
HOUSE BILL 1933

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By Representatives Goodman, O'Brien, Kagi, Kirby, Appleton, Carlyle, Roberts, and Ormsby

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1 AN ACT Relating to county supervised community options for
2 offenders with a standard sentence range under one year; amending RCW
3 9.94A.500; and adding a new section to chapter 9.94A RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
6 to read as follows:

7 (1) An offender is eligible for a county supervised community
8 option if:

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

12 (b) The offender is convicted of a felony that is not a felony
13 driving while under the influence of intoxicating liquor or any drug
14 under RCW 46.61.502(6) or felony physical control of a vehicle while
15 under the influence of intoxicating liquor or any drug under RCW
16 46.61.504(6);

17 (c) The offender has no current or prior convictions for a sex
18 offense at any time or violent offense within ten years before

1 conviction of the current offense in this state, another state, or the
2 United States;

3 (d) For a violation of the uniform controlled substances act under
4 chapter 69.50 RCW or a criminal solicitation to commit such a violation
5 under chapter 9A.28 RCW, the offense involved only a small quantity of
6 a particular controlled substance as determined by the judge upon
7 consideration of such factors as the weight, purity, packaging, sale
8 price, and street value of the controlled substance;

9 (e) The offender has not been found by the United States attorney
10 general to be subject to a deportation detainer or order and does not
11 become subject to a deportation order during the period in which the
12 court has jurisdiction for the current offense;

13 (f) The standard sentence range for the current offense is one year
14 or less and the offender would otherwise serve his or her sentence in
15 a county jail; and

16 (g) The offender has not received either a drug offender sentencing
17 alternative under RCW 9.94A.660 or a county supervised community option
18 under this act more than once in the prior ten years before the current
19 offense.

20 (2) A motion for a sentence under this section may be made by the
21 court, the offender, or the prosecutor. An offender may elect to
22 participate in a county supervised community option under terms set by
23 the court. If the sentencing court determines that the offender is
24 eligible for the option, the court may order an examination of the
25 offender. The examination shall, at a minimum, address the following
26 issues:

27 (a) Whether the offender suffers from drug addiction;

28 (b) Whether the addiction is such that there is a probability that
29 criminal behavior will occur in the future;

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

34 (d) Whether the offender and the community will benefit from the
35 use of the option.

36 (3) The examination report must contain:

37 (a) Information on the issues required to be addressed in
38 subsection (2) of this section; and

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

2 (i) A proposed treatment provider that has been licensed or
3 certified by the division of alcohol and substance abuse of the
4 department of social and health services;

5 (ii) The recommended frequency and length of treatment, including
6 both residential chemical dependency treatment and treatment in the
7 community;

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

11 (iv) Recommended crime-related prohibitions and affirmative
12 conditions.

13 (4) After receipt of the examination report, if the court
14 determines that a sentence under this section is appropriate, the court
15 shall continue the sentencing hearing for a period set by the court up
16 to one hundred eighty days and order the offender into treatment
17 pending sentencing.

18 (5) The county supervised community option shall include:

19 (a) A period of appropriate in-patient or out-patient substance
20 abuse treatment in a program that has been approved by the division of
21 alcohol and substance abuse of the department of social and health
22 services;

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

25 (c) A requirement to submit to urinalysis or other testing to
26 monitor that status; and

27 (d) A term of total confinement within the standard sentence range
28 for the current offense to be imposed upon failure to complete the
29 county supervised community option.

30 (6) If the court enters a disposition under this section, the court
31 may prohibit the offender from using alcohol or controlled substances
32 and may require that the monitoring for controlled substances be
33 conducted by the court's probation department or a court-referred
34 treatment program. The offender may be required to pay thirty dollars
35 per month during the postconviction period pending sentencing to offset
36 the cost of monitoring. In addition, the court may impose any of the
37 following conditions:

38 (a) Devoting time to a specific employment or training;

1 (b) Remaining within prescribed geographical boundaries and
2 notifying the court or the probation officer before any change in the
3 offender's address or employment;

4 (c) Reporting as directed to an officer of the court's probation
5 department;

6 (d) Paying all court-ordered legal financial obligations;

7 (e) Performing community restitution work;

8 (f) Staying out of areas designated by the court;

9 (g) Other conditions as the court may require, such as affirmative
10 conditions.

11 (7)(a) The court may bring any offender subject to this section
12 back into court at any time during the postconviction period pending
13 sentencing on its own initiative to evaluate the offender's progress in
14 treatment or to determine if any violations of the conditions of the
15 option have occurred.

16 (b) If the offender is brought back to court, the court may modify
17 the terms of the disposition or impose sanctions under (c) of this
18 subsection.

19 (c) The court may revoke the county supervised community option and
20 sentence the offender to a term of total confinement within the
21 standard range for the offender's current offense at any time during
22 the period of postconviction treatment if the offender violates the
23 conditions of the disposition or if the offender is failing to make
24 satisfactory progress in treatment.

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

28 (8) If an offender subject to this section is found by the United
29 States attorney general to be subject to a deportation order, a hearing
30 shall be held by the court unless waived by the offender, and if the
31 court finds that the offender is subject to a valid deportation order,
32 it may terminate the offender from the county supervised community
33 option and immediately sentence the offender to a term of total
34 confinement within the standard range for the offender's current
35 offense.

36 (9) An offender sentenced under this section shall be subject to
37 all rules relating to earned release time with respect to any period
38 served in postconviction treatment pursuant to this section.

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

5 **Sec. 2.** RCW 9.94A.500 and 2008 c 231 s 2 are each amended to read
6 as follows:

7 (1) Before imposing a sentence upon a defendant, the court shall
8 conduct a sentencing hearing. Except as provided in section 1 of this
9 act, the sentencing hearing shall be held within forty court days
10 following conviction. Upon the motion of either party for good cause
11 shown, or on its own motion, the court may extend the time period for
12 conducting the sentencing hearing.

13 Except in cases where the defendant shall be sentenced to a term of
14 total confinement for life without the possibility of release or, when
15 authorized by RCW 10.95.030 for the crime of aggravated murder in the
16 first degree, sentenced to death, the court may order the department to
17 complete a risk assessment report. If available before sentencing, the
18 report shall be provided to the court.

19 Unless specifically waived by the court, the court shall order the
20 department to complete a chemical dependency screening report before
21 imposing a sentence upon a defendant who has been convicted of a
22 violation of the uniform controlled substances act under chapter 69.50
23 RCW, a criminal solicitation to commit such a violation under chapter
24 9A.28 RCW, or any felony where the court finds that the offender has a
25 chemical dependency that has contributed to his or her offense. In
26 addition, the court shall, at the time of plea or conviction, order the
27 department to complete a presentence report before imposing a sentence
28 upon a defendant who has been convicted of a felony sexual offense.
29 The department of corrections shall give priority to presentence
30 investigations for sexual offenders. If the court determines that the
31 defendant may be a mentally ill person as defined in RCW 71.24.025,
32 although the defendant has not established that at the time of the
33 crime he or she lacked the capacity to commit the crime, was
34 incompetent to commit the crime, or was insane at the time of the
35 crime, the court shall order the department to complete a presentence
36 report before imposing a sentence.

1 The court shall consider the risk assessment report and presentence
2 reports, if any, including any victim impact statement and criminal
3 history, and allow arguments from the prosecutor, the defense counsel,
4 the offender, the victim, the survivor of the victim, or a
5 representative of the victim or survivor, and an investigative law
6 enforcement officer as to the sentence to be imposed.

7 A criminal history summary relating to the defendant from the
8 prosecuting authority or from a state, federal, or foreign governmental
9 agency shall be prima facie evidence of the existence and validity of
10 the convictions listed therein. If the court is satisfied by a
11 preponderance of the evidence that the defendant has a criminal
12 history, the court shall specify the convictions it has found to exist.
13 All of this information shall be part of the record. Copies of all
14 risk assessment reports and presentence reports presented to the
15 sentencing court and all written findings of facts and conclusions of
16 law as to sentencing entered by the court shall be sent to the
17 department by the clerk of the court at the conclusion of the
18 sentencing and shall accompany the offender if the offender is
19 committed to the custody of the department. Court clerks shall
20 provide, without charge, certified copies of documents relating to
21 criminal convictions requested by prosecuting attorneys.

22 (2) To prevent wrongful disclosure of information related to mental
23 health services, as defined in RCW 71.05.445 and 71.34.345, a court may
24 take only those steps necessary during a sentencing hearing or any
25 hearing in which the department presents information related to mental
26 health services to the court. The steps may be taken on motion of the
27 defendant, the prosecuting attorney, or on the court's own motion. The
28 court may seal the portion of the record relating to information
29 relating to mental health services, exclude the public from the hearing
30 during presentation or discussion of information relating to mental
31 health services, or grant other relief to achieve the result intended
32 by this subsection, but nothing in this subsection shall be construed
33 to prevent the subsequent release of information related to mental
34 health services as authorized by RCW 71.05.445, 71.34.345, or
35 72.09.585. Any person who otherwise is permitted to attend any hearing
36 pursuant to chapter 7.69 or 7.69A RCW shall not be excluded from the

1 hearing solely because the department intends to disclose or discloses
2 information related to mental health services.

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