

Washington State Criminal Sentencing Task Force Meeting

Oct. 20th, 2022

10:00am-4:00pm

Hybrid Meeting: In-person and via ZOOM

Agenda

Agenda

- Task Force Introductions and Workplan
- Review and Discuss Remaining **Proposed Recommendations**
- Dialogue on Retroactivity

Agenda

9:30am
**Coffee and Informal
Conversation**

10:00am
**Welcome and Agenda
Review**

10:10am
Introductions & Updates

10:30am
**Review and Discuss
Remaining Proposed
Recommendations**

12:30pm
Public Comment

12:45pm
LUNCH BREAK

1:30pm
Dialogue on Retroactivity

3:30pm
Closing Reflections

4:00pm
Adjourn

Virtual Meeting Groundrules

Mute your audio: Whether you've joined by phone or video, please mute your audio until just before it's your turn to speak. That helps improve the sound quality for everyone.

Camera On (if doable): Strongly encourage cameras on so everyone can see who is present and participating. Personal presence is important for collaborative group meetings, and even more critical for these virtual meetings.

Zoom Chat Reminder: We have disabled the private chat function to adhere to your groundrule of no side conversations.

*****If you want to chat to the facilitators or pass along info to the Task Force, please send a chat message to Molly Stenovec.**

10:10 -
10:20am

Introductions & Updates

- **Members and Alternates:** Please state name, affiliation, and constituency you represent.

Task Force Groundrules

Criminal Sentencing Task Force Groundrules

- **Be Respectful**
 - One person speaks at a time; listen when others are speaking, avoid interrupting and side conversations.
 - Keep comments brief so everyone gets a chance to share their thoughts. Avoid dominating the discussion.
 - **Hear and respect all opinions.**
 - Silence cell phones and refrain from using laptops during the meeting, except to take notes.
- **Be Constructive**
 - **Acknowledge that all participants bring with them legitimate purposes, goals, concerns, and interests**, whether or not you are in agreement with them.
 - Openly explore issues.
 - Act in “good faith,” seeking to resolve conflicts and identify solutions.
 - State concerns and interests clearly, listen carefully to and assume the best in others. Leave negative assumptions and attitudes at the door.
 - **Share comments that are solution focused**, rather than repeating past discussions.
 - It’s OK to disagree, it is not OK to make personal attacks.
 - Minimize the use of jargon and acronyms, define and explain when used.
 - Work towards consensus. **Be willing to compromise.**
 - Ask for clarification when uncertain of what another person is saying. Ask questions rather than make assumptions.
- **Be Productive**
 - Begin and end meetings on time.
 - Respect time constraints.
 - Adhere to the agenda as much as possible, focusing on the subject at hand.

CSTF 3 Policy Goals:

In 2019, the Legislature established the Washington State Criminal Sentencing Task Force to review state sentencing laws, including a consideration of the Sentencing Guidelines Commission's (SGC) 2019 report, and develop recommendations for the purpose of:

- a) Reducing sentencing implementation complexities and errors;
- b) Improving the effectiveness of the sentencing system; and
- c) Promoting and improving public safety.

10:20 -
10:30am

Updates

- **Updates from Co-Chairs**
- **Updates from Facilitation Team –
Workplan Updates**

2022 Work Plan

- **October 20th:** Present and discuss remaining Proposed Recommendations. Dialogue on Retroactivity

Consensus Deliberations

- **November 3rd:** Consensus Deliberations on all proposed recommendations
- **November 17th:** Consensus Deliberations on all recommendations
- **December 8th:** Draft Final Report – last review and opportunity to address any unresolved issues

Dec 14th: Joint Legislative Committee Meeting

Joint House Public Safety and Senate Law and Justice Meeting – December 14th

- Joint meeting of the Senate Law & Justice and House Public Safety Committees from 10am - 1pm at the Capitol Campus in Olympia
- **Purpose:** receiving a report from the WA State Criminal Sentencing Task Force

How the Proposed Recommendations are Being Organized and Presented

- Recognizing it has been somewhat confusing and difficult to track all the proposed recommendations – changes in sequencing, additional edits, new groupings, etc.
- Have been using the following draft report outline/structure (on next slide). Used this structure when presenting proposed recs at Oct 6th meeting & using again today (headings at top right corner of each slide).

How Proposed Recommendations are Being Organized and Presented

Draft Report Outline

- Introduction and Overview of the CSTF
- **Section 1.** Proposed Recommendation: New Adult Felony Sentencing Guidelines Grid
- **Section 2.** Proposed Recommendation: CISRS Program
- **Section 3.** Proposed Recommendations: Sentencing System
 - **A. Foundational**
 - **B. Sentencing Discretion**
 - **C. Legal Procedures and Other Sentencing Laws**
 - **D. Criminal History Score**
 - **E. Continuing Work**
 - **F. Post Sentencing Reform**
 - **G. Sentencing Alternatives**

10:30am –
12:30pm

**(Section 2.) Proposed
Recommendation:**

Community Intermediate
Sanctions and Reintegrative
Services (CISRS) Program

Background and Explanation

- Sentencing Alternatives Workgroup first presented the initial idea and concept at the 10.7.21 Task Force Meeting.
- Was presented as a **potential** recommendation, in greater detail at the 6.2.22 meeting.
- Sentencing Alternatives Workgroup incorporated input from Task Force and presented **Proposed** Recommendation at 8.31.22.
- Grid Subgroup discussed feedback from 8.31.22 meeting and the status and outcome of consensus deliberations on the proposed new felony sentencing grid.
- Subgroup discussed need for process to move forward with development of an implementation plan for CISRS Program, to build & address the details of such a program. Grid Subgroup proposes adding the following language to the recommendation: (see next slide)

CISRS Program Proposed Recommendation

Create a Community Intermediate Sanctions and Reintegrative Services (CISRS) Program. Establish a workgroup tasked with determining the legislative standards and implementation plan for the CISRS program, using the information provided in the recommendation as a guideline for the general program framework.

11:00am –
12:30pm

(Section 3.) Proposed Recommendations:

Remaining *Sentencing*
System Proposed
Recommendations

Proposed Recommendation 1

The Legislature must allocate sufficient funds to implement rehabilitative programming for individuals incarcerated in Washington state, i.e., to support recruitment and training for mental health professionals, substance use disorder counselors, and the evidence-based programs to provide treatment and services along with education and job training for incarcerated individuals. These programs and services must be immediately available after DOC conducts an individual's intake assessment. Improving the effectiveness of the system and promoting public safety depend on this, as well as allocation of funds to support the transition to reentry through housing, transportation, removing barriers to employment, providing community supports, and other steps such as those outlined in the Task Force's 2020. Require DOC to publish annual statistics on the number of individuals participating in programs by facility.

Background and Explanation

- This is a new recommendation developed by the Grid Subgroup.
- In response to a discussion about availability of programming that occurred at Aug 4th Task Force meeting, group of members met and drafted text for the Subgroup to discuss.
- Group talked about a number of Task Force recommendations from 2020 where action is still needed (Rec's 20, 32, 34, 38) dealing with availability and access to programming and funding, resources, and capacity.

Background and Explanation

- This recommendation identifies rehabilitative services and programs necessary to help those in DOC custody such as education, job training programs, chemical dependency treatment, behavioral and mental health treatment.
- The recommendation also calls out the need for reentry services that can help individuals secure necessary steps to successful integration such as housing, transportation, employment, and continued treatment.
- Also recognizes the need to address work-force capacity issues, such as availability of service providers, retention, geographic disparities and lack of treatment providers, etc.

Background and Explanation

Grid Subgroup also discussed the following, to be included in the background and explanation section of this recommendation:

- Inclusion of language to get an inventory of the programs currently available at each facility. The types of programs available is not standard across facilities and creates disparities for rehabilitative opportunities depending on where one serves their sentence.
- It could also be helpful to direct a study to determine which programs have the largest impact on reducing recidivism.
- Both knowing what programs are at each facility and what the program capacity is, as well as how many people complete the program.

Addresses CSTF Policy Goals:

- This recommendation can greatly improve the quality of time spent for those incarcerated in DOC facilities. Providing rehabilitative services at the beginning of a person's sentence such as education, job training programs, chemical dependency treatment, behavioral and mental health treatment, create opportunities to help meet unmet needs of people in DOC custody.
- Providing such services at the start of and over the duration of an individual's term has shown to contribute to safer conditions inside prison and better prepares individuals for reentry.
- Reentry services can help successfully reintegrate those being released from DOC custody to ensure securing basic needs. Through meeting these needs this can help alleviate recidivism, advancing both public safety and effectiveness in the sentencing system.

Proposed Recommendation 21

Request and Fund the Washington State Institute for Public Policy to update its adult corrections inventory in order to update assessments of evidence-based programs and to expand the inventory to include new programs that were not previously available when the inventory was conducted.

Background and Explanation

- The next is also a new recommendation developed by the Grid Subgroup.
- This recommendation came out of conversations the Grid Subgroup had concerning the recommendation about funding rehabilitative and reentry services within DOC facilities.
- Legislature often directs WSIPP to study the effectiveness and assess the potential benefits and costs of programs and policies that could be implemented in Washington State.
- In 2013 Legislature passed a bill to facilitate the use of evidence-based programs in adult corrections and directed WSIPP to develop definitions for “evidence-based” and “research-based” and create an inventory of evidence-based and research-based programs to be used by the Department of Corrections.
- The legislation also directs the Department of Corrections (DOC) to determine if the programs it delivers are evidence-based or research-based according to the inventory developed by WSIPP.

Background and Explanation

- Subgroup looked at the WSIPP adult corrections inventory. Many of these evaluations have not been updated since 2016.
- Not only have more adult correctional programs been created and implemented since 2016, but extensive research has been published since then on effective programming.
- There exists rich literature available to update assessments of evidence-based programs (EBPs) and to expand the inventory to include new programs that weren't previously available.

Addresses CSTF Policy Goals:

- DOC resources for programming are limited, as is program capacity. An updated Adult Corrections Inventory can help identify the programs that are most likely to be effective to help inform decisions about program funding.
- Many of the programs on WSIPP's adult corrections inventory have not been reviewed since 2016. Updating the inventory ensures that decisions made today are based on the best/most up-to-date information about program effectiveness.
- WSIPP's inventory uses available research on programs within and outside of Washington to identify programs that are likely to cost-effectively reduce recidivism if implemented in Washington State.
- Effective programming for incarcerated persons has the ability to reduce recidivism, increasing public safety, as well as improving other outcomes such as employment, education, and public health.

Background and Explanation

- When SRA was enacted, it eliminated indeterminate sentences and parole, with some exceptions. Under the SRA, individuals are generally required to serve the specific sentence imposed by the court regardless of their rehabilitative efforts or improvements.
- However, certain exceptions allow a qualifying person to be released prior to completing the term of confinement ordered by the court, for example, pursuant to:
 - transfer to a partial confinement program;
 - an authorized furlough or leave of absence;
 - an extraordinary medical placement, subject to certain qualifications and conditions; an order to release by the Indeterminate Sentence Review Board (ISRB) for certain qualifying persons;
 - administrative earn early release time; and
 - a pardon or commutation granted by the Governor.

Background and Explanation

- The Legislature has given authority to the Indeterminate Sentence Review Board (ISRB) to review and release individuals if the statutory criteria is met for the following three populations:
 - Individuals on parole, convicted before the enactment of the SRA, July 1, 1984;
 - Community Custody Board (CCB): individuals convicted of sex offenses who committed their offenses after August 31, 2001, and who have determinate-plus sentences; and
 - Juvenile Board Cases (JUVBRD): individuals who committed crimes under age 18 and are sentenced as adults.

Background and Explanation

- The Washington Constitution provides the Governor the authority to grant pardons, and statute provides the Governor with the authority to commute sentences and release persons in extraordinary cases.
- The Clemency and Pardons Board (CPB) receives petitions for commutation and pardons and makes recommendations on those petitions to the Governor.
- The Governor makes the final decision in all petitions heard by the CPB.

Proposed Recommendation 22

For sentences including a term of total consecutive confinement longer than 20 years, individuals may petition for a second chance review at 20 years of incarceration (total confinement) with the possibility of release. Require that the review process explicitly include the opportunity for victim input.

Potential → Proposed Recommendation

- Formerly Potential Recommendations #12: *For all sentences longer than 20 years, establish a second chance review at 20 years of incarceration with the presumption of release.*
- Was presented to the Task Force for input at the 9.2.21 and 11.4.21 Task Force Meetings.
- A number of members expressed concerns with “*presumption of release*”.
- A number of members supported creating a process and pathway for review for individuals serving long sentences.
- Discussion about ISRB and CPB – benefits and drawbacks of both
- Concerns about victims input not being included.
- Suggestions to create a process similar to that that exists in [RCW 9.94A.730](#), for individuals convicted before the age of 18.

Background and Explanation

- This recommendation is to create a process for individuals sentenced to and that have served more than 20 years of confinement to be able to petition for review for early release.
- Does not specify whether this process should be under ISRB or CPB.
- Process could be modeled after [RCW 9.94A.730](#), which for example, includes assessment, participation in programming, evaluation and public safety considerations, victim input process, supervision, and a number of other conditions that must be met and considered.
- Grid Subgroup discussed importance of demonstrated willful and voluntary participation in and completion of DOC programming to be eligible for petition and the need for such programming to be available at all DOC facilities.

Addresses CSTF Policy Goals:

- Provides a pathway for individuals to be able to petition for review after serving more than 20 years of a sentence and an opportunity to address any changes in legislation since conviction.
- As of June 2022 DOC fact sheet, 29.9% of current DOC population is serving a sentence over 10 years and 17.3% is serving a sentence of life without the possibility of parole.
- Research on the age-crime curve shows diminishing returns for long-term incarceration for individuals who would otherwise “age out” of crime. Potential cost-savings from long-term incarceration could instead be used to support rehabilitative programming.
- Actively incentivizes individuals to engage in rehabilitative programming and engage in crime-free behaviors that will advance public safety and effectiveness of time spent in incarceration.
- Specifically requires that such a review process include the opportunity for victim input.

Reminder/Recap of Sentencing Alternatives Workgroup

Sentencing Alternatives Workgroup - Fall 2021-Spring 2022:

Discussion on current sentencing alternatives, including

- Program overview
- Intended purpose
- Statutory Eligibility Criteria: Current offense, Prior record, Prior participation in alternative
- Any past/current efforts or entities looking at potential changes?

Presentations from DOC, Sex Offender Policy Board

Reviewed: spreadsheets of current and simulated grids with offense-specific eligibility for DOSA, FOSA, and FTOW, including specific offenses and guideline ranges eligible for an alternative.

Reminder/Recap

Special Sex Offender Sentencing Alternative – SSOSA

- Reviewed program overview & statutory eligibility criteria
- Conversations w/Chair & Vice-Chair of Sex Offender Policy Board (SOPB) on SSOSA, sentencing for sex offenses, and ways the SOPB & subgroup could coordinate their work
- Chair of House Public Safety Committee asked the SOPB to review SSOSA (including eligibility criteria), lifetime supervision, washouts, and treatment (capacity, requirements, need, housing barriers, etc.). The request directs SOPB to develop policy recommendations with research & guiding principles for each topic. Report due to Legislature December 2022.

Proposed Recommendation 23

Include and visually depict all sentencing alternatives on the felony sentencing guidelines grid.

Potential → Proposed Recommendation

- Formerly Potential Recommendations #38: which was presented to the Task Force for input 11.4.21, 7.7.22 and 8.4.22 meetings.

November 2021 Task Force Meeting: Presentation on Sentencing Alternatives and Looked at How Sentencing Alternatives could Integrate onto the Grid

	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
Unr	0 - 365 days																			

- Cells in the green zone are presumptive jail sentences. Depending on the offense, individuals may be eligible for a residential DOSA or SOSSA disposition.
- Cells in the yellow zone may be eligible for a residential DOSA, FOSA, or SOSSA disposition depending on the offense and the types of offenses in an individual's criminal history.
- Cells in the blue zone may be eligible for a prison DOSA, FOSA, or SOSSA disposition depending on the offense and the types of offenses in an individual's criminal history.
- Cells in the hatched zone may be eligible for the FTOW sentencing alternative.

Background and Explanation

- This recommendation would allow for the depiction of all sentencing alternatives on the sentencing grid creating transparency for all parties (judges, defendants, victims) about all available sentencing options.
- This could be done as a separate overlay to show where and which alternatives (i.e. DOSA, SOSA, FOSA, FTOW, etc.) are applicable on the sentencing grid.

Addresses CSTF Policy Goals:

- Identifying opportunities to make the sentencing system more transparent for all parties (judges, defendants, victims) has been a consistent goal of the Task Force and a way to both improve effectiveness and reduce complexity.
- With this recommendation all sentencing options would be included on the guidelines grid, increasing transparency for all parties regarding when sentencing alternatives could be considered.
- This visual overlay of sentencing alternatives would remind all parties of treatment-oriented sentencing options to encourage consideration of applicable sentencing alternatives in all possible situations.

Proposed Recommendation 24

Eliminate the cap on the number of DOSA sentences that an individual can receive in a 10-year period.

Potential → Proposed Recommendation

- Formerly Potential Recommendations #40: which was presented to the Task Force for input 7.7.22 and 8.4.22 meetings.

Background and Explanation

Prison DOSA: provides substance use disorder treatment and community supervision for individuals diagnosed with a substance disorder who have committed a drug or other statutory eligible crimes. The period of confinement is $\frac{1}{2}$ the midpoint of the standard range (or 12 months, whichever greater) and $\frac{1}{2}$ the midpoint of the range as a term of community custody, which must include treatment.

Residential DOSA: residential substance use disorder treatment in the community in lieu of confinement time.

Current eligibility considers current offense, prior record and a person cannot have received more than 2 DOSA sentences in the last 10 years

Addresses CSTF Policy Goals:

- Removing this eligibility criteria would reflect current understanding of substance use disorders– that recovery is a process.
- Prior participation in DOSA would no longer prevent the court from considering another DOSA sentence, therefore increasing judicial discretion, which has been a consistent goal of the Task Force.
- The court would still consider community safety and an individuals' unique circumstance.
- However, eliminating this cap on the number of DOSA sentences may not reduce geographic disparities or increase access to treatment given limited availability of treatment beds and facilities.

Proposed Recommendation 25

Eliminate eligibility exclusions related to prior convictions for a violent (not serious violent) offense from Sentencing Alternatives (except for SSOSA, which is currently being addressed by the SOPB). This would eliminate eligibility exclusions related to prior convictions for a violent offense from pDOSAs and rDOSAs.

Potential → Proposed Recommendation

- Formerly Potential Recommendations #39: which was presented to the Task Force for input 7.7.22 and 8.4.22 meetings.

Background and Explanation

- For current offense eligibility exclusions, individuals are ineligible for DOSA if they are facing a charge for a serious violent offense, a violent offense, a sex offense, felony DUI and physical control, or any other offense with a finding of a deadly weapon and/or firearm enhancement.
- Prior offense exclusions function in a similar capacity where those previously convicted of a sex offense (registered), a serious violent offense, or violent offense within the last 10 years (excluding Robbery 2), have no previous Robbery 2 convictions within the last 7-year period (excluding Robbery 2 offenses that were pled down from Robbery 1 or had a firearm enhancement).
- Further exclusions exist as well, such as individuals cannot have been sentenced to more than two DOSA sentences within a 10-year period, cannot be subject to a deportation order, the drug offense must involve a small amount of narcotics, and the high range of the sentence must be greater than 1 year in confinement.

Background and Explanation

- Currently, sentencing alternatives vary as to whether an individual with a past felony violent conviction could be considered for a sentencing alternative.
- In 2020, the Legislature eliminated the exclusion for prior violent convictions (unless committed with a deadly weapon) for the Family and Offender Sentencing Alternative (FOSA).
- This recommendation would eliminate the eligibility exclusion based on prior convictions for violent offenses (not serious violent) for DOSA sentences.
- Not including the Special Sex Offender Sentencing Alternative (which is being discussed by the Sex Offender Policy Board), only pDOSAs and rDOSAs have exclusionary language related to prior violent offenses. Other alternatives have already had these exclusions removed (for example, FOSA) or never had such exclusions.

Addresses CSTF Policy Goals:

- By removing exclusionary language relating to prior violent offense convictions, this recommendation would better align the eligibility of the sentencing alternatives (except SSOSA, which is being addressed by the SOPB), reducing complexity in sentencing alternatives eligibility.
- Could increase opportunities where substance use treatment-oriented sentencing options could be considered (when substance use disorder contributed to the commission of a crime) to expand access to treatment.
- Eliminating exclusions based on prior history would not automatically lead to a sentencing alternative—the court would still consider the individuals' circumstance and needs, and if those needs could be safely met in the community.

Proposed Recommendation 26

Add eligibility criteria excluding individuals with prior felony offenses where an individual was armed with a firearm or deadly weapon, therefore aligning DOSA eligibility with FOSA.

Background and Explanation

- This is a new recommendation that was proposed by members during this Tuesday's (10.18.22) Grid Subgroup meeting.
- To be eligible for the special drug offender sentencing alternative (DOSA – both rDOSA and pDOSA) the current offense may not be a violent offense, a serious violent offense, a sex offense, or an offense where the individual was armed with a firearm or deadly weapon.
- An individual is ineligible if they have a prior sex offense requiring registration, a prior violent offense (excluding Robbery 2) within 10 years, or a prior Robbery 2 within the last 7 years and it must not have been reduced from Robbery 1 or a firearm enhancement.

Background and Explanation

- The Family and Offender Sentencing Alternative (FOSA) allows judges to waive a sentence for eligible persons and impose 12 months of community supervision along with conditions for treatment and programming for people facing a prison sentence.
- To be eligible for a FOSA sentence, the current offense may not be a sex offense, a serious violent offense, a felony offense where individual was armed with a firearm or deadly weapon, or a violent offense.
- An individual is ineligible if they have a prior sex offense, serious violent offense, or a felony offense where the individual was armed with a firearm or deadly weapon.
- In addition, the individual must be parent, expectant parent, legal guardian, adoptive parent, custodian, or stepparent of a minor child. And the high end of the sentence range must be greater than one year.

Background and Explanation

- In 2020, the Legislature removed from the Family and Offender Sentencing Alternative (FOSA) the eligibility exclusion of prior violent offenses, unless committed with a firearm or deadly weapon, for FOSA.
- Eligibility was not changed regarding exclusions for prior sex offenses, prior serious violent offenses, and for felony offenses involving a firearm or deadly weapon.
- This recommendation would add eligibility exclusions for previous convictions of felony offenses involving a finding of deadly weapons or firearm enhancements to both pDOSAs and rDOSAs effectively aligning these alternatives with FOSA.

Addresses CSTF Policy Goals:

- This recommendation would better align the eligibility standards for DOSA and FOSA alternatives, which would reduce the complexity of determining whether an individual is eligible for one or more alternatives.
- Aligning the eligibility standards across these several sentencing alternatives would ensure that any future amendments to eligibility and exclusions made to one of these alternatives could be easily amended to align with the others.

Proposed Recommendation 27

Eliminate eligibility exclusions based on current offense/s – modeled after the Mental Health Sentencing Alternative (does exclude eligibility if the current offense is serious violent or sex offense).

Background and Explanation

- One of the recommendations the CSTF made to the Legislature in 2020 was to create a mental health sentencing alternative (Recommendation #6).
- Mental Health Sentencing Alternative was created in 2021.
- Alternatives Workgroup discussed how this sentencing alternative has less restrictive eligibility requirements than other currently available sentencing alternatives and does not exclude individuals based on prior convictions.
- Exclusions for current convictions include serious violent offenses and sex offenses.
- Additional eligibility requirements are not offense based but instead include the defendant is willing to participate, the judge believes that both the individual and community would benefit from their enrollment in this alternative, and the input from any victims be prioritized.

Background and Explanation

- This recommendation aims to model the exclusionary language for current offenses from the MHSA onto the other sentencing alternatives available in Washington.
- Currently, other sentencing alternatives in Washington have exclusions that are offense based - for current offenses such as exclusions for violent offenses (not serious violent offenses), serious violent offenses, sex offenses, felony offenses with deadly weapons and/or firearms enhancements, manufacturing/distribution/possession with intent to sell Schedule 1 or 2 Narcotics.
- This recommendation would remove all exclusions for current offenses, with the exception of serious violent offenses and sex offenses.

Addresses CSTF Policy Goals:

- This recommendation would align all sentencing alternatives to have the same eligibility standards pertaining to current offenses exclusions, reducing complexities in determining eligibility.
- By reducing the number of current offenses excluding individuals for being eligible for these alternatives, expands the pool of those eligible for both treatment-based alternatives and alternatives to incarceration.
- This would improve the effectiveness of the sentencing system both by connecting individuals with necessary treatment, and decreasing DOC caseloads by diverting more individuals, deemed safe to do so, away from incarceration saving DOC funds which could be used to increase capacity and availability of programming improve quality of facilities, or other services for those currently incarcerated.

12:30 –
12:45pm

Public Comment

12:45–
1:30pm

LUNCH

1:30- 3:30pm

Dialogue on Retroactivity

The purpose of this conversation is to build understanding among Task Force members around issues connected to retroactivity.

Dialogue on Retroactivity:

At this point of the meeting the formal business portion of the meeting is concluded.

For members and alternates in the room we all will push the tables back and arrange ourselves in a circle/U-form so that everyone in the room will be able to see one another and will be facing the Zoom screen.

The remainder of the day will be held for dialogue on retroactivity - a space and time to share, listen deeply, and build understanding of one another's perspectives, lived experiences, interests, and ideas. Those that each member carries forward on behalf of their constituency to this collective group.

4:00pm

ADJOURN