
**Public Safety & Emergency Preparedness
Committee**

HB 2077

Brief Description: Imposing delayed sentencing for offenders with a standard range under one year.

Sponsors: Representatives Goodman, O'Brien, Kirby, Kagi, Roberts and Chase.

Brief Summary of Bill

- Creates the "delayed sentencing option" allowing the court to continue the sentencing hearing up to one year following the entry of a plea of guilty and order presentence release conditions for offenders with a standard sentence range of one year or less who would otherwise serve his or her sentence in a county jail.
- Restricts eligibility to offenders with no current or prior convictions for a sex offense, and those who have not been convicted of a violent offense within 10 years.
- Authorizes the court to revoke the delayed sentencing option for any violation of the conditions, or if the offender is failing to make satisfactory progress in treatment.

Hearing Date: 2/17/09

Staff: Lara Zarowsky (786-7123)

Background:

By statute, the court must impose a sentence within 40 days following a conviction, unless either party makes a showing of good cause or the court on its own motion extends the time period for conducting the sentencing hearing.

When a person is convicted of a crime, the court must generally sentence the offender within a standard range determined by the person's criminal history and the seriousness level of the crime. Offenders ordered to serve more than one year in total confinement generally serve their

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sentence in a Department of Corrections (DOC) facility. Offenders ordered to serve less than one year in total confinement may serve their sentence in a county jail.

Alternatives to total confinement are available for offenders with sentences of one year or less. The term “offender” describes adults or juveniles transferred to adult court, who have been convicted of a felony. The court may impose conditions as substitutes for total confinement. For example:

- One day of partial confinement may be substituted for one day of total confinement.
- For offenders convicted of non-violent offenses, eight hours of community service may be substituted for one day of total confinement with a maximum conversion limit of 240 hours or 30 days. Community service hours must be completed within the period of community supervision or a time period specified by the court, which shall not exceed 24 months, pursuant to a schedule determined by the DOC.
- For non-violent and non-sex offenders, the court may authorize county jails to convert jail confinement to an available county supervised community option and may require the offender to perform affirmative conduct.

Summary of Bill:

The delayed sentencing option (option) is created.

An offender is eligible for the option if he or she:

- is convicted of a non-violent and non-sex offense that is not subject to a firearm or deadly weapon sentence enhancement;
- is not convicted of a felony driving while under the influence or felony physical control of a vehicle;
- has no current or prior convictions for a sex offense;
- has no current or prior convictions for a violent offense within 10 years before conviction for the current offense;
- is not subject to deportation; and
- has a standard sentence range of one year or less and would otherwise serve his or her sentence in a county jail.

The court may grant any party’s motion and the offender may elect to participate in the option if the court determines that a delayed sentence is appropriate. Under the option, the court must continue the sentencing hearing for any period up to one year and order conditions pending sentencing, which may include appropriate mental health, domestic violence, or chemical dependency treatment.

At the discretion of the court, an offender may participate in the option whether or not treatment is imposed as a condition. However, an offender must submit a chemical dependency, domestic violence, or mental health evaluation at the time a guilty plea is entered in order to be considered for inpatient or outpatient treatment as a condition of the option.

Under the option, the court must impose the following conditions:

- comply with crime related prohibitions, including a condition not to use illegal controlled substances;
- submit to urinalysis or other testing;

- provide a signed release of information authorizing any treatment provider to notify the court, defense counsel, and prosecutor of the offender's non-compliance;
- remain within the county while sentencing is pending;
- commit no criminal law violations;
- update the court, treatment provider, defense counsel and prosecutor of any change of address, employment, or phone number;
- pay all court ordered legal financial obligations;
- stay out of areas designated by the court; and
- any other conditions the court may require.

If treatment is imposed under the option, it must be provided through a program approved by the Department of Social and Health Services, and the treatment provider must submit periodic status reports to the court, defense counsel and prosecutor, and must notify all parties within 72 hours of non-compliance by the offender.

The court may order the defendant to appear in court at any time pending sentencing to evaluate the offender's progress in treatment, determine whether any violations have occurred, modify the conditions, or revoke the option.

An offender ordered to serve a term of total confinement shall receive credit for any time previously served and is subject to all rules relating to earned release time with respect to any period served in post-conviction treatment under the option. An offender shall receive one day credit for each day of participation in treatment.

Costs of examinations and preparation of treatment plans may be paid, at the county's option, from funds provided to the county from the Criminal Justice Treatment Account.

A delayed sentence under this the bill does not constitute a suspended or deferred sentence.

Appropriation: None.

Fiscal Note: Available.

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