
HOUSE BILL 2558

State of Washington

69th Legislature

2026 Regular Session

By Representatives Walen, Davis, Santos, and Duerr

Read first time 01/19/26. Referred to Committee on Community Safety.

1 AN ACT Relating to the mental health sentencing alternative; and
2 amending RCW 9.94A.695.

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

4 **Sec. 1.** RCW 9.94A.695 and 2024 c 373 s 1 are each amended to
5 read as follows:

6 (1) A defendant is eligible for the mental health sentencing
7 alternative if:

8 (a) The defendant is convicted of a felony that is not ((a));

9 (i) A serious violent offense ((~~o~~));

10 (ii) A sex offense, except for failure to register under RCW
11 9A.44.132; or

12 (iii) A domestic violence offense committed against an intimate
13 partner, except where the victim and the prosecuting attorney both
14 consent to the defendant's participation in the sentencing
15 alternative;

16 (b) The defendant has no prior convictions in this state, and no
17 prior convictions for an equivalent out-of-state or federal offense,
18 for any violent offense within 10 years before conviction of the
19 current offense;

20 (c) The defendant is diagnosed with a ((serious mental illness))
21 psychotic disorder recognized by the diagnostic manual in use by

1 mental health professionals at the time of sentencing, including
2 schizophrenia, schizoaffective disorder, and bipolar disorder with
3 psychotic features, but excluding substance-induced psychotic
4 disorder;

5 ~~((e))~~ (d) The defendant is willing to participate in the
6 sentencing alternative; and

7 (e) As determined by the judge:

8 (i) The defendant and the community would benefit from
9 supervision and treatment~~((, as determined by the judge; and~~

10 ~~(d) The defendant is willing to participate in the sentencing~~
11 ~~alternative));~~

12 (ii) The defendant's untreated psychotic disorder was a
13 significant contributing factor in the commission of the offense; and

14 (iii) There is a reasonable probability that the defendant's
15 psychotic disorder can be appropriately managed with psychotropic
16 medications, including but not limited to long-acting injectable
17 antipsychotics.

18 (2) A motion for a sentence under this section may be made by any
19 party or the court, but is contingent upon the defendant's agreement
20 to participate in the sentencing alternative. ~~((To determine whether~~
21 ~~the defendant has a serious mental illness, the court may rely on~~
22 ~~information including reports completed pursuant to chapters 71.05~~
23 ~~and 10.77 RCW, or other mental health professional as defined in RCW~~
24 ~~71.05.020, or other information and records related to mental health~~
25 ~~services. Information and records relating to mental health services~~
26 ~~must be handled consistently with RCW 9.94A.500(2). If insufficient~~
27 ~~information is available to determine whether a defendant has a~~
28 ~~serious mental illness, the court may order an examination of the~~
29 ~~defendant.))~~

30 (3) To assist the court in its determination, the department
31 shall provide a written report, which shall be in the form of a
32 presentence investigation. Such report may be ordered by the court on
33 the motion of a party prior to conviction if such a report will
34 facilitate negotiations. ~~((The court may waive the production of this~~
35 ~~report if sufficient information is available to the court to make a~~
36 ~~determination under subsection (4) of this section.))~~ The report must
37 contain:

38 (a) The defendant's diagnosis of a psychotic disorder;

39 (b) The opinion of a physician, physician assistant, or advanced
40 registered nurse practitioner who has evaluated the defendant, that

1 there is a reasonable probability that the defendant's psychotic
2 disorder can be appropriately managed with psychotropic medications;

3 (c) If available, information including reports completed
4 pursuant to chapters 71.05 and 10.77 RCW, reports completed by a
5 mental health professional as defined in RCW 71.05.020, and other
6 information and records related to mental health services, subject to
7 the requirements and limitations under RCW 9.94A.500(2);

8 (d) The opinion of the department regarding the appropriateness
9 of the sentencing alternative and the suitability of the defendant
10 for supervision;

11 (e) A ((proposed)) treatment plan for the defendant's ((mental
12 illness)) psychotic disorder, including at a minimum:

13 (i) The name and address of a treatment provider that is agreeing
14 to provide treatment to the defendant ~~((, including an intake~~
15 ~~evaluation, a psychiatric evaluation, and development of an~~
16 ~~individualized plan of treatment which shall be submitted as soon as~~
17 ~~possible to the department and the court)) and that accepts the
18 defendant's insurance;~~

19 (ii) A completed psychiatric evaluation from within the last six
20 months conducted by a physician, physician assistant, or advanced
21 registered nurse practitioner with a specialty in psychiatric
22 medicine and experience working with individuals with a criminal
23 history;

24 (iii) An individualized plan of treatment, including requirements
25 for psychotropic medications and counseling; and

26 ~~((iii))~~ (iv) An agreement by the treatment provider to monitor
27 the progress of the defendant on the sentencing alternative, provide
28 updates to the department and the court on such progress, and notify
29 the department and the court at any time during the duration of the
30 order if reasonable efforts to engage the defendant fail to produce
31 substantial compliance with court-ordered treatment conditions;

32 ~~((b))~~ (f) A proposed monitoring plan, including any
33 requirements regarding living conditions, lifestyle requirements, and
34 monitoring by family members and others;

35 ~~((e))~~ (g) Recommended crime-related prohibitions and
36 affirmative conditions; and

37 ~~((d))~~ (h) A release of information, signed by the defendant,
38 allowing the parties and the department to confirm components of the
39 treatment and monitoring plan.

1 (4) After consideration of all available information and
2 determining whether the defendant is eligible, the court shall
3 consider whether the defendant and the community will benefit from
4 the use of this sentencing alternative. The court shall ~~((consider))~~
5 give serious consideration to the victim's opinion about whether the
6 defendant should receive a sentence under this section. If the
7 sentencing court determines that a sentence under this section is
8 appropriate, the court shall waive imposition of the sentence within
9 the standard range. The court shall impose a term of community
10 custody between 12 and 24 months if the midpoint of the defendant's
11 standard range sentence is less than or equal to 36 months, and a
12 term of community custody between ~~((12))~~ 24 months and 36 months if
13 the midpoint of the defendant's standard range sentence is longer
14 than 36 months. The actual length of community custody within these
15 ranges shall be at the discretion of the court.

16 (5) If the court imposes an alternative sentence under this
17 section, the department shall assign a community corrections officer
18 to supervise the defendant. The department shall provide a community
19 corrections officer assigned under this section with appropriate
20 training in mental health to be determined by the department.

21 (6) For a defendant participating in this sentencing alternative,
22 the court and correctional facility may delay the defendant's release
23 from total confinement in order to facilitate adherence to the
24 defendant's treatment plan. This may include delaying release in
25 order to:

26 (a) Allow a defendant to transfer directly to an inpatient
27 treatment facility or supportive housing provider;

28 (b) Ensure appropriate transportation is established and
29 available; or

30 (c) Release the defendant during business hours on a weekday when
31 services are available.

32 (7) (a) The court ~~((may))~~ shall schedule progress hearings for the
33 defendant to evaluate the defendant's progress in treatment and
34 compliance with conditions of supervision on no less than a monthly
35 basis for the first six months of the alternative sentence, and on no
36 less than a quarterly basis for the remainder of the alternative
37 sentence. If there are concerns regarding the defendant's compliance
38 with the sentencing alternative that have not risen to the level of
39 revocation proceedings, the court shall increase the frequency of the
40 defendant's progress hearings.

1 (b) Before any progress hearing, the department and the treatment
2 provider shall each submit a written report informing the parties of
3 the defendant's progress and compliance with treatment, unless waived
4 by the court. At the progress hearing, the court shall hear from the
5 parties regarding the defendant's compliance and may modify the
6 conditions of community custody if the modification serves ~~((the~~
7 ~~interests of justice and))~~ the best interests of the defendant, the
8 victim, and the community.

9 (8) (a) If the court imposes this sentencing alternative, the
10 court shall impose conditions under RCW 9.94A.703 that are consistent
11 with this section and may impose any additional conditions
12 recommended by any of the written reports regarding the defendant.

13 (b) The court shall impose specific treatment conditions:

14 (i) Meet with treatment providers and follow the recommendations
15 provided in the individualized treatment plan as initially
16 constituted or subsequently modified by the treatment provider;

17 (ii) Take medications as prescribed, including monitoring of
18 compliance with medication ~~((if needed))~~;

19 (iii) Refrain from using alcohol and nonprescribed controlled
20 substances ~~((if the defendant has a diagnosis of a substance use~~
21 ~~disorder))~~. The court may order the department to monitor for the use
22 of alcohol or nonprescribed controlled substances if the court
23 prohibits use of those substances.

24 (9) Treatment issues arising during supervision shall be
25 discussed collaboratively. The treatment provider, community
26 corrections officer, and any representative of the person's medical
27 assistance plan shall jointly determine intervention for violation of
28 a treatment condition. The community corrections officer shall have
29 the authority to address the violation independently if:

30 (a) The violation is safety related with respect to the defendant
31 or others;

32 (b) The treatment violation consists of decompensation related to
33 psychosis that presents a risk to the community or the defendant and
34 cannot be mitigated by community intervention. The community
35 corrections officer may intervene with available resources such as a
36 designated crisis responder; or

37 (c) The violation relates to a standard condition for
38 supervision.

39 (10) The community corrections officer, treatment provider, and
40 any engaged representative of the defendant's medical assistance plan

1 should collaborate prior to a progress update to the court. Required
2 treatment interventions taken between court progress hearings shall
3 be reported to the court as a part of the regular progress update to
4 the court.

5 (11) The court may schedule a review hearing for a defendant
6 under this sentencing alternative at any time to evaluate the
7 defendant's progress with treatment or to determine if any violations
8 have occurred.

9 (a) At a review hearing the court may modify the terms of the
10 community custody or impose sanctions if the court finds that the
11 conditions have been violated or that different or additional terms
12 are in the best interest of the defendant, the victim, and the
13 community.

14 (b) The court may order the defendant to serve a term of total or
15 partial confinement for violating the terms of community custody or
16 failing to make satisfactory progress in treatment.

17 (12) The court shall schedule a termination hearing one month
18 prior to the end of the defendant's community custody. A termination
19 hearing may also be scheduled if the department or the state reports
20 that the defendant has violated the terms of community custody
21 imposed by the court. At that hearing, the court may:

22 (a) Authorize the department to terminate the defendant's
23 community custody status on the expiration date; or

24 (b) Continue the hearing to a date before the expiration date of
25 community custody, with or without modifying the conditions of
26 community custody; or

27 (c) Revoke the sentencing alternative and impose a standard range
28 sentence or impose an exceptional sentence below the standard
29 sentencing range if compelling reasons are found by the court or the
30 parties agree to the downward departure. The defendant shall receive
31 credit for time served while in compliance and actively supervised in
32 the community against any term of total confinement. The court must
33 issue written findings indicating a substantial and compelling reason
34 to revoke this sentencing alternative.

35 (13) ~~((The))~~ Within existing resources, the health care authority
36 shall ~~((reimburse for the following services provided))~~ contract with
37 at least one, but no more than four, providers to provide all mental
38 health assessments and preliminary treatment plan development for
39 individuals participating in the sentencing alternative (÷

40 ~~(a) In-custody mental health assessments;~~

1 ~~(b) In-custody preliminary treatment plan development; and~~
2 ~~(c) Ongoing~~). The contracted providers must employ a physician,
3 physician assistant, or advanced registered nurse practitioner with a
4 specialty in psychiatric medicine and experience working with
5 individuals with a criminal history. If the participating individual
6 has medical assistance and is confined in a facility participating in
7 a section 1115 demonstration waiver, there must be an attempt to bill
8 medical assistance prior to seeking reimbursement from the health
9 care authority for in-custody mental health assessments and treatment
10 plan development. The health care authority shall also reimburse for
11 the ongoing monitoring of the defendant's adherence to the
12 defendant's treatment plan and the requirements of the sentencing
13 alternative, including reporting to the court and the department.

14 (14) For the purposes of this section(~~+~~

15 ~~(a) "Serious mental illness" means a mental, behavioral, or~~
16 ~~emotional disorder resulting in a serious functional impairment,~~
17 ~~which substantially interferes with or limits one or more major life~~
18 ~~activities.~~

19 ~~(b) "Victim"~~), "victim" means any person who has sustained
20 emotional, psychological, physical, or financial injury to person or
21 property as a result of the crime charged. "Victim" also means a
22 parent or guardian of a victim who is a minor child unless the parent
23 or guardian is the perpetrator of the offense.

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