

SENATE BILL REPORT

E2SHB 2015

As Reported By Senate Committee On:
Judiciary, March 31, 2005

Title: An act relating to judicially supervised substance abuse treatment.

Brief Description: Revising the special drug offender sentencing alternative.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Kagi, O'Brien, Hinkle, Fromhold, Darneille, Upthegrove, Tom, Kenney and Dickerson).

Brief History: Passed House: 3/15/05, 58-37.

Committee Activity: Judiciary: 3/31/05 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Hargrove, Rasmussen and Thibaudeau.

Minority Report: That it be referred without recommendation.

Signed by Senators Johnson, Ranking Minority Member; Carrell and Esser.

Staff: Aldo Melchiori (786-7439)

Background: The Drug Offender Sentencing Alternative (DOSA) is an alternative sentencing program that allows a court to waive imposition of an offender's sentence within the standard sentencing range. Offenders are eligible for DOSA if they: (1) are convicted of a felony that is not a sex or violent offense, if the violation does not involve a sentence enhancement; (2) have no current or prior convictions for a sex offense or violent offense; (3) would receive a standard sentence range for the current offense which is greater than one year; (4) are not subject to a deportation detainer or order; and (5) have committed a violation of the Uniform Controlled Substance Act where the offense only involves a small quantity of drugs.

If the court determines that a DOSA sentence is appropriate, it may impose a sentence that includes confinement in a state facility for one-half of the midpoint of the standard sentencing range. While in confinement, the offender must complete a substance abuse assessment and receive, within available resources, substance abuse treatment and counseling. The offender spends the remainder of the midpoint of the standard sentencing range in community custody. The community custody portion of the sentence includes treatment which has been approved by the Division of Alcohol and Substance Abuse. Offenders may also be required to adhere to crime related prohibitions and affirmative conditions as part of their sentence, as well as pay a \$30 per month fee while on community custody to offset the cost of monitoring.

If an offender violates or fails to complete the DOSA conditions, a violation hearing is held by the Department of Corrections (DOC). If DOC finds that the conditions have been willfully

violated, the offender may be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing judge. If an offender is reclassified, the offender is subject to all rules relating to earned early release time.

Summary of Bill: Courts have the option of sentencing a nonviolent offender with a substance abuse addiction to either the current DOSA or a new community-based DOSA. An offender that has not been convicted of a violent offense in the last 10 years is eligible for either DOSA program. A motion for a DOSA sentence may be made by the court, the offender, or the state.

If the court determines that the offender is eligible for a DOSA sentence, the court may order an examination of the offender. The examination report must contain information on the offender's addiction issues to be addressed and a proposed treatment plan. The treatment plan must contain: (1) a proposed DASA licensed or certified treatment provider; (2) the recommended frequency and length of treatment, including both residential chemical dependency treatment and community-based treatment; (3) a proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and (4) recommended crime-related prohibitions and affirmative conditions. After receipt of the examination report, the court may impose a DOSA sentence if it is determined to be appropriate. Costs of the examinations and preparing treatment plans may be paid from funds provided to a county from the criminal justice treatment account.

The court may bring an offender participating in a DOSA program 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. The court may then modify the terms of the community custody or impose sanctions. If the offender violates the conditions of the sentence or if the court finds that the offender is failing to make satisfactory progress in treatment, the sanctions may include ordering the offender to serve a term of total confinement within the standard range, with credit for any time previously served.

If a community-based DOSA sentence is ordered then the court imposes a term of community custody equal to one-half of the midpoint of the standard sentence or two years, whichever is *greater*. The court must also impose, as conditions of community custody, treatment and any other conditions as stated in the offender's treatment and monitoring plans. An offender may also be required to adhere to crime related prohibitions and affirmative conditions as part of his or her sentence. The community custody sentence must require DOC, within available resources, to provide chemical dependency assessments and treatment to the offender.

The court schedules a treatment termination hearing three months prior to the anticipated completion date of community custody. Prior to the treatment termination hearing, the treatment provider and DOC submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding the offender's termination from treatment. At the treatment termination hearing, the court may: (1) authorize termination of the offender's community custody on the expiration date corresponding to one-half of the midpoint of the standard sentence range; (2) modify the conditions of the community custody and may continue the hearing to a date before the expiration date of the offender's community custody; or (3) impose a term of incarceration

equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody. If the court imposes a term of incarceration, DOC must, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

Appropriation: None.

Fiscal Note: Requested on March 3, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on October 1, 2005.

Testimony For: For some offenders, the drug court option is too difficult, so DOSA is a more appropriate way for them to be given treatment in an effort to reduce recidivism. Some smaller counties can not afford drug courts. Non-violent drug offenders will be more likely to take advantage of the new community-based option. Judges will have more discretion to order appropriate drug treatment. A WSIPP study has shown that DOSA is a cost effective alternative to incarceration.

Testimony Against: There is a history of underfunding treatment. Counties are concerned that they may incur increased costs without increased funding. It is not appropriate to impose sanctions without any period of confinement. These are not just persons with addictions, they are convicted felons with addictions.

Who Testified: PRO: Representative Kagi prime sponsor; Ramona Brandes, WACDL, WDA.

CON: Tom McBride, WAPA.

OTHER: Sophia Byrd, Association of Washington Counties.