

E2SHB 2015 - S AMD
By Senator Kline

ADOPTED AS AMENDED 04/12/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9.94A.660 and 2002 c 290 s 20 and 2002 c 175 s 10 are
4 each reenacted and amended to read as follows:

5 (1) An offender is eligible for the special drug offender
6 sentencing alternative if:

7 (a) The offender is convicted of a felony that is not a violent
8 offense or sex offense and the violation does not involve a sentence
9 enhancement under RCW 9.94A.533 (3) or (4);

10 (b) The offender has no current or prior convictions for a sex
11 offense at any time or violent offense within ten years before
12 conviction of the current offense, in this state, another state, or the
13 United States;

14 (c) For a violation of the Uniform Controlled Substances Act under
15 chapter 69.50 RCW or a criminal solicitation to commit such a violation
16 under chapter 9A.28 RCW, the offense involved only a small quantity of
17 the particular controlled substance as determined by the judge upon
18 consideration of such factors as the weight, purity, packaging, sale
19 price, and street value of the controlled substance; ~~((and))~~

20 (d) The offender has not been found by the United States attorney
21 general to be subject to a deportation detainer or order and does not
22 become subject to a deportation order during the period of the
23 sentence;

24 (e) The standard sentence range for the current offense is greater
25 than one year; and

26 (f) The offender has not received a drug offender sentencing
27 alternative more than once in the prior ten years before the current
28 offense.

29 (2) A motion for a sentence under this section may be made by the
30 court, the offender, or the state. If ~~((the standard sentence range is~~

1 ~~greater than one year and~~) the sentencing court determines that the
2 offender is eligible for this alternative (~~and that~~), the court may
3 order an examination of the offender. The examination shall, at a
4 minimum, address the following issues:

5 (a) Whether the offender suffers from drug addiction;

6 (b) Whether the addiction is such that there is a probability that
7 criminal behavior will occur in the future;

8 (c) Whether effective treatment for the offender's addiction is
9 available from a provider that has been licensed or certified by the
10 division of alcohol and substance abuse of the department of social and
11 health services; and

12 (d) Whether the offender and the community will benefit from the
13 use of the alternative(~~, the judge may~~).

14 (3) The examination report must contain:

15 (a) Information on the issues required to be addressed in
16 subsection (2) of this section; and

17 (b) A proposed treatment plan that must, at a minimum, contain:

18 (i) A proposed treatment provider that has been licensed or
19 certified by the division of alcohol and substance abuse of the
20 department of social and health services;

21 (ii) The recommended frequency and length of treatment, including
22 both residential chemical dependency treatment and treatment in the
23 community;

24 (iii) A proposed monitoring plan, including any requirements
25 regarding living conditions, lifestyle requirements, and monitoring by
26 family members and others; and

27 (iv) Recommended crime-related prohibitions and affirmative
28 conditions.

29 (4) After receipt of the examination report, if the court
30 determines that a sentence under this section is appropriate, the court
31 shall waive imposition of a sentence within the standard sentence range
32 and impose a sentence (~~that must include~~) consisting of either a
33 prison-based alternative under subsection (5) of this section or a
34 residential chemical dependency treatment-based alternative under
35 subsection (6) of this section. The residential chemical dependency
36 treatment-based alternative is only available if the midpoint of the
37 standard range is twenty-four months or less.

38 (5) The prison-based alternative shall include:

1 (a) A period of total confinement in a state facility for one-half
2 of the midpoint of the standard sentence range. During incarceration
3 in the state facility, offenders sentenced under this subsection shall
4 undergo a comprehensive substance abuse assessment and receive, within
5 available resources, treatment services appropriate for the offender.
6 The treatment services shall be designed by the division of alcohol and
7 substance abuse of the department of social and health services, in
8 cooperation with the department of corrections((~~-~~));

9 ~~((The court shall also impose:~~

10 ~~(a))~~ (b) The remainder of the midpoint of the standard range as a
11 term of community custody which must include appropriate substance
12 abuse treatment in a program that has been approved by the division of
13 alcohol and substance abuse of the department of social and health
14 services. If the department finds that conditions have been willfully
15 violated, the offender may be reclassified to serve the remaining
16 balance of the original sentence. An offender who fails to complete
17 the program or who is administratively terminated from the program
18 shall be reclassified to serve the unexpired term of his or her
19 sentence as ordered by the sentencing court;

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

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

24 ~~((d))~~ (e) A term of community custody pursuant to RCW 9.94A.715
25 to be imposed upon failure to complete or administrative termination
26 from the special drug offender sentencing alternative program.

27 (6) The residential chemical dependency treatment-based alternative
28 shall include:

29 (a) A term of community custody equal to one-half of the midpoint
30 of the standard sentence range or two years, whichever is greater,
31 conditioned on the offender entering and remaining in residential
32 chemical dependency treatment certified under chapter 70.96A RCW for a
33 period set by the court between three and six months. If the court
34 imposes a term of community custody, the department shall, within
35 available resources, make chemical dependency assessment and treatment
36 services available to the offender during the term of community
37 custody. The court shall impose, as conditions of community custody,
38 treatment and other conditions as proposed in the plan under subsection

1 (3)(b) of this section. The department may impose conditions and
2 sanctions as authorized in RCW 9.94A.715 (2), (3), (6), and (7),
3 9.94A.737, and 9.94A.740. The court shall schedule a progress hearing
4 during the period of residential chemical dependency treatment, and
5 schedule a treatment termination hearing for three months before the
6 expiration of the term of community custody;

7 (b) Before the progress hearing and treatment termination hearing,
8 the treatment provider and the department shall submit written reports
9 to the court and parties regarding the offender's compliance with
10 treatment and monitoring requirements, and recommendations regarding
11 termination from treatment. At the hearing, the court may:

12 (i) Authorize the department to terminate the offender's community
13 custody status on the expiration date determined under (a) of this
14 subsection; or

15 (ii) Continue the hearing to a date before the expiration date of
16 community custody, with or without modifying the conditions of
17 community custody; or

18 (iii) Impose a term of total confinement equal to one-half the
19 midpoint of the standard sentence range, followed by a term of
20 community custody under RCW 9.94A.715;

21 (c) If the court imposes a term of total confinement under (b)(iii)
22 of this subsection, the department shall, within available resources,
23 make chemical dependency assessment and treatment services available to
24 the offender during the terms of total confinement and community
25 custody.

26 (7) If the court imposes a sentence under this section, the court
27 may prohibit the offender from using alcohol or controlled substances
28 and may require that the monitoring for controlled substances be
29 conducted by the department or by a treatment alternatives to street
30 crime program or a comparable court or agency-referred program. The
31 offender may be required to pay thirty dollars per month while on
32 community custody to offset the cost of monitoring. In addition, the
33 court ((shall)) may impose ((three or more)) any of the following
34 conditions:

35 ((+i)) (a) Devote time to a specific employment or training;

36 ((+ii)) (b) Remain within prescribed geographical boundaries and
37 notify the court or the community corrections officer before any change
38 in the offender's address or employment;

1 ~~((iii))~~ (c) Report as directed to a community corrections
2 officer;

3 ~~((iv))~~ (d) Pay all court-ordered legal financial obligations;

4 ~~((v))~~ (e) Perform community restitution work;

5 ~~((vi))~~ (f) Stay out of areas designated by the sentencing court;

6 ~~((vii))~~ (g) Such other conditions as the court may require such
7 as affirmative conditions.

8 ~~((3))~~ (8)(a) The court may bring any offender sentenced under
9 this section back into court at any time on its own initiative to
10 evaluate the offender's progress in treatment or to determine if any
11 violations of the conditions of the sentence have occurred.

12 (b) If the offender is brought back to court, the court may modify
13 the terms of the community custody or impose sanctions under (c) of
14 this subsection.

15 (c) The court may order the offender to serve a term of total
16 confinement within the standard range of the offender's current offense
17 at any time during the period of community custody if the offender
18 violates the conditions of the sentence or if the offender is failing
19 to make satisfactory progress in treatment.

20 (d) An offender ordered to serve a term of total confinement under
21 (c) of this subsection shall receive credit for any time previously
22 served under this section.

23 (9) If ~~((the))~~ an offender ~~((violates any of the sentence~~
24 ~~conditions in subsection (2) of this section or))~~ sentenced to the
25 prison-based alternative under subsection (5) of this section is found
26 by the United States attorney general to be subject to a deportation
27 order, a ~~((violation))~~ hearing shall be held by the department unless
28 waived by the offender(~~-~~

29 ~~((a))~~ If the department finds that conditions have been willfully
30 violated, the offender may be reclassified to serve the remaining
31 balance of the original sentence.

32 ~~((b))~~ , and, if the department finds that the offender is subject to
33 a valid deportation order, the department may administratively
34 terminate the offender from the program and reclassify the offender to
35 serve the remaining balance of the original sentence.

36 ~~((4))~~ The department shall determine the rules for calculating the
37 value of a day fine based on the offender's income and reasonable
38 obligations which the offender has for the support of the offender and

1 any dependents. These rules shall be developed in consultation with
2 the administrator for the courts, the office of financial management,
3 and the commission.

4 ~~(5)) (10) An offender ((who fails to complete the special drug
5 offender sentencing alternative program or who is administratively
6 terminated from the program shall be reclassified to serve the
7 unexpired term of his or her sentence as ordered by the sentencing
8 court and)) sentenced under this section shall be subject to all rules
9 relating to earned release time with respect to any period served in
10 total confinement. ((An offender who violates any conditions of
11 supervision as defined by the department shall be sanctioned.
12 Sanctions may include, but are not limited to, reclassifying the
13 offender to serve the unexpired term of his or her sentence as ordered
14 by the sentencing court. If an offender is reclassified to serve the
15 unexpired term of his or her sentence, the offender shall be subject to
16 all rules relating to earned release time.))~~

17 (11) Costs of examinations and preparing treatment plans under
18 subsections (2) and (3) of this section may be paid, at the option of
19 the county, from funds provided to the county from the criminal justice
20 treatment account under RCW 70.96A.350.

21 NEW SECTION. Sec. 2. This act applies to sentences imposed on or
22 after the effective date of this act.

23 NEW SECTION. Sec. 3. This act takes effect October 1, 2005."

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24 On page 1, line 1 of the title, after "treatment;" strike the
25 remainder of the title and insert "reenacting and amending RCW
26 9.94A.660; creating a new section; and providing an effective date."

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