
Human Services Committee

E2SSB 5070

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

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Carrell, Regala, Hargrove, Kline, Weinstein, Stevens, Brandland, Parlette, McCaslin, Kastama, Holmquist, Zarelli, Pridemore, Schoesler, Clements, Rasmussen, Swecker, Roach, Franklin, Delvin, Sheldon, Eide, Spanel, Hewitt, Hatfield, Keiser, Pflug, McAuliffe, Berkey, Haugen, Fairley, Murray, Tom, Kohl-Welles, Shin and Kilmer).

Brief Summary of Engrossed Second Substitute Bill

- Changes several areas of law relating to transitioning offenders into the community upon release from Department of Corrections facilities including work release, community custody, Community Justice Centers for programming and information, education, licensing, housing, and requiring reentry planning.

Hearing Date: 3/20/07

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.

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.

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.

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 DOC before sanctions are imposed. The hearing is considered a disciplinary hearing and is not subject to the requirements of the Administrative Procedure Act.

Order of Discharge

When an offender has completed all requirements of the sentence, including any and all legal financial obligations, the offender is issued a certificate of discharge. The certificate of the discharge has the effect of restoring all civil rights lost upon conviction.

Legal financial obligations comprise court-imposed obligations to pay any of the following: restitution to the victim; statutorily imposed crime victims' compensation fees; court costs; county or inter-local drug fund assessments; court-appointed attorneys' fees and costs of defense; fines; reimbursement for emergency response expenses in cases of a driving while intoxicated (DWI)-related vehicular assault or vehicular homicide convictions; and any other financial obligation assessed to the offender as a result of a felony conviction.

Summary of Bill:

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, 2007, 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 to be conducted in up to four counties for a period of four years and is limited to offenders under county or city supervision programs.

The DCTED must invite counties or groups of counties to apply for grant funds to facilitate partnerships between local supervision agencies and service providers. Among other components, it is anticipated that a county or group of counties wishing to implement a network will 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 expires June 30, 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 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 - Liability

The state, local government, or its employees are not liable for acts or omissions in providing supervision services, including assessment and services associated with an individual reentry plan, unless the act or omission constitutes gross negligence.

PART III - Individual Reentry Plan

The DOC is required to develop an Individual Reentry Plan (IRP) for all inmates committed to the jurisdiction of the DOC. The IRP establishes a plan for the offender during the period of incarceration through release into the community. The plan is created with input from the offender and addresses programming for the offender while incarcerated and a plan for the offender to follow upon release that includes public safety concerns upon release, connection to a community justice center or CTCN, housing, employment, education, treatment needs, family reunification, and other areas needed to facilitate successful reintegration into the community.

The initial IRP is created following the initial assessment the offender receives within 30 days of entering the DOC facility. The plan is updated during the period the offender is incarcerated.

PART IV - 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 the state of Washington. The WSIPP should identify optimal services or a 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.

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 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.

Prior to locating a new CJC, the DOC must notify the county and/or city within which the CJC is proposed and consider comments received in response to the notice. The DOC must also make efforts to enter into a memoranda of understanding or agreements with the local community policing and supervision programs to facilitate and coordinate the supervision of offenders.

The DOC must prepare a list of counties in which work release facilities and CJCs 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.

Earned Release

In order to qualify for 50 percent earned release, an offender must participate in programming and must not have committed a new felony 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 commits a third violation of any condition of community custody, the DOC shall return the offender to total confinement in a state correctional facility to serve up to the remaining portion of his or her sentence. The DOC may choose not to return the offender to prison if it determines that returning the offender would interfere with the offender's rehabilitation and reintegration into the community.

An offender who is sentenced on or after the effective date, and who is returned to prison to complete the remainder of his or her sentence, is subject to 12 months community supervision after release.

An offender who is arrested while on community custody 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

The DOC must review laws and policy regarding the supervision of offenders through the DOC. The Sentencing Guidelines Commission must review state sentencing laws and policies in order to simplify supervision requirements.

PART V: 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 IRP (except post-secondary education).

Other appropriate vocational, work, or education programming that does not meet the above requirements 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 or donated for that purpose. The inmate must repay

the loan beginning two years after release. The loan does not accrue interest. 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 November 15, 2007.

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 1, 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 VI - Employment Barriers

A business and occupation tax credit and a utility tax credit are created. Employers who hire previously incarcerated individuals may take one of the credits when they meet the specific criteria for the credit. The credit is \$1,000 per qualifying employee who worked at least 780 hours in the first year of employment.

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 VII - 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.

The Offender Reentry Transitional Housing Assistance Program is created in the DCTED. 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. The DOC is required to cooperate with organizations receiving grant funds to identify appropriate housing solutions, facilitate an offender's application for housing and assist the offender in accessing appropriate services.

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.

PART VIII - Restoration of Civil Rights

A convicted felon's right to vote is provisionally restored once he or she is no longer under the jurisdiction of the DOC. The sentencing court may revoke the provisional restoration of voting rights if the person willfully fails to comply with the terms of his or her legal financial obligations.

The county clerk must enter the names of all persons whose rights have been restored or whose provisional rights have been revoked. Twice a year the Secretary of State must compare the list of registered voters to the list of felons who are not eligible to vote.

PART IX - Oversight Committee

A Legislative Corrections Oversight Committee is created to monitor activities of the DOC and ensure compliance with relevant statutes, laws, and policies. Among other duties, the committee may request and receive reports regarding investigations by the Ombudsman, implementation of the recommendations of the Joint Task Force on Offenders programs, sentencing and supervision as well as the provisions of this act, and monitor coordination and collaboration between local government and the DOC.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed. However, the bill is null and void unless funded in the budget.