

FINAL BILL REPORT

SSB 5588

C 373 L 24
Synopsis as Enacted

Brief Description: Concerning the mental health sentencing alternative.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Nobles, Wagoner, Dhingra, Lovelett, Pedersen, Saldaña, Wellman and Wilson, C.).

Senate Committee on Law & Justice
House Committee on Community Safety, Justice, & Reentry
House Committee on Appropriations

Background: The Mental Health Sentencing Alternative, established in 2021, allows a sentencing court to waive a defendant's standard range sentence, and impose a term of community custody if:

- the defendant is convicted of a felony which is not a serious violent offense or a sex offense;
- the defendant is diagnosed with a serious mental illness;
- the defendant and the community would benefit from supervision and treatment; and
- the defendant is willing to participate in the sentencing alternative.

Any party or the court may move for imposition of this alternative, but the defendant must be willing. The court may rely on existing health records to determine whether the defendant has a serious mental illness or order an examination of the defendant if sufficient information is unavailable. Before imposition of a Mental Health Sentencing Alternative, the Department of Corrections (DOC) must provide a written report in the form of a presentence investigation containing:

- a proposed treatment plan, including the name and address of treatment providers, an intake evaluation, a psychiatric evaluation, and development of an individualized treatment plan;
- an agreement by the treatment provider to monitor the progress of the defendant and notify the court and DOC if reasonable efforts at engagement do not produce substantial compliance with court-ordered treatment conditions;
- a proposed monitoring plan;

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- any crime-related prohibitions and affirmative conditions; and
- a signed release of information allowing parties to confirm components of the treatment and monitoring plan.

The court must consider whether the defendant and the community would benefit from imposition of the alternative, and consider the victim's opinion. If the court determines that the alternative is appropriate, the court must impose 12 to 24 months of community custody if the midpoint of the standard range sentence is less than or equal to 36 months, and 12 to 36 months of community custody for longer sentencing ranges. DOC must assign an appropriately trained community corrections officer to supervise the defendant.

The court may schedule regular progress hearings for the defendant. DOC and any treatment provider must provide a report to the court before each hearing. The court may modify the conditions of community custody at a progress hearing if the modification serves the interests of justice and the best interests of the defendant. The court must schedule a termination hearing one month before the end of supervision. If the court revokes the Mental Health Sentencing Alternative, it may impose a sentence of confinement within the standard range sentence or an exceptional sentence below the standard range, with credit for time served in the community.

Summary: A court or correctional facility may delay a defendant's release from total confinement if the defendant is participating in the Mental Health Sentencing Alternative to facilitate adherence to the defendant's treatment plan. This may include delaying release to allow a defendant to transfer directly to an inpatient treatment facility or supportive housing provider, to ensure appropriate transportation is established and available, or to release the defendant during business hours on a weekday when services are available.

If a court revokes the Mental Health Sentencing Alternative, it must impose a standard range sentence, or an exceptional sentence if allowed by law.

The court may waive the obligation of DOC and the treatment provider to submit a written report describing the progress and compliance with treatment of a person who has received a mental health sentencing alternative before a scheduled progress hearing.

The Health Care Authority must reimburse a behavioral health agency or individual provider for providing the following services to a person who is participating in a Mental Health Sentencing Alternative:

- in-custody mental health assessments;
- in-custody preliminary treatment plan development; and
- ongoing monitoring of the defendant's adherence to the treatment plan and the requirements of the sentencing alternative, including reporting to the court and to DOC.

Votes on Final Passage:

Senate 30 19

House 96 0 (House amended)

Senate 49 0 (Senate concurred)

Effective: June 6, 2024