

**SENATE BILL REPORT**

**SB 5451**

**AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 5, 1993**

**Brief Description:** Revising sentencing and corrections for felons.

**SPONSORS:** Senator Hargrove

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** That Substitute Senate Bill No. 5451 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** February 10, 1993; March 1, 1993

**SENATE COMMITTEE ON WAYS & MEANS**

**Majority Report:** That Second Substitute Senate Bill No. 5451 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Jesernig, Moyer, Owen, Pelz, Quigley, Snyder, Talmadge, Williams, and Wojahn.

**Staff:** Steve Lerch (786-7715)

**Hearing Dates:** March 18, 1993; April 5, 1993

**BACKGROUND:**

The Sentencing Reform Act includes in its purposes a goal of offering the offender an opportunity to improve him or her self. The act also encourages the use of alternatives to total confinement. In recent years, studies have found that the use of alternatives has declined and total confinement has increased.

Since 1987, drug dealers have not been eligible for the first-time offender waiver. The standard range sentence for a first offense delivery of cocaine is 21-27 months in prison. It has been suggested that certain drug offenders who are dealing to support their own drug habit should be given an opportunity to obtain treatment for their addiction.

The Indeterminate Sentence Review Board is responsible for determining how much prison time offenders under the old indeterminate sentencing law will be required to serve and establishing parole conditions. Offenders can be on parole

until the expiration of the statutory maximum term for their offense. The board is scheduled to expire on June 30, 1998. Prior to that time, the Governor is required to recommend to the Legislature alternatives for carrying out the duties of the board.

The Department of Corrections, Division of Correctional Industries, is required to develop and implement work programs that provide jobs, work experience and training to inmates and to reduce a portion of the financial burden of incarceration. The department operates five classes of work programs. The inmates receive financial compensation for their work ranging from \$30 per month for Class IV work programs to the prevailing wage for offenders employed in Class I jobs. The department is required to develop a formula to determine how much should be deducted from the inmate's wages to partially cover the cost of incarceration and development of correctional industries programs.

**SUMMARY:**

Sentencing Alternatives: When sentencing a first-time offender or any other offender whose standard range would result in a sentence served in a county jail, the court has discretion to convert total confinement to sentence options. The total confinement plus sentence options may not exceed the standard range for the offense. Sentencing options available are listed and conversions from total confinement are provided. Community supervision for first-time offenders is limited to one year.

Drug offenders are eligible for a special drug offender sentencing alternative if they: 1) are convicted of manufacturing or dealing narcotics drugs, with no deadly weapon sentence enhancement; 2) have no prior or other current convictions for violent or sex offenses, or offenses with a deadly weapon sentence enhancement; 3) have not previously been sentenced under this alternative; and 4) have a substance abuse problem and the primary objective of the crime was to support the addiction.

If the judge determines the offender is eligible and that the offender and the community will benefit, the judge may waive a standard range sentence and impose a sentence of one-half of the midpoint of the standard range. The Department of Corrections must provide substance abuse treatment while the offender is incarcerated in the state facility. No more than three months of the sentence may be served on work release. The court shall impose one year of community custody which must include crime-related prohibitions, a condition to not use illegal controlled substances, and to submit to urinalysis. Other conditions which may be imposed include employment, outpatient treatment and financial obligations. Violations are imposed by the department administratively with notice to the prosecuting attorney and the court. The court may hold a violation hearing upon motion and may impose confinement consisting of the remaining one-half of the standard range.

Violent Offenses Committed in Prison: Offenders in prison because of a violent offense (murder, rape, assault, arson, kidnapping, robbery or first degree burglary) shall be sentenced to a mandatory minimum term of 15 years or a term within their standard range, whichever is greater, if they commit second degree murder, or first or second degree assault, rape, arson or robbery while in prison.

Indeterminate Sentence Review Board: The board is required to prepare a detailed plan and recommendations for the transfer of jurisdiction over inmates and parolees by December 1, 1995. A final order of discharge must be entered three years from the date of parole unless the parolee is on suspended or revoked status at the expiration of the three years. Parolees are not required to be on conditional discharge for one year prior to a final discharge order.

Correctional Industries: The Secretary of the Department of Corrections is required to increase inmate participation in class I and class II work programs to 25 percent of eligible inmates by December 30, 1997 and to 50 percent by December 30, 1999. The department is required to deduct 50 percent of the inmate's gross wages to pay for restitution. After restitution is paid, the deduction shall be deposited into the department's inmate personal savings account until the account reaches \$250. Thereafter, the 50 percent shall be applied to the cost of incarceration. The department is required to explore other ways to recover the cost of incarceration from inmates. The secretary must report to the Legislature by January 1, 1994, regarding any impediments to compliance with the inmate work participation percentages, and ways to achieve compliance.

**EFFECT OF PROPOSED SUBSTITUTE:**

An exceptional sentence can be imposed based on a finding that the defendant poses a future danger of violent behavior.

Sentencing options for first-time offenders and offenders whose standard range is 0-12 months are stricken.

To be eligible for the special drug offender sentencing alternative, the offender is not required to have a substance abuse problem. Also, the offender cannot have any other prior or current felony convictions and the offense must have involved only a small quantity of controlled substances.

The 50 percent deduction from an inmate's gross wages from correctional industry must be used first to pay in full legal financial obligations.

**EFFECT OF PROPOSED SECOND SUBSTITUTE:**

The Department of Corrections (DOC) and the Department of General Administration (GA) are required to jointly adopt rules ensuring the preferential purchase of goods and services produced by class II correctional industries. State agencies

and the Legislature shall purchase all such goods and services except as provided by joint DOC/GA rules.

The expansion of inmate participation in class I and class II work programs has been reduced. Instead of requiring that 25 percent of eligible inmates be employed by December 30, 1997 and 50 percent by December 30, 1999, required inmate participation is now set at 15 percent of eligible inmates by December 30, 1998 and 30 percent by December 30, 2001.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

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

The bill offers judges more discretion to use sentencing alternatives without jeopardizing public safety concerns. The emphasis on work programs for inmates in prison is important to reducing recidivism.

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

The bill doesn't address alternatives for prison-bound nonviolent offenders. The correctional industries expansion time frames are unrealistic in light of infrastructure, training and marketing constraints.

**TESTIFIED (Law & Justice):** Norm Maleng, King County Prosecuting Attorney (pro); John Ladenburg, Pierce County Prosecuting Attorney (pro); Kurt Sharar, Washington State Association of Counties (pro); Edith Rice, Department of Corrections (con); Dave Savage, Department of Corrections (con); Janeen Wadsworth, Department of Corrections (con)

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

The special drug offender alternative sentencing in the bill will result in budget savings and is good policy. The Department of Corrections fiscal note underestimates the savings from this provision.

Longer sentences for serious crimes committed in prison will serve as a deterrent for such crimes. The addition of future potential for violent behavior to the aggravating circumstances which can result in longer sentences is positive and may result in savings to crime victims' compensation fund.

The expansion of correctional industries in the bill could lead to concerns about negative impacts on business, but private sector firms believe this is not the intent of the bill and that this issue can be successfully resolved.

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

The large expansion of correctional industries will be difficult due to training needs of prisoners, the cost of additional capital facilities, issues related to displacement of private sector jobs, and difficulty of attracting private firms to create jobs for prisoners.

The 50 percent deduction of wages called for in the bill will lead to disincentives for prisoners to work and could result in some prisoners quitting existing jobs.

The marketing of goods and services created by an expansion in correctional industries is problematic. Current correctional industry facilities are not being used for double shifts because of the lack of demand for correctional industry goods.

The potential for a reduction in recidivism due to expanded correctional industry employment is uncertain. The results of studies on federal correctional industries and recidivism are not relevant to potential state impacts due to differences in state and federal prisoners in terms of education, age, and offenses committed.

**TESTIFIED (Ways & Means):** Mike Redman, WAPA (pro); Janeen Wadsworth, DOC (con); Jim King, RESTEC Contractors, Inc. (pro)