

SENATE BILL REPORT

2E2SSB 6204

As Amended by House, April 10, 2012

Title: An act relating to community supervision.

Brief Description: Modifying community supervision provisions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Hargrove; by request of Department of Corrections).

Brief History:

Committee Activity: Human Services & Corrections: 1/17/12, 2/02/12 [DPS-WM].

Ways & Means: 2/06/12, 2/07/12 [DP2S].

Passed Senate: 2/11/12, 45-2.

First Special Session: Passed Senate: 4/06/12, 43-2.

Passed House: 4/10/12, 77-21.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6204 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Carrell, Harper, McAuliffe and Padden.

Staff: Shani Bauer (786-7468)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 6204 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Brown, Fraser, Harper, Hatfield, Hewitt, Holmquist Newbry, Honeyford, Kastama, Keiser, Kohl-Welles, Padden, Pridemore, Regala, Schoesler and Tom.

Staff: Richard Ramsey (786-7412)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: In Washington, the court is required to sentence a person convicted of the following offenses to the corresponding terms of supervision with the Department of Corrections (DOC):

Sex offense	3 years
Serious Violent offense	3 years
Violent Offense	18 months
Crimes Against Persons	12 months
1st Felony Failure to Register	12 months
Certain Drug Offenses	12 months

Out of those populations, DOC must supervise persons convicted of a serious violent offense, a sex offense, or a failure to register, regardless of the offender's risk classification. DOC must supervise offenders convicted of the other listed offenses when the offender is assessed at a high risk to reoffend.

DOC currently supervises approximately 16,000 offenders. Offenders on community custody may be sanctioned for violating any condition or requirement of a sentence, including conduct that constitutes a new crime. An offender who commits a violation may be sanctioned with up to 60 days confinement or a variety of other sanctions, including work release, home detention, treatment, or other community based sanctions. DOC has historically relied significantly on jail sanctions in response to violation behavior. During Fiscal Year 2011, DOC spent \$38.5 million on jail sanctions, translating to 17,193 jail bed days.

Research shows that traditional surveillance-based supervision, without treatment, is not effective in reducing recidivism and has little effect on re-arrest rates of released offenders. In contrast, intensive supervision coupled with treatment geared to the risk and needs of the offender produces an average reduction in recidivism of 16 percent. Studies have also found that the threat of imprisonment generates a small general deterrent effect. Increasing the severity of a penalty does little to increase deterrence, but rather increasing the certainty of apprehension and punishment demonstrates a significant deterrent effect.

In 2004 Hawaii launched its Opportunity Probation with Enforcement program (HOPE) utilizing a system of immediate but graduated sentences. Technical infractions result in jail terms that occur in the same week as the violation, but last only a few days. A one-year, randomized controlled trial showed HOPE probationers 55 percent less likely to be arrested for a new crime; 72 percent less likely to use drugs; and 53 percent less likely to have their probation revoked.

Summary of Second Engrossed Second Substitute Bill: A new violation process for offenders on community custody is outlined. DOC will adopt rules creating a structured violation process that includes presumptive sanctions, aggravating and mitigating factors, and definitions for low-level violations and high-level violations. DOC must define aggravating factors that may present a current and ongoing foreseeable risk and therefore elevate an offender to a high-level violation process. DOC is not civilly or criminally liable for a decision to elevate or not to elevate an offender's behavior to a high-level violation unless it acted with reckless disregard. For low-level violations, DOC may sanction an offender to one or more non-confinement sanctions. For second and subsequent low-level violations,

DOC may sanction the offender to not more than three days in total confinement. For high-level violations, DOC may sanction an offender to not more than 30 days in total confinement per hearing. An offender accused of committing a high-level violation is entitled to a hearing.

When an offender on community custody commits a new crime in the presence of a community corrections officer, the officer may arrest the offender and report the crime to local law enforcement or local prosecution. DOC will not hold the offender more than three days from the time of notice to law enforcement.

As part of its implementation of the new sanctioning system, DOC must establish stakeholder groups, communicate with law enforcement, and periodically survey community custody officers for ideas and suggestions. DOC must report back to the Legislature at the end of 2012 and 2013.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause. Section 2 takes effective immediately. The remaining sections take effect June 1, 2012.

Staff Summary of Public Testimony on Original Bill (Human Services & Corrections):

PRO: This is a situation where the need to reform is in line with the need to save money. This legislation will focus DOC's violation policy on swift and certain sanctions. Several jurisdictions have been piloting programs such as these, but Washington would be the first state to adopt this approach statewide. The result is expected to reduce violation costs by 75 percent, saving money, a portion of which will be reinvested in treatment. DOC is working closely with Edward Latessa, a leading researcher in this field, and DOC's newly created Quality Assurance team in order to ensure programs are implemented in an evidence-based manner. DOC believes the program will reduce costs, improve transparency, produce a fairer process, and result in more accurate offender scores. The Sentencing Guidelines Commission reviewed this bill and is in support of the provisions.

CON: The people with boots on the ground are concerned that the reduction in terms of supervision is not sufficient to apply appropriate programming and not sufficient to ensure public safety. Further, we are gravely concerned about the three-day time limit DOC will keep an offender in custody when the offender has committed a new crime. Three days does not mean seventy-two hours. Because of how the jail calculates time, an offender could be released in as little as twenty-five hours. We are in support of swift and certain sanctions, however, we are left to supervise the most dangerous and violent population and we need the ability and discretion to sanction them appropriately. The violation hearings process can be modified internally without the need for legislation. We need the discretion that is built into existing law.

OTHER: The term of supervision for sex offenders should not be reduced. Many of these offenders have committed precursor crimes. If not supervised, they may reoffend with a more serious offense.

Persons Testifying (Human Services & Corrections): PRO: Bernie Warner, Secretary, DOC; Keri-Anne Jetzer, Sentencing Guidelines Commission.

CON: Ginger Richardson, WA Federation of State Employees.

OTHER: Lonnie Johns-Brown, WA Coalition of Sexual Assault Programs.

Staff Summary of Public Testimony on Substitute as Passed by Human Services & Corrections (Ways & Means): PRO: DOC supports the bill, but we're concerned about the stakeholder process related to provision of chemical dependency treatment.

OTHER: We opposed the bill in the policy committee; however, our concerns have been largely addressed.

Persons Testifying (Ways & Means): PRO: Anmarie Aylward, DOC.

OTHER: Matt Zuvich, WA Federation of State Employees.

House Amendment(s): After an offender has received five low level violation sanctions, all subsequent violations must be treated as high level violations. If an offender with a specified underlying offense commits a new crime, the offender must be held in total confinement for 30 days from the time of arrest or until a prosecuting attorney files new charges against the offender, whichever occurs first.