

HOUSE BILL REPORT

HB 1543

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to sentences for violent offenses and crimes against persons.

Brief Description: Changing provisions regarding sentences for violent offenses and crimes against persons.

Sponsors: Representatives O'Brien, Ballasiotes, Kastama, Cairnes and Keiser; by request of Sentencing Guidelines Commission.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/10/99, 2/24/99 [DPS].

Brief Summary of Substitute Bill

- Requires a one-year mandatory term of community placement for violent offenses and all crimes against persons.
- Adds stalking, custodial assault, and violations of domestic violence no-contact orders and protection orders to the list of crimes against persons.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Jean Ann Quinn (786-7310).

Background:

Community Placement for Certain Offenders: Community placement is that period during which an offender is subject to the conditions of community custody and/or post-release supervision. It may consist entirely of community custody, entirely post-release

supervision, or a combination of the two. All offenders sentenced to terms involving community placement are under the supervision of the Department of Corrections and must follow the instructions and conditions of the department.

Community custody is that portion of an inmate's sentence of confinement served « in lieu of earned early release time, or imposed by the court for certain offenses « in the community subject to controls placed on the inmate's movement and activities by the Department of Corrections.

Post-release supervision begins upon completion of the term of confinement, and is that portion of community placement which is not community custody.

Earned early release time is awarded for good behavior and good performance. Certain offenders (those convicted of a sex offense, a serious violent offense, second degree assault, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against a person where the defendant or an accomplice was armed with a deadly weapon, or any felony offense under the Uniform Controlled Substances Act or the Imitation Controlled Substances Act) may become eligible for transfer to community custody status in lieu of earned early release time.

In sentencing for certain offenses, the court is required to impose a term of community placement in addition to the other terms of the sentence. These offenses currently are sex offenses, serious violent offenses, assault in the second degree, assault of a child in the second degree, vehicular homicide or vehicular assault, crimes against persons where the defendant or an accomplice was armed with a deadly weapon, and felony offenses under the Uniform Controlled Substances Act or the Imitation Controlled Substances Act.

The term of community placement begins either upon completion of the term of confinement or when the offender is transferred to community custody status in lieu of earned early release time. If an offender is sentenced to the statutory maximum period of confinement, then the community placement portion of the sentence is only for the time, if any, that the offender is in community custody status in lieu of earned early release.

Violent Offenses: A violent offense is defined to mean: any class A felony or attempt to commit a class A felony; criminal solicitation of or criminal conspiracy to commit a class A felony; manslaughter in the first or second degree; indecent liberties if committed by forcible compulsion; second degree kidnapping; second degree arson; second degree assault; assault of a child in the second degree; extortion in the first degree; second degree robbery; drive-by shooting; vehicular assault; and vehicular homicide, when proximately caused by driving while under the influence of liquor or drugs, or by the operation of any vehicle in a reckless manner. It also includes felonies in effect prior to July 1, 1976, that are comparable to these felonies, and any federal or out-of-state conviction for an offense that would be classified in this state as a violent offense.

Categorization of Crimes for Prosecution Standards: Crimes are categorized as "crimes against persons," and "crimes against property/other crimes," for the purposes of determining the applicable standards for prosecution. For example, crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder. But crimes against property/other crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

Summary of Substitute Bill:

Community Placement for Certain Offenders: The list of offenses for which the court is required to impose a one-year term of community placement is amended to include those violent offenses and crimes against persons (whether or not the defendant or an accomplice was armed with a deadly weapon) for which a longer term of community placement is not already required in existing law.

Categorization of Crimes for Prosecution Standards: The crimes of stalking, custodial assault, and violations of domestic violence no-contact orders and protection orders are added to the list of "crimes against persons."

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the new offenses for which a mandatory term of community placement is required takes effect prospectively only. Also, because there is some overlap in the definition of offenses (e.g., serious violent offenses are also violent offenses), the substitute bill adds language to ensure that those offenses for which a longer mandatory term of community placement is required under existing law would not be affected.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: In 1997, the Superior Court Judges Association asked the Sentencing Guidelines Commission to look at community placement for all offenses. They were concerned that the law was inconsistent « some violent crimes had no community

placement requirement, while for other relatively minor crimes, community placement was required. After much consideration and research by a workgroup on community placement, it was determined that community placement should be required for two categories of offenses « violent offenses, and crimes against persons. Some examples of violent offenses for which there is currently no term of community placement are: first degree burglary, first degree manslaughter, second degree kidnapping, arson in the first and second degree, and first degree extortion, among others.

Testimony Against: None.

Testified: (In support) Roger Goodman, Sentencing Guidelines Commission.