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HOUSE BILL 1994

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State of Washington

68th Legislature

2024 Regular Session

By Representatives Farivar and Goodman

Prefiled 12/20/23.

1 AN ACT Relating to judicial dismissal of a misdemeanor following  
2 completion of court-ordered conditions; and adding a new chapter to  
3 Title 10 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The court may, in its discretion, or  
6 upon motion of either party, offer to dismiss a defendant's simple  
7 misdemeanor or gross misdemeanor charge pursuant to the following:

8 (a) The court may continue a case pursuant to a defendant's  
9 agreement to waive speedy trial in anticipation of dismissal  
10 following court-ordered conditions for a period not to exceed 12  
11 months and order the defendant to comply with terms, conditions, or  
12 programs that the court deems appropriate based on the defendant's  
13 specific situation.

14 (b) (i) If the defendant has made meaningful progress towards  
15 complying with the imposed terms and conditions, either at the end of  
16 or at any point during the continuance period, the court shall  
17 dismiss the charges pending against the defendant.

18 (ii) Full restitution must be a required condition for the  
19 dismissal of charges. However, a defendant's inability to pay  
20 restitution due to indigence may not be grounds for denial of this  
21 dismissal following progress towards complying with court-ordered

1 conditions or as a basis for finding that the defendant has failed to  
2 make meaningful progress in complying with the court's conditions.

3 (c) If it appears to the prosecuting attorney that the defendant  
4 is not meaningfully engaged with the terms and conditions, after  
5 providing the defendant with written notice of the alleged violations  
6 and disclosure of all evidence to be offered against the defendant,  
7 the court shall hold a hearing to determine whether the defendant  
8 has, by clear and convincing evidence, willfully failed to  
9 meaningfully engage with the terms and conditions set by the court.

10 At that hearing:

11 (i) The rules of evidence do not apply, but the defendant must be  
12 afforded the due process rights required for the revocation of  
13 probation, including the right to confront and cross-examine all  
14 witnesses;

15 (ii) The defendant must have the opportunity to be heard in  
16 person and to present evidence;

17 (iii) To protect both service providers' efficacy and the privacy  
18 of provider-client relationships, service providers may not be  
19 subpoenaed by the prosecution or the court to provide records or  
20 testimony in any revocation proceeding; and

21 (iv) If the court finds by clear and convincing evidence that the  
22 defendant is willfully failing to meaningfully engage with the terms  
23 and conditions, the court may continue the hearing to provide  
24 additional time for meaningful engagement or may end the period of  
25 continuance pending dismissal.

26 (2) A charge may not be dismissed with court-ordered conditions  
27 pursuant to this section for any of the following offenses:

28 (a) A violation of RCW 46.61.502 where a person has a previous  
29 conviction under RCW 46.61.502 or the person has one or more prior  
30 offenses within 10 years as described in RCW 46.61.5055(4), or the  
31 person has ever previously been convicted of:

32 (i) Vehicular homicide while under the influence of intoxicating  
33 liquor or any drug, RCW 46.61.520(1)(a); or

34 (ii) Vehicular assault while under the influence of intoxicating  
35 liquor or any drug, RCW 46.61.522(1)(b); or

36 (b) A domestic violence offense involving an intimate partner as  
37 defined in RCW 7.105.010.

1        NEW SECTION.    **Sec. 2.**    Section 1 of this act constitutes a new  
2 chapter in Title 10 RCW.

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