

---

SENATE BILL 6282

---

State of Washington

63rd Legislature

2014 Regular Session

By Senators O'Ban, Hargrove, and Darneille

Read first time 01/20/14. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to improving the drug offender sentencing  
2 alternatives; and amending RCW 9.94A.660 and 9.94A.664.

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

4 **Sec. 1.** RCW 9.94A.660 and 2009 c 389 s 3 are each amended to read  
5 as follows:

6 (1) An offender is eligible for the special drug offender  
7 sentencing alternative if:

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

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

16 (c) The offender has no current or prior convictions for a sex  
17 offense at any time or violent offense within ten years before  
18 conviction of the current offense, in this state, another state, or the  
19 United States;

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

7 (e) The offender has not been found by the United States attorney  
8 general to be subject to a deportation detainer or order and does not  
9 become subject to a deportation order during the period of the  
10 sentence;

11 (f) The end of the standard sentence range for the current offense  
12 is greater than one year; and

13 (g) The offender has not received a drug offender sentencing  
14 alternative more than once in the prior ten years before the current  
15 offense.

16 (2) A motion for a special drug offender sentencing alternative may  
17 be made by the court, the offender, or the state.

18 (3) If the sentencing court determines that the offender is  
19 eligible for an alternative sentence under this section and that the  
20 alternative sentence is appropriate, the court shall waive imposition  
21 of a sentence within the standard sentence range and impose a sentence  
22 consisting of either a prison-based alternative under RCW 9.94A.662 or  
23 a residential chemical dependency treatment-based alternative under RCW  
24 9.94A.664. The residential chemical dependency treatment-based  
25 alternative is only available if the midpoint of the standard range is  
26 (~~twenty-four~~) thirty-six months or less.

27 (4) To assist the court in making its determination, the court may  
28 order the department to complete either or both a risk assessment  
29 report and a chemical dependency screening report as provided in RCW  
30 9.94A.500.

31 (5)(a) If the court is considering imposing a sentence under the  
32 residential chemical dependency treatment-based alternative, the court  
33 may order an examination of the offender by the department. The  
34 examination shall, at a minimum, address the following issues:

35 (i) Whether the offender suffers from drug addiction;

36 (ii) Whether the addiction is such that there is a probability that  
37 criminal behavior will occur in the future;

1 (iii) Whether effective treatment for the offender's addiction is  
2 available from a provider that has been licensed or certified by the  
3 division of alcohol and substance abuse of the department of social and  
4 health services; and

5 (iv) Whether the offender and the community will benefit from the  
6 use of the alternative.

7 (b) The examination report must contain:

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

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

13 (6) When a court imposes a sentence of community custody under this  
14 section:

15 (a) The court may impose conditions as provided in RCW 9.94A.703  
16 and may impose other affirmative conditions as the court considers  
17 appropriate. In addition, an offender may be required to pay thirty  
18 dollars per month while on community custody to offset the cost of  
19 monitoring for alcohol or controlled substances.

20 (b) The department may impose conditions and sanctions as  
21 authorized in RCW 9.94A.704 and 9.94A.737.

22 (7)(a) The court may bring any offender sentenced under this  
23 section back into court at any time on its own initiative to evaluate  
24 the offender's progress in treatment or to determine if any violations  
25 of the conditions of the sentence have occurred.

26 (b) If the offender is brought back to court, the court may modify  
27 the conditions of the community custody or impose sanctions under (c)  
28 of this subsection.

29 (c) The court may order the offender to serve a term of total  
30 confinement within the standard range of the offender's current  
31 offense, followed by a term of community custody under RCW 9.94A.701,  
32 at any time during the period of community custody if the offender  
33 violates the conditions or requirements of the sentence or if the  
34 offender is failing to make satisfactory progress in treatment.

35 (~~(An offender ordered to serve a term of total confinement~~  
36 ~~under (c) of this subsection shall receive credit for any time~~  
37 ~~previously served under this section)) For an offender revoked from a  
38 drug offender sentencing alternative, if the court orders an offender~~

1 to serve a term of total confinement under (c) of this subsection, the  
2 department shall credit such confinement term with any total  
3 confinement time or in-patient treatment time previously served under  
4 this section. The department shall not credit time spent on community  
5 custody pursuant to the drug offender sentence alternative towards a  
6 term of total confinement ordered by the sentencing court following a  
7 revocation pursuant to (c) of this subsection absent an order by the  
8 sentencing court that some or all of the community custody shall be  
9 credited towards total confinement in the court's discretion.

10 (e) Time spent on community custody pursuant to the drug offender  
11 sentencing alternative before a revocation that is not credited towards  
12 total confinement pursuant to (d) of this subsection shall be credited  
13 towards any community custody following a term of total confinement  
14 ordered by the sentencing court upon revocation.

15 ~~(8) ((In serving a term of community custody imposed upon failure~~  
16 ~~to complete, or administrative termination from, the special drug~~  
17 ~~offender sentencing alternative program, the offender shall receive no~~  
18 ~~credit for time served in community custody prior to termination of the~~  
19 ~~offender's participation in the program.~~

20 ~~(9))~~ An offender sentenced under this section shall be subject to  
21 all rules relating to earned release time with respect to any period  
22 served in total confinement.

23 ~~((10))~~ (9) Costs of examinations and preparing treatment plans  
24 under a special drug offender sentencing alternative may be paid, at  
25 the option of the county, from funds provided to the county from the  
26 criminal justice treatment account under RCW 70.96A.350.

27 **Sec. 2.** RCW 9.94A.664 and 2009 c 389 s 5 are each amended to read  
28 as follows:

29 (1) A sentence for a residential chemical dependency treatment-  
30 based alternative shall include a term of community custody equal to  
31 one-half the midpoint of the standard sentence range or two years,  
32 whichever is greater, conditioned on the offender entering and  
33 remaining in residential chemical dependency treatment certified under  
34 chapter 70.96A RCW for a period set by the court between three and six  
35 months.

36 (2)(a) The court shall impose, as conditions of community custody,

1 treatment and other conditions as proposed in the examination report  
2 completed pursuant to RCW 9.94A.660.

3 (b) If the court imposes a term of community custody, the  
4 department shall, within available resources, make chemical dependency  
5 assessment and treatment services available to the offender during the  
6 term of community custody.

7 (3)(a) If the court imposes a sentence under this section, the  
8 treatment provider must send the treatment plan to the court within  
9 thirty days of the offender's arrival to the residential chemical  
10 dependency treatment program.

11 (b) Upon receipt of the plan, the court shall schedule a progress  
12 hearing during the period of residential chemical dependency treatment,  
13 and schedule a treatment termination hearing for three months before  
14 the expiration of the term of community custody.

15 (c) Before the progress hearing and treatment termination hearing,  
16 the treatment provider and the department shall submit written reports  
17 to the court and parties regarding the offender's compliance with  
18 treatment and monitoring requirements, and recommendations regarding  
19 termination from treatment.

20 (4) At a progress hearing or treatment termination hearing, the  
21 court may:

22 (a) Authorize the department to terminate the offender's community  
23 custody status on the expiration date determined under subsection (1)  
24 of this section;

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

28 (c) (~~Impose a term of total confinement equal to one-half the~~  
29 ~~midpoint of the standard sentence range, followed by a term of~~  
30 ~~community custody under RCW 9.94A.701)) Consider revocation of the drug  
31 offender treatment alternative pursuant to RCW 9.94A.660.~~

32 (5) If the court imposes a term of total confinement, the  
33 department shall, within available resources, make chemical dependency  
34 assessment and treatment services available to the offender during the  
35 term of total confinement and subsequent term of community custody.

36 (6) Costs of examinations and preparing treatment plans under a  
37 special drug offender sentencing alternative may be paid, at the option

1 of the county, from funds provided to the county from the criminal  
2 justice treatment account under RCW 70.96A.350.

--- END ---