

FINAL BILL REPORT

SHB 1549

C 108 L 95

Synopsis as Enacted

Brief Description: Creating a sentencing alternative for drug offenders.

Sponsors: House Committee on Corrections (originally sponsored by Representatives Ballasiotes, Morris, Wolfe, Campbell, Quall, Backlund, Dyer and Blanton; by request of Sentencing Guidelines Commission).

House Committee on Corrections
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background: A person commits a felony by manufacturing, delivering, or possessing with intent to manufacture or deliver a Schedule I or II narcotic drug. Schedule I or II narcotic drugs include cocaine and heroin.

The sentence for this felony is governed by the Sentencing Reform Act (SRA). Under the SRA, the length of this offender's sentence depends primarily on two factors: the seriousness level of the offense and the extent of the offender's criminal history. These factors determine the offender's standard range of confinement.

A sentencing judge may impose a sentence within the standard range. If the judge finds substantial and compelling reasons to justify departing from the standard range, the judge may instead impose a sentence above or below the standard range.

Offenders who manufacture, deliver, or possess with intent to deliver a Schedule I or II narcotic drug may be eligible for the work ethic camp. Eligibility depends on whether the offense is classified as a "violent offense," which in turn depends on the exact circumstances of the offense and the offender's criminal history.

Offenders committing this felony involving narcotic drugs are not eligible for the first-time offender waiver. The first-time offender waiver is available, however, for offenders who commit the different offense of manufacturing, delivering, or possessing with intent to deliver methamphetamine.

Offenders who manufacture, deliver or possess with intent to deliver a Schedule I or II narcotic drug are eligible to participate in a prison work release program during their final six months of confinement. Offenders committing this felony also receive

a mandatory one-year period of community placement following their incarceration. Community placement is a form of community supervision. Throughout the period of community placement, the offender is subject to further penalties for violating sentence conditions. A portion of the time on community placement can be spent under the more restrictive conditions of community custody.

Summary: A new Drug Offender Sentencing Alternative (DOSA) is established for offenses involving the manufacture or delivery of Schedule I or II narcotic drugs. For eligible offenders this alternative provides treatment-oriented sentences involving shorter periods of prison confinement.

Eligibility. An offender is eligible to be considered for the special drug alternative if:

- (1) the offender is convicted of manufacturing, delivering, or possessing with intent to manufacture or deliver Schedule I or II narcotics, or a felony anticipatory offense (attempt, solicitation, or conspiracy) to commit such an offense;
- (2) the sentence does not include a deadly weapon enhancement;
- (3) the offender has no prior felony convictions;
- (4) the offense involved only a small amount of drugs, as determined by the judge;
- (5) the judge determines that the offender and the community will benefit from imposing the special alternative; and
- (6) the mid-point of the offender's standard range must exceed one year.

Discretion to Impose Sentencing Alternative. The sentencing judge has discretion to sentence an eligible offender under this drug offender sentencing alternative. The sentencing judge, however, is not required to use this alternative. The sentencing judge still has authority to punish the offender with a standard sentence, an exceptional sentence, or an applicable sentencing alternative.

Confinement. An offender being sentenced under the special drug offender sentencing alternative is sentenced to total confinement in a state facility for a period equal to one-half of the mid-point of the offender's standard sentence range. For example, an offender whose standard range is 21-27 months would be confined in a state facility for 12 months (one-half of the range's mid-point of 24 months).

In-prison assessment/treatment. While in prison the offender will undergo substance abuse assessment and will receive, within available resources, appropriate treatment services. The treatment services will be designed by the Division of Alcohol and Substance Abuse, in cooperation with the Department of Corrections.

Work release. If the mid-point of the offender's standard range is 24 months or less, then work release is limited to a maximum of three months.

Community Custody. Offenders receive one year of concurrent community custody and community supervision, which must contain crime-related prohibitions, including a requirement to undergo outpatient substance abuse treatment, a condition not to use illegal controlled substances and a requirement to submit to drug testing to monitor that status. The monitoring may be performed by the Department of Corrections or a Treatment Alternative to Street Crime (TASC), or a program similar to TASC's. The offender may be required to pay \$30 to offset these monitoring costs. The judge must also impose three or more of the following conditions requiring that the offender:

- (1) hold a particular job or undergo training;
- (2) remain in a certain geographical area and report changes in address or employment;
- (3) report to a community corrections officer;
- (4) pay court-ordered legal financial obligations;
- (5) perform community service work;
- (6) stay away from locations designated by the judge.

Violations. The Department of Corrections, with notice to the prosecutor and sentencing court, will impose administrative sanctions on offenders who violate the conditions of sentence. If the prosecutor or the court is not satisfied with the sanctions, a court hearing may be held to address the violation. If the court finds the offender willfully violated the conditions, the court may impose confinement of up to the remaining one-half of the mid-point of the standard range.

Impact Analysis. The sentencing guidelines commission shall evaluate the impact of the drug offender sentencing alternative. The evaluation shall include analysis of the changes in sentencing practices, the effect on the state prison population, the effectiveness of treatment services, the savings in state resources, and the effect on recidivism rates.

Methamphetamine. The first-time offender waiver is no longer an available sentencing option for an offender who manufactures, delivers or possesses with intent to deliver methamphetamine.

Additional technical corrections are made.

Votes on Final Passage:

House	92	5
Senate	43	0

Effective: April 19, 1995