REVIEW/REVISION HISTORY:

Effective: 6/23/00 DOC 670.655  
Revised: 8/9/01  
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Revised: 3/29/16  
Revised: 10/18/16  
Revised: 1/1/19

SUMMARY OF REVISION/REVIEW:

Major changes. Read carefully!

APPROVED:

Signature on file

STEPHEN SINCLAIR, Secretary  
Department of Corrections  

11/7/18  
Date Signed
REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 9.94A; WAC 137-24; DOC 300.380 Classification and Custody Facility Plan Review; DOC 310.150 Reception, Initial Classification, and Custody Facility Plan; DOC 380.200 Community Supervision of Offenders; DOC 380.605 Interstate Compact; DOC 390.600 Imposed Conditions; DOC 460.130 Response to Violations and New Criminal Activity; DOC 460.140 Hearings and Appeals; DOC 580.000 Substance Use Disorder Treatment Services

POLICY:

I. The Department has established procedures for the Drug Offender Sentencing Alternative (DOSA) program for offenders sentenced to DOSA per RCW 9.94A.660 to include the recommended level of care for Substance Use Disorder (SUD) treatment within available resources.

II. An offender is considered an active participant in the DOSA program:

A. During total/partial confinement while serving the DOSA sentence or when a past or future DOSA sentence is served during that confinement period, and

B. While in the community during the time the DOSA community custody cause is being served.

DIRECTIVE:

I. General Requirements

A. Before sentencing, the court may order the Department to conduct a risk assessment report and/or a SUD screening report, which will be documented on DOC 09-173 Risk Assessment Report or DOC 14-045 Substance Use Disorder Pre-Screen.

B. Before imposing a Residential DOSA sentence, the court may order the Department to conduct a SUD examination.

1. The offender will sign DOC 14-172 Substance Abuse Recovery Unit Compound Release of Confidential Information at the time of the examination.

a. The CDP will complete DOC 14-182 Drug Offender Sentencing Alternative Non-Eligibility Finding Report if the offender is not eligible per RCW 9.94A.660.

C. The sentencing court may order the offender back to court at any time per RCW 9.94A.660.

D. Offenders will be ineligible for the DOSA program if subject to a valid Immigration and Customs Enforcement (ICE) deportation/removal order.

II. General Responsibilities

A. When applicable, the case manager will:

1. Review the offender’s compliance with the DOSA program and complete:

   a. DOC 07-038 Drug Offender Sentencing Alternative (DOSA) Compliance Review:

      1) When a Custody Facility Plan is initiated or updated per DOC 300.380 Classification and Custody Facility Plan Review.

      2) When the offender requests to transfer out-of-state per DOC 380.605 Interstate Compact.

      3) 45 days before the Earned Release Date (ERD).

         a) Compliance will be documented in the Release Notification Status screen in the offender’s electronic file by a Correctional Program Manager (CPM)/Community Corrections Supervisor (CCS) or higher rank.

         b. DOC 02-175 Three Month (M3) Review Checklist per DOC 380.200 Community Supervision of Offenders.

2. Monitor the offender’s progress and compliance with treatment in coordination with the CDP.

   a. Progress will be documented in the electronic file in Treatment and EM Conditions under the Supervision Activities section for offenders on community supervision or in partial confinement receiving treatment by a community CDP.
3. Impose community supervision conditions on all active causes for Prison DOSA offenders per DOC 390.600 Imposed Conditions, if not imposed by the sentencing court:
   a. To obey all laws,
   b. Not use or consume alcohol, marijuana, and/or illicit drugs, and
   c. To comply with DOC 14-042 Prison Drug Offender Sentencing Alternative Agreement.

4. Coordinate the transport of the offender to a community-based inpatient treatment facility when no other alternative is available for Residential DOSA cases.

5. Verify the offender is admitted to SUD treatment in the community.

III. Total Confinement Prison DOSA

A. Offenders arriving at Reception Diagnostic Centers will be screened and assessed per DOC 310.150 Reception, Initial Classification, and Custody Facility Plan and will sign DOC 14-039 Substance Use Disorder Treatment Participation Requirements and DOC 14-042 Prison Drug Offender Sentencing Alternative Agreement at the time of the SUD assessment.

B. If the CDP determines the SUD assessment indicates the offender is not in need of treatment, the CDP will notify the DOSA Treatment Compliance Manager/designee.

   1. The DOSA Treatment Compliance Manager/designee will notify the Correctional Records Administrator, who will use DOC 09-124 Court Special to notify the sentencing court within 10 days of receiving the decision.

C. Case managers, who become aware of mental health issues that may affect participation in treatment, will notify the DOSA Treatment Compliance Manager/designee. The Substance Abuse Recovery Unit (SARU) Administrator will consult the Director of Mental Health as needed to determine the offender’s ability to participate.

   1. The DOSA Treatment Compliance Manager/designee will notify the case manager of the final decision.

       a. If it is determined the offender would be unable to complete SUD treatment requirements, the case manager will notify the Correctional Records Administrator, who will use DOC 09-124
Court - Special to notify the sentencing court within 10 days of receiving the decision.

IV. Residential DOSA

A. The Field Administrator for the county where the residential treatment facility (e.g., therapeutic community, inpatient program) is located will designate a CCS/designee to act as a liaison between the treatment facility and the Department.

B. The case manager will submit DOC 09-260 Drug Offender Sentencing Alternative - Special to the Courts to the court one week before a scheduled court hearing and provide progress information, provided by the treatment facility, while the offender is in treatment.

C. Case managers will coordinate with the offender and treatment facility before release to community supervision to arrange necessary clean and sober housing, if appropriate.

V. Violations of the DOSA Program

A. Violations for Residential DOSA offenders will be reported to the sentencing court per DOC 460.130 Response to Violations and New Criminal Activity.

B. Offenders with a Prison DOSA sentence serving total/partial confinement time are in violation of the DOSA program and will be reclassified to serve the remainder of the DOSA sentence if they fail to enter into as directed or are administratively terminated from SUD treatment.

1. Only willful violations of the DOSA program, proven by a preponderance of evidence, will result in reclassification of the sentence structure. All other violations for Prison DOSA offenders will be sanctioned per the applicable violation process.

   a. Negotiated sanctions may not be used for failing to complete or being administratively terminated from SUD treatment.

2. If the CDP/supervisor believes an offender serving the confinement portion of a DOSA sentence in Prison has failed to complete SUD treatment or should be administratively terminated:

   a. The CDP/supervisor will:

      1) Complete DOC 14-044 Substance Use Disorder Discharge Summary and Continued Care Plan including reasons for
terminations and forward it to the DOSA Treatment Compliance Manager/designee for review,

2) Notify the case manager, and

3) Be available to testify at the hearing or assign a designee.

b. The DOSA Treatment Compliance Manager/designee will review the SUD treatment discharge summary and notify the CDP/supervisor and case manager of a decision made based on recommendations.

1) If the decision is to terminate treatment, the offender may appeal the termination per DOC 580.000 Substance Use Disorder Treatment Services.

   a) If the appeal is affirmed or is not submitted, the hearing process will be initiated.

2) If the decision is that the offender should not be terminated from SUD treatment, no hearing will be held and the offender will be retained in treatment according to clinical placement by the SARU.

3. For violations in Prison/Work Release, the case manager will complete DOC 17-076 Initial Serious Infraction Report, citing a 762 violation consistent with infraction language, and forward to the CPM/CCS/designee for preponderance of evidence review.

   a. DOC 17-069 Infraction Review Checklist will be completed with the report, including supporting documents and evidence.

C. Offenders with a Prison DOSA sentence serving community supervision on an active DOSA cause are in violation of the DOSA program and will be reclassified to serve the remainder of the DOSA sentence if they fail to complete or are administratively terminated from SUD treatment.

1. An offender fails to complete treatment if s/he fails to enter into SUD treatment as directed.

2. Negotiated sanctions may not be used for failing to complete or being administratively terminated from SUD treatment.
3. For offenders on community custody, the case manager will report the violation per DOC 460.130 Response to Violations and New Criminal Activity.

VI. Hearings

A. The Hearings Unit will preside over hearings for Prison DOSA offenders who are infraeted or referred for a violation of the DOSA program. Hearings will be conducted per DOC 460.140 Hearings and Appeals.

1. To prepare for the hearing, the case manager will:
   a. In Prisons and Work Releases, email a request to schedule a hearing to dochearingsunit@doc1.wa.gov.
   b. In Prisons, notify the DOSA Treatment Compliance Manager of the date, time, and place of the hearing.
   c. Compile relevant documentation, including behavioral information and/or discharge summary provided by the SARU or community treatment provider.

      1) When applicable, the case manager will coordinate with the case manager where the violation behavior occurred to prepare and/or gather necessary documents and arrange the scheduling of witnesses.
      2) SARU clinical documentation (e.g., discharge summaries, agreements) related to treatment while in Prison will be requested by emailing docsadosarecords@doc1.wa.gov.
      3) Clinical treatment documentation related to a community-based treatment should be requested directly from the community treatment provider.

2. In Prisons, the Department SUD Regional Director/supervisor/designee may attend the hearing and will be prepared to testify and respond to questions for treatment-related issues.
   a. Participation by phone will be allowed if in-person attendance is not possible.

3. If the offender is found not guilty or a guilty finding is reversed or vacated on appeal:
a. Prison offenders will be reinstated into the DOSA program and SUD treatment, within available resources, according to clinical placement by the SARU.

b. Offenders in Work Release or on community custody will be directed to resume SUD treatment in the community.

4. If the Hearing Officer determines by a preponderance of the evidence that the offender was terminated from or failed to complete SUD treatment, the Hearing Officer will reclassify the offender to serve the remaining portion of the DOSA sentence as follows:

a. All Prison DOSA causes will be reclassified for Prison/Work Release offenders who have served or will serve the confinement portion of the DOSA sentence.

b. All active Prison DOSA causes will be reclassified for offenders on community custody.

B. The Hearings Unit will preside over hearings for offenders with a Prison DOSA sentence serving total/partial confinement time or community supervision on an active DOSA cause, who are subject to a valid ICE deportation/removal order per DOC 460.140 Hearings and Appeals.

1. To prepare for the hearing, the case manager will:

a. Email a request to dochearingsunit@doc1.wa.gov to schedule a hearing,

b. Compile relevant documentation, including the ICE deportation/removal order,

c. Complete and serve DOC 09-231 Notice of Allegations, Hearing, Rights, and Waiver no less than 24 hours and no more than 5 business days before the hearing to the offender with:

1) DOC 09-248 Prison DOSA Deportation/Removal Order Hearing Disposition Report,
2) The deportation/removal order, and
3) Any other supporting evidence that will be used at the hearing.

d. Be available to present evidence and/or testify at the hearing.
C. For Residential DOSA offenders subject to a valid deportation/removal order, the case manager will notify the sentencing court using DOC 09-124 Court - Special.

VII. Out-of-State Transfer for DOSA Offenders

A. Case managers will review the offender’s compliance with the DOSA program using DOC 07-038 Drug Offender Sentencing Alternative (DOSA) Compliance Review before submitting a request to transfer out-of-state.

1. Offenders will be responsible for any requirements of their Judgment and Sentence, including treatment.

DEFINITIONS:

The following words/terms are important to this policy and are defined in the glossary section of the Policy Manual: Case Manager, Community Custody, Drug Offender Sentencing Alternative (DOSA), Substance Use Disorder. Other words/terms appearing in this policy may also be defined in the glossary.

ATTACHMENTS:

None

DOC FORMS:

- DOC 02-175 Three Month (M3) Review Checklist
- DOC 07-038 Drug Offender Sentencing Alternative (DOSA) Compliance Review
- DOC 09-124 Court - Special
- DOC 09-173 Risk Assessment Report
- DOC 09-231 Notice of Allegations, Hearing, Rights, and Waiver
- DOC 09-248 Prison DOSA Deportation/Removal Order Hearing Disposition Report
- DOC 09-260 Drug Offender Sentencing Alternative - Special to the Courts
- DOC 14-039 Substance Use Disorder Treatment Participation Requirements
- DOC 14-042 Prison Drug Offender Sentencing Alternative Agreement
- DOC 14-044 Substance Use Disorder Discharge Summary and Continued Care Plan
- DOC 14-045 Substance Use Disorder Pre-Screen
- DOC 14-172 Substance Abuse Recovery Unit Compound Release of Confidential Information
- DOC 14-182 Drug Offender Sentencing Alternative Non-Eligibility Finding Report
- DOC 17-069 Infraction Review Checklist
- DOC 17-076 Initial Serious Infraction Report