

# FINAL BILL REPORT

## ESHB 1547

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### PARTIAL VETO C 206 L 11 Synopsis as Enacted

**Brief Description:** Concerning the deportation of criminal alien offenders.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Darneille, Hunter, Dickerson, Cody, Hunt, Kagi, Sullivan and Kenney).

**House Committee on Ways & Means**  
**Senate Committee on Human Services & Corrections**

#### **Background:**

Any alien offender who has been sentenced in Washington under the Sentencing Reform Act of 1981 and who has been found by the United States Attorney General to be subject to a final order of deportation or exclusion may be placed on conditional release status. If placed on conditional release status, the offender is transferred to the custody of the Immigration and Customs Enforcement (ICE) division of the U.S. Department of Homeland Security.

An offender may not be released on a conditional release status unless the Secretary of the Department of Corrections (Secretary) finds that such a release is in the best interest of the state. Conditional release status may only be allowed with the approval of the sentencing court and the prosecuting attorney of the county of conviction.

If an offender is serving a sentence for a violent offense, a sex offense, or an offense that is a crime against a person, he or she may not be placed on conditional release status. Once an offender is released to the ICE, the Department of Corrections (DOC) must issue a warrant for the offender's arrest within the United States which will remain in effect until the expiration of the conditional release. The unserved portion of an offender's term of confinement is tolled when the offender is released to the ICE. If the offender is arrested, the DOC must seek extradition as necessary, and the offender must be returned to the DOC for the completion of the unserved portion of his or her term of total confinement.

Prior to acceptance of a plea of guilty, the state court must determine that the defendant has been advised that the potential consequences of conviction include deportation, exclusion from admission to the United States, or denial of naturalization.

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*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.*

**Summary:**

The placement of an alien offender on conditional release status no longer requires the Secretary to find that such placement is in the best interest of the state. The approval of the sentencing court and the prosecuting attorney is no longer needed.

If an offender is serving a sentence for a violent offense or a sex offense, he or she may not be placed on conditional release status. Before an offender is placed on conditional release status, the Secretary is required to enter into an agreement with the ICE that once an alien offender has been released to the ICE and placed on conditional release status, that offender will remain in total confinement at a facility operated by the ICE pending the offender's return to his or her country of origin.

A warrant for the arrest of an offender issued upon release of the offender to the ICE remains in effect indefinitely. If an offender is arrested after being placed on conditional release status, the DOC may, but is not required to, seek extradition to have the offender returned to the DOC.

The provisions related to conditional release apply to persons convicted before, on, or after the effective date of the act.

Prior to accepting a defendant's guilty plea, a state court must advise the defendant that he or she may be subject to early release for removal as a consequence of conviction and that he or she may be able to contest removal.

The DOC must provide written notice of rights in removal proceedings to all offenders who are subject to early release. The notice must be provided as early in the removal process as feasible. The DOC must work with a nonprofit legal services organization that is qualified to appear in immigration court to create the written notice.

**Votes on Final Passage:**

House	85	11	
Senate	48	1	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	56	41	(House concurred)

**Effective:** April 29, 2011

**Partial Veto Summary:** The Governor vetoed the sections requiring a state court to advise a defendant that he or she may be subject to early release for removal as a consequence of conviction, and requiring the DOC to provide written notice of rights in removal for all offenders who are subject to early release.