



November 2022

## Washington State's Drug Offender Sentencing Alternative: *Introduction to the Series*

In Washington State, individuals convicted of certain criminal offenses may be eligible to receive a sentencing alternative called the Drug Offender Sentencing Alternative (DOSA). Established in 1995 and modified several times over the last 25 years, DOSA allows individuals to serve some or all of their standard prison sentence under community supervision instead of spending the entire sentence incarcerated. This sentencing alternative requires that individuals participate in substance use treatment programs based on their assessed needs and comply with behavioral requirements while incarcerated and/or during community supervision.

In 2020, the Washington State Legislature further expanded DOSA and directed the Washington State Institute for Public Policy (WSIPP) to analyze its effectiveness in reducing recidivism compared to standard sentencing. The directive requires WSIPP to update its evaluation in 2028 and every five years thereafter.<sup>1</sup>

This report introduces the forthcoming quinquennial series. [Section I](#) summarizes the legislative history of Washington State's DOSA and its use over time. [Section II](#) describes the processes and protocols associated with prison and residential DOSAs. [Section III](#) summarizes prior research conducted on DOSA to date. Finally, [Section IV](#) discusses future research that will be a part of WSIPP's ongoing review of the effectiveness of DOSA.

Future reports in this series (2028 and beyond) will focus on additional changes to DOSA occurring after the publication of this document and/or the particular context of DOSA during the timeframe analyzed in the evaluation.

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<sup>1</sup> Second Substitute Senate Bill 6211, Chapter 252, Laws of 2020.

## I. Legislative History

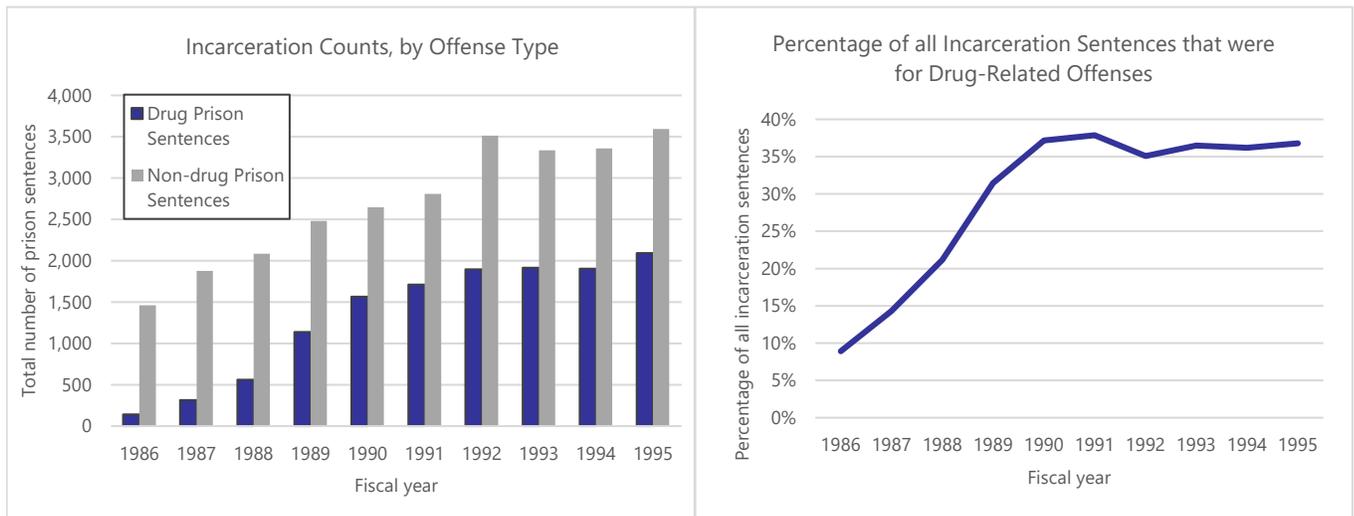
Following the implementation of major sentencing reform in 1984, Washington State's incarceration rates significantly increased. Specifically, Washington State saw large increases in the number of people incarcerated for nonviolent offenses, including drug offenses (see [Exhibit 1](#)). While part of the increase in incarceration resulted from changes in the state's sentencing laws, Washington State (alongside the rest of the United States) was also experiencing significant increases in arrests and convictions for drug-related crimes. In 1986, drug-related offenses accounted for only 9% of all incarceration sentences in Washington State. By 1995, the percentage of all incarceration sentences associated with drug-related offenses had risen to 37%.<sup>2</sup>

In response to increasing incarceration rates for individuals convicted of drug offenses or drug-related property offenses, the Governor's office directed the Sentencing Guidelines Commission (SGC) to review potential alternatives to total confinement for individuals convicted of nonviolent offenses.<sup>3</sup>

In their 1991 report to the Governor,<sup>4</sup> the SGC recommended the state adopt a treatment-based alternative to the standard incarceration sentence for individuals convicted of a drug offense. The SGC further recommended that this alternative be administered by the Department of Corrections (DOC) and allow individuals to serve part of their incarceration sentence under community supervision.

### Exhibit 1

Washington State Drug-Related Incarceration Sentences from Fiscal Years 1986 – FY 1995



**Note:**

Estimates obtained from the Office of Financial Management's Criminal Justice Data Book which compiles data from various state agencies including the Caseload Forecast Council and Sentencing Guidelines Commission.

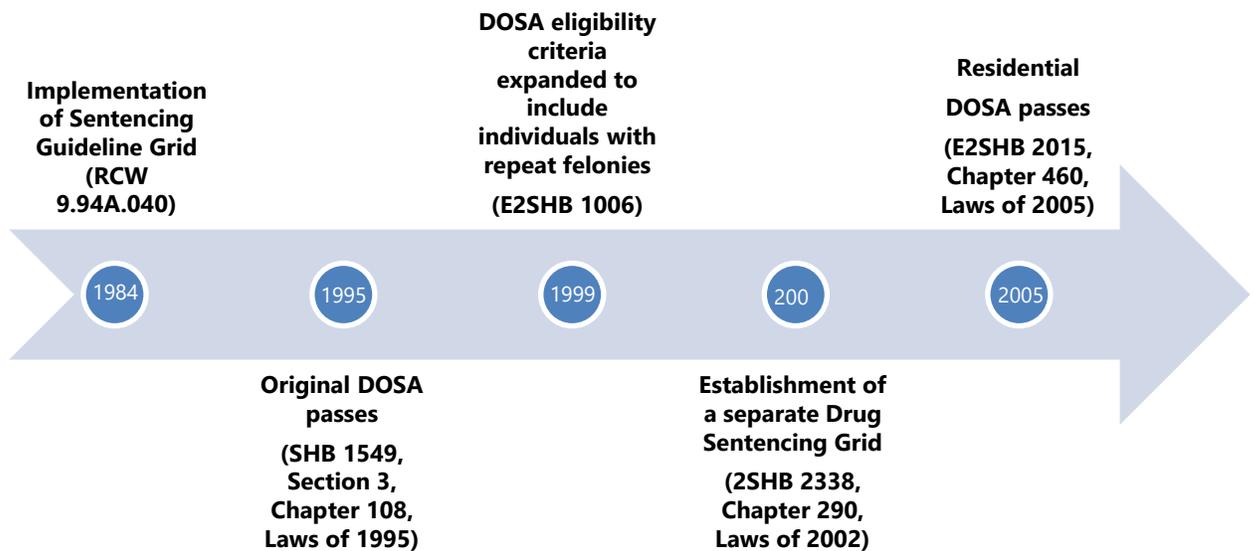
<sup>2</sup> Drug offenses include violations of the Uniform Controlled Substances Act or regulations regarding prescription drugs. These statistics include both dealing and possession sentences.

<sup>3</sup> Sentencing Guidelines Commission. (1991). [A Decade of Sentencing Reform](#). Olympia: Washington State Sentencing Guidelines Commission.

<sup>4</sup> [Ibid.](#)

## Exhibit 2

### Timeline of Major Legislative Changes Affecting the Drug Offender Sentencing Alternative



In 1995, the Washington State Legislature passed the original Drug Offender Sentencing Alternative (DOSA), incorporating many of the SGC's 1991 recommendations.<sup>5</sup> Since its initial implementation, the legislature has expanded and modified DOSA in several ways. This section describes the evolution of DOSA since 1995, including changes to eligibility and delivery of treatment services (for a timeline, see [Exhibit 2](#)). In [Section II](#), we discuss general DOSA processes and protocols. In [Section III](#), we provide a summary of the findings from prior research evaluating the effectiveness of different versions of DOSA.

### The Evolution of DOSA

Under the original DOSA framework, courts were able to issue a reduced incarceration sentence with subsequent community supervision. The reduced incarceration sentence required mandatory participation in a prison-based substance use disorder treatment program and compliance with behavioral conditions while an individual is incarcerated and during the subsequent term of community supervision. If the individual failed to complete the terms of the sentencing alternative (mandatory treatment and behavioral compliance), the sentencing alternative could be revoked, and the individual would return to incarceration for the remainder of the standard sentence.

<sup>5</sup> Substitute House Bill 1549, Section 3, Chapter 108, Laws of 1995.

The goal of DOSA was to reduce the costs of incarceration for individuals convicted of a drug offense while providing necessary treatment options to reduce the likelihood of recidivism.<sup>6</sup>

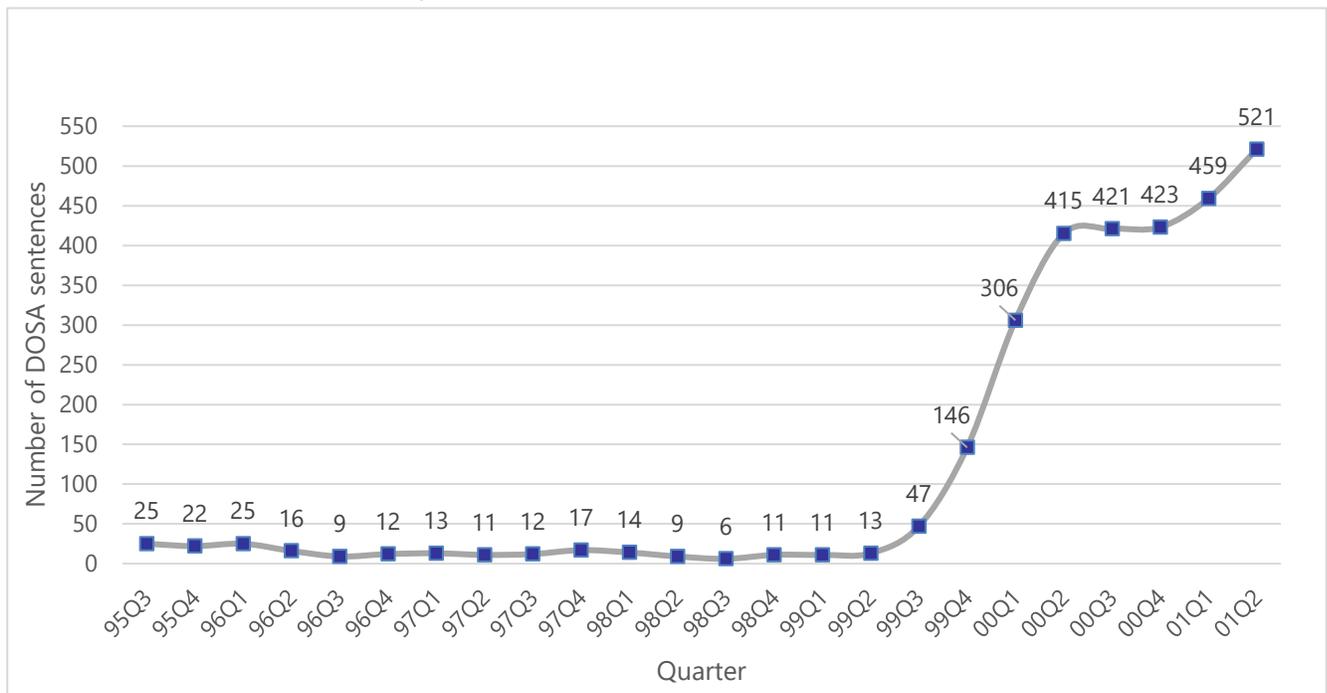
DOSA was initially limited to individuals convicted of their first offense who were convicted of a nonviolent felony drug offense.<sup>7</sup> In addition, DOSA was limited to individuals facing a prison sentence, which excludes many low-level felony offenses and convictions for inchoate offenses (i.e., attempt, solicitation, and conspiracy).

When DOSA was first implemented, its eligibility overlapped with several other sentencing alternatives, including the First Time Offender Waiver and Work Ethic Camps, which required less confinement time than DOSA.

Due to the restrictive eligibility criteria and the use of other alternatives requiring less confinement time, DOSA was infrequently used during the initial years of implementation. For example, an initial review of DOSA conducted by the SGC found that in 1997, only 9% of eligible offenders received a DOSA sentence, while 52% were sentenced to a Work Ethic Camp sentencing alternative.<sup>8</sup>

### Exhibit 3

Quarterly DOSA Sentences, Calendar Years 1995 - 2001



**Note:**

Exhibit 3 is a reprint of Figure 7 from State of Washington Sentencing Guidelines Commission. 2001. *A Comprehensive Review of Evaluation of Sentencing Policy in Washington State: 2000 – 2001*. Olympia, WA: State of Washington Sentencing Guidelines Commission.

<sup>6</sup> Du C., & Phipps, P. (1997). *Trading time for treatment: Second year evaluation of the Drug Offender Sentencing alternative*. Olympia: Washington State Sentencing Guidelines Commission.

<sup>7</sup> RCW 69.50.

<sup>8</sup> Du & Phipps (1997).

### 1999 – DOSA Expansion

In 1999, the Washington State Legislature made its first expansion of DOSA eligibility by eliminating the first-time felony conviction requirement and allowing individuals with prior felony convictions for drug and property offenses to be eligible for DOSA. In addition, the legislature expanded the list of eligible offenses to include drug-related property offenses. To further promote the use of DOSA, the legislature excluded individuals convicted of a drug offense from eligibility for the Work Ethic Camp (WEC) sentencing alternative. Finally, the 1999 revision also required individuals sentenced under DOSA to receive a comprehensive substance abuse assessment and treatment when applicable.<sup>9</sup>

Following the 1999 DOSA expansion, sentences to DOSA significantly increased (see [Exhibit 3](#)). The increase in DOSA sentences reflected the expanded eligibility criteria and a shift from the courts' use of WEC to DOSA for drug-related convictions.

The 1999 expansion of DOSA had two notable effects on Washington's prison population: (1) the rate of prison admissions for drug-related offenses increased and (2) the average length of stay for these offenses decreased.<sup>10</sup> Some of these changes are attributable to an increase in individuals serving a term of total confinement in state prisons who previously would have served their time of confinement in a WEC.

In other instances, prosecutors were more likely to pursue more serious charges (e.g., prosecuting an offense as a completed offense rather than an attempt or conspiracy) so that the individual would be eligible for DOSA and receive substance use disorder treatment from DOC. Under a lesser charge (e.g., conspiracy), individuals may not have been eligible for DOSA because the term of confinement for the lesser offense was less than one year.

Although the number of individuals sentenced to a period of total confinement in state prisons for drug-related offenses increased with DOSA, the average length of stay for drug-related offenses decreased because individuals were required to serve only half of the standard incarceration sentence they would otherwise face without DOSA.

### Residential and Prison DOSA

In 2005, the Washington State Legislature further modified the state's DOSA. In addition to the prison-based DOSA alternative (hereafter: prison DOSA), the legislature established a new community-based inpatient treatment option for DOSA (hereafter: residential DOSA). Residential DOSA gave judges and prosecutors the ability to sentence individuals to inpatient treatment in the community without any prerequisite confinement. Individuals were eligible for residential DOSA if they 1) met all prior prison DOSA criteria, 2) met an additional sentence length requirement, and 3) needed inpatient, residential treatment.<sup>11</sup>

<sup>9</sup> Aos, S., Phipps, P., & Barnoski, R. (2005). *Washington's Drug Offender Sentencing Alternative: An evaluation of benefits and costs* (Doc. No. 05-01-1901). Olympia: Washington State Institute for Public Policy.

<sup>10</sup> State of Washington Sentencing Guidelines Commission. A comprehensive review and evaluation of sentencing policy in

Washington State: 2000-2001. Olympia, WA: State of Washington Sentencing Guidelines Commission, 2001.

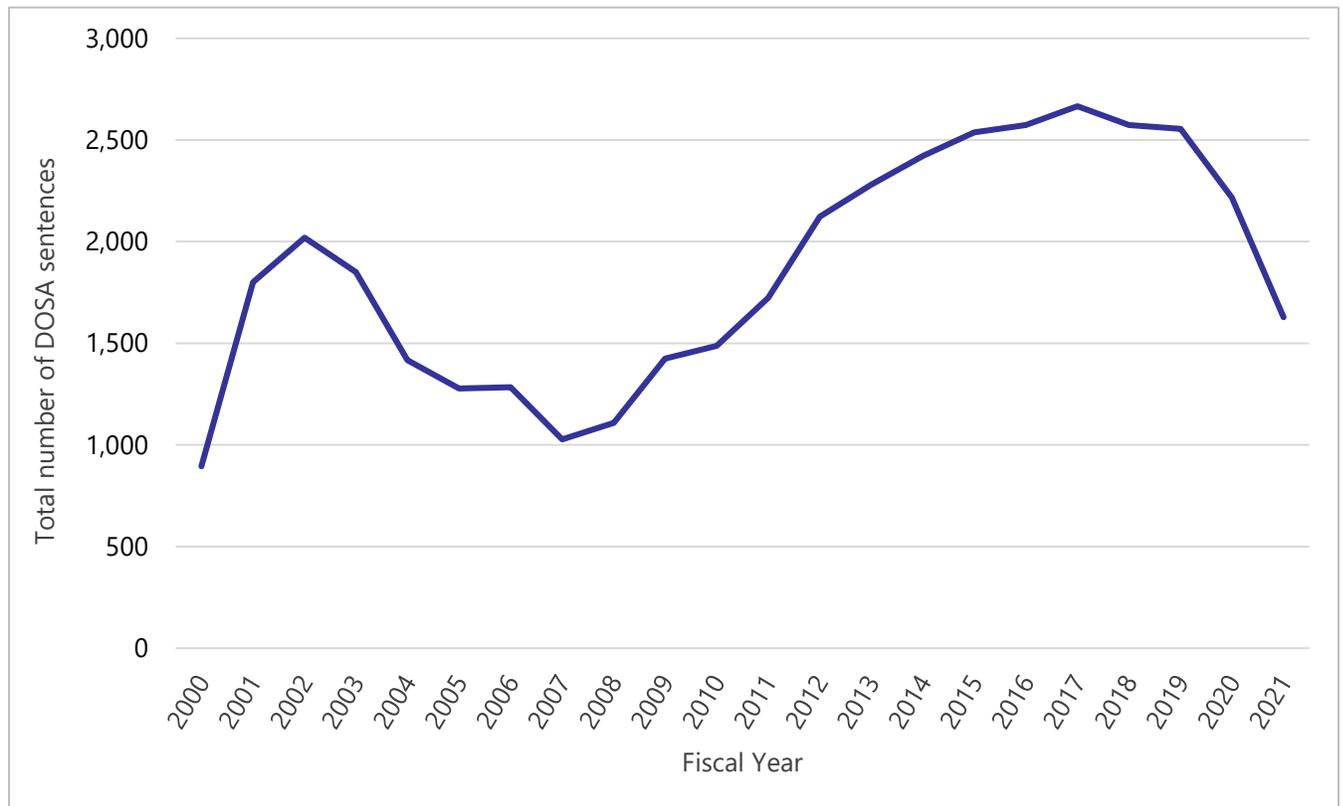
<sup>11</sup> Initially, a substance use disorder assessment was not required. Courts could make a designation about an individual's need for residential treatment. Providers may have completed their own assessment prior to admitting an

Residential DOSA sentences were to be served strictly in the community and were reserved for only those who meet a need for inpatient residential treatment. Those sentenced to residential DOSA were assessed for eligibility prior to sentencing and received mandatory treatment services while on supervision, including a minimum of 90 days of inpatient treatment at a DOC-funded facility.<sup>12</sup>

Prison and residential DOSA are commonly used in Washington today. Exhibit 4 presents the number of DOSA sentences annually between FY 2000 and FY 2021. In 2019, the last year before the COVID-19 pandemic,<sup>13</sup> 1,522 and 1,032 individuals were sentenced to prison and residential DOSA, respectively.<sup>14</sup>

**Exhibit 4**

Annual DOSA Sentences, Fiscal Years 2000 – 2021



Notes:

Annual DOSA sentences were compiled from each the Caseload Forecast Council’s Annual Adult Felony Sentencing Summaries from FY 2000 – FY 2021.

Estimates from FY 2020 and FY 2021 reflect decreases in DOC populations and treatment availability during the COVID-19 pandemic.

individual to residential treatment, but a court order was sufficient for admission under the American Society of Addiction Medicine (ASAM) regulations at the time.

<sup>12</sup> National Institute of Justice (2015). *Program profile: Washington State’s Residential Drug Offender Sentencing Alternative*.

<sup>13</sup> During the COVID-19 pandemic, police, courts, and corrections organizations were largely operating with reduced capacities, leading to significant decreases in case processing.

<sup>14</sup> Department of Corrections (2020).

## Exhibit 5

### DOSA Eligibility Requirements as of 2022

#### Prison DOSA (RCW 9.94A.662)

- No current or prior conviction for a violent offense\* in past ten years
- No prior convictions for robbery in the second degree that did not involve the use of a firearm and was not reduced from robbery in the first degree in the past seven years
- No current or prior conviction for which an individual is currently or may be required to register as a sex offender
- No conviction for felony DUI or felony physical control of a vehicle while under the influence of drugs or alcohol
- Current conviction does not include a sentencing enhancement
- If current conviction includes a violation of the Uniform Controlled Substances Act or solicitation to commit such an offense, the offense must involve only a small quantity of the controlled substance
- Not subject to a deportation order
- Not more than one previous DOSA sentence in past ten years
- High end of standard sentence range for current offense must be greater than one year (does not apply to residential DOSA)

#### Residential DOSA (RCW 9.94A.664)

- All prison DOSA eligibility criteria and
- Midpoint of standard sentence range must be 26 months or less
- Assessed as needing residential treatment

\*Violent offenses are defined in [RCW 9.94A.030](#).

The legislature has passed some additional modifications to DOSA eligibility since 2005. Most notably, eligibility for DOSA expanded in 2020. Specifically, residential DOSA was expanded to include cases where the midpoint of the standard sentence range was 26 months instead of 24 and sentences where the maximum sentence was 12 months or less.<sup>15</sup> [Exhibit 5](#) provides the DOSA eligibility as of 2022.

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<sup>15</sup> [2SSB 6211](#).

## II. DOSA Processes and Protocols

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Processes and protocols for DOSA sentences vary between prison and residential DOSA. This section provides an overview of each type of DOSA sentence, including requirements for assessment and treatment, conditions for completion, and conditions for revocation of the sentencing alternative. A visual overview of the general processes for prison and residential DOSA is available in the [Appendix](#).

### [Prison DOSA](#)

Individuals receiving a prison DOSA sentence are admitted to DOC facilities using standard intake protocols. While at the initial reception center, individuals with a prison DOSA sentence are assessed for substance use disorders (SUD) and associated treatment needs.<sup>16</sup> Initial facility designations for individuals with a prison DOSA sentence are the same as the general population, except that there may be additional considerations of the individual's treatment needs and availability of resources at different facilities.

Treatment requirements under DOSA correspond with the individual's classified level of need and the types of services available at the facility where they reside.

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<sup>16</sup> Most individuals receive initial SUD screening at a DOC reception center. However, it is possible that some individuals are not assessed until they receive their initial placement in a DOC facility. For example, individuals with problematic behavior and placement in an Intensive Management Unit (IMU), individuals with intensive health needs, and individuals who have extremely short sentences after consideration of credits for time served prior to intake by DOC may not be available to be assessed at the reception

The level of treatment needed is based on the American Society of Addiction Medicine (ASAM) criteria for levels of care.<sup>17</sup> Treatment is administered by the DOC Substance Abuse Recovery Unit (SARU). [Exhibit 6](#) describes the types of treatment associated with each ASAM level of care. A small number of DOSA cases include individuals assessed as needing no services. These services may be accessed by individuals serving a standard sentence as well, but treatment availability is prioritized for individuals serving a DOSA sentence, and their participation in and completion of treatment is a mandatory component of their sentencing alternative.

In the past, individuals with a DOSA sentence were targeted for treatment when they had only 12 months remaining before their expected release date (ERD). More recently, individuals are targeted at any point during their confinement, depending on their availability<sup>18</sup> and the availability of facility resources.

Upon release from incarceration, individuals sentenced with a prison DOSA serve the remainder of their sentence under community supervision. Individuals who completed their initial level of care in prison continue to receive follow-up care in the community. If individuals cannot complete their designated level of treatment while in prison, they must do so in the community.

centers. DOC uses the Global Assessment of Individual Needs Short Screener (GAIN SS) as a prescreen tool in addition to an opioid use disorder pre-screen. The full assessment draws from different SUD risk assessments.

<sup>17</sup> American Society of Addiction Medicine. [What is The ASAM Criteria?](#)

<sup>18</sup> Individuals may be unavailable, for example, if they are placed in an IMU or being treated for extensive health needs.

Before 2017, individuals released from the incarceration portion of a prison DOSA sentence were automatically scheduled for a treatment seat with a DOC community field provider to complete their initial level of care and/or for continuing care. In response to legislative funding cuts for DOC in 2017, these services were transferred to Medicaid providers in the community.<sup>19</sup> While DOC community corrections officers may direct individuals to these facilities, DOC is no longer directly involved in the administration and oversight of these services.

### Residential DOSA

In most instances, a court considering a residential DOSA sentence will send an order to DOC for an examination report, including a pre-screen and/or assessment, before sentencing. Upon receiving an order, DOC dispatches a certified contractor to the community to complete the examination and subsequent report if the individual is determined in need of residential treatment services. Often the individuals are contacted in the local jail.

When requested by the court DOC community correction officers complete an additional screening. The completed screening and examination reports are provided to the parties of the court. For residential DOSA, the court often only orders an examination report but may also order an additional screening order or both if it chooses. For prison DOSA, the court often orders only a DOC screening but may order both if it chooses.

To qualify for residential DOSA, an individual must be assessed as needing residential treatment (ASAM level 3). Individuals who do not assess at a level-3 treatment need may still be ordered to prison DOSA.

Once a residential-DOSA sentence is ordered, the individual must enter residential substance use disorder treatment for up to six months. Upon release, the individual serves the remainder of their sentence (equal to one-half the midpoint of the standard range sentence or two years, whichever is greater) under community supervision.

Prior to 2017, individuals who completed the inpatient treatment portion of a residential DOSA sentence were automatically scheduled for a treatment seat with a date to start DOC outpatient treatment services in a DOC field office or community justice center. As with the community services for prison DOSA sentences, these services were transferred to Medicaid providers in the community following legislative changes in 2017.

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<sup>19</sup> Changes in funding occurred simultaneously with Washington State's larger Medicaid Transformation Project. These changes may be related to broader changes

associated with service delivery under the statewide Medicaid expansion.

## Exhibit 6

### ASAM Classifications and Corresponding DOC Treatment Services

American Society of Addiction Medicine classification	WA DOC treatment services		
DOC treatment classification	Treatment frequency/duration	Treatment description	
<b>Level 1:</b> Outpatient	Outpatient	2x/week, 3 months	Non-residential form of treatment used for individuals completing prison-based treatment and transferring to partial confinement under work-release.
<b>Level 2.1:</b> Intensive Outpatient Services	Intensive Outpatient Services	4x/week, 12 weeks	Treatment plan designed for individuals who will benefit from the least intensive primary level of care. The curriculum includes general substance education, anger management, relapse prevention, anger management, generalized alcohol and other substance education, etc. This program includes nine hours of treatment per week.
<b>Level 2.5:</b> Partial Hospitalization Services	Intensive Day Treatment	4x/week, 12 weeks	Treatment plan designed for individuals with needs greater than what is met by Level 2.1 but who do not meet residential admission criteria. The curriculum includes anger management, vocational skills, parenting education, and the science and impact of drugs. Treatment uses motivation and positive change strategies to address self-defeating behaviors. This program includes 16 hours of treatment per week.
<b>Level 3.3:</b> Clinically Managed Population-Specific High-Intensity Residential Services	Therapeutic Community	12-18 months	Most intensive level of care in DOC facilities and community settings. Individuals are given a separate living area in a highly structured environment. Curriculum includes general substance use disorder treatment as well as living skills and employment and education services.
<b>Level 3.5:</b> Clinically Managed High-Intensity Residential Services	Intensive Inpatient	1-3 months	Highly structured residential treatment plan delivered by a DOC contract provider designed specifically for DOC populations. Curriculum is similar to the Therapeutic Communities but entails more hours per week and has a shorter duration. Includes case-management and high intensity individual, group, and educational sessions. The community-based option has specialized treatment for individuals diagnosed with dual mental health and substance use disorders. <i>Not available in prison facilities.</i>

**Notes:**

DOC provides treatment services only for individuals incarcerated in a state prison. All treatment levels are also available in the community for individuals under community supervision, but treatment is provided by a Medicaid facility or through private insurance.

Level 3.5 treatment (intensive inpatient) is available only in the community.

## Completion and Revocation

DOSA sentences may be revoked if individuals do not complete treatment or if they fail to comply with other sentence conditions. In 2019 (the last year before the COVID-19 pandemic), over half of all DOSA sentences were revoked, with 55% of prison DOSA sentences revoked and 61% of residential DOSA sentences revoked.<sup>20</sup> Many prison DOSA revocations occur while the individual is serving the community portion of their sentence. When revocation of a sentencing alternative occurs, the affected individual must return to a state prison or local jail to serve the remainder of their standard incarceration sentence.

There are two general types of revocations—mandatory and discretionary. Mandatory revocations occur if an individual refuses treatment or fails to comply with treatment requirements. In contrast, discretionary revocations occur for misbehavior that is unrelated to treatment, such as when individuals violate the terms of community supervision or engage in violence while incarcerated.

The process for revocation varies for prison DOSAs and residential DOSAs. Revocations for prison DOSAs are administered by DOC, while revocations for residential DOSAs are under the court's jurisdiction. The following is a description of revocation processes for each type of DOSA.

### Prison DOSA Revocations

Prison DOSA sentences can be revoked while the individual is in confinement or while completing the subsequent term of community supervision.

Upon entering DOC custody on a prison DOSA sentence, individuals must sign an agreement stating that they agree to participate in treatment. If they refuse to sign this agreement, they are immediately referred for revocation of their DOSA status.

Individuals who do sign the necessary agreements complete all intake processes as usual. Once an individual is transferred to their parent facility, they may be identified for revocation of DOSA status 1) if they enter treatment and fail to adhere to the rules of the program, 2) if they are not making progress in their program, or 3) if they exhibit problematic behaviors (e.g., bringing contraband into a facility or committing a violent assault). Upon receipt of a referral for revocation, a clinical substance use disorder (SUD) professional and the DOSA treatment compliance manager review the case to determine whether the individual should be terminated from DOSA. If they agree, the recommendation for revocation then goes before a panel of clinicians at a clinical termination hearing who review the evidence to determine whether the infraction or willful violation of the DOSA protocols can be proven with a preponderance of evidence. If the threshold of evidence is met, the individual is notified that their DOSA is being referred for termination and of their rights to appeal the decision.

Individuals who have their prison DOSA revoked while serving the incarceration portion of their sentence must remain in DOC custody and serve the full prison sentence rather than transferring to community supervision after one-half of the midpoint of the sentence is completed.

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<sup>20</sup> Department of Corrections (2020).

Individuals sentenced to a prison DOSA who successfully complete the initial incarceration portion of their sentence may still have their prison DOSA revoked while under community supervision. While under community supervision, individuals may receive continuing SUD treatment by a Medicaid provider. However, individuals are rarely terminated from treatment facilities even if they have inconsistent attendance at treatment sessions due to capitated reimbursement systems. Prior to the change in 2017 to Medicaid providers, prison DOSAs may have been more frequently revoked due to failure to comply with treatment at DOC-operated facilities.

Rather than being revoked due to treatment-related problems, many prison DOSAs are revoked in the community due to infractions such as failure to appear for community contacts.<sup>21</sup> Community corrections officers (CCOs) may refer individuals to DOSA termination hearings if an individual violates the terms of their community supervision. If violations are proven at a preponderance of evidence, DOC may decide to revoke the DOSA sentence, and the individual must serve the remainder of their sentence in jail or prison.

Under Washington's "Swift and Certain" laws, individuals can be remanded to a local jail for a short incarceration sentence without revoking their DOSA. In these instances, the term of confinement is associated with the community supervision violations, and the individual returns to community supervision for the remainder of the DOSA sentence.

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<sup>21</sup> Individuals may be administratively terminated from DOSA if they fail to enter or complete SUD treatment ([DOC policy 580.655](#)).

## Residential DOSA Revocations

Residential DOSA sentences may be revoked during the community supervision portion of the sentence. Under a residential DOSA sentence, the local court maintains jurisdiction over the case. If individuals violate the terms of their community supervision, the DOC CCO cites the individual for the violation, and they must return to court. For residential DOSAs, judges have the discretion of whether or not to revoke the DOSA, and different courts may have their own standards for what types of violations meet the threshold for DOSA revocation.

When an individual has their residential DOSA sentence revoked, they must serve the remainder of their sentence in jail or prison. If the remainder of the sentence is less than 12 months, they will finish their sentence in jail. Otherwise, they will be remanded to DOC custody.

Upon revocation, individuals are no longer considered to be on DOSA status and are treated the same as the general DOC population. Substance use disorder treatment may be provided based on needs and the availability of facility resources. However, barriers to treatment may exist after a revocation such as the limited amount of time remaining on the sentence during which an individual could start and complete a treatment program.

For both prison and residential DOSAs, revocation may disrupt or even prevent access to treatment (e.g., if they are terminated due to behavior problems prior to starting treatment). Elevated failure rates observed under DOSA may undermine the effectiveness of DOSA in achieving its goals of providing a cost-beneficial sentencing alternative capable of reducing recidivism.

### III. Previous Research on DOSA

Prior research evaluating the effectiveness of DOSA has consistently found general success in reducing recidivism. However, because DOSA has changed considerably over time, it is unclear whether the findings from past research offer reliable estimates for the expected effectiveness of DOSA as it exists today. This section reviews prior research on DOSA and discusses some of the limitations of these studies. A summary of the reports discussed in this section is included in [Exhibit 7](#).

#### [Early Studies of Prison DOSA](#)

##### 1997 – Sentencing Guidelines Commission

The Washington State Sentencing Guidelines Commission (SGC) published a two-part series of DOSA studies in 1997. The reports investigated the application of DOSA by the courts (e.g., how often DOSA was used relative to other sentencing options), the implementation of DOSA by DOC (e.g., the assessment and delivery of treatment services to individuals), and the implications of DOSA on state resources. The second report also included an analysis of recidivism comparing individuals sentenced to DOSA and those who received other sentences.

As illustrated in [Exhibit 3](#), the SGC found that only 15% of eligible individuals were sentenced to DOSA within the first ten months of its initial implementation (July 1, 1995, to April 30, 1996). That proportion dropped to 9% of eligible individuals between 1996 and 1997. This change was coupled with an increase in Work Ethic Camp (WEC) sentences from 46% to 52% in the same period.

Of the individuals sentenced to DOSA in the initial ten-month period, 97% were assessed as chemically dependent and most (82%) participants received treatment. When individuals did not receive treatment, it was most often due to a limited amount of time available to complete treatment services.<sup>22</sup> Additionally, most participants (83%) successfully completed treatment.

When individuals did not complete treatment, it was typically because they violated institutional rules or were transferred to a different facility mid-treatment.

Once released from incarceration, individuals were required to serve 12 months under community supervision for ongoing monitoring and additional treatment. However, at the time of the report's publication, only 24% of persons serving the community supervision portion of a DOSA sentence were enrolled in a continuing care program.

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<sup>22</sup> DOSA sentences are no more than one-half the midpoint of the standard range on the felony sentencing guideline grid. In addition, individuals often receive credit for time

served in pre-trial confinement at a local jail. As a result, some individuals have very little confinement time left to serve after the formal DOSA sentence is imposed.

## Exhibit 7

### Overview of Prior DOSA Evaluations

Institution/authors	Year	Title	Type of DOSA	Sample years	Findings
<b>Washington State Sentencing Guidelines Commission</b> Engen, R., & Steiger, J.	1997	Trading Time for Treatment: Preliminary Evaluation of the Drug Offender Sentencing Alternative	Prison DOSA	FY 1996	Prison DOSA least commonly used sentencing alternative. Most individuals serving a DOSA sentence received treatment. Overall, cost of DOSA was less than standard sentencing alternatives. No analysis of recidivism.
<b>Washington State Sentencing Guidelines Commission</b> Du C., & Phipps P.	1997	Trading Time for Treatment: Second Year Evaluation of the Drug Offender Sentencing Alternative	Prison DOSA	FY 1996	Persons serving a prison DOSA sentence had higher recidivism rates than Work Ethic Camp participants and individuals sentenced to standard prison sentences. Results were not statistically significant and had several significant methodological limitations.
<b>Washington State Institute for Public Policy</b> Aos, S., Phipps, P., & Barnoski, R.	2005	Washington's Drug Offender Sentencing Alternative: An Evaluation of Benefits and Costs	Prison DOSA	CY 2000 - CY 2001	Persons serving a prison DOSA sentence were less likely to recidivate than individuals receiving a standard sentence. Results were statistically significant for general recidivism and drug-felony recidivism.
<b>Washington State Institute for Public Policy</b> Drake, E.	2006	Washington's Drug Offender Sentencing Alternative: An Update on Recidivism Findings	Prison DOSA	CY 2000 - CY 2002	Persons serving a prison DOSA sentence were less likely to recidivate than individuals receiving a standard sentence. No statistically significant effect on recidivism rate for individuals convicted of a property offense.
<b>Washington State Institute for Public Policy</b> Drake, E., Fumia, D., & He L.	2014	Washington's Drug Offender Sentencing Alternative: Recidivism & Cost Analysis	Residential DOSA	CY 2006 - CY 2010	Persons serving a residential DOSA sentence were less likely to recidivate those serving a Prison DOSA sentence. Results were statistically significant for total recidivism, felony recidivism, and non-drug felony recidivism.

The initial SGC report concluded with a preliminary analysis of the impact of DOSA on state resources. Using direct costs incurred by DOC from administering substance use disorder treatment, the SGC found that DOSA saved the state approximately \$6,000 per participant each

year compared to standard sentencing practices prior to DOSA.<sup>23</sup>

In its second report, the SGC also compared recidivism among three populations between July 1, 1995, and April 30, 1996: individuals sentenced to DOSA (N = 73), individuals sentenced to WEC (N = 225), and individuals who served standard-range prison sentences (N = 170).<sup>24</sup>

<sup>23</sup> Engen, R., & Steiger, J. (1997). *Trading time for treatment: Preliminary evaluation of the Drug Offender Sentencing Alternative*. Olympia: Washington State Sentencing Guidelines Commission. The estimates for cost savings calculated the comparison group costs based on the pattern of sentences for non-DOSA sentences in FY 1996, including

some sentences to standard incarceration and some sentences to non-DOSA sentencing alternatives.

<sup>24</sup> It is unclear whether DOSA revocations that were not the result of a reconviction were accounted for in the SGC

Of these three groups, DOSA participants had the highest rate of new felony convictions (9.7%), followed by WEC participants (7.7%) and individuals with standard-range prison sentences (3.4%). The differences between these groups were not statistically significant, and the comparisons came with clear limitations; the SGC acknowledged that they could not generate any substantive conclusions about the effectiveness of DOSA in reducing recidivism.<sup>25</sup>

The limitations of their study fell into four general categories. First, the study lacked the data necessary to control for key variables that may have contributed to differences in recidivism (e.g., criminal history, age, etc.). Second, the report did not use statistical methods to account for potential selection bias (e.g., matching methods). Without these statistical methods, observed differences in recidivism may have been related to fundamental pre-existing differences between the two populations rather than any impact of the DOSA sentence itself.

Third, the follow-up period for measuring recidivism was short and inconsistent between groups. The average length of time in the community (i.e., at-risk time) for individuals who did not recidivate was 11.1 months for the DOSA group, compared to 9.6 months for WEC and 7.2 months for those receiving a standard-range prison sentence.<sup>26</sup> Consequently, some of the observed increases in recidivism for the DOSA group could have been attributed to their longer follow-up period relative to the comparison groups.

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recidivism analysis. Excluding revocations, or program failures, may bias the findings such that the results reflect outcomes only for those who have completed the program.

Finally, the evaluation had only a small number of individuals in the study, and not all individuals were included in the recidivism analysis. Further, because standard sentences were longer than DOSA sentences, only 68.8% of the individuals sentenced to a standard range sentence in the comparison group had been released from incarceration, a necessary condition to be included in recidivism analyses. These limitations prevent us from drawing conclusions about the possible effect of DOSA from this early analysis.

*Subgroup Analyses.* The SGC reports provided some subgroup analyses by sex and race. Both reports found that a person's sex was unrelated to the likelihood of receiving a DOSA sentence, but males accounted for the majority of those serving a DOSA sentence (78% in FY 1996 and 83% in FY 1997).

Regarding racial disparities, the reports found significant differences in the proportion of DOSA sentences by race. In FY 1996, African Americans accounted for 29% of total individuals eligible for DOSA and 42% of those who received a DOSA sentence. Conversely, Hispanic individuals accounted for 47% of those eligible for DOSA and only 23% of individuals who were ordered a DOSA sentence. As a result, African Americans were overrepresented among those sentenced to a DOSA, while Hispanic individuals were unrepresented. These trends continued in FY 1997.

The SGC reports did not analyze differences in recidivism outcomes by sex or by race.

<sup>25</sup> Du & Phipps (1997).

<sup>26</sup> The ideal follow-up period for measuring recidivism in adult populations is at least 24 months.

## Later Evaluations of Prison DOSA

### 2005 and 2006 – Washington State Institute for Public Policy

In 2005, the Washington State Institute for Public Policy (WSIPP) published a legislatively directed study evaluating the impact of DOSA on three areas: state sentencing practices, reductions in criminal recidivism, and state resources.<sup>27</sup>

Examining trends in the court's usage of DOSA, the 2005 WSIPP report found a substantial increase in DOSA's popularity as a sentencing option following the 1999 eligibility expansion; however, the sharp increase in monthly DOSA prison admissions was short-lived. Between 2001 and 2004, DOSA prison sentences fell from 140 monthly admissions to 80 (see [Exhibit 4](#)). The report noted the decline in the use of DOSA may be due to judges' concerns that DOSA sentences were not holding individuals sufficiently accountable.

WSIPP's evaluation compared recidivism rates of individuals sentenced to DOSA (N = 323) with a matched comparison group (N = 323) of individuals receiving a standard incarceration sentence between July 1, 1997, and June 30, 1999 (i.e., prior to the eligibility expansion).<sup>28</sup> The two groups were matched on variables used to predict felony recidivism (e.g., age, sex, past criminal convictions, etc.). WSIPP found that roughly 20% of individuals with a DOSA sentence recidivated with a felony, compared to 29% of those in the comparison group during a 24-month follow-up period.<sup>29</sup>

<sup>27</sup> [Aos et al. \(2005\)](#).

<sup>28</sup> It is unclear whether DOSA revocations that were not the result of a reconviction were accounted for in the 2005 WSIPP recidivism analysis.

<sup>29</sup> [Aos et al. \(2005\)](#).

<sup>30</sup> It is unclear whether DOSA revocations that were not the result of a reconviction were accounted for in the 2006 WSIPP recidivism analysis.

The 2006 report expanded the DOSA sample to include individuals more recently sentenced to DOSA (N = 753) but kept the same historical comparison group as the first WSIPP report (N = 753).<sup>30</sup> After including an additional 12-month follow-up period, the 2006 report found recidivism rates remained lower for DOSA individuals compared to their non-DOSA counterparts.

Several methodological differences between the initial SGC report and the WSIPP evaluations may help explain the differences in findings. First, the WSIPP report controlled for observed differences between the groups using regression analysis and controlled for some selection bias by matching the DOSA and non-DOSA groups on variables used to predict felony recidivism (e.g., age, sex, past criminal convictions).

Second, WSIPP's evaluations measured recidivism using a longer follow-up period (24 months and 36 months) and a consistent follow-up period for all individuals in the analysis.<sup>31</sup> Third, the WSIPP report had a larger sample size than the SGC report, which increased the likelihood of finding a true effect if one existed.

<sup>31</sup> In the 2006 study, the DOSA and non-DOSA comparison groups were created from different time periods, so there could be time-dependent factors (e.g., unemployment rates) influencing the differences in the outcomes of the two groups. Drake, E.K. (2006). [Washington's Drug Offender Sentencing Alternative: An update on recidivism findings](#) (Doc. No. 06-12-1901). Olympia: Washington State Institute for Public Policy.

Finally, the 2005 WSIPP report analyzed the savings in state resources credited to DOSA. The report estimated that for individuals convicted of a drug-related offense (i.e., not a property offense), DOSA provided the state significantly more monetary benefits than costs. WSIPP estimated that DOSA provided the state between \$7.25 and \$9.94 in benefits per dollar of cost for individuals convicted of a drug-related offense.<sup>32</sup>

### Evaluation of Residential DOSA

In 2014, the legislature directed WSIPP to re-evaluate DOSA, this time focusing on the impact of residential DOSA on recidivism. Accordingly, WSIPP compared individuals sentenced to residential DOSA (N = 1,162) with similar individuals who were eligible for residential DOSA but were sentenced to prison DOSA (N = 508).<sup>33</sup>

Using a comparison group of individuals serving a prison DOSA sentence allowed for an examination of recidivism outcomes between prison DOSA and residential DOSA but had no explanatory power regarding DOSA effectiveness versus treatment as usual (i.e., a standard incarceration sentence). Thus, the 2014 study cannot be compared to any of the previous evaluations. The 2014 evaluation could not discern any possible rehabilitation effect of drug treatment since both groups received some level of substance use disorder treatment. However, the strength of this technique was that members of both the treatment and comparison groups had to volunteer to participate in substance use disorder treatment, reducing the potential for selection bias.

Overall, the 2014 WSIPP report found individuals in residential DOSA had lower rates of reconviction for any offense (52% versus 58%) and, more specifically, for a reconviction of a felony offense (33% versus 40%) than individuals in prison DOSA during the 36-month follow-up period. A sub-analysis showed this reduction in recidivism was driven by reductions among individuals classified as high-risk for re-offending.<sup>34</sup>

The 2014 WSIPP evaluation included a preliminary benefit-cost analysis of residential DOSA relative to the comparison group (individuals sentenced to prison DOSA but eligible for residential DOSA). The report found that residential DOSA saved the state approximately \$8,259 per participant compared to prison DOSA because of decreased recidivism.

In 2014, the estimated average cost per participant was \$16,740 for residential DOSA and \$16,176 for prison DOSA. These calculations included the costs of community supervision, confinement, and substance use disorder treatment for both groups. An additional and less straightforward cost of residential DOSA was the potential increase in crime due to reduced incapacitation. Unfortunately, WSIPP could not empirically estimate the added cost of non-confinement for residential DOSA individuals and, therefore, could not calculate the bottom-line costs and benefits of residential DOSA.

<sup>32</sup> WSIPP's report found that the costs and benefits were neutral for DOSA sentences following conviction of a property offense.

<sup>33</sup> The 2014 WSIPP recidivism analysis included individuals who spent time in confinement for a technical violation.

<sup>34</sup> Drake, E.K., Fumia, D., & He, L. (2014). *Washington's Residential Drug Offender Sentencing Alternative: Recidivism & cost analysis* (Doc. No. 14-12-1901). Olympia: Washington State Institute for Public Policy.

## IV. Summary and Future Research

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For over 20 years, DOSA has been the most widely used therapeutic sentencing alternative for individuals convicted of drug or property offenses in Washington State Superior Courts. Recognizing the unique treatment needs of individuals with substance use disorders, DOSA provides a rehabilitative alternative to incarceration to reduce both substance use and recidivism.

In general, prior research suggests that both prison and residential DOSA are cost-effective sentencing alternatives that are likely to reduce recidivism for those who participate. However, the methodological limitations of previous studies leave many questions unanswered. As components of DOSA sentences change and the populations of individuals being sentenced to DOSA change, the overall effects of the sentencing alternative in Washington State may also change.

With the current directive from the legislature, WSIPP will produce updated evaluations of DOSA on a five-year basis to ensure more frequent monitoring of the effectiveness of DOSA.<sup>35</sup> To the extent possible, WSIPP will continue to examine DOSA's overall impact on recidivism and whether there are differences in DOSA's effectiveness for subgroups such as race and sex. The first study in this series, published concurrent with this series introduction, evaluates the effectiveness of prison and residential DOSA for individuals sentenced to DOSA between 2010 to 2016 with separate analyses by race and for men and women.

The subsequent study in this series (expected in November 2028) will be able to evaluate samples entering DOSA after the significant regulatory changes in 2017. However, future studies will also have to account for complications arising from the COVID-19 pandemic. Together with WSIPP's 2022 DOSA evaluation, future reports will be able to compare whether and how the effects of DOSA have changed both as a result of changes in administrative policies associated with DOSA and as a result of broader social changes or changes in the underlying populations of DOSA recipients.

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<sup>35</sup> 2SSB 6211.



# Appendix

Washington State's Drug Offender Sentencing Alternative: *Introduction to the Series*

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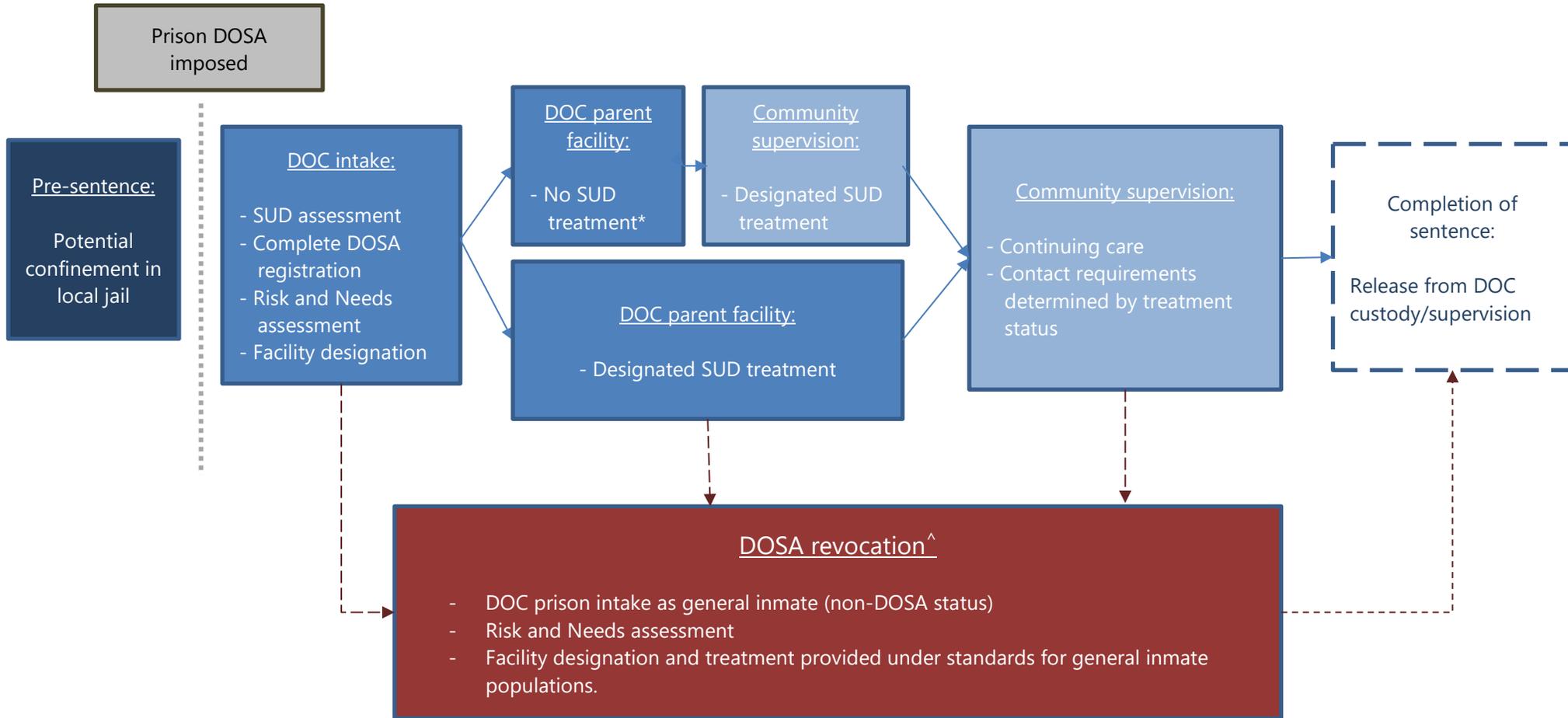
## I. DOSA Processes: Visual Exhibits

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Section II of the main report describes the processes and protocols for both prison and residential DOSA sentences. Exhibits A1 and A2 provide visual representations of these processes as a supplemental reference for Section II.

**Exhibit A1**

Visual Representation of Prison DOSA Processes



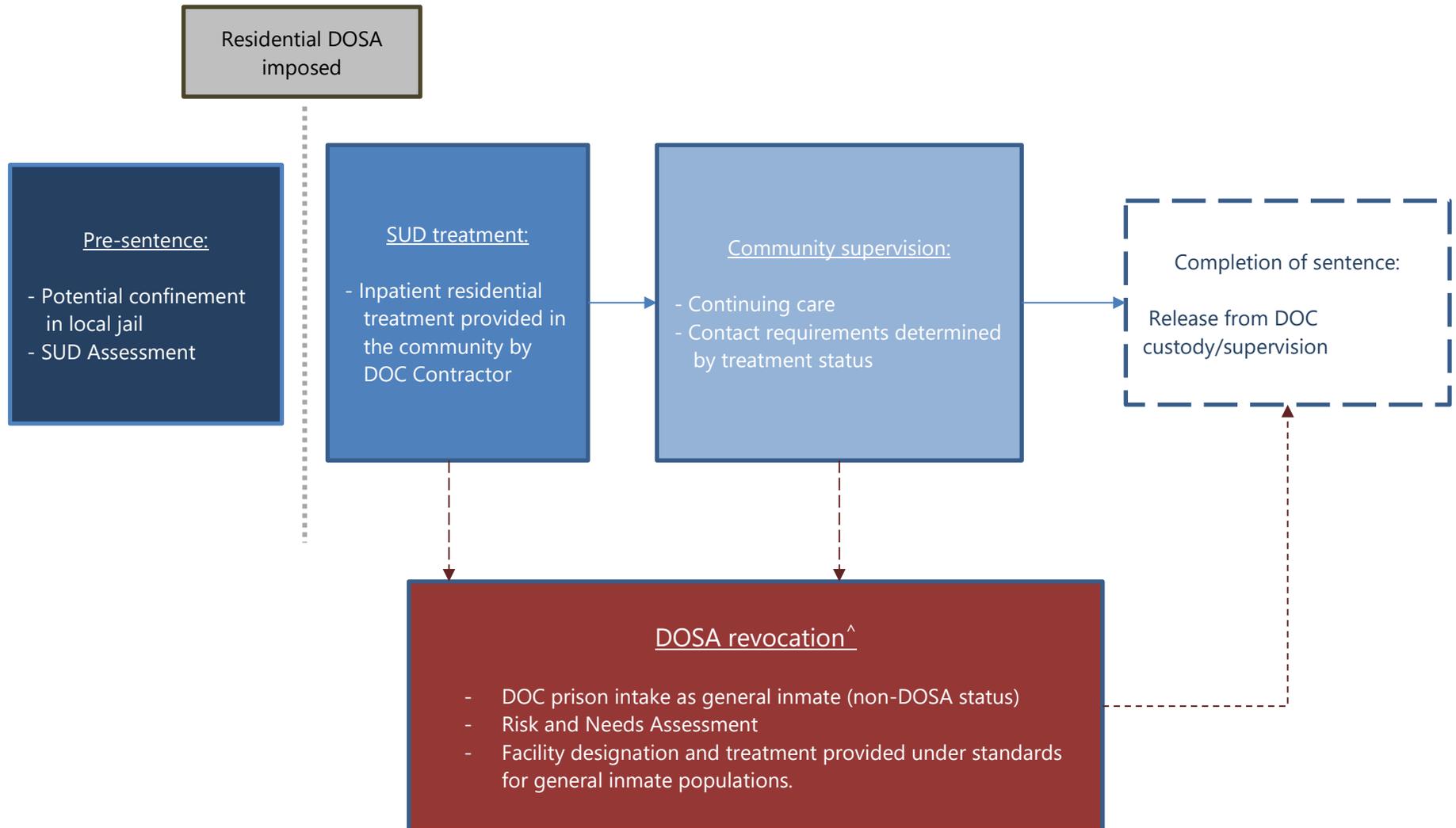
**Notes:**

\*Some individuals may not have enough incarceration time after the imposition of a DOSA sentence to complete the required substance use disorder treatment while incarcerated. For these individuals, the required SUD treatment associated with their DOSA sentence must be completed in the community.

^DOSAs sentences may be revoked if an individual refuses to participate in treatment, if they fail to complete treatment, or if they violate institutional rules or terms of their community supervision.

### Exhibit A2

#### Visual Representation of Residential DOSA Processes



Note:

^DOSAs sentences may be revoked if an individual refuses to participate in treatment, if they fail to complete treatment, or if they violate institutional rules or terms of their community supervision.

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## Washington State Institute for Public Policy

The Washington State Legislature created the Washington State Institute for Public Policy in 1983. A Board of Directors—representing the legislature, the governor, and public universities—governs WSIPP and guides the development of all activities. WSIPP’s mission is to carry out practical research, at legislative direction, on issues of importance to Washington State.