

HOUSE BILL REPORT

HB 2794

As Reported By House Committee On:
Criminal Justice & Corrections
Appropriations

Title: An act relating to conditions of sentences.

Brief Description: Requiring offenders under the supervision of the department of corrections to obey all laws.

Sponsors: Representatives McCune, Sheahan, Sterk and D. Sommers.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/4/98, 2/6/98 [DPS];

Appropriations: 2/7/98 [DP2S(w/o sub CJC)].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chair; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell and Sullivan.

Staff: Mark Hamilton (786-7310).

Background:

Obeying Laws. Currently, there are no statutory provisions requiring offenders, as a condition of a non-custodial sentence, to obey all laws or to refrain from committing additional offenses. Because this is not a condition of their sentences, an additional violation of law does not constitute a violation of the sentencing conditions, and therefore cannot be used to revoke or change the terms of the sentence.

Instructions when Offender Receives Non-Custodial Sentence. Currently, the Department of Corrections must provide instructions to offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation (*i.e.*, non-custodial sentences). The minimal content of the instructions must include reporting to a community corrections officer, remaining within prescribed

geographical areas, notification of address or employment change, and paying supervision fee.

Requirements of Offender who Receives Non-Custodial Sentence. Currently, offenders who receive non-custodial sentences are required not to own, use, or possess firearms or ammunition.

Conditions of Sentences. Crime-Related Prohibitions. Currently, a court may impose crime-related prohibitions and conditions only on first-time offenders sentenced to community supervision.

Definition of "Crime-Related Prohibition." Currently, "crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which an offender has been convicted. However, the definition specifically excludes orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct. A court may order the Department of Corrections to perform affirmative acts necessary to monitor compliance with the court's order.

Summary of Original Bill:

Instructions when Offender Receives Non-Custodial Sentence. Adds to the minimum requirement that offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation be instructed by the Department of Corrections to obey all laws.

Requirements of Offender who Receives Non-Custodial Sentence. Adds to the firearms restrictions of those who receive non-custodial sentences the requirement that they must also obey all laws.

Order to Refrain from Violating Laws as Condition of Community Supervision or Community Placement. Requires a court to order an offender convicted of a felony committed after the effective date of the act to refrain from committing new offenses as a condition of community supervision or community placement. Also requires that offenders who commit new offenses be subject to appropriate violation and sanction process, in addition to prosecution for the offense.

Summary of Substitute Bill:

Section 1. *Instructions when Offender Receives Non-Custodial Sentence.* Adds to the minimum requirement that offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation be instructed by the Department of Corrections to obey all laws.

Requirements of Offender who Receives Non-Custodial Sentence. Adds to the firearms restrictions of those who receive non-custodial sentences the requirement that they must also obey all laws.

Order to Refrain from Violating Laws as Condition of Community Supervision or Community Placement. Requires a court to order an offender convicted of a felony committed after the effective date of the act to refrain from committing new offenses as a condition of community supervision or community placement. Also requires that offenders who commit new offenses be subject to appropriate violation and sanction process, in addition to prosecution for the offense.

Section 2. *Court May Order Crime-Related Prohibitions.* Permits a court to impose crime-related prohibitions and conditions on offenders sentenced to community supervision.

Definition of "Crime-Related Prohibition." Changes definition of "crime-related prohibition" to include a court order directing an offender affirmatively to participate in rehabilitative programs or to perform other affirmative conduct, as well as order affirmative acts by the Department of Corrections necessary to monitor compliance with the court's order.

Section 3. *Court May Order Rehabilitation or Affirmative Conduct.* Permits a court to order an offender to participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime as a part of, or in addition to, any other sentence term permitted or required under the sentencing laws, when reasonably necessary or beneficial to the offender and the community in rehabilitating the offender or preventing the offender from committing the same or a similar crime in the future.

Scope of Application. A court may impose such orders as a part of any sentence which is not wholly comprised of jail or prison confinement, including a suspended sentence.

Substitute Bill Compared to Original Bill: Adds provisions related to crime-related prohibitions and affirmative conditions of sentencing by a court.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Although common sense would indicate that the purpose of the bill to require offenders to obey all laws as a condition of their sentences is unnecessary, that

is not the case. As the law currently stands, those who receive non-custodial sentences are not required, *as a condition of their sentences*, to obey the laws. Thus, when they do, it does not violate any condition which would permit or require harsher sentence terms or imprisonment. However, imposition of such a condition would result in more sentence condition violations, and would therefore cost more to imprison those who would otherwise still be eligible to continue their non-custodial sentences.

Testimony Against: None.

Testified: Representative Jim McCune, prime sponsor; Dave Savage, Department of Corrections; and Mike Patrick, Executive Director, Washington State Council of Police Officers.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Criminal Justice & Corrections. Signed by 30 members: Representatives Huff, Chairman; Alexander, Vice Chairman; Clements, Vice Chairman; Wensman, Vice Chairman; H. Sommers, Ranking Minority Member; Doumit, Assistant Ranking Minority Member; Gombosky, Assistant Ranking Minority Member; Benson; Carlson; Chopp; Cody; Cooke; Crouse; Grant; Keiser; Kenney; Kessler; Lambert; Linville; Lisk; Mastin; McMorris; Parlette; Poulsen; Regala; D. Schmidt; Sehlin; Sheahan; Talcott and Tokuda.

Staff: Dave Johnson (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Criminal Justice & Corrections: A new section was added which makes the bill null and void unless specific funding is provided in the Omnibus Appropriations Act by June 30, 1998.

Appropriation: None.

Fiscal Note: Available. Fiscal note requested on the second substitute on February 8, 1998.

Effective Date: Ninety days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.

Testimony For: None.

Testimony Against: None.

Testified: None.