

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2338

Chapter 290, Laws of 2002

57th Legislature
2002 Regular Session

SENTENCING--DRUG OFFENSES

EFFECTIVE DATE: 6/13/02 - Except sections 1, 4 through 6, 12, 13, 26, and 27, which become effective 4/1/02; sections 7 through 11 and 14 through 23, which become effective 7/1/04; and sections 2 and 3, which become effective 7/1/02.

Passed by the House March 14, 2002
Yeas 67 Nays 30

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate March 13, 2002
Yeas 36 Nays 11

BRAD OWEN
President of the Senate

Approved April 1, 2002

GARY F. LOCKE
Governor of the State of Washington

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SECOND SUBSTITUTE HOUSE BILL 2338 as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER

Chief Clerk

FILED

April 1, 2002 - 1:21 p.m.

Secretary of State
State of Washington

1 offense. If the present conviction is for a drug offense and the
2 offender has a criminal history that includes a sex offense or serious
3 violent offense, count three points for each adult prior felony drug
4 offense conviction and two points for each juvenile drug offense. All
5 other adult and juvenile felonies are scored as in subsection (8) of
6 this section if the current drug offense is violent, or as in
7 subsection (7) of this section if the current drug offense is
8 nonviolent.

9 (13) If the present conviction is for Escape from Community
10 Custody, RCW 72.09.310, count only prior escape convictions in the
11 offender score. Count adult prior escape convictions as one point and
12 juvenile prior escape convictions as 1/2 point.

13 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
14 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
15 juvenile prior convictions as 1/2 point.

16 (15) If the present conviction is for Burglary 2 or residential
17 burglary, count priors as in subsection (7) of this section; however,
18 count two points for each adult and juvenile prior Burglary 1
19 conviction, two points for each adult prior Burglary 2 or residential
20 burglary conviction, and one point for each juvenile prior Burglary 2
21 or residential burglary conviction.

22 (16) If the present conviction is for a sex offense, count priors
23 as in subsections (7) through (15) of this section; however count three
24 points for each adult and juvenile prior sex offense conviction.

25 (17) If the present conviction is for an offense committed while
26 the offender was under community placement, add one point.

27 NEW SECTION. Sec. 4. A new section is added to chapter 70.96A RCW
28 to read as follows:

29 (1) The criminal justice treatment account is created in the state
30 treasury. Moneys in the account may be expended solely for: (a)
31 Substance abuse treatment and treatment support services for offenders
32 with an addiction or a substance abuse problem that, if not treated,
33 would result in addiction, against whom charges are filed by a
34 prosecuting attorney in Washington state; and (b) the provision of drug
35 and alcohol treatment services and treatment support services for
36 nonviolent offenders within a drug court program. Moneys in the
37 account may be spent only after appropriation.

38 (2) For purposes of this section:

1 (a) "Treatment" means services that are critical to a participant's
2 successful completion of his or her substance abuse treatment program,
3 but does not include the following services: Housing other than that
4 provided as part of an inpatient substance abuse treatment program,
5 vocational training, and mental health counseling; and

6 (b) "Treatment support" means transportation to or from inpatient
7 or outpatient treatment services when no viable alternative exists, and
8 child care services that are necessary to ensure a participant's
9 ability to attend outpatient treatment sessions.

10 (3) Revenues to the criminal justice treatment account consist of:

11 (a) Savings to the state general fund resulting from implementation of
12 this act, as calculated pursuant to this section; and (b) any other
13 revenues appropriated to or deposited in the account.

14 (4) (a) The department of corrections, the sentencing guidelines
15 commission, the office of financial management, and the caseload
16 forecast council shall develop a methodology for calculating the
17 projected biennial savings under this section. Savings shall be
18 projected for the fiscal biennium beginning on July 1, 2003, and for
19 each biennium thereafter. By September 1, 2002, the proposed
20 methodology shall be submitted to the governor and the appropriate
21 committees of the legislature. The methodology is deemed approved
22 unless the legislature enacts legislation to modify or reject the
23 methodology.

24 (b) When the department of corrections submits its biennial budget
25 request to the governor in 2002 and in each even-numbered year
26 thereafter, the department of corrections shall use the methodology
27 approved in (a) of this subsection to calculate savings to the state
28 general fund for the ensuing fiscal biennium resulting from reductions
29 in drug offender sentencing as a result of sections 2 and 3, chapter
30 . . . , Laws of 2002 (sections 2 and 3 this act) and sections 7, 8, and
31 9, chapter . . . , Laws of 2002 (sections 7, 8, and 9 this act). The
32 department shall report the dollar amount of the savings to the state
33 treasurer, the office of financial management, and the fiscal
34 committees of the legislature.

35 (c) For the fiscal biennium beginning July 1, 2003, and each fiscal
36 biennium thereafter, the state treasurer shall transfer seventy-five
37 percent of the amount reported in (b) of this subsection from the
38 general fund into the criminal justice treatment account, divided into
39 eight equal quarterly payments. However, the amount transferred to the

1 criminal justice treatment account shall not exceed the limit of eight
2 million two hundred fifty thousand dollars per fiscal year. After the
3 first fiscal year in which the amount to be transferred equals or
4 exceeds eight million two hundred fifty thousand dollars, this limit
5 shall be increased on an annual basis by the implicit price deflator as
6 published by the federal bureau of labor statistics.

7 (d) For the fiscal biennium beginning July 1, 2003, and each
8 biennium thereafter, the state treasurer shall transfer twenty-five
9 percent of the amount reported in (b) of this subsection from the
10 general fund into the violence reduction and drug enforcement account,
11 divided into eight quarterly payments. The amounts transferred
12 pursuant to this subsection (4)(d) shall be used solely for providing
13 drug and alcohol treatment services to offenders confined in a state
14 correctional facility receiving a reduced sentence as a result of
15 implementation of this act and who are assessed with an addiction or a
16 substance abuse problem that if not treated would result in addiction.
17 Any excess funds remaining after providing drug and alcohol treatment
18 services to offenders receiving a reduced sentence as a result of
19 implementation of this act may be expended to provide treatment for
20 offenders confined in a state correctional facility and who are
21 assessed with an addiction or a substance abuse problem that
22 contributed to the crime.

23 (e) In each odd-numbered year, the legislature shall appropriate
24 the amount transferred to the criminal justice treatment account in (c)
25 of this subsection to the division of alcohol and substance abuse for
26 the purposes of subsection (5) of this section.

27 (5) Moneys appropriated to the division of alcohol and substance
28 abuse from the criminal justice treatment account shall be distributed
29 as specified in this subsection. The department shall serve as the
30 fiscal agent for purposes of distribution. Until July 1, 2004, the
31 department may not use moneys appropriated from the criminal justice
32 treatment account for administrative expenses and shall distribute all
33 amounts appropriated under subsection (4)(e) of this section in
34 accordance with this subsection. Beginning in July 1, 2004, the
35 department may retain up to three percent of the amount appropriated
36 under subsection (4)(e) of this section for its administrative costs.

37 (a) Seventy percent of amounts appropriated to the division from
38 the account shall be distributed to counties pursuant to the
39 distribution formula adopted under this section. The division of

1 alcohol and substance abuse, in consultation with the department of
2 corrections, the sentencing guidelines commission, the Washington state
3 association of counties, the Washington state association of drug court
4 professionals, the superior court judges' association, the Washington
5 association of prosecuting attorneys, representatives of the criminal
6 defense bar, representatives of substance abuse treatment providers,
7 and any other person deemed by the division to be necessary, shall
8 establish a fair and reasonable methodology for distribution to
9 counties of moneys in the criminal justice treatment account. County
10 or regional plans submitted for the expenditure of formula funds must
11 be approved by the panel established in (b) of this subsection.

12 (b) Thirty percent of the amounts appropriated to the division from
13 the account shall be distributed as grants for purposes of treating
14 offenders against whom charges are filed by a county prosecuting
15 attorney. The division shall appoint a panel of representatives from
16 the Washington association of prosecuting attorneys, the Washington
17 association of sheriffs and police chiefs, the superior court judges'
18 association, the Washington state association of counties, the
19 Washington defender's association or the Washington association of
20 criminal defense lawyers, the department of corrections, the Washington
21 state association of drug court professionals, substance abuse
22 treatment providers, and the division. The panel shall review county
23 or regional plans for funding under (a) of this subsection and grants
24 approved under this subsection. The panel shall attempt to ensure that
25 treatment as funded by the grants is available to offenders statewide.

*DASA
panel*

26 (6) The county alcohol and drug coordinator, county prosecutor,
27 county sheriff, county superior court, a substance abuse treatment
28 provider appointed by the county legislative authority, a member of the
29 criminal defense bar appointed by the county legislative authority,
30 and, in counties with a drug court, a representative of the drug court
31 shall jointly submit a plan, approved by the county legislative
32 authority or authorities, to the panel established in subsection (5) (b)
33 of this section, for disposition of all the funds provided from the
34 criminal justice treatment account within that county. The funds shall
35 be used solely to provide approved alcohol and substance abuse
36 treatment pursuant to RCW 70.96A.090 and treatment support services.
37 No more than ten percent of the total moneys received under subsections
38 (4) and (5) of this section by a county or group of counties

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1 participating in a regional agreement shall be spent for treatment
2 support services.

3 (7) Counties are encouraged to consider regional agreements and
4 submit regional plans for the efficient delivery of treatment under
5 this section.

6 (8) Moneys allocated under this section shall be used to
7 supplement, not supplant, other federal, state, and local funds used
8 for substance abuse treatment.

9 (9) Counties must meet the criteria established in RCW
10 2.28.170(3)(b).

11 NEW SECTION. Sec. 5. A new section is added to chapter 43.135 RCW
12 to read as follows:

13 RCW 43.135.035(4) does not apply to the transfers established in
14 section 4 of this act.

15 NEW SECTION. Sec. 6. A new section is added to chapter 43.20A RCW
16 to read as follows:

17 The department of social and health services shall annually review
18 and monitor the expenditures made by any county or group of counties
19 which is funded, in whole or in part, with funds provided by this act.
20 Counties shall repay any funds that are not spent in accordance with
21 the requirements of this act.

22 Sec. 7. RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s
23 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to
24 read as follows:

25 TABLE 2

26 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

27 XVI	Aggravated Murder 1 (RCW 10.95.020)
28 XV	Homicide by abuse (RCW 9A.32.055)
29	Malicious explosion 1 (RCW 70.74.280(1))
30	Murder 1 (RCW 9A.32.030)
31 XIV	Murder 2 (RCW 9A.32.050)
32 XIII	Malicious explosion 2 (RCW 70.74.280(2))