FINAL BILL REPORT
SSB 6673

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Synopsis as Enacted

Brief Description: Appointing a task force to study bail practices and procedures.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin, Carrell, Kohl-Welles, Gordon, Regala, Roach, Hargrove and Tom).

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: There has been discussion in Washington State that current bail practices, procedures, and pretrial release conditions can be improved. There are a variety of sources from which to obtain information and guidance regarding bail, including statute, case law, state and local court rules, and the Constitution.

Under Article I, Section 20 of the Washington State Constitution the right to bail is guaranteed for people charged with noncapital crimes. For capital offenses there is no right to bail. Pretrial release and bail are favored by courts in appropriate circumstances because the accused is presumed innocent and because the state is relieved of the burden of detention. The purpose of bail is to secure the accused's presence in court; bail is neither punishment nor a revenue collection vehicle. *See State v. Banuelos*, 91 Wn. App. 860, 863 (1998); *Landry v. Luscher*, 95 Wn. App. 779, 778 (1999); *United States v. Salerno*, 481 U.S. 739, 746-47 (1987) (overruled on other grounds). Courts have inherent power and the statutory authority to make rules regarding procedure and practice in the courtroom. Courts have ruled that setting bail and releasing individuals from custody is a traditional function of the courts. *State v. Blilie*, 939 P.2d 691, 693, 695 (1997); *Westerman*, 125 Wn.2d at 290-91. The courts have stated that bail schedules and other procedures related to the release of an accused person are better left to the counties as long as they comport with constitutional due process.

General criminal court rules, which are promulgated by the Supreme Court, and local criminal court rules govern the release of an accused in superior court criminal proceedings. Wash. CrR 3.2, 3.2.1; 3.2. The criminal court rules provide a framework for judicial officers to follow in determining pretrial release and the conditions imposed. The Legislature enacted RCW 10.19.170 in 1996 that states, "Notwithstanding CrR 3.2, a court who releases a defendant arrested or charged with a violent offense as defined in RCW 9.94A.030 on the offender's personal recognizance or personal recognizance with conditions must state on the record why the court did not require the defendant to post bail."

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.

The Sentencing Guidelines Commission, at the request of the Senate Judiciary Committee, conducted a bail practices survey of the 39 counties in Washington State. Thirty of the 39 counties responded. Of those 39 counties, 23 reported that they had a formal or informal bail schedule. Of those 23 counties, seven reported using a bail schedule for superior court felony cases.

Summary: A legislative work group on bail is established. The work group must review all aspects of bail and pretrial release. Non-legislative members must seek reimbursement through their respective agencies or organizations. The work group must report its findings and recommendations to the Washington State Supreme Court, the Governor, and appropriate committees of the Legislature by December 1, 2010. The expiration of the task force falls on December 31, 2010.

Votes on Final Passage:

Senate	47	0	
House	97	1	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2010