

HOUSE BILL REPORT

HB 3045

As Reported by House Committee On:
Human Services

Title: An act relating to creating alternatives to total confinement for nonviolent offenders with minor children.

Brief Description: Creating alternatives to total confinement for nonviolent offenders with minor children.

Sponsors: Representatives Roberts, Dickerson, Seaquist, Goodman, Carlyle, Green, Kagi, Upthegrove, Appleton and Darneille; by request of Department of Corrections.

Brief History:

Committee Activity:

Human Services: 1/27/10, 1/28/10 [DPS].

Brief Summary of Substitute Bill

- Creates a new sentencing alternative for offenders with minor children; it is called the Parenting Sentencing Alternative.
- Creates the Parenting Program to allow offenders who are already serving a sentence within the Department of Corrections and who would otherwise be eligible for the Parenting Sentencing Alternative to be released on home detention for up to the final 12 months of their sentence.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Darneille, Green, O'Brien and Walsh.

Minority Report: Do not pass. Signed by 1 member: Representative Herrera.

Staff: Linda Merelle (786-7092).

Background:

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.

Adult offenders who committed felonies on or after July 1, 1984, are subject to the provisions of the Sentencing Reform Act (SRA) of 1981, as amended. The statutes contain guidelines and procedures used by courts to impose sentences that apply equally to offenders in all parts of the state based upon the defendant's previous criminal record. The SRA provides guidance for judicial discretion by providing standard sentencing ranges for courts to follow for a given offense and a given criminal history of an offender.

For some types of offenses and offenders, sentencing courts have discretion to order alternative sentences. These are statutory alternatives to the standard sentence range for certain offenders who meet the eligibility criteria. These alternative sentences include the First-time Offender Waiver (FTOW), the Drug Offender Sentencing Alternative (DOSA), and the Special Sex Offender Sentencing Alternative (SSOSA).

First-time Offender Waiver.

The FTOW is available for certain nonviolent offenders who have not been previously convicted of a felony offense in this state, in federal court, or in another state, and who have never participated in a program of deferred prosecution for any felony.

Drug Offender Sentencing Alternative.

If a defendant is charged with an offense under the Violation of the Uniform Controlled Substances Act or any other felony and the court finds that the offender has a chemical dependency that contributed to the crime, the offender may be eligible for and move the court for a DOSA.

Special Sex Offender Sentencing Alternative.

The SSOSA is a special sentencing option which allows community treatment of sex offenders and a reduced period of confinement if they are eligible.

Summary of Substitute Bill:

Parenting Sentencing Alternative.

Under this act, the Parenting Sentencing Alternative is created. An offender is eligible for this sentencing alternative if:

- the high end of the standard sentence range for the current offense is greater than one year;
- the offender has no current convictions for a sex offense or violent offense;
- the offender is not subject to a deportation detainer or order and will not become subject to a deportation order during the period of the sentence;
- the offender signs any necessary release of information waivers to allow information regarding current or prior child welfare cases to be shared with the Department of Corrections (DOC) and the court; and

- the offender has physical custody of his or her minor child, or is a legal guardian or custodian with physical custody of a child under age 18, at the time of the current offense.

The court may order a risk assessment report and/or a chemical dependency screening report prior to sentencing. If the court is considering this alternative, the court must request that the DOC contact the Children's Administration of the Department of Social and Health Services or a tribal child welfare agency to determine if the agency has any open or prior cases of substantiated referrals of abuse and/or neglect involving the offender. A report from the Children's Administration must be provided within seven business days. A report from a tribal child welfare agency must be provided in a timely manner.

The court must also consider the offender's criminal history when determining if the sentencing alternative is appropriate.

If the court determines that the offender is eligible for the Parenting Sentencing Alternative, the court will waive imposition of the sentence within the standard sentence range and impose a sentence of 12 months of community custody. The court may impose conditions of community custody, including affirmative conditions that the court deems appropriate. The conditions may include parenting classes, chemical dependency treatment, mental health treatment, vocational training, offender change programs, and life skills classes.

Violations of conditions of community custody are reported to the court. The DOC must provide quarterly progress reports to the court and must seek to coordinate services with the Children's Administration when an offender has an open child welfare case. The court may review the offender's compliance with the conditions of community custody under the Parenting Sentencing Alternative and may modify the conditions or impose sanctions. If the offender violates the conditions or requirements of the sentence or the offender is failing to make satisfactory progress in treatment, the court may order the offender to serve a term of total confinement within the standard range of the offender's current offense at any time during the period of community custody.

Parenting Program.

If an offender who is already serving a sentence within the DOC and is otherwise eligible for the Parenting Sentencing Alternative, he or she may be eligible for partial confinement in the form of home detention for a period not to exceed the final 12 months of confinement. Except for custody of the minor child, the same criteria would apply as if the offender were being sentenced to this alternative. In this circumstance, the offender must have a proven, established, ongoing, and substantial relationship with his or her minor child that existed prior to the commission of the current offense or the offender must be the legal guardian of a child that was under the age of 18 years at the time of the current offense.

The DOC must determine that such placement would be in the best interests of the child. If the offender has an open child welfare case with the Children's Administration, the DOC must collaborate and communicate with the identified social worker in the provision of services. All offenders placed on home detention as a part of the Parenting Program must provide an approved residence and living arrangement. The DOC has the authority to return

any offender serving partial confinement in the Parenting Program to total confinement if the offender is not complying with Parenting Program requirements.

The DOC and its officers and agents are not liable for the acts of offenders participating in the Parenting Program unless they acted with willful and wanton disregard.

Substitute Bill Compared to Original Bill:

The requirement that an offender sentenced to the Parenting Sentencing Alternative pay \$30 per month to offset the cost of monitoring for alcohol and controlled substances has been removed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) We have learned so much about the parent-child connection. An arrangement such as this brings us out of our silos. A bill that uses the terminology that a placement is in the best interest of the child would suggest that there are more savings than reflected in the fiscal note because it would keep children out of foster care. Offenders sentenced to this alternative or participating in this program are assigned to a community corrections officer (CCO) with a very specialized case load. Partial confinement will reduce recidivism of non-violent offenders with special needs. The CCO would monitor compliance with programming and treatment compliance. Criteria for eligibility for partial confinement are not in the statute. There is a net savings after some of the moneys have been flipped for chemical dependency services and staff. We believe in second chances. The children are imprisoned when their parents are imprisoned. This will affect many children and many women. This is a way to keep families together and keep children out of foster care.

(Opposed) None.

Persons Testifying: Representative Roberts, prime sponsor; Anna Aylward and Clela Steelhammer, Department of Corrections; Thea Oliphant-Wells; and Julia Aten.

Persons Signed In To Testify But Not Testifying: None.