

SENATE BILL REPORT

HB 1025

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 23, 1993

Brief Description: Regarding the limitation of actions brought by prisoners.

SPONSORS: Representatives Ludwig, Padden, Riley, Kremen, Appelwick, Mielke, Romero, Dyer, Jones, Kessler, Orr, Karahalios, R. Meyers, Brough, Carlson, Ballasiotes, Jacobsen, Forner, Silver, Dorn and Chappell

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Rinehart, Roach, and Spanel.

Staff: Tom McBride (786-7448)

Hearing Dates: March 19, 1993; March 23, 1993

BACKGROUND:

Under state law, a statute of limitation is tolled for a person with one or more enumerated disabilities, including imprisonment under sentence for a term less than his or her natural life and imprisonment while charged with a criminal offense. Thus, a prisoner need not bring a lawsuit within the ordinary time limit.

In Bianchi v. Bellingham, 909 F.2d 1316 (9th Cir. 1990), the Court of Appeals for the Ninth Circuit applied the Washington State tolling statute to a federal civil rights action brought by a prisoner serving a life sentence. The court reasoned that since the prisoner's life sentence was not without possibility of parole, the term was for less than his natural life. The result was that the prisoner's action, brought more than nine years after the events complained about occurred, was not barred by the lapse of time.

SUMMARY:

Imprisonment is removed as a disability in the tolling statute.

SUMMARY OF PROPOSED SENATE AMENDMENT:

Imprisonment under sentence is removed as a disability in the tolling statute. Imprisonment while charged with a criminal

offense remains a disability in the tolling statute until sentencing takes place.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

Persons convicted of crimes should not get additional statute of limitation time, particularly since there is no legal impediment to prisoners initiating lawsuits while incarcerated.

TESTIMONY AGAINST: None

TESTIFIED: Representative Ludwig (pro); Mike McNeff, Okanogan County Prosecuting Attorney (pro)