

FINAL BILL REPORT

2SSB 6211

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Synopsis as Enacted

Brief Description: Concerning drug offender sentencing.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Dhingra, Padden, Nguyen, Das and Hasegawa).

Senate Committee on Law & Justice
Senate Committee on Ways & Means
House Committee on Public Safety
House Committee on Appropriations

Background: Drug Offender Sentencing Alternative. 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, and the violation does not involve a sentence enhancement;
- they are convicted of a felony that is not a felony driving under the influence of liquor or a drug;
- they have no current or prior convictions for a sex offense at any time or a violent offense within ten years before conviction of the current offense;
- the end of the standard sentence range for the current offense is greater than one year;
- they are not subject to a deportation detainer or order;
- they have committed a violation of the Uniform Controlled Substance Act where the offense only involves a small quantity of drugs; and
- they 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 by the Department of Corrections (DOC). 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 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 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

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the offender's sentence. If the offender is sentenced to a prison-based alternative, the offender is reevaluated by DOC once in the facility.

When sentencing an offender to a residential-based DOSA, the court must sentence an offender to inpatient treatment between three and six months, followed by a term of community custody of two years. 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.

Sex Offender Relief From Registration. A person who is required to register as a sex offender may petition the court to be relieved of the duty if the person has spent ten consecutive years in the community without being convicted of a disqualifying offense and was not convicted of a sex offense that was a class A felony. The petitioner must prove by clear and convincing evidence that they are sufficiently rehabilitated to warrant removal from the registry. A person who is required to register for a sex offense committed when the person was a juvenile, may petition the court much sooner and must show by a preponderance of the evidence that they are sufficiently rehabilitated to warrant removal from the registry.

Robbery in the Second Degree. A person commits robbery in the second degree when the person unlawfully takes personal property from another by the use, or threatened use, of force in circumstances not amounting to robbery in the first degree. A person is guilty of robbery in the first degree when the person is armed with a deadly weapon or what appears to be a deadly weapon, the person inflicts bodily injury, or when the person commits robbery against a financial institution. Robbery in the second degree is a class B felony.

Summary: All DOSA Offenders. In addition to existing categories of offenders, an offender is eligible for DOSA if they:

- have been convicted of a sex offense, so long as the offender is no longer required to register; and
- have been convicted of robbery in the 2nd degree, if the conviction did not involve use of a firearm and the charge was not reduced from robbery in the first degree within seven years before conviction of the current offense.

Residential DOSA. The sentence ranges are broadened to allow more offenders to qualify for a residential DOSA. The end of the standard sentence range need not be greater than one year and the mid-point of the eligible standard sentence range is increased from 24 months to 26.

If the court is considering a DOSA sentence, the court may order DOC to obtain an examination of the offender from an agency certified by the Department of Health (DOH) to provide substance use disorder services. A residential DOSA sentence is conditioned on the offender remaining in a residential substance use disorder treatment program certified by DOH for up to six months with treatment completion and continued care delivered in accordance with rules established by the Health Care Authority (HCA). In establishing rules, HCA must consider criteria established by the American Society of Addiction Medicine.

A residential DOSA sentence may include an indeterminate term of confinement of no more than 30 days in a facility operated or used under contract by the county in order to facilitate direct transfer to a residential substance use disorder treatment facility.

An offender ordered to serve a term of total confinement for violation of conditions during an ordered term of community custody shall receive credit for time previously served in confinement and inpatient treatment, and shall receive 50 percent credit for time served in community custody.

Reporting. The Washington State Institute of Public Policy must submit a report to the Governor and the appropriate committees of the Legislature every five years by November 1, 2022, analyzing the effectiveness of DOSA in reducing recidivism among various offender populations. An additional report is due November 1, 2028, and every five years thereafter.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: January 1, 2021