

FINAL BILL REPORT

SHB 1791

C 389 L 09
Synopsis as Enacted

Brief Description: Clarifying certain community custody and drug offender sentencing alternative sentencing provisions.

Sponsors: House Committee on Human Services (originally sponsored by Representatives Dickerson, O'Brien, Hurst, Green, Dammeier, Morrell, Orwall, Walsh and Wood; by request of Department of Corrections).

House Committee on Human Services
Senate Committee on Human Services & Corrections

Background:

Drug Offender Sentencing Alternative.

If a defendant is charged with an offense under the Violation of the Uniform Controlled Substances Act (VUCSA) or any other felony and the court finds that the offender has a chemical dependency that contributed to the crime, the offender may be eligible for and move the court for a Drug Offender Sentencing Alternative (DOSA), if the following criteria are met:

- the standard sentence range for the offense is more than one year;
- the offender has not previously received a DOSA more than once in the last ten years;
- the offender has no prior sex offenses and the current offense is not a sex offense;
- the current offense is not violent and the offender has no prior violent offenses in the past ten years;
- the current offense is not a felony offense of driving under the influence (DUI) or physical control (a DUI or physical control becomes a felony if the offender has four or more prior offenses within the past 10 years or if the defendant has a prior conviction of vehicular homicide or vehicular assault as a result of driving under the influence of alcohol);
- no deadly weapon or firearms enhancement applies to the current offense;
- the defendant is not subject to a federal immigration detainer or deportation order;
- and
- the offense involved a small amount of drugs as determined by the court.

The court must consider four factors in its determination of whether a DOSA is appropriate for the offender:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- whether the offender suffers from a drug addiction;
- whether that addiction makes it probable that criminal behavior will occur in the future;
- whether effective treatment for that addiction is available; and
- whether the offender and the community will benefit from the sentencing alternative.

If the court imposes a DOSA instead of the sentence range, the sentence consists of either a prison-based alternative or a residential chemical dependency treatment-based alternative. If the offender is sentenced to a prison-based alternative, he or she must spend a period of total confinement in a state facility equal to one-half the midpoint of the standard range, or 12 months, whichever is greater. For example, if the standard sentence range is 13 - 17 months, the midpoint of the standard range would be 15 months. One-half of the midpoint would be 7.5 months. Under a prison-based DOSA, the offender would be required to serve 12 months in total confinement. The offender would be placed on community custody for the "remainder of the midpoint."

Summary:

Community Custody for Prison-Based DOSA.

The length of an offender's term of community custody is clarified. Upon completion of a term of one-half of the midpoint or 12 months (whichever is greater) in total confinement, the offender must serve one-half of the midpoint of the standard range as a term of community custody.

To assist the court in determining whether it should impose community-based or prison-based treatment, the court may order the Department of Corrections (DOC) to complete a risk assessment or a chemical dependency screening report or both.

Residential Chemical Dependency Treatment-Based Alternative.

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 DOC. If the court imposes a sentence under this provision, then the treatment provider will be required to send the treatment plan to the court within 30 days of the offender's arrival at the residential chemical dependency treatment program.

Community Custody for Exceptional Sentence for Unranked Offenses.

A term of community custody is established for an unranked felony offense for which there has not been an established standard sentence range, and for which the court has imposed a sentence that exceeds 12 months based upon a finding that such an exceptional sentence is justified pursuant to special allegations that have been pled and proven.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: August 1, 2009

May 7, 2009 (Section 2)