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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

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

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

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

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

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

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

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

(2) A motion for a special drug offender sentencing alternative for driving under the influence may be made by the court, the offender, or the state if the midpoint of the standard sentence range is twenty-six months or less. If an offender has a higher midpoint, a motion for a special drug offender sentencing alternative can only be made by joint agreement of the state and offender.

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Twelve months of community custody.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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