

HOUSE BILL REPORT

ESSB 6157

As Passed House:

April 21, 2007

Title: An act relating to reducing offender recidivism by increasing access and coordination of offender services in communities through inventories of services and community transition coordination network pilot programs.

Brief Description: Changing provisions affecting offenders who are leaving confinement.

Sponsors: By Senate Committee on Ways & Means (originally sponsored by Senator Prentice).

Brief History:

Committee Activity: None.

Floor Activity:

Passed House: 4/21/07, 64-33.

Brief Summary of Bill

- Changes several areas of law to assist offenders who are released from the Department of Corrections facilities to successfully transition into the community while maintaining public safety including work release, community custody, Community Justice Centers for programming and information, education, licensing, housing, and requiring reentry planning.

Staff: Sonja Hallum (786-7092).

Background:

Offender Reentry Issues

Each year, thousands of offenders return to the community from Washington prisons after completing their sentences. Research from the Washington State Institute of Public Policy (WSIPP) shows that approximately 54 percent of these offenders will commit a new felony within 13 years. Further, the Washington Caseload Forecast Council estimates that under existing policies, Washington's incarceration rate will increase 23 percent by the year 2019.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In 2005, the Legislature directed the WSIPP to report, by October 2006, whether evidence-based and cost-beneficial policy options exist to alleviate the need to build more prisons. The WSIPP concluded that several programs directed to adult offenders can have a positive impact on recidivism and produce significant cost savings for the state of Washington.

Earned Release

The Department of Corrections (DOC) may reduce an offender's term of confinement through earned release time. Earned release time may be granted for good behavior and good performance and can be taken away for disciplinary reasons.

An offender convicted of a serious violent offense or a class A felony sex offense, on or after July 1, 2003, may obtain earned release time. Such an offender may not have his or her term reduced by more than 10 percent via earned release time.

Certain other offenders can have their confinement reduced by up to 50 percent. The DOC must perform a risk assessment of eligible offenders and classify them into four risk groups. An offender may have his or her term of confinement reduced by up to 50 percent via earned early release time if he or she is among the lowest risk offenders and does not have criminal history that would preclude the offender from being eligible for the earned release.

Education

In 1995, the Legislature adopted a law requiring the DOC to prioritize its available resources to meet the following educational goals, specified in order of priority:

- (1) achievement of basic academic skills through obtaining a high school diploma or its equivalent, and achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release;
- (2) additional work and education programs that are compatible with an offender's case management plan; and
- (3) other work and education programs as appropriate.

The 1995 legislation required the DOC to develop a formula by which inmates would contribute to the cost of certain educational and vocational programs based on their ability to pay. The formula requires offenders to pay a portion of the costs or tuition for any second or subsequent vocational program associated with their work programs and any Associate of Arts or Baccalaureate degree programs that are part of their case management plans. The formula also requires offenders to pay all costs and tuition of any post-secondary academic program and any second or subsequent vocational program that is not part of their case management plan.

Community Custody

"Community custody" means that portion of an offender's sentence of confinement served in the community subject to controls placed on the offender's movement and activities by the DOC.

If the offender violates the conditions of community custody, the offender may be required to serve up to the remaining portion of the sentence, less credit for any period actually spent in community custody or in detention awaiting disposition on the alleged violation. If a sex offender violates any condition of community custody the DOC may impose a sanction of up to 60 days confinement in a local correctional facility for each violation. If the offender has served his maximum term of confinement, the DOC may impose sanctions available in the community.

An offender accused of violating a condition of community custody is entitled to a hearing before the department before sanctions are imposed. The hearing is considered a disciplinary hearing and is not subject to the requirements of the Administrative Procedure Act.

Summary:

PART I - Community Transition Coordination Networks

Each county or group of counties is required to conduct an evaluation of the services available in the county or region to assist offenders in reentering the community and, by December 1, 2008, present its assessment to the policy advisory committee convened by the Department of Community, Trade and Economic Development (DCTED).

A Community Transition Coordination Network program (CTCN) is created within the DCTED. The CTCN program is a pilot project established for the purpose of awarding grants to counties or groups of counties for implementing coordinated reentry efforts for offenders returning to the community.

A county, or group of counties, may apply for grant funds to utilize evidence-based or promising practices to support successful, community-based offender reentry. Among other components, the county or group of counties wishing to implement a network must collaborate with the DOC, address methods to identify offenders' needs, and connect the offender with needed resources and services that support reentry into the community.

Counties receiving grant funds must work with the WSIPP to establish data tracking mechanisms and conduct an evaluation at the completion of the pilot program. The grant program extends for a period of four fiscal years, beginning July 1, 2008, and ending June 20, 2012.

No county is required to establish a CTCN program and there is not an entitlement for a county or group of counties to receive funding to create a CTCN program.

The duties of local Law and Justice Councils are revised to include consideration of mechanisms for sharing information regarding offenders and developing partnerships between the DOC and community policing and supervision programs to facilitate supervision of offenders.

The following requirements for the DOC are removed:

- to establish base levels of state correctional services to be distributed statewide;
- creation of advisory councils to review juvenile justice proportionality and state and local officials who make recommendations regarding state and local correctional systems; and
- the monitoring and reporting to the Sentencing Guidelines Commission on proportionality and cultural relevance issues are removed.

PART II - Individual Reentry Plan

Intent language in the bill states that Individual Reentry Plans (IRP) are intended to be a tool for the DOC to identify the needs of an offender and to assist the DOC in targeting programs to offenders with the greatest need, to the extent funding is available. The IRP is not, however, a guarantee that the offender will not recidivate.

The DOC is required to develop an IRP for virtually all inmates in DOC custody. The IRP establishes a plan for the offender during the period of incarceration through release into the community and addresses programming for the offender while incarcerated and a plan for the offender to follow upon release to facilitate successful reintegration into the community.

The initial IRP is created within 60 days of the initial assessment of the offender. The plan is updated during the period the offender is incarcerated and prior to discharge.

An offender released to community supervision, community custody, or community placement, must be returned to his or her county of origin, unless return to his or her county of origin would be inappropriate considering victim safety, negative influences on the offender in the community, or the location of family or other supports.

PART III - Partial Confinement and Supervision

Residential Work Release Centers

The WSIPP is required to conduct an analysis of residential reentry and work release programs to identify evidence-based practices for Washington. The institute should identify optimal services or combination of services to be provided to offenders reentering the community through work release programs.

The DOC is required to convene a work group to review current laws and policy regarding work release and make recommendations to the Governor and Legislature for changes to transform work release facilities into residential reentry centers. The DOC must report the results and recommendations from the work group to the Governor and the Legislature by November 15, 2008.

Community Justice Centers

The DOC must continue to establish Community Justice Centers (CJC) throughout the state with a minimum of six facilities to be established by December 1, 2009, and three additional facilities to be established by December 1, 2011. The CJCs are nonresidential facilities and must include a violator program to utilize sanctions for violations of supervision, an

employment opportunity program, and resources for connecting offenders with services. The DOC must also designate a transition coordinator to facilitate connections between the former offender and the community.

Beginning July 1, 2007, the DOC must prepare a list of counties in which work release facilities and CJs are anticipated to be located within the next three years and transmit the list to the Office of Financial Management and the counties on the list. In preparing the list of counties, the DOC must make substantial efforts to provide for the equitable distribution of the facilities. Equitable distribution means siting of the facilities in a manner that reasonably reflects the proportion of offenders sentenced to the custody or supervision of the DOC and, to the extent practicable, the proportion of offenders residing in the particular areas.

Earned Release

In order to qualify for 50 percent earned release an offender must participate in programming, so long as the programming is available to the offender, and must not have committed a new felony after the effective date of the act while under supervision.

If the DOC denies transfer to community custody in lieu of earned early release, the DOC may transfer the offender to partial confinement for up to three months in lieu of earned early release.

The offender may spend no more than the final six months of the offender's term of confinement in partial confinement, in addition to any time exchanged for partial confinement.

Violations

If an offender has not completed his or her maximum term of total confinement, and is subject to a third violation hearing for a violation of any condition of community custody, the DOC must return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence if the offender is found to have committed the violation. However, the offender will not be required to serve up to the entire remainder of the sentence if it is determined that returning the offender to a state correctional facility would substantially interfere with the offender's ability to maintain necessary community supports or to participate in necessary treatment or programming and would substantially increase the offender's likelihood of reoffending.

An offender who is arrested while on community custody, community supervision, or community placement, for a new felony offense must be held in total confinement until a DOC hearing on the violation or until being formally charged for the offense.

Review of Policy

A task force is created to review laws related to community custody and community supervision. The task force is comprised of 15 members, including legislative and non-legislative members. The task force is required to review statutes related to community custody and community supervision of offenders, make recommendations related to

sentencing to assist Community Corrections Officers in more easily identifying statutory requirements related to an offender's sentence and community custody and supervision, make recommendations regarding the violation hearing process, and make recommendations regarding simplifying statutory language. The task force is required to report to the Legislature by November 1, 2007.

The DOC is required to conduct an updated community corrections workload study and report the results of the that study to the Governor and Legislature on or before November 1, 2007.

PART IV - Education

The DOC is to fund basic academic skills including obtaining a high school diploma or its equivalent; achievement of vocational skills necessary for purposes of work programs and for an inmate to qualify for work upon release; and additional work and education programs necessary for compliance with an offender's individual reentry plan (except post-secondary education). However, an offender must pay the costs of education or vocational training if the offender previously withdrew from a program without excuse as defined by the DOC.

Other vocational work or education programming that is not necessary for compliance with the IRP must be paid by the inmate according to a sliding scale formula.

A third party may pay all or a portion of the costs and tuition for any programming. Payments for this purpose must not be subject to any of the deductions usually taken from payments to the offender that are applied toward the legal financial obligations of the offender.

The DOC must implement postsecondary education degree programs within state correctional institutions to the extent funding is provided. An inmate must pay for the costs of a postsecondary education degree program by paying for the program themselves, receiving funding from a third party, or by obtaining a loan from the DOC. The DOC must establish a process for awarding loans to the extent that funds are appropriated for that purpose. The inmate must repay the loan beginning two years after release. The DOC is to determine the amount of interest to be accrued on loan at the time of collection. Money collected is reinvested in the loan program.

The DOC and the State Board for Community and Technical Colleges must investigate and review methods to optimize educational and vocational programming opportunities for offenders. The DOC and the State Board must report to the Governor and the Legislature no later than July 1, 2008.

The WSIPP must conduct a comprehensive analysis and evaluation of evidence-based correctional education programs and the extent to which Washington's programs are in accord with these practices. The WSIPP must report to the Governor and the Legislature no later than November 15, 2007.

The following requirements are removed:

- The DOC must reduce the per pupil cost of education through the use of volunteer instructors and electronic learning methods.

- The DOC shall adopt a plan to demonstrate how cable, closed circuit, and satellite television will be used for educational and training purposes.
- All vocational and educational programs must be relevant to work programs to enable the inmate to become employed upon release.

PART V - Employment Barriers

The DOC and the Department of Licensing must enter into an agreement to expedite procedures to assist offenders in obtaining a drivers license or identification card upon release from a DOC institution. The Department of Licensing is also required to convene a work group to review and recommend changes to occupational licensing laws and policies to encourage the employment of individuals with criminal convictions while ensuring the safety of the public.

PART VI - Housing

A landlord who rents to an offender is not liable for civil damages arising from the criminal conduct of the tenant if the landlord discloses to residents that he or she has a policy of renting to offenders and takes steps to report or halt criminal activity if the landlord has actual knowledge of criminal activity on the landlord's premises.

The DCTED is required to establish an offender reentry transitional housing assistance pilot program to provide grants to eligible organizations to provide transitional housing to offenders who are reentering the community and are in need of housing. The pilot program will be located in a minimum of two locations and will be operated in collaboration with the CJC existing in the location of the pilot site. The transitional housing must be supportive housing.

The DOC is required to cooperate with the DCTED in determining an appropriate formula for the distribution of funds and developing rules, requirements and procedures for operation of the program, including eligibility. Priority for housing is to be given to offenders who are designated as high risk or high needs, or those without a viable release plan. The DOC is required to cooperate with organizations receiving grant funds to identify appropriate housing solutions, facilitate an offender's application for housing prior to discharge, and assist the offender in accessing appropriate services. Prior to placing an offender into housing, the DOC must analyze the risk the offender may pose to that particular community or other residents.

The state, DOC, DCTED, local government, local housing authorities, eligible organizations, and their employees are not liable for civil damages arising from the criminal conduct of an offender solely due to the placement of an offender in housing provided under the pilot program.

An offender may obtain the release of funds from his or her inmate savings account prior to discharge for the purpose of securing appropriate housing.

Appropriation: \$300,000 of State General Fund is appropriated for FY 2008 and \$300,000 of State General Fund is appropriated for FY 2009 to the DOC for the purpose of

implementing sections 305(2) and (4) of the act; \$900,000 of State General Fund is appropriated for FY 2008 and \$900,000 of State General Fund is appropriated for FY 2009 for the purposes of implementing sections 304 (1)(b)(ii)(D) and (E) of the act; and \$100,000 of State General Fund is appropriated for FY 2008 and \$100,000 of State General Fund is appropriated for FY 2009 for the purpose of implementing section 307 of this act.

Fiscal Note: Available for E2SSB 5070.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.