
Community Safety Committee

HB 2217

Brief Description: Concerning rehabilitative pathways for persons charged with certain felony offenses who have no prior felony convictions in adult criminal court.

Sponsors: Representatives Farivar, Bernbaum, Ryu, Doglio, Parshley, Simmons, Peterson, Reed, Obras, Street, Scott, Thomas, Ormsby and Hill.

Brief Summary of Bill

- Replaces the existing first-time offender waiver sentencing alternative with options for the court to grant a pretrial deferral or suspended sentence to first-time offenders.
- Establishes eligibility criteria and procedural guidelines for defendants who participate in the pretrial deferral or receive the suspended sentence as a first-time offender.

Hearing Date: 1/29/26

Staff: Corey Patton (786-7388).

Background:

For most felony offenses, the Sentencing Reform Act determines a specific sentence range within the statutory maximum according to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the person's criminal history. Additional sentencing policies may further increase or decrease the standard sentence range, or authorize the court to impose an alternative sentence under specified circumstances.

For example, a defendant convicted of a felony offense may be eligible for a first-time offender

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waiver if the defendant has never been previously convicted of a felony or participated in a program or deferred prosecution for a felony, and the current conviction is not for:

- a violent offense;
- a sex offense;
- the manufacture, delivery, or sale of certain controlled substances; or
- a felony Driving Under the Influence or Physical Control offense.

In sentencing a first-time offender, the court may waive the standard sentence and instead impose a sentence of up to 90 days confinement and up to six months of community custody, or up to one year of community custody if the court also orders treatment. The court may also order the defendant to pay all court-ordered legal financial obligations or perform community restitution.

Summary of Bill:

The first-time offender waiver sentencing alternative is replaced with options for the court to grant a pretrial deferral or suspended sentence to first-time offenders, subject to specified eligibility criteria.

Eligibility Criteria.

A defendant is eligible to participate in the pretrial deferral or receive the suspended sentence for one or more applicable current charges or convictions if the defendant has never been previously convicted of a felony or participated in a program or deferred prosecution for a felony in adult criminal court, and the defendant's current charge or conviction is not for:

- a violent offense, except Robbery in the second degree or Assault in the second degree;
- a sex offense; or
- a felony Driving Under the Influence or Physical Control offense.

A defendant may only participate in the pretrial deferral or receive the suspended sentence once, except that a defendant who initially participates in the pretrial deferral remains eligible to receive the suspended sentence for the same underlying offense or offenses if the pretrial deferral is revoked.

Granting the Pretrial Deferral or Suspended Sentence.

Prior to empaneling a jury, the defendant may make a motion to defer entry of conviction and sentencing. If the court finds that the defendant meets the eligibility criteria as a first-time offender, the court may grant the motion and continue the case for a period not to exceed one year. There is a strong presumption that the court will grant the motion to eligible defendants. Before entering the deferral, the defendant must:

- acknowledge that either the written police report or the stipulated facts agreed to by the parties, if later admitted as evidence, may be entered and used to support a finding of guilt and to impose a sentence if the defendant fails to comply with terms of supervision;
- waive the rights to trial, speedy sentencing, call and confront witnesses, and testify and present evidence; and

- acknowledge the direct consequences that will happen if found guilty.

Alternatively, following a trial that results in a finding of guilt, or following the revocation of a pretrial deferral described above, the defendant may make a motion for a suspended sentence. If the court finds that the defendant meets the eligibility criteria as a first-time offender, the court may grant the motion by imposing a standard sentence and entering an order suspending execution of the sentence for a period not to exceed one year. There is a strong presumption that the court will grant the motion to eligible defendants.

Under either the pretrial deferral or suspended sentence, the court may impose up to six months of community custody, or up to one year of community custody if the court also orders treatment. In addition to any other conditions of community custody, the court may order the defendant to:

- pay all court-ordered legal financial obligations, unless the defendant is indigent; or
- perform community restitution work.

Revoking the Pretrial Deferral or Suspended Sentence.

If the prosecutor alleges that the defendant is not substantially complying with the terms of the pretrial deferral or suspended sentence any time prior to the conclusion of community custody, the prosecutor may file a motion for revocation after providing the defendant with written notice of the alleged violations and disclosure of all evidence to be offered. The court must hold a hearing on the motion to determine whether the defendant has willfully failed to substantially comply with the terms of the pretrial deferral or suspended sentence. At the hearing, the court may modify the conditions of community custody or impose sanctions, except that any sanctions imposed may not exceed the defendant's standard sentencing range. The rules of evidence do not apply, but the defendant must be afforded:

- the right to counsel;
- the right to confront and cross-examine all witnesses; and
- the opportunity to be heard in person and present evidence.

If the court finds by clear and convincing evidence that the defendant has willfully failed to substantially comply with the terms of the pretrial deferral or suspended sentence, the court may either continue the hearing to provide additional time for substantial compliance, or follow specified procedures for revoking the pretrial deferral or suspended sentence and taking further action as applicable.

Completing the Pretrial Deferral or Suspended Sentence.

At the conclusion of the period of supervision, the court must determine whether the defendant has substantially completed the terms of the pretrial deferral or suspended sentence and either:

- paid the full amount of restitution and performed all ordered community restitution work; or
- made a good faith effort to pay the full amount of restitution and perform all ordered community restitution work during the period of supervision.

If the court finds that the defendant has met these requirements, the court must dismiss the case with prejudice or enter an order terminating the suspended sentence as applicable. If the case is dismissed or the suspended sentence is terminated with restitution still owing, the court must enter an order for any unpaid restitution.

If the court instead finds that the defendant has not met these requirements, the court must determine whether to grant additional time for substantial compliance, or follow specified procedures to revoke the pretrial deferral or suspended sentence and take further action as applicable.

Appropriation: None.

Fiscal Note: Requested on January 21, 2026.

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