

Sentencing Alternatives

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Presentation for the Sentencing Guidelines Commission

Washington State Office of Financial Management



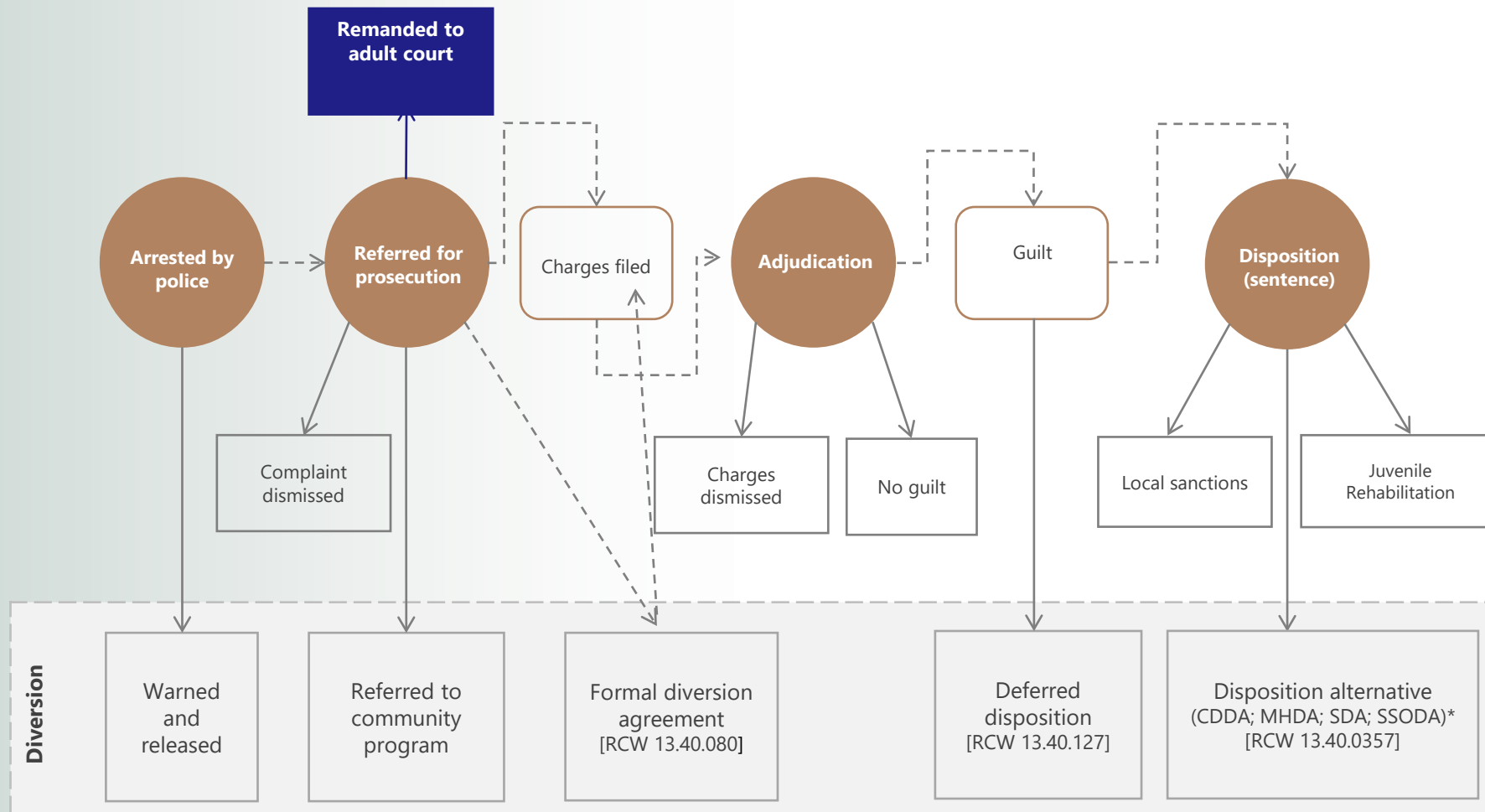
PSPRC

Public Safety Policy & Research Center

Juvenile Alternatives



Current Juvenile Legal Process Overview



Sentencing Options – Option A

Current Offense Category	A++	129 to 260 weeks				
	A+	180 weeks to age 21				
	A	103-129 weeks				
	A-	30-40	52-65	80-100	103-129	103-129
	B++	15-36	52-65	80-100	103-129	103-129
	B+	15-36	15-36	52-65	80-100	103-129
	B	LS	LS	15-36	15-36	52-65
	C+	LS	LS	LS	15-36	15-36
	C	LS	LS	LS	LS	15-36
	D+	LS	LS	LS	LS	LS
Prior Adjudications	D	LS	LS	LS	LS	LS
	E	LS	LS	LS	LS	LS
		0	1	2	3	4 or more

Local sanctions discretion of judge:

- 0-12 months probation.
 - Includes risk assessment and EBPs.
 - May include other conditions.
- Community service hours
- Up to 30 days detention
- Fines
- Detention is an option for probation violations.

FY24, 75.9% youth had prior adjudication score of 0.

Sentencing Options – Option B

Suspended Disposition Alternative

- Treatment-based option for youth subject to standard range disposition that includes JR confinement.
- Judge must find that youth and community would benefit from suspended sentence.
- Standard range is suspended, and the youth is allowed to serve their sentence in local sanctions.
- If fail to comply with conditions, suspended disposition may be revoked, and youth serves sentence in JR.

Sentencing Options – Option B

Suspended Disposition Alternative

- Ineligible if:
 - Cat A+ or A++ offense
 - 14 years old and:
 - Category A offense
 - Man 1
 - Assault 2
 - Extortion 1
 - Possession of Firearm violation
 - Adjudicated for a sex offense
 - The youth has a prior Option B (suspended) disposition
- Kidnapping 2
- Drive-by shooting
- Vhom
- Hit and run death
- Man 2
- Controlled Substance when involving bodily harm or with a deadly weapon

Sentencing Options – Option C

Chemical Dependency/Mental Health Disposition Alternative (CHMHDA)

- Substance-use disorder and mental health co-occurring disorder treatment sentencing alternative.
- Eligible only if local sanctions or 15-36 weeks and did not commit Category A- or B+ offense.
- Eligible if youth found to have a substance use disorder, mental health conditions, or a co-occurring disorder and is amenable to treatment.
- Judge may impose manifest injustice sentence up to 52 weeks and suspend the disposition while imposing local sanctions up to 12 months of probation, 150 hours community service, 30 days detention, and payment of restitution. May require inpatient/outpatient treatment.
- Cannot be appealed (RCW 13.40.165(11))

Sentencing Options – Option D

Manifest Injustice

- Juvenile equivalent of upward or downward departure.
- Not a sentencing alternative.

Sentencing Options – SSODA

Special Sex Offender Disposition Alternative (SSODA)

- Treatment based suspended sentence for youth adjudicated for sex offense.
- Eligible if:
 - Committed sex offense (or assault 4 w/ sex motivation) excluding serious violent offenses;
 - No history of sex offenses;
- Court may consider:
 - Examination of youth to determine if youth is amenable to treatment;
 - Opinion of the victim of whether or not SSODA should be imposed
- Court can impose determinate sentence within standard range or impose manifest injustice sentence and suspend the confinement sentence with community supervision for at least 2 years.
- Recommendations made by SOPB to Sexually Aggressive Youth (SAY) statute and SSODA expansion

Adult Alternatives



First Time Offender Waiver (FTOW)

Overview

- Individuals convicted of their first felony offense and who have not participated in deferred prosecution for prior felony.
- Standard sentence range is **waived**, and judge may impose up to 90 days confinement in county facility and 6 months community custody OR 12 months of community custody if treatment ordered. Conditions may be set consistent with [RCW 9.94A.703](#).
- Not eligible for supervision compliance credit.

Eligibility

- Excludes:
 - Violent offenses
 - Sex offenses
 - Manufacture, delivery, possession w/ intent to manufacture/deliver Schedule I or II narcotic or flunitrazepam.
 - Manufacture, delivery, or possession w/ intent to deliver methamphetamine.
 - Selling for profit Schedule 1 controlled substance or counterfeit controlled substance
 - Felony DUI or physical control of a vehicle while under the influence.

First Time Offender Waiver (FTOW)

Other considerations

- FTOW sentence may exceed standard range sentence. (May be reason to reject alternative)
- Since FTOW includes supervision, may be used as a way to sentence individual to community custody.

Prevalence

- FY19: 1,623 FTOW sentences:
 - 53% sentence below standard range; 47% within standard range; .5% above standard range.
- FY24: 1,195 FTOW sentences:
 - 67.9% below standard range; 31.5% within standard range; .6% above standard range

Drug Offender Sentencing Alternative (DOSA)

Overview

- Treatment-focused alternative for individuals with a substance use disorder.
- Not eligible for supervision compliance credit.
- If failure to comply, alternative may be revoked and individual must serve sentence in full confinement.
- **Prison DOSA**
 - Sentence of confinement in prison for half of the midpoint of the standard range or 12 months, whichever is greater *and*
 - Sentenced to one-half of the midpoint of the standard range under community custody.
 - Receives SUD-treatment while incarcerated and during community custody.

Drug Offender Sentencing Alternative (DOSA)

Overview

- **Residential DOSA**
 - Sentenced to one-half of the midpoint of the standard range or 24 months, whichever is longer, under community custody *and*
 - Requires that the individual enter and remain in residential SUD treatment for up to 6 months prior to beginning community supervision.
 - May include up to 30 days confinement in local jail while awaiting transfer to inpatient treatment facility.

Drug Offender Sentencing Alternative (DOSA)

Prison DOSA Eligibility

- No current or prior violent conviction in last 10 years.
- No prior conviction of Robbery 2 that was a reduction from Robbery 1 in past 7 years.
- No current or potential requirement to register as a sex offender.
- No conviction for felony DUI or PCUI
- Current conviction does not include sentencing enhancement.
- If violation of Uniform Controlled Substances Act – involves only small quantity of controlled substance
- Not subject to deportation order
- No more than 1 prior DOSA in last 10 years.
- High end of standard sentence range must exceed 12 months (does not apply to residential DOSA)

Residential DOSA Eligibility

- All of the prison DOSA criteria *AND*
 - Midpoint of standard sentence range must be 26 months or less.
 - Assessed ASAM Level 3 – needing residential/inpatient treatment.

Felony Sentencing Guideline Grid and DOSA Eligibility in 2015 (Minimum and Maximum Sentences in Months)

Seriousness level	Offender score (RCW 9.94A.525)																			
	0		1		2		3		4		5		6		7		8		9+	
XVI	Life sentence without parole/death penalty for defendants at or over the age of 18.																			
	For defendants under the age of 18, a term of 25 years to life																			
XV	240	320	250	333	261	347	271	361	281	374	291	388	312	416	338	450	370	493	411	548
XIV	123	220	134	234	144	244	154	254	165	265	175	275	195	295	216	316	257	357	298	397
XIII	123	164	134	178	144	192	154	205	165	219	175	233	195	260	216	288	257	342	298	397
XII	93	123	102	136	111	147	120	160	129	171	138	184	162	216	178	236	209	277	240	318
XI	78	102	86	114	95	125	102	136	111	147	120	158	146	194	159	211	185	245	210	280
X	51	68	57	75	62	82	67	89	72	96	77	102	98	130	108	144	129	171	149	198
IX	31	41	36	48	41	54	46	61	51	68	57	75	77	102	87	116	108	144	129	171
VIII	21	27	26	34	31	41	36	48	41	54	46	61	67	89	77	102	87	116	108	144
VII	15	20	21	27	26	34	31	41	36	48	41	54	57	75	67	89	77	102	87	116
VI	12.05	14	15	20	21	27	26	34	31	41	36	48	46	61	57	75	67	89	77	102
V	6	12	12.05	14	13	17	15	20	22	29	33	43	41	54	51	68	62	82	72	96
IV	3	9	6	12	12.05	14	13	17	15	20	22	29	33	43	43	57	53	70	63	84
III	1	3	3	8	4	12	9	12	12.05	16	17	22	22	29	33	43	43	57	51	68
II	0	3	2	6	3	9	4	12	12.05	14	14	18	17	22	22	29	33	43	43	57
I	0	2	0	3	2	5	2	6	3	8	4	12	12.05	14	14	18	17	22	22	29

- Prison DOSA
- Prison or residential DOSA*

Note:
* Residential DOSA is available only if the individual is assessed at a level 3 treatment need (residential inpatient treatment).

Exhibit A2

Felony Drug Sentencing Guideline Grid and DOSA Eligibility in 2015 (Minimum and Maximum Sentences in Months)

Seriousness level	Offender score (RCW 9.94A.517)					
	0-2		3-5		6-9+	
III	51	68	68.05	100	100.05	120
II	12.05	20	20.05	60	60.05	120
I	0	6	6.05	18	12.05	24

- Prison or residential DOSA*

Note:
*Residential DOSA is available only if the individual is assessed at a level 3 treatment need (residential inpatient treatment).

Source: Knoth-Peterson, L., Kelley, K.M., & Mack, C. (2022). Washington State's Drug Offender Sentencing Alternative: 2022 outcome evaluation (Document Number 22-11-1903). Olympia: WSIPP

Drug Offender Sentencing Alternative (DOSA)

Upcoming changes

- Beginning Jan 1, 2026, there will be prison-based and residential based treatment alternative for felony DUI.

Prevalence

- FY19:
 - 1,522 Prison DOSA (90% sentence below standard range);
 - 1,032 Residential DOSA
- FY24:
 - 902 Prison Based DOSA
 - 701 Residential Based DOSA

Family and Offender Sentencing Alternative (FOSA)

Overview

Alternative for individuals who have physical custody of their minor child, is an expectant parent, is a legal guardian of a minor child, or is a biological parent/adoptive parent/custodian/step parent with proven, established, ongoing, and substantial relationship with minor child at time of offense.

Must consider best interests of the child.

Eligibility

- Maximum of the standard range exceeds 12 months.
- Excludes:
 - Current or prior serious violent offense
 - Current violent offenses
 - Current or prior felony sex offenses
 - Current or prior felony offense w/ firearm or deadly weapon.
- Must sign release of information waiver allowing court access to current or prior child welfare cases.

Family and Offender Sentencing Alternative (FOSA)

Sentence

- Judge may waive standard range sentence and impose one year of community custody.
- Conditions may be set consistent with [RCW 9.94A.703](#).
- DOC may impose conditions including parenting classes, chemical dependency treatment, mental health treatment, vocational training, change programs, life skills classes, etc.
- Not eligible for supervision compliance credits.
- If failure to comply, court may revoke sentence and impose standard range sentence.

Prevalence

- FY19: 70 FOSA sentences
- FY24: 64 FOSA sentences:

Mental Health Sentencing Alternative (MHSA)

Overview

Treatment based alternative for individuals who have a serious mental illness and who would benefit from treatment.

Victim's opinion should be considered by the court.

New in 2021.

Eligibility

- Excludes:
 - Current serious violent offense
 - Current sex offenses
- Must be diagnosed with serious mental illness by mental health professional.
- Judge must determine defendant and community would benefit from supervision and treatment.
- Defendant must be willing to participate.

Mental Health Sentencing Alternative (MHSA)

Sentence

- Judge may waive standard range sentence and impose between 12 and 24 months of community custody if midpoint of standard range is less than or equal to 36 months.
- Judge may waive standard range sentence and impose between 12 and 36 months of community custody if midpoint of standard range is greater than 36 months.
- Individual must meet with treatment provider and follow recommendations/treatment plan and take medications as prescribed.
- Conditions may be set consistent with [RCW 9.94A.703](#).

Prevalence

- FY23: 202 MHSA sentences
- FY24: 250 MHSA sentences:

Special Sex Offender Sentencing Alternative (SSOSA)

Overview and Eligibility

Treatment based alternative convicted of an adult sex offense. Focused on sex offenses for which there is an established relationship between the victim and perpetrator other than the crime itself.

Eligibility

- Limited to those convicted of a sex offense that is not a serious violent sex offense or Rape 2 and those with no prior felony sex offense conviction and no prior violent offense in the last 5 years.
- Current offense cannot include substantial bodily harm to the victim.
- **Must** have an established relationship/connection to the victim other than that of the crime.
- **Must** be assessed as low-risk
- Individual must voluntarily and affirmatively admit to the offense (no Alford or Newton pleas)
- Standard sentence range must include sentence of confinement less than 11 years.
- Individual must be amenable to treatment.

Special Sex Offender Sentencing Alternative (SSOSA)

Sentence

- Judge *must* impose up to 12 months of confinement or the maximum of the standard range, whichever is less.
- Judge *may* impose confinement longer than 12 months or the maximum of the standard range if aggravating factors are present.
 - Term of community custody equal to length of suspended sentence, max term imposed per RCW 9.94A.507, or 3 years, whichever greater
- May order some or all of the sentence to be served in partial confinement.
- Not eligible for earned release.
- Not eligible for supervision compliance credits.

Special Sex Offender Sentencing Alternative (SSOSA)

Recent SOPB Recommendations

- Widespread support for protecting and preserving SSOSA statute— victims' community championed this alternative.
- Expansion of treatment alternatives to include establishment of new alternative for depictions offenses (and some support for sting cases inclusion)
- Recommendations for a new pathway off of lifetime supervision could impact SSOSA and increase use of alternative

Prevalence

- FY24: ~ 70 individuals/year.
 - Steady decline over the last 20+ years of SSOSAs granted despite effectiveness of treatment for those assessed as low-risk
 - cost of treatment & lifetime supervision requirements are largest barriers



For more information

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