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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)

READ FIRST TIME 02/28/25.

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

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

5 NEW SECTION. **Sec. 1.** The legislature finds that in 2020, the  
6 governor signed Second Substitute Senate Bill No. 6211 into law,  
7 which made various changes to the drug offender sentencing  
8 alternative statutes. As part of that legislation, revisions were  
9 made to RCW 9.94A.662 to state that substance use disorder treatment  
10 services provided in prisons be licensed by the department of health.

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

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

18 It is the intent of the legislature to require the department of  
19 health to monitor the provision of behavioral health services to  
20 individuals in correctional facilities based on standards jointly  
21 established by the department of health and the department of

1 corrections. Monitoring shall be done in lieu of licensure by the  
2 department of health.

3 **Sec. 2.** RCW 9.94A.662 and 2021 c 215 s 103 are each amended to  
4 read as follows:

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

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

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

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

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

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

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

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

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

38 (4) If the department finds that conditions of community custody  
39 have been willfully violated, the ~~((offender))~~ individual may be

1 reclassified to serve the remaining balance of the original sentence.  
2 An ((~~offender~~)) individual who fails to complete the program or who  
3 is administratively terminated from the program shall be reclassified  
4 to serve the unexpired term of his or her sentence as ordered by the  
5 sentencing court.

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

15 NEW SECTION. **Sec. 3.** A new section is added to chapter 72.09  
16 RCW to read as follows:

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

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

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

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

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

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

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

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

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

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