

SHB 1791 - S AMD 327
By Senator Regala

ADOPTED 04/14/2009

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

3 "Sec. 1. RCW 9.94A.505 and 2009 c 28 s 6 are each amended to read
4 as follows:

5 (1) When a person is convicted of a felony, the court shall impose
6 punishment as provided in this chapter.

7 (2)(a) The court shall impose a sentence as provided in the
8 following sections and as applicable in the case:

9 (i) Unless another term of confinement applies, a sentence within
10 the standard sentence range established in RCW 9.94A.510 or 9.94A.517;

11 (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;

12 (iii) RCW 9.94A.570, relating to persistent offenders;

13 (iv) RCW 9.94A.540, relating to mandatory minimum terms;

14 (v) RCW 9.94A.650, relating to the first-time offender waiver;

15 (vi) RCW 9.94A.660, relating to the drug offender sentencing
16 alternative;

17 (vii) RCW 9.94A.670, relating to the special sex offender
18 sentencing alternative;

19 (viii) RCW 9.94A.507, relating to certain sex offenses;

20 (ix) RCW 9.94A.535, relating to exceptional sentences;

21 (x) RCW 9.94A.589, relating to consecutive and concurrent
22 sentences;

23 (xi) RCW 9.94A.603, relating to felony driving while under the
24 influence of intoxicating liquor or any drug and felony physical
25 control of a vehicle while under the influence of intoxicating liquor
26 or any drug.

27 (b) If a standard sentence range has not been established for the
28 offender's crime, the court shall impose a determinate sentence which
29 may include not more than one year of confinement; community
30 restitution work; a term of community custody under RCW 9.94A.702 not

1 to exceed one year; and/or other legal financial obligations. The
2 court may impose a sentence which provides more than one year of
3 confinement and a community custody term under RCW 9.94A.701 if the
4 court finds reasons justifying an exceptional sentence as provided in
5 RCW 9.94A.535.

6 (3) If the court imposes a sentence requiring confinement of thirty
7 days or less, the court may, in its discretion, specify that the
8 sentence be served on consecutive or intermittent days. A sentence
9 requiring more than thirty days of confinement shall be served on
10 consecutive days. Local jail administrators may schedule court-ordered
11 intermittent sentences as space permits.

12 (4) If a sentence imposed includes payment of a legal financial
13 obligation, it shall be imposed as provided in RCW 9.94A.750,
14 9.94A.753, 9.94A.760, and 43.43.7541.

15 (5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a
16 court may not impose a sentence providing for a term of confinement or
17 community custody that exceeds the statutory maximum for the crime as
18 provided in chapter 9A.20 RCW.

19 (6) The sentencing court shall give the offender credit for all
20 confinement time served before the sentencing if that confinement was
21 solely in regard to the offense for which the offender is being
22 sentenced.

23 (7) The court shall order restitution as provided in RCW 9.94A.750
24 and 9.94A.753.

25 (8) As a part of any sentence, the court may impose and enforce
26 crime-related prohibitions and affirmative conditions as provided in
27 this chapter.

28 (9) In any sentence of partial confinement, the court may require
29 the offender to serve the partial confinement in work release, in a
30 program of home detention, on work crew, or in a combined program of
31 work crew and home detention.

32 **Sec. 2.** RCW 9.94A.660 and 2006 c 339 s 302 and 2006 c 73 s 10 are
33 each reenacted and amended to read as follows:

34 (1) An offender is eligible for the special drug offender
35 sentencing alternative if:

36 (a) The offender is convicted of a felony that is not a violent

1 offense or sex offense and the violation does not involve a sentence
2 enhancement under RCW 9.94A.533 (3) or (4);

3 (b) The offender is convicted of a felony that is not a felony
4 driving while under the influence of intoxicating liquor or any drug
5 under RCW 46.61.502(6) or felony physical control of a vehicle while
6 under the influence of intoxicating liquor or any drug under RCW
7 46.61.504(6);

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

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

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

22 (f) The end of the standard sentence range for the current offense
23 is greater than one year; and

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

27 (2) A motion for a sentence under this section may be made by the
28 court, the offender, or the state. ~~((If the sentencing court
29 determines that the offender is eligible for this alternative, the
30 court may order an examination of the offender. The examination shall,
31 at a minimum, address the following issues:~~

32 ~~(a) Whether the offender suffers from drug addiction;~~

33 ~~(b) Whether the addiction is such that there is a probability that
34 criminal behavior will occur in the future;~~

35 ~~(c) Whether effective treatment for the offender's addiction is
36 available from a provider that has been licensed or certified by the
37 division of alcohol and substance abuse of the department of social and
38 health services; and~~

1 ~~(d) Whether the offender and the community will benefit from the~~
2 ~~use of the alternative.~~

3 ~~(3) The examination report must contain:~~

4 ~~(a) Information on the issues required to be addressed in~~
5 ~~subsection (2) of this section; and~~

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

7 ~~(i) A proposed treatment provider that has been licensed or~~
8 ~~certified by the division of alcohol and substance abuse of the~~
9 ~~department of social and health services;~~

10 ~~(ii) The recommended frequency and length of treatment, including~~
11 ~~both residential chemical dependency treatment and treatment in the~~
12 ~~community;~~

13 ~~(iii) A proposed monitoring plan, including any requirements~~
14 ~~regarding living conditions, lifestyle requirements, and monitoring by~~
15 ~~family members and others; and~~

16 ~~(iv) Recommended crime-related prohibitions and affirmative~~
17 ~~conditions.~~

18 ~~(4) After receipt of the examination report,)) (3) If the~~
19 ~~sentencing court determines that the offender is eligible for this~~
20 ~~alternative and that a sentence under this section is appropriate, the~~
21 ~~court shall waive imposition of a sentence within the standard sentence~~
22 ~~range and impose a sentence consisting of either a prison-based~~
23 ~~alternative under subsection ((+5)) (4) of this section or a~~
24 ~~residential chemical dependency treatment-based alternative under~~
25 ~~subsection ((+6)) (5) of this section. If the court is considering~~
26 ~~the residential chemical dependency treatment-based alternative under~~
27 ~~subsection (5) of this section, then the court may order an examination~~
28 ~~of the offender as described in subsection (5) of this section. To~~
29 ~~assist the court in making its determination, the court may order the~~
30 ~~department to complete either or both a risk assessment report and a~~
31 ~~chemical dependency screening report as provided in RCW 9.94A.500. The~~
32 ~~residential chemical dependency treatment-based alternative is only~~
33 ~~available if the midpoint of the standard range is twenty-four months~~
34 ~~or less.~~

35 ~~((+5)) (4) The prison-based alternative shall include:~~

36 ~~(a) A period of total confinement in a state facility for one-half~~
37 ~~of the midpoint of the standard sentence range or twelve months,~~
38 ~~whichever is greater. During incarceration in the state facility,~~

1 offenders sentenced under this subsection shall undergo a comprehensive
2 substance abuse assessment and receive, within available resources,
3 treatment services appropriate for the offender. The treatment
4 services shall be designed by the division of alcohol and substance
5 abuse of the department of social and health services, in cooperation
6 with the department of corrections;

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

17 (c) Crime-related prohibitions including a condition not to use
18 illegal controlled substances;

19 (d) A requirement to submit to urinalysis or other testing to
20 monitor that status; and

21 (e) A term of community custody pursuant to RCW 9.94A.715 to be
22 imposed upon failure to complete or administrative termination from the
23 special drug offender sentencing alternative program.

24 ~~((+6))~~ (5)(a) If the court is considering imposing a sentence
25 under the residential chemical dependency treatment-based alternative
26 in this subsection, then the court may order an examination of the
27 offender by the department. The examination shall, at a minimum,
28 address the following issues:

29 (i) Whether the offender suffers from drug addiction;

30 (ii) Whether the addiction is such that there is a probability that
31 criminal behavior will occur in the future;

32 (iii) Whether effective treatment for the offender's addiction is
33 available from a provider that has been licensed or certified by the
34 division of alcohol and substance abuse of the department of social and
35 health services; and

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

38 (b) The examination report must also contain:

1 (i) A proposed monitoring plan, including any requirements
2 regarding living conditions, lifestyle requirements, and monitoring by
3 family members and others; and

4 (ii) Recommended crime-related prohibitions and affirmative
5 conditions.

6 (c) The residential chemical dependency treatment-based alternative
7 shall include:

8 ~~((a))~~ (i) A term of community custody equal to one-half of the
9 midpoint of the standard sentence range or two years, whichever is
10 greater, conditioned on the offender entering and remaining in
11 residential chemical dependency treatment certified under chapter
12 70.96A RCW for a period set by the court between three and six months.
13 If the court imposes a term of community custody, the department shall,
14 within available resources, make chemical dependency assessment and
15 treatment services available to the offender during the term of
16 community custody. The court shall impose, as conditions of community
17 custody, treatment and other conditions as proposed in the plan under
18 ~~((subsection (3))~~(b) of this ~~((section))~~ subsection. The department
19 may impose conditions and sanctions as authorized in RCW 9.94A.715 (2),
20 (3), (6), and (7), 9.94A.737, and 9.94A.740. If the court imposes a
21 sentence under this subsection, then the treatment provider will be
22 required to send the treatment plan to the court within thirty days of
23 the offender's arrival to the residential chemical dependency treatment
24 program. The court shall schedule a progress hearing during the period
25 of residential chemical dependency treatment, and schedule a treatment
26 termination hearing for three months before the expiration of the term
27 of community custody;

28 ~~((b))~~ (ii) Before the progress hearing and treatment termination
29 hearing, the treatment provider and the department shall submit written
30 reports to the court and parties regarding the offender's compliance
31 with treatment and monitoring requirements, and recommendations
32 regarding termination from treatment. At the hearing, the court may:

33 ~~((i))~~ (A) Authorize the department to terminate the offender's
34 community custody status on the expiration date determined under ~~((a)~~
35 ~~of this))~~ subsection (5)(c)(i) of this section; or

36 ~~((ii))~~ (B) Continue the hearing to a date before the expiration
37 date of community custody, with or without modifying the conditions of
38 community custody; or

1 (~~(iii)~~) (C) Impose a term of total confinement equal to one-half
2 the midpoint of the standard sentence range, followed by a term of
3 community custody under RCW 9.94A.715;

4 (~~(e)~~) (iii) If the court imposes a term of total confinement
5 under (~~(b)(iii)~~) (c)(ii) of this subsection, the department shall,
6 within available resources, make chemical dependency assessment and
7 treatment services available to the offender during the terms of total
8 confinement and community custody.

9 (~~(7)~~) (6) If the court imposes a sentence under this section, the
10 court may prohibit the offender from using alcohol or controlled
11 substances and may require that the monitoring for controlled
12 substances be conducted by the department or by a treatment
13 alternatives to street crime program or a comparable court or agency-
14 referred program. The offender may be required to pay thirty dollars
15 per month while on community custody to offset the cost of monitoring.
16 In addition, the court may impose any of the following conditions:

17 (a) Devote time to a specific employment or training;

18 (b) Remain within prescribed geographical boundaries and notify the
19 court or the community corrections officer before any change in the
20 offender's address or employment;

21 (c) Report as directed to a community corrections officer;

22 (d) Pay all court-ordered legal financial obligations;

23 (e) Perform community restitution work;

24 (f) Stay out of areas designated by the sentencing court;

25 (g) Such other conditions as the court may require such as
26 affirmative conditions.

27 (~~(8)~~) (7)(a) The court may bring any offender sentenced under
28 this section back into court at any time on its own initiative to
29 evaluate the offender's progress in treatment or to determine if any
30 violations of the conditions of the sentence have occurred.

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

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

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

4 ~~((+9))~~ (8) If an offender sentenced to the prison-based
5 alternative under subsection ~~((+5))~~ (4) of this section is found by
6 the United States attorney general to be subject to a deportation
7 order, a hearing shall be held by the department unless waived by the
8 offender, and, if the department finds that the offender is subject to
9 a valid deportation order, the department may administratively
10 terminate the offender from the program and reclassify the offender to
11 serve the remaining balance of the original sentence.

12 ~~((+10))~~ (9) An offender sentenced under this section shall be
13 subject to all rules relating to earned release time with respect to
14 any period served in total confinement.

15 ~~((+11))~~ (10) Costs of examinations and preparing treatment plans
16 under ~~((subsections (2) and (3) of))~~ this section may be paid, at the
17 option of the county, from funds provided to the county from the
18 criminal justice treatment account under RCW 70.96A.350.

19 **Sec. 3.** RCW 9.94A.660 and 2008 c 231 s 30 are each amended to read
20 as follows:

21 (1) An offender is eligible for the special drug offender
22 sentencing alternative if:

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

26 (b) The offender is convicted of a felony that is not a felony
27 driving while under the influence of intoxicating liquor or any drug
28 under RCW 46.61.502(6) or felony physical control of a vehicle while
29 under the influence of intoxicating liquor or any drug under RCW
30 46.61.504(6);

31 (c) The offender has no current or prior convictions for a sex
32 offense at any time or violent offense within ten years before
33 conviction of the current offense, in this state, another state, or the
34 United States;

35 (d) For a violation of the Uniform Controlled Substances Act under
36 chapter 69.50 RCW or a criminal solicitation to commit such a violation
37 under chapter 9A.28 RCW, the offense involved only a small quantity of

1 the particular controlled substance as determined by the judge upon
2 consideration of such factors as the weight, purity, packaging, sale
3 price, and street value of the controlled substance;

4 (e) The offender has not been found by the United States attorney
5 general to be subject to a deportation detainer or order and does not
6 become subject to a deportation order during the period of the
7 sentence;

8 (f) The end of the standard sentence range for the current offense
9 is greater than one year; and

10 (g) The offender has not received a drug offender sentencing
11 alternative more than once in the prior ten years before the current
12 offense.

13 (2) A motion for a (~~sentence under this section~~) special drug
14 offender sentencing alternative may be made by the court, the offender,
15 or the state.

16 (3) If the sentencing court determines that the offender is
17 eligible for (~~this~~) an alternative sentence under this section and
18 that the alternative sentence is appropriate, the court shall waive
19 imposition of a sentence within the standard sentence range and impose
20 a sentence consisting of either a prison-based alternative under
21 section 4 of this act or a residential chemical dependency treatment-
22 based alternative under section 5 of this act. The residential
23 chemical dependency treatment-based alternative is only available if
24 the midpoint of the standard range is twenty-four months or less.

25 (4) To assist the court in making its determination, the court may
26 order the department to complete either or both a risk assessment
27 report and a chemical dependency screening report as provided in RCW
28 9.94A.500.

29 (5)(a) If the court is considering imposing a sentence under the
30 residential chemical dependency treatment-based alternative, the court
31 may order an examination of the offender by the department. The
32 examination shall, at a minimum, address the following issues:

33 (~~(a)~~) (i) Whether the offender suffers from drug addiction;

34 (~~(b)~~) (ii) Whether the addiction is such that there is a
35 probability that criminal behavior will occur in the future;

36 (~~(c)~~) (iii) Whether effective treatment for the offender's
37 addiction is available from a provider that has been licensed or

1 certified by the division of alcohol and substance abuse of the
2 department of social and health services; and

3 ~~((d))~~ (iv) Whether the offender and the community will benefit
4 from the use of the alternative.

5 ~~((3))~~ (b) The examination report must contain:

6 ~~((a) Information on the issues required to be addressed in
7 subsection (2) of this section; and~~

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

9 ~~(i) A proposed treatment provider that has been licensed or
10 certified by the division of alcohol and substance abuse of the
11 department of social and health services;~~

12 ~~(ii) The recommended frequency and length of treatment, including
13 both residential chemical dependency treatment and treatment in the
14 community;~~

15 ~~((iii))~~ (i) A proposed monitoring plan, including any requirements
16 regarding living conditions, lifestyle requirements, and monitoring by
17 family members and others; and

18 ~~((iv))~~ (ii) Recommended crime-related prohibitions and
19 affirmative conditions.

20 ~~((4) After receipt of the examination report, if the court
21 determines that a sentence under this section is appropriate, the court
22 shall waive imposition of a sentence within the standard sentence range
23 and impose a sentence consisting of either a prison-based alternative
24 under subsection (5) of this section or a residential chemical
25 dependency treatment-based alternative under subsection (6) of this
26 section. The residential chemical dependency treatment-based
27 alternative is only available if the midpoint of the standard range is
28 twenty-four months or less.~~

29 ~~(5) The prison-based alternative shall include:~~

30 ~~(a) A period of total confinement in a state facility for one-half
31 of the midpoint of the standard sentence range or twelve months,
32 whichever is greater. During incarceration in the state facility,
33 offenders sentenced under this subsection shall undergo a comprehensive
34 substance abuse assessment and receive, within available resources,
35 treatment services appropriate for the offender. The treatment
36 services shall be designed by the division of alcohol and substance
37 abuse of the department of social and health services, in cooperation
38 with the department of corrections;~~

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

11 ~~(c) Crime related prohibitions including a condition not to use~~
12 ~~illegal controlled substances;~~

13 ~~(d) A requirement to submit to urinalysis or other testing to~~
14 ~~monitor that status; and~~

15 ~~(e) A term of community custody pursuant to RCW 9.94A.701 to be~~
16 ~~imposed upon failure to complete or administrative termination from the~~
17 ~~special drug offender sentencing alternative program.~~

18 ~~(6) The residential chemical dependency treatment based alternative~~
19 ~~shall include:~~

20 ~~(a) A term of community custody equal to one half of the midpoint~~
21 ~~of the standard sentence range or two years, whichever is greater,~~
22 ~~conditioned on the offender entering and remaining in residential~~
23 ~~chemical dependency treatment certified under chapter 70.96A RCW for a~~
24 ~~period set by the court between three and six months. If the court~~
25 ~~imposes a term of community custody, the department shall, within~~
26 ~~available resources, make chemical dependency assessment and treatment~~
27 ~~services available to the offender during the term of community~~
28 ~~custody. The court shall impose, as conditions of community custody,~~
29 ~~treatment and other conditions as proposed in the plan under subsection~~
30 ~~(3)(b) of this section. The court shall schedule a progress hearing~~
31 ~~during the period of residential chemical dependency treatment, and~~
32 ~~schedule a treatment termination hearing for three months before the~~
33 ~~expiration of the term of community custody;~~

34 ~~(b) Before the progress hearing and treatment termination hearing,~~
35 ~~the treatment provider and the department shall submit written reports~~
36 ~~to the court and parties regarding the offender's compliance with~~
37 ~~treatment and monitoring requirements, and recommendations regarding~~
38 ~~termination from treatment. At the hearing, the court may:~~

1 ~~(i) Authorize the department to terminate the offender's community~~
2 ~~custody status on the expiration date determined under (a) of this~~
3 ~~subsection; or~~

4 ~~(ii) Continue the hearing to a date before the expiration date of~~
5 ~~community custody, with or without modifying the conditions of~~
6 ~~community custody; or~~

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

10 ~~(c) If the court imposes a term of total confinement under (b)(iii)~~
11 ~~of this subsection, the department shall, within available resources,~~
12 ~~make chemical dependency assessment and treatment services available to~~
13 ~~the offender during the terms of total confinement and community~~
14 ~~custody.~~

15 ~~(7) The))~~ (6) When a court imposes a sentence of community custody
16 under this section:

17 (a) The court may impose conditions as provided in RCW 9.94A.703
18 and may impose other affirmative conditions as the court considers
19 appropriate. In addition, an offender may be required to pay thirty
20 dollars per month while on community custody to offset the cost of
21 monitoring for alcohol or controlled substances.

22 ~~((8) The court may impose any of the following conditions:~~

23 ~~(a) Pay all court-ordered legal financial obligations; or~~

24 ~~(b) Perform community restitution work.~~

25 ~~(9)(a))~~ (b) The department may impose conditions and sanctions as
26 authorized in RCW 9.94A.704 and RCW 9.94A.737.

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

31 (b) If the offender is brought back to court, the court may modify
32 the conditions of the community custody or impose sanctions under (c)
33 of this subsection.

34 (c) The court may order the offender to serve a term of total
35 confinement within the standard range of the offender's current offense
36 at any time during the period of community custody if the offender
37 violates the conditions or requirements of the sentence or if the
38 offender is failing to make satisfactory progress in treatment.

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

4 ~~((+10+))~~ (8) In serving a term of community custody imposed upon
5 failure to complete, or administrative termination from, the special
6 drug offender sentencing alternative program, the offender shall
7 receive no credit for time served in community custody prior to
8 termination of the offender's participation in the program.

9 ~~((+11) If an offender sentenced to the prison-based alternative
10 under subsection (5) of this section is found by the United States
11 attorney general to be subject to a deportation order, a hearing shall
12 be held by the department unless waived by the offender, and, if the
13 department finds that the offender is subject to a valid deportation
14 order, the department may administratively terminate the offender from
15 the program and reclassify the offender to serve the remaining balance
16 of the original sentence.~~

17 ~~(+12+))~~ (9) An offender sentenced under this section shall be
18 subject to all rules relating to earned release time with respect to
19 any period served in total confinement.

20 ~~((+13+))~~ (10) Costs of examinations and preparing treatment plans
21 under ~~((subsections (2) and (3) of this section))~~ a special drug
22 offender sentencing alternative may be paid, at the option of the
23 county, from funds provided to the county from the criminal justice
24 treatment account under RCW 70.96A.350.

25 NEW SECTION. Sec. 4. (1) A sentence for a prison-based special
26 drug offender sentencing alternative shall include:

27 (a) A period of total confinement in a state facility for one-half
28 the midpoint of the standard sentence range or twelve months, whichever
29 is greater;

30 (b) One-half the midpoint of the standard sentence range as a term
31 of community custody, which must include appropriate substance abuse
32 treatment in a program that has been approved by the division of
33 alcohol and substance abuse of the department of social and health
34 services;

35 (c) Crime-related prohibitions, including a condition not to use
36 illegal controlled substances;

1 (d) A requirement to submit to urinalysis or other testing to
2 monitor that status; and

3 (e) A term of community custody pursuant to RCW 9.94A.701 to be
4 imposed upon the failure to complete or administrative termination from
5 the special drug offender sentencing alternative program.

6 (2) During incarceration in the state facility, offenders sentenced
7 under this section shall undergo a comprehensive substance abuse
8 assessment and receive, within available resources, treatment services
9 appropriate for the offender. The treatment services shall be designed
10 by the division of alcohol and substance abuse of the department of
11 social and health services, in cooperation with the department of
12 corrections.

13 (3) If the department finds that conditions of community custody
14 have been willfully violated, the offender may be reclassified to serve
15 the remaining balance of the original sentence. An offender who fails
16 to complete the program or who is administratively terminated from the
17 program shall be reclassified to serve the unexpired term of his or her
18 sentence as ordered by the sentencing court.

19 (4) If an offender sentenced to the prison-based alternative under
20 this section is found by the United States attorney general to be
21 subject to a deportation order, a hearing shall be held by the
22 department unless waived by the offender, and, if the department finds
23 that the offender is subject to a valid deportation order, the
24 department may administratively terminate the offender from the program
25 and reclassify the offender to serve the remaining balance of the
26 original sentence.

27 NEW SECTION. **Sec. 5.** (1) A sentence for a residential chemical
28 dependency treatment-based alternative shall include a term of
29 community custody equal to one-half the midpoint of the standard
30 sentence range or two years, whichever is greater, conditioned on the
31 offender entering and remaining in residential chemical dependency
32 treatment certified under chapter 70.96A RCW for a period set by the
33 court between three and six months.

34 (2)(a) The court shall impose, as conditions of community custody,
35 treatment and other conditions as proposed in the examination report
36 completed pursuant to RCW 9.94A.660.

1 (b) If the court imposes a term of community custody, the
2 department shall, within available resources, make chemical dependency
3 assessment and treatment services available to the offender during the
4 term of community custody.

5 (3)(a) If the court imposes a sentence under this section, the
6 treatment provider must send the treatment plan to the court within
7 thirty days of the offender's arrival to the residential chemical
8 dependency treatment program.

9 (b) Upon receipt of the plan, the court shall schedule a progress
10 hearing during the period of residential chemical dependency treatment,
11 and schedule a treatment termination hearing for three months before
12 the expiration of the term of community custody;

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

18 (4) At a progress hearing or treatment termination hearing, the
19 court may:

20 (a) Authorize the department to terminate the offender's community
21 custody status on the expiration date determined under subsection (1)
22 of this section;

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

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

29 (5) If the court imposes a term of total confinement, the
30 department shall, within available resources, make chemical dependency
31 assessment and treatment services available to the offender during the
32 term of total confinement and subsequent term of community custody.

33 NEW SECTION. **Sec. 6.** Sections 4 and 5 of this act are each added
34 to chapter 9.94A RCW.

35 NEW SECTION. **Sec. 7.** Section 2 of this act is necessary for the

1 immediate preservation of the public peace, health, or safety, or
2 support of the state government and its existing public institutions,
3 and takes effect immediately.

4 NEW SECTION. **Sec. 8.** Sections 1 and 3 through 5 of this act take
5 effect August 1, 2009.

6 NEW SECTION. **Sec. 9.** Section 2 of this act expires August 1,
7 2009."

SHB 1791 - S AMD
By Senator Regala

ADOPTED 04/14/2009

8 On page 1, line 2 of the title, after "provisions;" strike the
9 remainder of the title and insert "amending RCW 9.94A.505 and
10 9.94A.660; reenacting and amending RCW 9.94A.660; adding new sections
11 to chapter 9.94A RCW; providing an effective date; providing an
12 expiration date; and declaring an emergency."

--- END ---