
ENGROSSED SUBSTITUTE SENATE BILL 5071

State of Washington

69th Legislature

2025 Regular Session

By Senate Law & Justice (originally sponsored by Senators Braun, Dhingra, Christian, Dozier, Fortunato, Gildon, King, Krishnadasan, McCune, Wagoner, Warnick, and J. Wilson)

READ FIRST TIME 01/24/25.

1 AN ACT Relating to updating the endangerment with a controlled
2 substance statute to include fentanyl or synthetic opioids; and
3 amending RCW 9A.42.100 and 9.94A.655.

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

5 **Sec. 1.** RCW 9A.42.100 and 2005 c 218 s 4 are each amended to
6 read as follows:

7 (1) A person is guilty of the crime of endangerment with a
8 controlled substance if the person knowingly or ((intentionally))
9 recklessly permits a ((dependent)) child or dependent adult to be
10 exposed to, ingest, inhale, absorb, or have contact with
11 ((methamphetamine)):

12 (a) Fentanyl or synthetic opioids, or the smoke of a substance
13 that the person knows, or reasonably should know, contains, or is
14 contaminated with, fentanyl or synthetic opioids, excepting
15 medications administered or provided during the delivery of health
16 care services or pursuant to a valid prescription; or

17 (b) Methamphetamine or ephedrine, pseudoephedrine, or anhydrous
18 ammonia, including their salts, isomers, and salts of isomers, that
19 are being used in the manufacture of methamphetamine, including its
20 salts, isomers, and salts of isomers.

1 (2) The department of children, youth, and families and any
2 employees, interns, volunteers, or contractors of the department
3 acting in the scope of their role are exempt from any criminal
4 liability within this section.

5 (3) In any case where the defendant is charged with endangerment
6 with a controlled substance under RCW 9A.42.100, and the defendant
7 has not previously been convicted of endangerment with a controlled
8 substance, the court shall grant a defendant's motion for a parenting
9 sentencing alternative, if the defendant otherwise qualifies under
10 RCW 9.94A.655. If the defendant has previously been convicted of
11 endangerment with a controlled substance, and otherwise qualifies,
12 the court may grant a defendant's motion for a parenting sentencing
13 alternative under RCW 9.94A.655. Nothing in this section prevents the
14 defendant from seeking to resolve charges through other available
15 therapeutic courts or sentencing alternatives including, but not
16 limited to, RCW 9.94A.660.

17 (4) Endangerment with a controlled substance is a class B felony.

18 **Sec. 2.** RCW 9.94A.655 and 2020 c 137 s 2 are each amended to
19 read as follows:

20 (1) An offender is eligible for the parenting sentencing
21 alternative if:

22 (a) The high end of the standard sentence range for the current
23 offense is greater than one year;

24 (b) The offender has no prior or current conviction for: A felony
25 sex offense; a serious violent offense; or a felony offense where the
26 offender was armed with a firearm or deadly weapon in the commission
27 of the offense;

28 (c) The offender has no current conviction for a violent offense;

29 (d) The offender signs any release of information waivers
30 required to allow information regarding current or prior child
31 welfare cases to be shared with the department and the court; and

32 (e) The offender is:

33 (i) A parent with physical custody of a minor child;

34 (ii) An expectant parent;

35 (iii) A legal guardian of a minor child; or

36 (iv) A biological parent, adoptive parent, custodian, or
37 stepparent with a proven, established, ongoing, and substantial
38 relationship with a minor child that existed at the time of the
39 offense.

1 (2) Prior juvenile adjudications are not considered offenses when
2 considering eligibility under this section, except for any sex
3 offense, serious violent offense, or felony offense where the
4 offender was armed with a firearm or deadly weapon in the commission
5 of the offense.

6 (3) (a) If an eligible defendant moves for a parenting sentencing
7 alternative, the sentencing court shall determine whether the
8 sentencing alternative is appropriate and should be imposed.

9 (b) If the eligible defendant is charged with endangerment with a
10 controlled substance under RCW 9A.42.100 and the defendant has not
11 previously been convicted of endangerment with a controlled
12 substance, the court shall grant a defendant's motion for a parenting
13 sentencing alternative, if the defendant otherwise qualifies.

14 (4) To assist the court in ((making its determination))
15 determining whether the parenting sentencing alternative is
16 appropriate and should be imposed, the court may order the department
17 to complete a risk assessment report, including a family impact
18 statement, or a chemical dependency screening report as provided in
19 RCW 9.94A.500 prior to sentencing.

20 ((4))) (5) If the court is considering this alternative, the
21 court shall request that the department contact the department of
22 children, youth, and families to determine if the agency has an open
23 child welfare case or prior substantiated referral of abuse or
24 neglect involving the offender or if the agency is aware of any
25 substantiated case of abuse or neglect with a tribal child welfare
26 agency involving the offender.

27 (a) If the offender has an open child welfare case or child abuse
28 or neglect investigation, the department will provide the release of
29 information waiver and request that the department of children,
30 youth, and families or the tribal child welfare agency provide a
31 report to the court. The department of children, youth, and families
32 shall, within seven business days of the request: Provide a copy of
33 the most recent court order entered in proceedings under chapter
34 13.34 or 13.36 RCW pertaining to the offender, and provide a report
35 regarding whether the offender has been cooperative with services
36 ordered by the court in those proceedings; or, if there is no court
37 order or there has not been court involvement, provide a report that
38 includes, at the minimum, the following:

39 (i) Legal status of the child welfare case or child protective
40 services response;

1 (ii) Length of time the department of children, youth, and
2 families has had an open child welfare case or child protective
3 services response involving the offender; and

4 (iii) Any special needs of the child.

5 (b) The department shall report to the court if the offender has
6 been convicted of a crime against a child.

7 (c) If a report is required from a tribal child welfare agency,
8 the department shall attempt to obtain information that is similar to
9 what is required for the report provided by the department of
10 children, youth, and families in a timely manner.

11 (d) ~~((If the offender does not have))~~ Whether or not the offender
12 has an open child welfare case with the department of children,
13 youth, and families or with a tribal child welfare agency ~~((but has~~
14 ~~prior involvement))~~, the department will obtain information from the
15 department of children, youth, and families on the number and type of
16 past substantiated referrals of abuse or neglect and report that
17 information to the court. For each past substantiated referral, the
18 department will provide the release of information waiver and request
19 that the department of children, youth, and families or the tribal
20 child welfare agency provide a report to the court. Within seven
21 business days of the request, the department of children, youth, and
22 families shall provide, as applicable, a court order and a report
23 containing the information required under subsection (5)(a) of this
24 section. If the department of children, youth, and families has never
25 had any substantiated referrals or an open case with the offender,
26 the department will inform the court.

27 (e) The existence of a prior substantiated referral of child
28 abuse or neglect or of an open child welfare case does not, alone,
29 disqualify the parent from applying or participating in this
30 alternative. The court shall consider whether the child-parent
31 relationship can be readily maintained during parental incarceration,
32 and whether, due to the existence of an open child welfare case,
33 parental incarceration exacerbates the likelihood of termination of
34 the child-parent relationship.

35 ~~((+5) If the sentencing court determines that the offender is~~
36 ~~eligible for a sentencing alternative under this section and that the~~
37 ~~sentencing alternative is appropriate and should be imposed))~~ (6) If
38 the court is considering this alternative, the court shall obtain and
39 consider any guardian ad litem reports from any proceedings under
40 chapter 26.12 RCW in which the offender is a party.

1 (7) When a court imposes the parenting sentencing alternative,
2 the court shall waive imposition of a sentence within the standard
3 sentence range and impose a sentence consisting of twelve months of
4 community custody. The court shall consider the offender's criminal
5 history when determining if the alternative is appropriate. The court
6 shall also give great weight to the minor child's best interest.

7 ((+6)) (8) When a court imposes a sentence of community custody
8 under this section:

9 (a) The court may impose conditions as provided in RCW 9.94A.703
10 and may impose other affirmative conditions as the court considers
11 appropriate.

12 (b) The department may impose conditions as authorized in RCW
13 9.94A.704 that may include, but are not limited to:

- 14 (i) Parenting classes;
- 15 (ii) Chemical dependency treatment;
- 16 (iii) Mental health treatment;
- 17 (iv) Vocational training;
- 18 (v) Change programs;
- 19 (vi) Life skills classes.

20 (c) The department shall report to the court if the offender
21 commits any violations of his or her sentence conditions.

22 ((+7)) (9) The department shall provide the court with quarterly
23 progress reports regarding the offender's progress in required
24 programming, treatment, and other supervision conditions. When an
25 offender has an open child welfare case, the department will seek to
26 coordinate services with the department of children, youth, and
27 families.

28 ((+8)) (10)(a) The court may bring any offender sentenced under
29 this section back into court at any time during the period of
30 community custody on its own initiative to evaluate the offender's
31 progress in treatment, or to determine if any violations of the
32 conditions of the sentence have occurred.

33 (b) At the commencement of such a hearing, the court shall advise
34 the offender sentenced under this section of the offender's right to
35 assistance of counsel and appoint counsel if the offender is
36 indigent.

37 (c) If the offender is brought back to court, the court may
38 modify the conditions of community custody or impose sanctions under
39 (d) of this subsection, including extending the length of
40 participation in the alternative program by no more than six months.

1 (d) The court may order the offender to serve a term of total
2 confinement within the standard range of the offender's current
3 offense at any time during the period of community custody, if the
4 offender violates the conditions or requirements of the sentence or
5 if the offender is failing to make satisfactory progress in
6 treatment.

7 (e) An offender ordered to serve a term of total confinement
8 under (d) of this subsection shall receive credit for any time
9 previously served in confinement under this section.

10 (f) An offender sentenced under this section is subject to all
11 rules relating to earned release time with respect to any period
12 served in total confinement.

13 ((+9)) (11) The state and its agencies, officers, agents, or
14 employees are not liable for the acts of offenders participating in
15 the sentencing alternative under this section unless the state or its
16 agencies, officers, agents, or employees act with willful disregard
17 of a known risk of immediate harm.

18 ((+10)) (12) For the purposes of this section:

19 (a) "Expectant parent" means a pregnant or other parent awaiting
20 the birth of his or her child, or an adoptive parent or person in the
21 process of a final adoption.

22 (b) "Minor child" means a child under the age of eighteen.

--- END ---