
HOUSE BILL 2217

State of Washington

69th Legislature

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

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1 AN ACT Relating to rehabilitative pathways for persons charged
2 with certain felony offenses who have no prior felony convictions in
3 adult criminal court; and amending RCW 9.94A.650.

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

5 **Sec. 1.** RCW 9.94A.650 and 2022 c 16 s 6 are each amended to read
6 as follows:

7 (1) This section applies to (~~offenders~~) defendants who have
8 never been previously convicted in adult criminal court of a felony
9 in this state, federal court, or another state, and who have never
10 participated in a program of deferred prosecution for a felony in
11 adult criminal court, and who are presently being charged with or
12 convicted of a felony that is not:

13 (a) Classified as a violent offense (~~or a sex offense under this~~
14 ~~chapter~~;

15 ~~(b) Manufacture, delivery, or possession with intent to~~
16 ~~manufacture or deliver a controlled substance classified in Schedule~~
17 ~~I or II that is a narcotic drug or flunitrazepam classified in~~
18 ~~Schedule IV~~;

19 ~~(c) Manufacture, delivery, or possession with intent to deliver a~~
20 ~~methamphetamine, its salts, isomers, and salts of its isomers as~~
21 ~~defined in RCW 69.50.206(d)(2)~~;

1 ~~(d) The selling for profit of any controlled substance or~~
2 ~~counterfeit substance classified in Schedule I, RCW 69.50.204, except~~
3 ~~leaves and flowering tops of cannabis; or~~

4 ~~(e))~~ under this chapter, excluding robbery in the second degree
5 and assault in the second degree;

6 (b) Classified as a sex offense under this chapter; or

7 (c) Felony driving while under the influence of intoxicating
8 liquor or any drug or felony physical control of a vehicle while
9 under the influence of intoxicating liquor or any drug.

10 (2) ~~((In sentencing a first-time offender the court may waive the~~
11 ~~imposition of a sentence within the standard sentence range and~~
12 ~~impose a sentence which may include up to ninety days of confinement~~
13 ~~in a facility operated or utilized under contract by the county and a~~
14 ~~requirement that the offender refrain from committing new offenses.~~

15 ~~(3) The))~~ (a) Except as provided in (b) of this subsection, a
16 defendant shall not be eligible to participate in a deferral or a
17 suspended sentence pursuant to this section if the defendant has
18 previously entered a deferral or suspended sentence pursuant to this
19 section. A deferral or suspended sentence may be entered on multiple
20 current offenses.

21 (b) A defendant who participates in a deferral pursuant to
22 subsection (3) of this section shall remain eligible to participate
23 in a suspended sentence pursuant to subsection (4) of this section
24 for the same underlying offense or offenses if the defendant's
25 initial deferral is revoked.

26 (3) (a) Prior to the empaneling of a jury, the defendant may make
27 a motion to defer entry of conviction and sentencing for one or more
28 qualifying current offenses. If the court finds that the defendant
29 meets the criteria under subsections (1) and (2) of this section, and
30 the defendant agrees to the stipulations, acknowledgements, and
31 waivers under (b) of this subsection, the court may grant the motion
32 and continue the defendant's case for a period not to exceed one
33 year. There shall be a strong presumption that the court will grant
34 the motion if the defendant meets the criteria under subsections (1)
35 and (2) of this section.

36 (b) Before entering a deferral, the defendant must:

37 (i) Acknowledge that either the written police report or the
38 stipulated facts agreed to by the parties, if later admitted as
39 evidence, may be entered and used to support a finding of guilt and

1 to impose a sentence if the defendant fails to comply with terms of
2 supervision;

3 (ii) Waive the rights to:

4 (A) A trial;

5 (B) A speedy sentencing;

6 (C) Call and confront witnesses; and

7 (D) Testify and present evidence in their defense; and

8 (iii) Acknowledge the direct consequences that will happen if
9 found guilty.

10 (c) The hearing on entry of conviction and sentencing shall be
11 limited to a reading of the court's record.

12 (4) Following a trial that results in a finding of guilt, or
13 following the revocation of a deferral offered pursuant to subsection
14 (3) of this section, the defendant may make a motion for a suspended
15 sentence for one or more qualifying current offenses. If the court
16 finds that the defendant meets the criteria under subsections (1) and
17 (2) of this section, the court may grant the motion by imposing a
18 standard sentence and entering an order suspending the execution of
19 its sentence for a period not to exceed one year. There shall be a
20 strong presumption that the court will grant the motion if the
21 defendant meets the criteria under subsections (1) and (2) of this
22 section.

23 (5) (a) When granting a motion to defer entry of conviction and
24 sentencing pursuant to subsection (3) of this section, or a motion
25 for a suspended sentence pursuant to subsection (4) of this section,
26 the court may impose up to six months of community custody unless
27 treatment is ordered, in which case the period of community custody
28 may include up to the period of treatment, but shall not exceed one
29 year.

30 ~~((4))~~ (b) As a condition of community custody, in addition to
31 any conditions authorized in RCW 9.94A.703, the court may order the
32 ~~((offender))~~ defendant to pay all court-ordered legal financial
33 obligations and/or perform community restitution work; provided,
34 however, the court shall not impose any legal financial obligations
35 if the court finds that the defendant is indigent as defined in RCW
36 10.01.160(3).

37 ~~((5) For the purposes of this section, "cannabis" has the~~
38 ~~meaning provided in RCW 69.50.101.)~~ (6) (a) If the prosecuting
39 attorney alleges that the defendant is not substantially complying
40 with the terms ordered under a deferral or a suspended sentence

1 pursuant to this section any time prior to the conclusion of
2 community custody, the prosecutor may, after providing the defendant
3 with written notice of the alleged violations and disclosure of all
4 evidence to be offered against the defendant, file a motion to revoke
5 the deferral or the order suspending the execution of the defendant's
6 sentence. The court shall hold a hearing on the motion to determine
7 whether the defendant has willfully failed to substantially comply
8 with the terms of the deferral or the suspended sentence.

9 (b) At the hearing, the court may modify the conditions of
10 community custody and/or impose sanctions; provided, however, that
11 any sanctions imposed may not exceed the defendant's standard
12 sentencing range.

13 (c) At that hearing, the rules of evidence do not apply, but the
14 defendant must be afforded the provisions under CrR 7.6 and CrRLJ
15 7.6, including:

16 (i) The right to counsel;

17 (ii) The right to confront and cross-examine all witnesses; and

18 (iii) The opportunity to be heard in person and to present
19 evidence.

20 (d) If the court finds by clear and convincing evidence that the
21 defendant has willfully failed to substantially comply with the terms
22 of a deferral offered pursuant to subsection (3) of this section, the
23 court may continue the hearing to provide additional time for
24 substantial compliance, or admit either the written police report or
25 the factual stipulations agreed to by the parties under subsection
26 (3)(b)(i) of this section into evidence and determine whether to
27 enter a finding of guilt.

28 (e) If the court finds by clear and convincing evidence that the
29 defendant has willfully failed to substantially comply with the terms
30 of a suspended sentence granted pursuant to subsection (4) of this
31 section, the court may continue the hearing to provide additional
32 time for substantial compliance or may revoke the suspended sentence.

33 (7)(a) At the conclusion of the period of supervision for a
34 deferral or a suspended sentence pursuant to this section, the court
35 shall determine whether the defendant has substantially completed the
36 terms of the deferral or the suspended sentence and either:

37 (i) Paid the full amount of restitution and/or performed all
38 ordered community restitution work; or

1 (ii) Made a good faith effort to pay the full amount of
2 restitution and/or perform all ordered community restitution work
3 during the period of supervision.

4 (b) If the court finds that the defendant has met the
5 requirements under (a) of this subsection, and the defendant is
6 participating in a deferral offered pursuant to subsection (3) of
7 this section, the court shall dismiss the case with prejudice. If the
8 case is dismissed with restitution still owing, the court shall enter
9 a restitution order pursuant to RCW 7.80.130 for any unpaid
10 restitution. Jurisdiction to enforce payment and modify terms of the
11 restitution order shall be the same as those set forth in RCW
12 7.80.130.

13 (c) If the court finds that the defendant has met the
14 requirements under (a) of this subsection, and the defendant is
15 participating in a suspended sentence granted pursuant to subsection
16 (4) of this section, the court shall enter an order terminating the
17 suspended sentence. If the suspended sentence is terminated with
18 restitution still owing, the court shall enter a restitution order
19 pursuant to RCW 7.80.130 for any unpaid restitution. Jurisdiction to
20 enforce payment and modify terms of the restitution order shall be
21 the same as those set forth in RCW 7.80.130.

22 (d) If the court finds that the defendant has not met the
23 requirements under (a) of this subsection, the court shall follow the
24 procedures under subsection (6)(d) or (e) of this section.

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