

HOUSE BILL REPORT

SB 6525

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to the drug offender sentencing alternative.

Brief Description: Concerning the drug offender sentencing alternative.

Sponsors: Senators Kline, McCaslin, Tom, Weinstein and Swecker; by request of Department of Corrections.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 2/20/08 [DP].

Brief Summary of Bill

- Clarifies that offenders participating in the prison-based Drug Offender Sentencing Alternative program must spend one-half of the mid-point of the standard sentencing range on community custody following incarceration.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Hurst, Vice Chair; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern, Goodman and Kirby.

Staff: Yvonne Walker (786-7841).

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. There are two types of DOSA programs: prison-based DOSA and residential-based DOSA. Courts have the option to sentence a nonviolent offender with a substance abuse addiction to either of the DOSA programs.

An offender is eligible for the prison-based DOSA program if:

- the offender has not been convicted of a violent offense in the last 10 years;

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- the offender has no current or prior convictions for a sex offense;
- the offender has no current convictions for a driving under the influence offense;
- the standard sentence range for the current offense is greater than one year for the offense that the offender is charged with;
- the offender is not subject to a deportation detainer or order;
- the offender has not received a DOSA sentence more than once in the prior 10 years before the current offense; and
- the offender has committed a Violation of the Uniform Controlled Substance Act where the offense only involved a small quantity of drugs as determined by the court.

If the court determines that a DOSA sentence is appropriate for an offender, then it may impose an alternative sentence that includes confinement in a state facility for one-half of the mid-point 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 must spend the remainder of the mid-point of the standard sentencing range in community custody following incarceration. The community custody portion of the sentence must include alcohol and substance abuse treatment which has been approved by the Division of Alcohol and Substance Abuse of the Department of Social and Health Services. 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.

The courts have been inconsistent in how much community custody is ordered following an offender's period of incarceration. For example, in the case where the mid-point of the standard sentencing range is 12 months, an offender would be required to spend 12 months in confinement (the statute requires one-half of the mid-point of the standard range in confinement or 12 months, whichever is greater). Following incarceration, an offender is required to spend the "remainder of the mid-point" of the standard sentencing range on community custody. Some courts are interpreting this to mean six months on community custody and other courts are interpreting this as no community custody because "the remainder" of one-half of the mid-point of the standard sentencing range (six months) was used to raise the offender's confinement time up to the 12 months.

Summary of Bill:

The provision governing the imposition of community custody for offenders on a prison-based DOSA is amended and clarified. Following an offender's period of confinement, he or she must spend one-half of the mid-point (instead of the "remainder" of the mid-point) of the standard sentencing range on community custody following incarceration.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is solely a grammatical change. This is not a change in policy. The bill arose after the Department of Corrections (DOC) started to see discrepancies in community custody sentencing. The DOC was put into a position of writing to courts asking for clarification. It appeared that some courts were giving community custody sentences to offenders but other courts were not. This bill is clarification language for the judges to ensure that offenders receive community custody equivalent to one-half of the standard sentencing range as the Legislature had originally intended.

(Opposed) None.

Persons Testifying: Senator Kline, prime sponsor; and Ida Leggett, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.