**5848-S AMS ZEIG S4398.1 - NOT FOR FLOOR USE**

**SSB 5848** - S AMD TO S AMD (S-4222.1/19) **795**

By Senator Zeiger

**NOT CONSIDERED 12/23/2019**

On page 5, after line 20, insert the following:

"**Sec.**  RCW 9.94A.660 and 2016 sp.s. c 29 s 524 are each amended to read as follows:

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

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

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

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

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

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

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

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

(2) A motion for a special drug offender sentencing alternative may be made by the court, the offender, or the state.

(3) If the sentencing court determines that the offender is eligible for an alternative sentence under this section and that the alternative sentence is appropriate, the court shall waive imposition of a sentence within the standard sentence range and impose a sentence consisting of either a prison-based alternative under RCW 9.94A.662 or a residential chemical dependency treatment-based alternative under RCW 9.94A.664. The residential chemical dependency treatment-based alternative is only available if the midpoint of the standard range is twenty-four months or less.

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

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

(i) Whether the offender suffers from ((~~drug addiction~~)) substance use disorder;

(ii) Whether the ((~~addiction~~)) substance use disorder is such that there is a probability that criminal behavior will occur in the future;

(iii) Whether effective treatment for the offender's ((~~addiction~~)) substance use disorder, including medication-assisted treatment, if applicable, is available from a provider that has been licensed or certified by the department of ((~~social and~~)) health ((~~services~~)); and

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

(b) The examination report must contain:

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

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

(6) When a court imposes a sentence of community custody under this section:

(a) The court may impose conditions as provided in RCW 9.94A.703 and may impose other affirmative conditions as the court considers appropriate, including commencing and/or continuing medication-assisted treatment, if applicable. In addition, an offender may be required to pay thirty dollars per month while on community custody to offset the cost of monitoring for alcohol or controlled substances.

(b) The department may impose conditions and sanctions as authorized in RCW 9.94A.704 and 9.94A.737, including commencing and/or continuing medication-assisted treatment, if applicable.

(7)(a) The court may bring any offender sentenced under this section 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.

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

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

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

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

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

(10) Costs of examinations and preparing treatment plans under a special drug offender sentencing alternative may be paid, at the option of the county, from funds provided to the county from the criminal justice treatment account under RCW 71.24.580.

**Sec.**  RCW 9.94A.662 and 2009 c 389 s 4 are each amended to read as follows:

(1) A sentence for a prison-based special drug offender sentencing alternative shall include:

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

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

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

(d) An order that the offender either commence and/or continue medication-assisted treatment, if deemed medically necessary;

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

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

(2) During incarceration in the state facility, offenders sentenced under this section shall undergo a comprehensive substance ((~~abuse~~)) use disorder assessment and receive, within available resources, treatment services appropriate for the offender, including commencing and/or continuing medication-assisted treatment, if applicable. The treatment services shall be designed by the ((~~division of alcohol and substance abuse of the~~)) department of ((~~social and health services~~)) corrections, in cooperation with the department of ((~~corrections~~)) health, and the health care authority. Under no circumstances may an offender be allowed to possess prescription medication used for medication-assisted treatment outside of the direct supervision of a medical professional. Possession of such medication outside of the direct supervision of a medical professional must be treated as any other such similar infraction.

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

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

**Sec.**  RCW 9.94A.664 and 2009 c 389 s 5 are each amended to read as follows:

(1) A sentence for a residential chemical dependency treatment-based alternative shall include a term of community custody equal to one-half the midpoint of the standard sentence range or two years, whichever is greater, conditioned on the offender commencing and/or continuing medication-assisted treatment, if applicable, and entering and remaining in residential chemical dependency treatment certified under chapter 70.96A RCW for a period set by the court ((~~between three and six months~~)) for a time determined to be clinically necessary.

(2)(a) The court shall impose, as conditions of community custody, treatment and other conditions, including commencing and/or continuing medication-assisted treatment, if applicable as proposed in the examination report completed pursuant to RCW 9.94A.660.

(b) If the court imposes a term of community custody, the department shall, if the individual is not eligible for medicaid services, within available resources, make ((~~chemical dependency~~)) substance use disorder assessment and treatment services, including medication-assisted treatment, if applicable, available to the offender during the term of community custody.

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

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

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

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

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

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

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

(5) If the court imposes a term of total confinement, the department shall, within available resources, make chemical dependency assessment and treatment services, including medication-assisted treatment, available to the offender as soon as possible during the term of total confinement and subsequent term of community custody.

NEW SECTION. **Sec.**  To the extent that long-term and short-term savings are realized as the result of implementing medication-assisted treatment, the department must reinvest those funds into furthering medication-assisted treatment in state correctional facilities.

NEW SECTION. **Sec.**  (1) To the extent that funds are specifically appropriated for this purpose, and specifically with regard to the efficacy of the special drug offender sentencing alternatives and the use of medication-assisted treatment, the Washington state institute for public policy shall study and report on the following:

(a) The number of individuals who have been granted a special drug offender sentencing alternative, and the type of alternative;

(b) The number of providers who have prescribed medication-assisted treatment to individuals who are on a special drug offender sentencing alternative;

(c) A description of resources available, and resources still needed;

(d) The effectiveness of the special drug offender sentencing alternatives program and medication-assisted treatment;

(e) The number of individuals diverted from longer sentences because of participation in a special drug offender sentencing alternative program in conjunction with medication-assisted treatment;

(f) Any cost savings;

(g) Other approaches to special drug offender sentencing alternatives and incorporating medication-assisted treatment;

(h) Appropriate timing and sequencing of substance use disorder programming and medication-assisted treatment during incarceration; and

(i) Other evidenced-based programs and policies regarding medication-assisted treatment in correctional settings.

(2) The Washington state institute for public policy must deliver its report to the governor and the appropriate committees of the legislature by December 1, 2021.

(3) This section expires July 1, 2022."

Renumber the remaining sections consecutively and correct any internal references accordingly.

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By Senator Zeiger

**NOT CONSIDERED 12/23/2019**

On page 9, line 18, after "9.94B.050," insert "9.94A.660, 9.94A.662, 9.94A.664,"

On page 9, line 19, after "date;" insert "providing an expiration date;"

EFFECT: (1) Adds language that the court may order conditions and sanctions including commencing and/or continuing medication-assisted treatment, if applicable, and that the department of corrections (DOC) shall, within available resources, make chemical dependency assessment and treatment services, including medication-assisted treatment, available to the offender as soon as possible during the term of total confinement and subsequent term of community custody.

(2) Adds Washington Institute for Public Policy (WSIPP) study, which expires July 1, 2022.