

**SENATE BILL REPORT**

**SB 5623**

**AS REPORTED BY COMMITTEE ON WAYS & MEANS, MARCH 6, 1991**

**Brief Description:** Changing provisions relating to sentencing of offenders.

**SPONSORS:** Senators Thorsness, Niemi, Talmadge, Metcalf and Sutherland.

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 5623 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, Madsen, Newhouse, and Rasmussen.

**Staff:** Jack Brummel (786-7428)

**Hearing Dates:** February 20, 1991; February 26, 1991

**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** That Second Substitute Senate Bill No. 5623 be substituted therefor, and the second substitute bill do pass.

Signed by Senators McDonald, Chairman; Craswell, Vice Chairman; Bluechel, Cantu, Gaspard, L. Kreidler, Murray, Niemi, Rinehart, Talmadge, Williams, and Wojahn.

**Staff:** Cindi Holmstrom (786-7715)

**Hearing Dates:** February 28, 1991; March 6, 1991

**BACKGROUND:**

The state's correctional population has grown significantly during the last five years. Prison and jail overcrowding are forcing prosecutors and judges to make difficult choices about the sanctions offenders should receive. Intermediate sentences such as fines, house arrest, intermittent imprisonment, and intensive supervision probation have been proposed as alternatives that could ensure that our criminal justice system is neither too lenient nor too severe.

Victim-offender mediation is in operation in a number of jurisdictions in Washington. It provides an opportunity for offenders to establish personal accountability to victims of crimes.

**SUMMARY:**

After the entry of a guilty plea or guilty verdict in a criminal case, or a request for a predisposition study in a juvenile case, the case is to be, except in certain circumstances, referred to a victim-offender mediation program or dispute resolution center where, provided both victim and offender are willing to participate, a restitution agreement is negotiated and the offender is given a summary of the financial, emotional, and physical effects of the offense on the victim. The court is to consider any restitution agreement reached at the time of sentencing or disposition, but such agreement, by itself, is insufficient to justify a sentence less severe than one within the standard range.

When an offender is convicted of a drug offense or was under the influence of drugs or alcohol or motivated by drug use, and has no previous record of violent, sexual, or drug offenses, the sentencing court may consider a sentence of community custody. Community custody includes intensive supervision by the Department of Corrections, payment by the offender of supervision fees, and the submission to breathalyzer tests, urinalysis, or other forensic analyses. The court may require confinement in jail, inpatient or outpatient treatment, training, home detention, or other conditions.

The term of sentences for which alternatives to total confinement are available is changed from one year or less to two years or less. When the standard sentence would exceed one year, the court must require intensive supervision, electronic monitoring or other methods to protect the public and make written findings that the use of an alternative to total confinement does not impose an unreasonable risk to the safety of the general public.

When a drug offense involved a single transaction or did not involve sophistication, significant planning, an extended period of time, or a broad geographic area of disbursement, the court may consider these facts as mitigating circumstances at the time of sentencing.

The Sentencing Guidelines Commission is directed to conduct a study in conjunction with the Department of Corrections on the feasibility of establishing a system of monetary fines as criminal sanctions. The Department of Corrections is to manage a pilot monetary fines program. The department is also to provide the Legislature with a yearly report on recidivism.

The Department of Corrections may, under certain circumstances, substitute partial confinement for any sentence of total confinement.

**EFFECT OF PROPOSED SUBSTITUTE:**

The provisions for drug offender sentencing alternatives are removed. The provisions allowing the Department of Corrections to substitute partial confinement for total

confinement are deleted. Intensive rehabilitation programs for adult and juvenile offenders are authorized.

**EFFECT OF PROPOSED SECOND SUBSTITUTE:**

The provisions relating to the intensive rehabilitation programs for adult and juvenile offenders have been removed from the bill.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 12, 1991

**Effective Date:** July 1, 1991

**TESTIMONY FOR (Law & Justice):**

The U.S. has the highest incarceration rate in the world, but this has not reduced the rate of crime. Incarceration is a very expensive way to address the crime problem. Victim offender mediation is an excellent way for an offender to learn of the human consequences of their offense. The provisions of the bill will tend to reduce recidivism and the costs to the taxpayers.

There has been a 63 percent increase in sentence length for drug offenders in the last two years.

**TESTIMONY AGAINST (Law & Justice):**

The current community custody options are underutilized; judges do not have confidence in current systems because of lack of funding. The Legislature does not have the facts to determine whether treatment for drug offenders is a viable option. Up to 75 percent of arrestees are under the influence of drugs or alcohol.

**TESTIFIED (Law & Justice):** PRO: Senator Thorsness, sponsor; Kate Hunter, Harold Edmonds, Denise Scicchitano, Victim Offender Reconciliation Program; Richard Croll, Snohomish County Dispute Resolution Center; Mike Frost, WA Assn. of Criminal Defense Lawyers; John Ludenburg WAPA (con); Don Moore, Sentencing Guidelines Commission

**TESTIMONY FOR (Ways & Means):**

In response to the rapid growth in the state's correctional population this bill provides a number of sentencing alternatives which will help reduce recidivism and costs for taxpayers.

**TESTIMONY AGAINST (Ways & Means):** None

**TESTIFIED (Ways & Means):** PRO: Senator Thorsness, sponsor; Dave Savage, Department of Corrections