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**HOUSE BILL 2314**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Lovick, Orwall, Davis, Wylie, and Goodman

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1 AN ACT Relating to drug offender sentencing alternatives for  
2 offenders convicted of driving or control of a vehicle while under  
3 the influence; adding a new section to chapter 9.94A RCW; and  
4 providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A  
7 RCW to read as follows:

8 (1) An offender is eligible for the special drug offender  
9 sentencing alternative for driving under the influence if the  
10 offender:

11 (a) Does not have a prior conviction under RCW 46.61.520,  
12 46.61.522, 46.61.502(6)(a), or 46.61.504(6)(a); and

13 (b) Is convicted of felony driving while under the influence of  
14 intoxicating liquor, marijuana, or any drug under RCW  
15 46.61.502(6)(a); or

16 (c) Is convicted of felony physical control of a vehicle while  
17 under the influence of intoxicating liquor or any drug under RCW  
18 46.61.504(6)(a).

19 (2) A motion for a special drug offender sentencing alternative  
20 for driving under the influence may be made by the court, the  
21 offender, or the state if the midpoint of the standard sentence range

1 is twenty-six months or less. If an offender has a higher midpoint, a  
2 motion for a special drug offender sentencing alternative can only be  
3 made by joint agreement of the state and offender.

4 (3) If the sentencing court determines that the offender is  
5 eligible for an alternative sentence under this section and that the  
6 alternative sentence is appropriate, the court shall waive imposition  
7 of a sentence within the standard sentence range and:

8 (a) Impose a sentence consisting of a prison-based alternative  
9 under RCW 9.94A.662 if the low end of the standard sentence range is  
10 greater than twenty-four months; or

11 (b) Impose a sentence consisting of a residential treatment-based  
12 alternative consistent with this section.

13 (4) (a) To assist the court in making its determination, the court  
14 may order the department to complete either a risk assessment report  
15 or a substance use disorder screening report as provided in RCW  
16 9.94A.500, or both.

17 (b) If the court is considering imposing a sentence under the  
18 residential substance use disorder treatment-based alternative, the  
19 court may order an examination of the offender by the department of  
20 health. The examination shall, at a minimum, address the following  
21 issues:

22 (i) Whether the offender suffers from a substance use disorder;

23 (ii) Whether the substance use disorder is such that there is a  
24 probability that criminal behavior will occur in the future;

25 (iii) Whether effective treatment for the offender's substance  
26 use disorder is available from a provider that has been licensed or  
27 certified by the department of health; and

28 (iv) Whether the offender and the community will benefit from the  
29 use of the alternative.

30 (5) An offender who is eligible for a residential treatment-based  
31 alternative under this section shall be sentenced as follows:

32 (a) If necessary, an indeterminate term of confinement of no more  
33 than thirty days in a facility operated or utilized under contract by  
34 the county to facilitate direct transfer to a residential substance  
35 use disorder treatment facility;

36 (b) Treatment in a residential substance use disorder treatment  
37 program certified by the department of health for a period set by the  
38 court up to six months with treatment completion and continued care  
39 delivered in accordance with the American society of addiction  
40 medicine criteria;

1 (c) Twenty-four months of partial confinement to consist of  
2 twelve months work release followed by twelve months of home  
3 detention with electronic monitoring; and

4 (d) Twelve months of community custody.

5 (6)(a) During any period of partial confinement or community  
6 custody, the court shall impose treatment and other conditions as  
7 provided in RCW 9.94A.703 or as the court considers appropriate. In  
8 addition, an offender may be required to pay thirty dollars per month  
9 while on community custody to offset the cost of monitoring for  
10 alcohol or controlled substances.

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

13 (c) The department shall, within available resources, make  
14 substance use disorder assessment and treatment services available to  
15 the offender.

16 (7)(a) If the court imposes a sentence under this section, the  
17 treatment provider must send the treatment plan to the court within  
18 thirty days of the offender's arrival to the residential substance  
19 use disorder treatment program.

20 (b) Upon receipt of the plan, the court shall schedule a progress  
21 hearing during the period of treatment and schedule a treatment  
22 termination hearing for three months before the expiration of the  
23 term of community custody.

24 (c) Before the progress hearing and treatment termination  
25 hearing, the treatment provider and the department shall submit  
26 written reports to the court and parties regarding the offender's  
27 compliance with treatment and monitoring requirements and  
28 recommendations regarding termination from treatment.

29 (8) At a progress hearing or treatment termination hearing, the  
30 court may:

31 (a) Authorize the department to terminate the offender's  
32 community custody status on the expiration date determined under  
33 subsection (7) of this section;

34 (b) Continue the hearing to a date before the expiration date of  
35 community custody, with or without modifying the conditions of  
36 partial confinement or community custody; or

37 (c) Impose a term of total confinement equal to one-half the  
38 midpoint of the standard sentence range, followed by a term of  
39 community custody under RCW 9.94A.701.

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

5 (b) If the offender is brought back to court, the court may  
6 modify the conditions of partial confinement or community custody or  
7 order the offender to serve a term of total confinement within the  
8 standard range of the offender's current offense at any time during  
9 the period of partial confinement or community custody if the  
10 offender violates the conditions or requirements of the sentence or  
11 if the offender is failing to make satisfactory progress in  
12 treatment.

13 (c) An offender ordered to serve a term of total confinement  
14 under (b) of this subsection shall receive credit for time previously  
15 served in total confinement and inpatient treatment under this  
16 section and shall receive fifty percent credit for time previously  
17 served in community custody under this section.

18 (10) In serving a term of community custody imposed upon failure  
19 to complete, or administrative termination from, the special drug  
20 offender sentencing alternative program under this section, the  
21 offender shall receive no credit for time served in community custody  
22 prior to termination of the offender's participation in the program.

23 (11) An offender sentenced under this section shall be subject to  
24 all rules relating to earned release time with respect to any period  
25 served in total or partial confinement.

26 (12) Costs of examinations and preparing the recommended service  
27 delivery plans under a special drug offender sentencing alternative  
28 may be paid, at the option of the county, from funds provided to the  
29 county from the criminal justice treatment account under RCW  
30 71.24.580.

31 NEW SECTION. **Sec. 2.** This act takes effect January 1, 2021.

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