

SENATE BILL REPORT

SB 5648

AS REPORTED BY COMMITTEE ON WAYS & MEANS, MARCH 5, 1993

Brief Description: Providing a procedure for releasing alien offenders for the purpose of deportation.

SPONSORS: Senators A. Smith, Rinehart, Hargrove, Nelson, Niemi and Winsley; by request of Department of Corrections

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5648 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 16, 1993; March 1, 1993

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5648 as recommended by Committee on Law & Justice be substituted therefor and the substitute bill do pass.

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

Staff: Cindi Holmstrom (786-7715)

Hearing Dates: March 4, 1993; March 5, 1993

BACKGROUND:

As of January 30, 1993, approximately 11 percent of the offenders incarcerated in state correctional facilities were illegal aliens. Of these alien offenders, approximately one-half have convictions for nonviolent crimes. When the federal Immigration and Naturalization Service (INS) determines that an offender is an illegal alien, it issues a detainer instructing the Department of Corrections (DOC) not to release the person except to INS. Upon completion of the offender's sentence, the inmate is turned over to INS for deportation.

It has been suggested that DOC should be allowed to release some nonviolent alien offenders to INS earlier than at the end of the offender's sentence.

SUMMARY:

An alien offender committed to the custody of the Department of Corrections under the Sentencing Reform Act, for whom a final order of deportation has been issued, may be placed on conditional release status and released to Immigration and Naturalization Service (INS) for deportation at any time prior to expiration of the offender's criminal sentence. The secretary of the department must first determine that the release is in the best interests of the state. Also, releases may only occur with the approval of the sentencing court and the prosecuting attorney.

Alien offenders serving a sentence for a violent offense or a sex offense, or any other offense that is a crime against a person are not eligible for early release.

If the alien offender illegally reenters the United States prior to the end of the offender's sentence term, the department may issue a warrant for their arrest. Upon arrest, if the sentencing court determines that the offender reentered the country illegally, the court has discretion to either require the offender to serve the remainder of the sentence or return the offender to the custody of INS.

Release to INS for deportation does not relieve the alien offender of the obligation to pay restitution or other legal financial obligations.

An offender released under these provisions who returns to the country illegally may not be released again under this act.

The secretary shall assist federal authorities in prosecuting alien offenders who illegally reenter the United States.

EFFECT OF PROPOSED SUBSTITUTE:

The period of conditional release is the maximum statutory sentence for the crime. Upon release to INS, a warrant is issued for the offender's arrest. If arrested before the conditional release time runs, the offender is returned to the Department of Corrections to complete the unserved portion of his or her total confinement sentence.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR (Law & Justice):

The bill allows some alien offenders subject to a deportation order to be released to the Immigration and Naturalization Service.

TESTIMONY AGAINST (Law & Justice):

It is not unusual for offenders who have been deported to return to the United States within a short time.

TESTIFIED (Law & Justice): Tom Rolfs, Department of Corrections (pro); Vicki Stifter, Northwest Immigrant Rights Project (pro); Fred Johnson, Washington Association of Prosecuting Attorneys

TESTIMONY FOR (Ways & Means):

Only one-half of illegal aliens will be eligible for release. The substitute bill requires that a warrant be issued for the offender's arrest upon release. And if the offender comes back to the United States and they are arrested, they will be returned to the Department of Corrections to complete their confinement.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): Tom Rolfs, Department of Corrections (pro); Mike Redman, Washington Association of Prosecuting Attorneys (pro)