

**SSB 5071 - S AMD 515**

By Senator Braun

On page 2, line 5, after "(3)" insert "If a person with a current conviction for endangerment with a controlled substance moves for a parenting sentencing alternative, the court shall impose the parenting sentencing alternative unless the person is ineligible under RCW 9.94A.655 or the person has any prior conviction for endangerment with a controlled substance. If the offender has a prior conviction for endangerment with a controlled substance and is eligible for the parenting sentencing alternative, the court may impose the parenting sentencing alternative after determining whether the sentencing alternative is appropriate and should be imposed under RCW 9.94A.655.

(4)"

On page 2, after line 5, insert the following:

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

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

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

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

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

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

(e) The offender is:

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

(ii) An expectant parent;

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

1 (iv) A biological parent, adoptive parent, custodian, or  
2 stepparent with a proven, established, ongoing, and substantial  
3 relationship with a minor child that existed at the time of the  
4 offense.

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

10 (3) If an eligible offender moves for a parenting sentencing  
11 alternative, the sentencing court shall determine whether the  
12 sentencing alternative is appropriate and should be imposed, unless  
13 the eligible offender has a current conviction for endangerment with  
14 a controlled substance under RCW 9A.42.100 and no prior convictions  
15 for endangerment with a controlled substance, in which case the court  
16 shall impose the parenting sentencing alternative.

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

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

30 (a) If the offender has an open child welfare case or child abuse  
31 or neglect investigation, the department will provide the release of  
32 information waiver and request that the department of children,  
33 youth, and families or the tribal child welfare agency provide a  
34 report to the court. The department of children, youth, and families  
35 shall, within seven business days of the request: Provide a copy of  
36 the most recent court order entered in proceedings under chapter  
37 13.34 or 13.36 RCW pertaining to the offender, and provide a report  
38 regarding whether the offender has been cooperative with services  
39 ordered by the court in those proceedings; or, if there is no court

1 order or there has not been court involvement, provide a report that  
2 includes, at the minimum, the following:

3 (i) Legal status of the child welfare case or child protective  
4 services response;

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

8 (iii) Any special needs of the child.

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

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

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

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

39 ~~((5) If the sentencing court determines that the offender is~~  
40 ~~eligible for a sentencing alternative under this section and that the~~

~~sentencing alternative is appropriate and should be imposed))~~ (6) If the court is considering this alternative, the court shall obtain and consider any guardian ad litem reports from any proceedings under chapter 26.12 RCW in which the offender is a party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 ((+10)) (12) For the purposes of this section:

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

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

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27 On page 1, line 3 of the title, after "9A.42.100" insert "and  
28 9.94A.655"

EFFECT: Requires a court to automatically impose the parenting  
sentencing alternative on a person convicted of endangerment with a  
controlled substance, unless the person is ineligible for this  
sentencing alternative under existing criteria or the person has a  
prior conviction for endangerment with a controlled substance.  
Directs a court that is not required to automatically impose the  
parenting sentencing alternative to consider additional information

about past substantiated referrals of abuse or neglect, along with reports from guardians ad litem.

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