

Criminal Sentencing Task Force
Proposed Recommendation: CISRS Program
10.26.22
For Consensus Deliberations at 11.3.22 CSTF Meeting

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 CSIRS program, using the information provided in the recommendation as a guideline for the general program framework.

BACKGROUND

Current law (RCW 9.94A.190) states that sentences are served at a state facility or institution when the sentence imposed is a term of confinement that is at least one year and one day (12+months) and are served at a local facility or institution when the sentence imposed is a term of one year or less.

As depicted below on the state’s current sentencing guidelines grid, this creates a hard line between local and state sanctions – the sentence range in a cell can only be a jail sentence or a prison sentence – there are no blended sentence ranges. The area on the grid depicted in orange is strictly local sanctions and commonly referred to as the “southwest corner” of the grid.

Washington State’s Current Felony Sentencing Guidelines 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																			

Under the proposed new felony sentencing guidelines grid (will be Section 1 of the final report, with description of the consensus process, final decision, etc.), the sentence lengths are created using formulas that “anchor” sentence lengths for each felony class in the statutory maximum. This creates what is referred to as “straddle cells” – cells with ranges from shorter than 12 months to longer than 12 months and a day, thus allowing for a jail or a prison sentence.

CSTF Proposed Recommendation: New Felony Sentencing Guidelines Grid

	0	1	2	3	4	5	6	7	8	9+	Aggravator Departure Cap (advisory, greater than is presumptively unreasonable)	Repeat Serious Violent/Violent or Repeat Domestic Violence 9.94A.525(21)										
18	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																					
17	240	320	249	332	259	346	269	359	280	374	291	389	303	404	315	421	328	437	341	455	45.0	10%
16	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%
14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
12	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%
11	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%
8	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%
7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%
6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
Unr	0 - 365 days																					

The Sentencing Alternatives Workgroup looked at ways to integrate sentencing alternatives onto the sentencing grid and decided to further explore the option to keep straddle cells and whether a new type of sentencing alternative for this area of the grid could be created.

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 CSIRS program, using the information provided in the recommendation as a guideline for the general program framework.

Program Description

CISRS is a sentencing alternative to incarceration that primarily targets individuals who would otherwise serve a sentence of confinement in a grid cell with a sentence range that straddles county jail term and/or state prison sentence. Counties would develop and operate their CISRS programs, which would include both intermediate sanctions and reintegrative service programs. Funding would be provided by the state and the state would oversee to ensure programs meet a minimum level of care (programs would be required to receive periodic state approval to ensure they meet state standards).

Intermediate sanctions include the following:

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

Reintegrative services would include rehabilitative programs and begin as soon as possible after a needs assessment. Reintegrative services include, but are not limited to:

- Education programs
- Employment/job training
- Assistance with housing and transportation
- Mentorship and credible messenger services
- Life skills classes and use of technology training

Rehabilitative services include but are not limited to:

- Substance use disorder treatment
- Mental health counseling
- Cognitive behavioral training
- Other evidence-based programs

	0	1	2	3	4	5	6	7	8	9+	Aggravator Departure Cap (advisory, greater than is presumptively unreasonable)	Repeat Serious Violent/Violent or Repeat Domestic Violence 9.94A.525(21)											
18	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	17	240	320	249	332	259	346	269	359	280	374	291	389	303	404	315	421	328	437	341	455	45.0	10%
	16	114	153	126	168	138	185	152	203	168	224	184	246	203	271	223	298	245	327	255	340	34.0	10%
	15	101	135	111	148	122	163	134	179	148	197	163	217	179	239	197	263	217	289	225	300	30.0	10%
	14	87	117	96	128	106	141	116	155	128	171	141	188	155	207	170	227	188	250	195	260	26.0	10%
	13	59	99	65	108	71	119	79	131	86	144	95	159	105	175	115	192	127	212	132	220	22.0	10%
	12	52	87	57	96	63	106	70	116	77	128	84	141	93	155	102	170	112	188	117	195	19.0	10%
	11	45	76	50	84	55	92	61	101	67	112	73	123	81	135	89	149	98	163	102	170	17.0	10%
	10	39	65	43	71	47	78	52	86	57	95	63	105	69	115	76	127	83	139	87	145	14.0	10%
ZONE 3	9	19	33	22	37	26	43	30	50	34	57	39	66	45	76	52	87	60	100	72	120	12.0	10%
	8	17	28	19	33	22	38	26	43	30	50	34	58	40	66	46	76	52	88	63	105	10.0	10%
	7	14	24	17	28	19	32	22	37	25	43	29	49	34	57	39	65	45	75	54	90	9.0	10%
ZONE 2	6	12	20	14	23	16	27	18	31	21	36	24	41	28	47	32	54	37	63	45	75	7.0	10%
ZONE 1	5	3	12	4	14	5	17	6	20	7	24	8	29	10	35	12	42	15	51	18	60	6.0	10%
	4	2	9	3	11	4	14	5	17	6	20	7	24	8	29	10	35	12	42	14	49	4.0	10%
	3	2	7	2	9	3	11	4	13	4	16	5	19	6	23	8	27	10	33	11	39	3.0	10%
	2	0	3	1	6	2	7	2	8	3	10	3	12	4	14	5	17	6	21	8	28	2.0	10%
	1	0	2	0	3	1	5	1	6	2	7	2	8	3	10	3	12	4	14	5	18	1.0	10%
Unr	0 - 365 days																						

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 CISRS state funding would be enabled.

To address concerns that some judges may be unlikely to sentence individuals to a local sentencing alternative and to incentivize the development and use of these programs, individuals sentenced to the CISRS alternative would be eligible for the use of state funds. Those sentenced to local confinement in jail would continue to be served by local resources.

Zone 2: is the area of the grid where there are straddle cells. Under the current system all the cells that fall in this zone are state prison sentences. Under the proposed new felony sentencing 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, resulting in some cost savings.

In this zone, a CISRS program sentence would be the default for those individuals meeting program criteria; to sentence to incarceration, prosecutors and/or judges would have to articulate how intermediate sanctions and reintegrative services are not appropriate.

Zone 3: is strictly DOC Sentences that would be eligible for existing sentencing alternatives and for CISRS specific programs and services. In this zone, CISRS could mirror the Drug Offender Sentencing Alternative by requiring a term of confinement of half the midpoint of the sentencing range, followed by a term of supervision or other intermediate sanction.

Key elements of the CISRS Program include:

- CISRS consists of two components: 1) intermediate sanctions that meet minimum standards and 2) access to rehabilitative and reintegration programs and services.
- Counties would operate their CISRS program, but each must receive state approval every XX years to ensure that the programs are meeting a minimum standard. As it does with juvenile evidence-based programs (in the Juvenile Block Grant Program), the state could establish quality assurance protocols and standards to set requirements for the county program/s that must be reviewed annually or biannually (i.e., approvals for each two-year budget cycle).
- The state would identify the general types of services that a qualifying CISRS program should provide, e.g., employment/job training, education, housing, cognitive behavioral training.
- The state may set certain minimum levels of care for the general program, but also for specific populations of individuals. For example, the state may require a higher level of supervision (such as electronic home monitoring or day reporting centers) for individuals receiving an intermediate sanction sentence for an offense at a certain seriousness level or for an individual with a certain level of criminal history.
- Similarly, the state may require that all individuals sentenced under the program receive some type of needs assessment to inform treatment.
- Specific sentence terms for an intermediate sentence under a CISRS program would be determined by the judge ordering the alternative and could be informed by the local program supervisor/administrator.
- The state may also create consistent standards for what types of behaviors would require a revocation of a CISRS sentence and a return to incarceration.
- CISRS must be structured to ensure that individuals report to one jurisdiction, whether at the county level or DOC.
- Regular data collection and evaluation would occur to ensure equitable application of the program, ideally with a centralized database. The state could set requirements for the type of data that must be collected and reported on an annual basis. Annual or biennial evaluation of the data would be needed to ensure the money is being properly used.

- Victim advocacy groups should be engaged in creating and implementing this program and its policies, perhaps on an advisory committee; the Legislature should, at a minimum, work with counties and DOC to develop CISRS.
- Concerns with tort liability (for DOC or counties) may arise with this approach; this needs to get addressed. Addressing liability concerns will be an important element to integrate into this approach.
- State funding and technical assistance would incentivize local jurisdictions that don't have the access to these types of programs to develop them. There would need to be protection of funding for smaller jurisdictions to ensure adequate resource allocations and recognize different resource needs. Some jurisdictions will need to build a new program, others will need further support for existing under-resourced programs, and others will wish to expand robust programs.
- A critical design element will be to create an implementation structure (i.e. centralized, decentralized, hybrid) that most equitably serves individuals who do not reside in their county of conviction and court oversight.

Funding Model

Funding would be provided by the State to counties. This could be done through a block grant system using a formula, modeled on the Juvenile Court Block Grant Program. The Legislature should allocate enough funding up front to ensure adequate levels of staffing and programming (lower caseloads would allow DOC and counties to provide additional services to those incarcerated). Adequate funding to support staffing and capital costs 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. Long term savings would be seen as an effect of the investment in effective programs to reduce overall recidivism and future caseloads.

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.