

# Alternatives to Incarceration

*Superior Court Judges on*

*Sentencing Alternatives Use in Washington State*

*Survey Highlights*

**Board for Judicial Administration  
Alternatives to Incarceration Task Force  
Assessment and Information Work Group**

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## Survey Overview

In the fall of 2022, the Board for Judicial Administration launched the Alternatives to Incarceration Task Force (Task Force). The goal of the Task Force is for pretrial and post-conviction incarceration alternatives to be uniformly available to courts throughout the state regardless of the person's ability to pay or the jurisdiction's resources.

The Task Force's Assessment and Information Work Group sent a survey to Superior Court judicial officers to ask about the use of post-conviction sentencing alternatives available under the Sentencing Reform Act. The Work Group sought input to better understand how often these specific alternatives were utilized and to investigate any limitations on or barriers to implementation.

## Survey Highlights

Surveys were sent in fall 2023 to Superior Court judges in Washington State. There were 53 responses from Superior Court judges representing various courts across Washington; 75% of the responding judges have been a judge for 10 years or less. The findings are shared as highlights and anecdotal information and are not representative of overall judicial or association views.

### Sentencing Alternatives Use

Sentencing Alternative	Frequently Used	Rarely Used	Never Used
Parenting (RCW 9.9A.655)	4%	62%	34%
Mental Health (RCW 9.94A.695)	15%	58%	27%
Special Sex Offender (RCW 9.94A.670)	23%	62%	15%
Drug Offender (RCW 9.94A.660)	74%	24%	2%

### Respondents were asked to share why they do not use sentencing alternatives frequently:

Plea agreements do not provide for them – 87%

Defendants do not request them – 87%

Defendants do not qualify for them when requested – 39%

### Respondents shared other reasons why sentencing alternatives were not sought frequently:

- They were not applicable to the cases the judge was hearing or they were handled in treatment courts.
- Parenting Alternatives were almost never sought, and if requested the person did not qualify, was not a good candidate, or DOC did not support it.
- There was a lack of mental health services or funding for services.
- Sometimes parties were not well aware of the alternative.
- The question was a little confusing to several respondents. If only looking at sentences that fit into these categories, then they were used quite frequently.
- The judge may not have enough information to determine if appropriate or did not know why it wasn't requested.

**When asked what would allow or encourage them to impose alternatives more often, respondents replied:**

- More contact with defendants who qualify.
- More resources and programs to support the use and implementation of the alternatives.
- Education and training on the use of sentencing alternatives and eligibility requirements; maybe develop a bench card.
- Increased discretion for judges.
- Being requested and providing more information.

**Respondents shared suggestions on what is needed for sentencing alternatives in felony convictions:**

- Increased state funding to support alternatives.
- More restorative justice practices both pre- and post-conviction.
- Making SSOSAs more equitable and available for people who cannot afford them.
- Increasing local services to make mental health sentencing alternatives available in smaller counties that may not have adequate resources/services.
- Post incarceration probation to reduce prison time.
- Identify and address people's foundational needs critical to success such as housing, employment, etc.
- More work release programs.
- Increased alternatives that prioritize treatment/social services instead of prison.
- A legislative review of sentencing alternatives to make them more available and effective.
- Creation of a new youth sentencing alternative.

## Recommendations

This survey information on sentencing alternatives can be helpful when combined with other information. The judges completing the survey shared overall insights on how frequently sentencing alternatives are used and suggestions on what is needed.

**The survey identified:**

The drug offender sentencing alternative was most used, while the parenting sentencing alternative was hardly used.

Sentencing alternatives were less used when plea agreements did not provide for them or when defendants did not request them.

Increasing funding, resources, and restorative justice practices would help provide more post-conviction alternatives.

**Recommendations**

- 1) Explore possible educational opportunities for judicial use of sentencing alternatives.
- 2) Check in with system partners on their perspectives on sentencing alternatives and barriers to using them.