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**SUBSTITUTE SENATE BILL 5388**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Dhingra, Nobles, Saldaña, Trudeau, and C. Wilson)

AN ACT Relating to department of corrections behavioral health certification; amending RCW 9.94A.662; adding a new section to chapter 72.09 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that in 2020, the governor signed Second Substitute Senate Bill No. 6211 into law, which made various changes to the drug offender sentencing alternative statutes. As part of that legislation, revisions were made to RCW 9.94A.662 to state that substance use disorder treatment services provided in prisons be licensed by the department of health.

As a result, under RCW 71.24.037, the department of health is also required to license mental health services provided in prisons.

The legislature finds that prior to the passing of Second Substitute Senate Bill No. 6211 in 2020, the department of social and health services created the department of corrections substance use disorder treatment services in collaboration with the department of corrections.

It is the intent of the legislature to require the department of health to monitor the provision of behavioral health services to individuals in correctional facilities based on standards jointly established by the department of health and the department of corrections. Monitoring shall be done in lieu of licensure by the department of health.

**Sec.**  RCW 9.94A.662 and 2021 c 215 s 103 are each amended to read as follows:

(1) The court may only order a prison-based special drug offender sentencing alternative if the high end of the standard sentence range for the current offense is greater than one year.

(2) A sentence for a prison-based special drug offender sentencing alternative shall include:

(a) A period of total confinement in a state facility for one-half the midpoint of the standard sentence range or ((~~twelve~~)) 12 months, whichever is greater;

(b) One-half the midpoint of the standard sentence range as a term of community custody, which must include appropriate substance use disorder treatment in a program that has been approved by the department of health, and for co-occurring drug and domestic violence cases, must also include an appropriate domestic violence treatment program by a state-certified domestic violence treatment provider pursuant to RCW 43.20A.735;

(c) Crime-related prohibitions, including a condition not to use illegal controlled substances;

(d) A requirement to submit to urinalysis or other testing to monitor that status; and

(e) A term of community custody pursuant to RCW 9.94A.701 to be imposed upon the failure to complete or administrative termination from the special drug offender sentencing alternative program.

(3)(a) During incarceration in the state facility, ((~~offenders~~)) individuals sentenced under this section shall undergo a comprehensive substance use disorder assessment and receive, within available resources, treatment services appropriate for the ((~~offender~~)) individual. The substance use disorder treatment services shall be ((~~licensed by the department of health~~)) provided by individuals licensed by the state of Washington.

(b) When applicable for cases involving domestic violence, domestic violence treatment must be provided by a state-certified domestic violence treatment provider pursuant to RCW 43.20A.735 during the term of community custody.

(4) If the department finds that conditions of community custody have been willfully violated, the ((~~offender~~)) individual may be reclassified to serve the remaining balance of the original sentence. An ((~~offender~~)) individual who fails to complete the program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court.

(5) If an ((~~offender~~)) individual sentenced to the prison-based alternative under this section is found by the United States attorney general to be subject to a deportation order, a hearing shall be held by the department unless waived by the ((~~offender~~)) individual, and, if the department finds that the ((~~offender~~)) individual is subject to a valid deportation order, the department may administratively terminate the ((~~offender~~)) individual from the program and reclassify the ((~~offender~~)) individual to serve the remaining balance of the original sentence.

NEW SECTION. **Sec.**  A new section is added to chapter 72.09 RCW to read as follows:

(1) By July 1, 2026, the department and the department of health shall jointly establish and adopt standards for the provision of behavioral health services to individuals in correctional facilities.

(2) Beginning July 1, 2027, the department shall fully implement the standards adopted under this section when providing behavioral health services to individuals in correctional facilities.

(3) Beginning July 1, 2027, the department of health shall conduct annual inspections to determine compliance by the department with the standards adopted under this section. The department of health shall issue a report documenting any instances of noncompliance to the department. The department shall submit a corrective plan of action to the department of health within 45 days of the presentation of the report for feedback from the department of health on how the department proposes to resolve the noncompliance. The department of health may provide technical assistance to the department with complying with the standards adopted under this section.

(4) By July 1, 2027, the department and the department of health shall enter into an agreement, to be renewed biennially, that shall include, but not be limited to, the following provisions:

(a) The process for the department of health to conduct the annual inspections required under this section; and

(b) Reimbursement to the department of health by the department for costs related to providing technical assistance and conducting the annual inspections required under this section.

(5) By July 20, 2030, and every four years thereafter, the department and the department of health shall jointly review and update the standards adopted under this section as necessary.

(6) The department shall reimburse the department of health for costs related to providing technical assistance and conducting the annual inspections required under this section.

(7) For purposes of this section, "behavioral health services" has the same meaning as provided in RCW 71.24.025.

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