alternative more than once in the prior ten years before the current  
13 offense.

14 (2) A motion for a special drug offender sentencing alternative  
15 may be made by the court, the offender, or the state.

16 (3) If the sentencing court determines that the offender is  
17 eligible for an alternative sentence under this section and that the  
18 alternative sentence is appropriate, the court shall waive imposition  
19 of a sentence within the standard sentence range and impose a  
20 sentence consisting of either a prison-based alternative under RCW  
21 9.94A.662 or a residential chemical dependency treatment-based  
22 alternative under RCW 9.94A.664. The residential chemical dependency  
23 treatment-based alternative is only available if the midpoint of the  
24 standard range is (~~twenty-four~~) thirty-six months or less.

25 (4) To assist the court in making its determination, the court  
26 may order the department to complete either or both a risk assessment  
27 report and a chemical dependency screening report as provided in RCW  
28 9.94A.500.

29 (5)(a) If the court is considering imposing a sentence under the  
30 residential chemical dependency treatment-based alternative, the  
31 court may order an examination of the offender by the department. The  
32 examination shall, at a minimum, address the following issues:

33 (i) Whether the offender suffers from drug addiction;

34 (ii) Whether the addiction is such that there is a probability  
35 that criminal behavior will occur in the future;

36 (iii) Whether effective treatment for the offender's addiction is  
37 available from a provider that has been licensed or certified by the  
38 division of alcohol and substance abuse of the department of social  
39 and health services; and

1 (iv) Whether the offender and the community will benefit from the  
2 use of the alternative.

3 (b) The examination report must contain:

4 (i) A proposed monitoring plan, including any requirements  
5 regarding living conditions, lifestyle requirements, and monitoring  
6 by family members and others; and

7 (ii) Recommended crime-related prohibitions and affirmative  
8 conditions.

9 (6) When a court imposes a sentence of community custody under  
10 this section:

11 (a) The court may impose conditions as provided in RCW 9.94A.703  
12 and may impose other affirmative conditions as the court considers  
13 appropriate. In addition, an offender may be required to pay thirty  
14 dollars per month while on community custody to offset the cost of  
15 monitoring for alcohol or controlled substances.

16 (b) The department may impose conditions and sanctions as  
17 authorized in RCW 9.94A.704 and 9.94A.737.

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

22 (b) If the offender is brought back to court, the court may  
23 modify the conditions of the community custody or impose sanctions  
24 under (c) of this subsection.

25 (c) The court may order the offender to serve a term of total  
26 confinement within the standard range of the offender's current  
27 offense at any time during the period of community custody if the  
28 offender violates the conditions or requirements of the sentence or  
29 if the offender is failing to make satisfactory progress in  
30 treatment.

31 (d) An offender ordered to serve a term of total confinement  
32 under (c) of this subsection shall receive credit for any time  
33 previously served in partial or total confinement under this section.

34 (8) In serving a term of community custody imposed upon failure  
35 to complete, or administrative termination from, the special drug  
36 offender sentencing alternative program, the offender shall receive  
37 no credit for time served in community custody prior to termination  
38 of the offender's participation in the program.

1           (9) An offender sentenced under this section shall be subject to  
2 all rules relating to earned release time with respect to any period  
3 served in total confinement.

4           (10) Costs of examinations and preparing treatment plans under a  
5 special drug offender sentencing alternative may be paid, at the  
6 option of the county, from funds provided to the county from the  
7 criminal justice treatment account under RCW 70.96A.350.

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