

# SENATE BILL REPORT

## SB 5288

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As of January 23, 2009

**Title:** An act relating to offender risk assessments.

**Brief Description:** Reducing the categories of offenders supervised by the department of corrections.

**Sponsors:** Senators Hargrove, Stevens, Regala and Shin.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/20/09.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Staff:** Shani Bauer (786-7468)

**Background:** When the Sentencing Reform Act was passed by the Legislature in 1984, it contained very limited provisions for the supervision of offenders. Over time, the Legislature added back supervision in varying lengths of time and for varying offenses.

In 1999 the Legislature passed the Offender Accountability Act (OAA). The OAA extended community custody to all sex offenses, all violent offenses, all crimes against persons, and all felony drug offenses. It also required the Department of Corrections (DOC) to utilize a validated risk assessment and supervise offenders according to their risk level. In 2003 due to tough budget circumstances, the Legislature restricted the types of offenders that DOC could supervise and increased earned early release for certain offenders from one-third to 50 percent of their sentence. The supervision scheme has largely remained the same since the 2003 changes.

Currently DOC must supervise any offender who has been sentenced to community custody and every misdemeanor or gross misdemeanor probationer ordered by the superior court to probation if:

- a risk assessment places the offender in one of the two highest risk categories; or
- regardless of the offender's risk category:
  - the offender or probationer has a conviction for:
    - a sex offense;
    - a violent offense;
    - a crime against persons;

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- a felony that is domestic violence;
- residential burglary;
- the manufacture, delivery, or possession of methamphetamine; or
- delivery of a controlled substance to a minor;
- the offender has a prior conviction for any of the above listed offenses;
- the conditions of the offender's supervision include chemical dependency treatment;
- the offender was sentenced to a First Time Offender Waiver (FTOW) or Special Sex Offender Sentencing Alternative (SSOSA); or
- supervision is required by the Interstate Compact for Adult Offender Supervision.

DOC is prohibited from supervising any offender who does not fall within one of these categories.

DOC has utilized a validated risk instrument, the Level of Service Inventory (LSI-R), to place the offender in one of four risk categories designated as Level A, B, C, and D. Last year, the Washington State Institute for Public Policy (WSIPP) developed an improved risk assessment tool for DOC that will classify offenders as High Risk Violent, High Risk Nonviolent (property and drug), Moderate Risk, and Low Risk. DOC is in the process of implementing this new tool with its current caseload

**Summary of Bill:** DOC must supervise any offender sentenced to community custody and every misdemeanor or gross misdemeanor probationer ordered by the superior court to probation if:

- a risk assessment classifies the offender as a high risk to reoffend; or
- regardless of the offender's risk classification:
  - the offender has a current or prior conviction for a sex offense and has been assessed as a Level III sex offender or is subject to the jurisdiction of the Indeterminate Sentence Review Board (ISRB) and the ISRB determined the offender should be supervised;
  - the offender was sentenced to FTOW or SSOSA; or
  - supervision is required by the Interstate Compact for Adult Offender Supervision.

DOC is required to assess an offender's risk utilizing the risk assessment tool recommended by WSIPP.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Proposed First Substitute):** DOC is required to supervise all indeterminate offenders and low to moderate risk sex offenders except those who are sentenced to community custody only for a failure to register. DOC may terminate supervision for a low or moderate risk sex offender if twelve months have passed, the offender has satisfied critical conditions of his or her sentence, and has not been found guilty of a violation. Supervision for misdemeanor and gross misdemeanor probationers is eliminated.

**Appropriation:** None.

**Fiscal Note:** Requested on January 16, 2009.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:** PRO: We understand that there is a need to find savings in the state budget and, therefore, cut back in those areas that have the least impact to community safety. We support in principle what has been proposed and agree that current supervision isn't all that effective for these low risk populations. Generally, this supervision doesn't detect crime and doesn't increase community safety. We would like the opportunity to have some input on those low risk offenders that are added back to supervision. Supervision for sex offenders should not be tied to their risk level in the community. It would also be helpful to clarify that the Drug Offender Sentencing Alternative offenders will get supervision. The ISRB should determine whether indeterminate offenders and determinate plus offenders are supervised.

CON: There are serious concerns with the new assessment tool. The tool has only been in use for six months and there was a problem identified where all offenders had to be reassessed. The tool has had no actual field validation. More offenders are coming out as moderate or low risk than previously were in the C and D level risk categories. We would also like to see more supervision for domestic violence offenders. This is a truth in sentencing issue. Offenders are sentenced with community custody, but many will not be supervised.

**Persons Testifying:** PRO: Don Pierce, Washington Association of Sheriffs and Police Chiefs; Tom McBride, Washington Association of Prosecuting Attorneys; Jeri Costa, ISRB.

CON: Ginger Richardson, Washington Federation of State Employees.