

POTENTIAL RECOMMENDATION:

Creating A Community Intermediate Sanctions and Reintegrative Services Program (CISRS)

DRAFT as of 5.25.22

The Sentencing Alternatives Workgroup has been looking various options for integrating sentencing alternatives onto the sentencing guidelines grid and was interested in further exploring Potential Recommendation 9 which would keep straddle cells and create a state-funded community intermediate sanction program. The Workgroup met several times to discuss and has put together a draft proposal as a starting point to build out what such a program would entail. *Appendix A contains background on potential recommendations 6-9.*

Overview of Proposed Sentencing Alternative – Community Intermediate Sanction and Reintegrative Services

Counties would operate their intermediate sanctions (CISRS) programs and the state would oversee to ensure programs meet a minimum level of care.

- Counties would operate their intermediate sanctions program, but the program must receive state approval every XX years to ensure that the programs are meeting a minimum standard. The state could set requirements for that plan that must be reviewed annually or biannually (i.e., approvals for each two-year budget cycle).
- Programs would need two components: 1) supervision/sanctions that meet minimum standards and 2) access to rehabilitative and reintegration services. This is not just a program focused on surveillance, but also treatment.
- The state could also set requirements for the type of data that must be collected and reported (to the state) on an annual basis.
- The state may establish certain minimum levels of care for the general IS program, but also for specific populations of individuals. For example, the state may require that individuals receiving an IS sentence for an offense at a certain seriousness level or for an individual with a certain level of criminal history must have a higher level of supervision (such as electronic home monitoring or day reporting centers).
- Similarly, the state may require that all individuals sentenced to the IS program receive some type of needs assessment to inform treatment.
- The state may also create consistent standards for what types of behaviors would require a revocation of the IS sentence and a return to local incarceration.

		Simulated Grid																					
		0	1	2	3	4	5	6	7	8	9+	Agg Departure Cap	Repeat SV/Violent										
		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																					
Zone 4: State Prison	18	240	320	252	336	264	352	277	370	291	388	306	408	321	428	337	450	354	472	372	496	48 mos	60 mos
	17	104	138	114	152	126	168	138	184	152	203	167	223	184	246	203	270	223	297	297	397	48 mos	48 mos
	16	93	124	102	137	113	150	124	165	136	182	150	200	165	220	182	242	200	267	267	356	36 mos	48 mos
	15	82	110	90	121	100	133	110	146	121	161	133	177	146	195	161	214	177	236	236	315	36 mos	48 mos
	14	71	95	79	105	87	116	95	127	105	140	115	154	127	169	140	186	154	205	205	274	24 mos	36 mos
	13	61	81	67	89	74	98	81	108	89	119	98	131	108	144	119	158	131	174	174	233	24 mos	36 mos
	12	50	67	55	73	60	81	67	89	73	98	81	108	89	119	98	130	108	144	144	192	24 mos	24 mos
	11	39	52	43	58	47	63	52	70	58	77	63	85	70	93	77	102	84	113	113	151	24 mos	24 mos
Zone 3: DOSA, FOSA, State Prison	9	16	21	19	25	23	31	27	37	33	44	40	53	48	64	58	77	69	92	81	108	12 mos	12 mos
	8	14	19	17	22	20	27	24	32	29	39	35	47	42	56	51	68	61	81	71	95	12 mos	12 mos
Zone 2: CISRS, DOSA, FOSA <=12 Jail; >12 Prison	7	12	16	14	19	17	23	21	28	25	34	30	40	36	48	44	58	52	70	61	82	12 mos	12 mos
	6	10	13	12	16	14	19	17	23	21	28	25	34	30	41	37	49	44	59	51	69	12 mos	12 mos
Zone 1: CISRS, RDOSA, Jail	5	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54	6 mos	6 mos
	4	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45	6 mos	6 mos
	3	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36	6 mos	6 mos
	2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27	6 mos	6 mos
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	6 mos	6 mos	
Zone 0: Unranked	Unr	0 - 365 days																					

CISRS: County Intermediate Sanctions and Reintegrative Services Sentencing Alternative.

RDOSA: Residential DOSA, for eligible individuals based on offense type and criminal history

PDOSA: Prison DOSA, for eligible individuals based on offense type and criminal history

FOSA: Parenting Sentencing Alternative, for eligible individuals

 Cells in the hatched zone may be eligible for the FTOW sentencing alternative.

Zone 1: (Green Zone)

Zone 1 is the expanded “southwest corner” of the grid. Jail sentences would be locally resourced, as in the status quo. If sentenced to CISRS program, access to funds via CISRS block grant.

- Under potential recommendation #7, the number of cells in which there is an option for 0 months of incarceration would increase.
- However, the actual impact on incarceration will vary because of pre-trial confinement. Under the current system, some individuals sentenced in the southwest corner are sentenced to time served, therefore they do not receive additional incarceration after sentencing.
- This potential recommendation expands ranges in the southwest corner, where WSIPP found frequent disproportionality in sentencing.

- However, this change could lead to geographic differences due to differences in varying philosophies of punishment in combination with wide ranges. And judges may be unlikely to sentence to 0 months incarceration without some other alternative (e.g., probation).
- There were some concerns that some judges may be unlikely to sentence individuals to a local sentencing alternative. To incentivize the development and use of these programs, individuals sentenced to the CISRS alternative would be eligible for the use of state funds while those sentenced to local confinement in jail would be served only by local resources.

Zone 2: Straddle Cells (Pink Zone)

Stipulate that all sentences for individuals in Zone 2 (straddle cells) are paid for by the state.

- Justification: if they are not prison sentences, it is saving DOC funding by reducing DOC caseloads, so that funding could be diverted to the local courts to support non-incarcerative alternatives.

For sentences in this zone, presumptive sentence is a sentencing alternative that is served locally.

- Could be operated by local courts but funded by the state.
- Reduces prison sentences/beds/costs, so cost savings can be used to fund the county intermediate sanctions programs.

Zone 3 (Orange Zone)

Sentences in this zone are DOC Sentences and may be eligible for existing sentencing alternatives.

- By reducing the number of DOC sentences in Zone 1 and 2, DOC can increase its focus on providing appropriate services for individuals sentenced in Zone 3.

Examples of Intermediate Sanctions

Sentencing options that fall between probation and incarceration. Examples include:

- Intensive supervision probation
- Day reporting centers
- House arrest
- Electronic home monitoring
- Community service
- Intermittent confinement (e.g., work release or weekenders)
- Mandatory treatment conditions
- Residential community corrections (e.g., halfway houses)

Funding Model

Funding would be provided by the State to counties through a block grant based on a formula, modeled on the Juvenile Court Block Grant Program.

Juvenile Court Block Grant: In accordance with RCW13.06.020, the state appropriates approximately \$38 million to local county juvenile courts each two-year budget cycle. To reduce reliance on state-operated institutions, this funding provides community-based responses for youth who commit crimes.

The funding also assists with the application of disposition (sentencing) programs. DCYF's Juvenile Rehabilitation program administers these dollars across the 33 county juvenile court jurisdictions.

A similar block grant system could be created for county-based IS programs. Funds would be allocated based on county size, caseloads, use of the IS program, etc. There should be a minimum level of funding to support staffing and capital costs of running an IS program.

The funds from the IS block grant program can support staffing and capital costs that may also allow counties to expand the types of services offered to individuals in jail or individuals sentenced in district court. Thus, this program could have beneficial spillover effects for an even larger population of individuals involved in the criminal legal system. Additional savings as an effect of the investment in effective programs to reduce overall recidivism and future caseloads.

- Zone 2 - Straddle cells: under the current system all the cells that fall in this zone are state prison sentences. Under the simulated grid and this proposal, for the cells in this zone, if the court sentences to less than 12 months, the cost of confinement will be reimbursed by the state. Even though the state is still covering the cost of these sentences, these sentences won't be on DOC caseload, so likely cost savings.
- Zone 1 – SW corner of the grid – if order to confinement in jail, locally resourced like status quo. If sentenced to CISRS program, access to funds via block grant.

Provided and Funded Services and Programs for Victims

Victim services and programs would also be included in the program. This could include a broad array of services and programs that respond to the emotional and physical needs of victims such as support services throughout the criminal legal process, counseling, crisis intervention, shelter, trauma and therapeutic services, restorative justice, etc.

Questions the Alternatives Workgroup Has Identified So Far:

- How should requirements for an IS sentence be determined? Would the terms (e.g., EHM vs. day reporting center) be determined by the judge ordering the alternative or by the local IS program supervisor?
- What level of quality assurance and oversight would the state provide? For Juvenile EBPs, the state operates quality assurance protocols and standards for the local court programs. The proposed IS structure is intended to provide more flexibility to the local courts, so there may not be an exhaustive list of specific programs offered in the courts.
- Should the grant funding include funds for ongoing research/evaluation?
- How do the therapeutic programs develop locally? What about locations that don't have the access to these types of programs?
 - State could have general types of services that a qualifying CISRS program should provide: e.g., employment/job training, education, housing, cognitive behavioral training.
- How to address Tort concerns w/ local liability?

**APPENDIX A.
Potential Recommendations 6-9 (Background And Context)**

Potential Recommendation 6: Establish a formula for determining grid cell ranges for OSLs 1-5. Create the grid ranges for OSLs 1 –5 using 54 as the anchor for the most serious maximum punishment for OSL 9, CHS 9+.

Formula for OSL 1-5 Effects

	0	1	2	3	4	5	6	7	8	9+										
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

- Maximums reduced between 2 and 42 months. Average reduction in maximum is only 10 months.
- However, in the current system, judges commonly sentence at the midpoint or below the midpoint, so the maximums were rarely used anyway.
- Judges still able to impose aggravated sentences for cases in which longer confinement times are justified.
- More judges able to impose sentences that are less than the current system allows due to sentences not being appealed.
- Eliminates the potential for disproportionality in sentences (since lower sentences are now within the standard range)

CURRENT GRID RANGES

	0	1	2	3	4	5	6	7	8	9+										
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
Unr	0 - 365 days																			

FORMULA GRID RANGES

	0	1	2	3	4	5	6	7	8	9+										
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Potential Recommendation 7: *If the maximum sentence based on the formula is 12 months or less, the minimum is automatically reduced to zero.*

	0	1	2	3	4	5	6	7	8	9+										
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

	0	1	2	3	4	5	6	7	8	9+										
V	0	10	0	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	0	9	0	10	0	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	0	7	0	8	0	10	0	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	0	6	0	7	0	8	0	10	0	12	4	14	5	17	6	21	8	27
I	0	2	0	3	0	5	0	6	0	7	0	8	0	10	0	12	4	14	5	18
Unr	0 - 365 days																			

Affects minimums that are 3 months or less.

Under this potential recommendation, the number of cells in which there is an option for 0 months of incarceration would be expanded. However, the actual impact on incarceration will vary because of pre-trial confinement. Under the current system, some individuals sentenced in the southwest corner are sentenced to time served, therefore they do not receive additional incarceration after sentencing. This potential recommendation expands ranges in the southwest corner where WSIPP found frequent disproportionality in sentencing. However, this change could lead to geographic differences due to differences in varying philosophies of punishment in combination with wide ranges. And, judges may be unlikely to sentence to 0 months incarceration without some other alternative (e.g., probation).

In addition, a major effect of this potential recommendation is it will create straddle cells – such that sentences may be jail or prison confinement.

	0	1	2	3	4	5	6	7	8	9+										
V	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	46	16	54
IV	2	9	3	10	3	12	4	15	5	18	6	22	8	26	9	32	11	38	13	45
III	2	7	2	8	3	10	3	12	4	14	5	17	6	21	7	25	9	30	10	36
II	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	27
I	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18
Unr	0 - 365 days																			

Yellow cells were previously presumptive prison sentences, but are “straddle” cells with the formula, such that sentences may be jail or prison confinement.

Two options to address straddle cells have been put forward:

Potential Recommendation 8 *eliminates straddle cells:* *If the maximum based on the formula is more than 12 months, the minimum must be at least 12 months and a day.*

The effects of this potential recommendation are that it would create variability in the width of the ranges such that some ranges will be very small (for example, sentence days range 12-14months). Not having straddle cells (as is current law) creates more predictability in caseloads for local and state facilities and clarity/predictability about

whether a defendant will face a jail or prison sentence. It also prevents an increase in local resources (jail sentences).

The second option is **Potential Recommendation 9: Keep Straddle Cells and Create an Intermediate Sanction Zone.**

Under this potential recommendation for the sentences in this zone of the grid, the presumptive sentence is a sentencing alternative served locally. Sentences for individuals in straddle cells are paid for by the state. For sentences in this zone, sentences that are DOC sentences (more than 12 months) could have an option for state Intermediate Sanctions. These cells will have a lower mid-point, likely facilitating a small decrease in sentence lengths. A state-funded intermediate sanctions program would provide support for Counties while still allowing State oversight to ensure that community services meet certain standards and would support rehabilitative and non-incarcerative alternatives without increasing financial burden on counties. It could help support expansions of community services/resources that local counties could then use for other individuals under local sanctions (e.g., SW corner of the grid). And it would shift focus from retribution/confinement to rehabilitation and community reintegration thus reducing collateral consequences of incarceration.

At the May 3, 2022 Sentencing Alternatives Work Group meeting, members expressed interest in further exploring Potential Recommendation 9 and putting together a more detail proposal for a creating a Community Intermediate Sanctions Program.