

# HOUSE BILL ANALYSIS

## SSB 5089

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**Title:** An act relating to failure to appear at a court proceeding.

**Brief Description:** Requiring previous bail jumpers to post bail.

**Sponsors:** Senators Roach, Swecker, Zarelli and Hochstatter.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

**Staff:** Pat Shelledy (786-7149)

**Background:** The Washington Constitution provides that any person charged with a crime shall be released on bail with sufficient sureties, except for capital offenses. Washington court rules also provide that any person charged with a crime other than a capital offense must be released on the person's personal recognizance pending trial unless the court determines that the accused will not appear when required, or there is a likely danger that the accused will commit a violent crime, seek to intimidate witnesses, or otherwise interfere with the administration of justice. Violent crimes—embraces more crimes than those characterized as violent— crimes under the Sentencing Reform Act and may include misdemeanors. The court may impose conditions of release or require the accused to post bail. The court must impose the least restrictive conditions so that the person is not held in pretrial detention in violation of the constitution.

When a person is convicted of a crime and pending sentencing or appeal following sentencing, the court makes similar decisions about releasing the offender, however, there is not a constitutional right to be released following convicted pending sentencing or appeal. The Legislature has passed a number of statutes restricting the courts' authority to release offenders following conviction. Some of those provisions were passed in 1996.

Under principles of separation of powers, Washington courts have held that the decision regarding the release of an accused or conviction offender is a matter of the administration of justice, and thus falls within the purview of the judiciary and not the Legislature. However, the court has given some deference to the statutes governing the release of convicted offenders.

**Summary:** A person who has been convicted of bail jumping within the previous 10 years may not be released on personal recognizance in a proceeding in which a judge is authorized to require posting of a bail or bond.

**Require the Exercise of Rule- Making Powers:** No.

**Fiscal Note:** Requested on March 17, 1997.

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