

SENATE BILL REPORT

SB 5866

As of March 24, 2011

Title: An act relating to reducing prison sentences in order to generate correctional cost savings and invest in evidence-based programming.

Brief Description: Reducing prison sentences in order to generate correctional cost savings and invest in evidence-based programming.

Sponsors: Senators Kline and Hargrove.

Brief History:

Committee Activity: Human Services & Corrections: 3/22/11.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Shani Bauer (786-7468)

Background: Under the Sentencing Reform Act, offenders who commit felonies in the state of Washington are given sentences within standard (presumptive) sentence ranges unless an exceptional sentence is imposed. The appropriate presumptive range is determined by referencing the sentencing grid with the seriousness level of the current offense and the criminal history score of the offender. In most cases, an offender will receive a sentence within the standard range for that offense.

Offenders may earn early release time credit off of their ordered sentence of confinement. Offenders convicted of a serious violent offense or class A sex offense may get a maximum of 10 to 15 percent off of their sentence (depending on date of conviction) and all other offenders may get up to 33 percent off of their sentence. Confinement time served for certain sentencing enhancements, such as deadly weapon enhancements, and as part of a Special Sex Offender Sentencing Alternative (SSOSA) are not eligible for earned release time.

The 2003 Legislature increased earned release time for lower risk non-violent property and drug offenders from a maximum of 33 percent of the total sentence to a maximum of 50 percent. In a three-year follow-up study conducted by the Washington State Institute for Public Policy (the Institute) in 2009, the Institute found the fewer days spent in prison did not result in an increase in the crime rate and produced a net benefit in cost savings for the state. The statutory provision for 50 percent early release time expired July 1, 2010, and does not apply to offenders convicted after that date.

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 of Bill: Offenders serving a sentence of total confinement in prison must be credited with a reduction in his or her release date as follows:

- offenders classified as a low risk to reoffend must be given a 120-day credit;
- offenders classified as a moderate risk to reoffend must be given a 90-day credit; and
- offenders classified as a high nonviolent risk to reoffend must be given a 60-day credit.

The reduction must apply to an offender's sentence after the application of any earned early release time and applies regardless of whether the offender was convicted before, on, or after the effective date of this act. The reduction does not apply to any offender sentenced to life without parole or serving a term of confinement for murder, a sex offense, a Drug Offender Sentencing Alternative, or SSOSA.

Fifty percent of the savings generated from the sentence reductions must be reinvested in evidence-based programming as identified by the Institute.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill is a tradeoff. How much incarceration do you want and how much do you want to pay for it. The provisions of this bill result in a very strong likelihood of decreased crime in the future while also saving the state money. Although the Sentencing Guidelines Commission (SGC) was not unanimous on this issue, a majority voted to endorse this legislation. We understand that this bill comes out of budget necessity, but believe that utilizing the risk tool, which has proven to be effective, and investing some money back into evidence based programming is the best way to go about it. We would suggest that you maybe put a sunset provision on the bill and then a few years down the road have the SGC go back and amend the grid. There is some concern that the targeted money will not actually get delivered and members would appreciate more specific language in this regard.

CON: This bill sacrifices our principles with regard to truth in sentencing. This was the major value behind the Sentencing Reform Act and to create consistency so that everyone who committed the same crime with the same criminal history would get the same sentence. Washington ranks among the lowest in the country for prison population. The tradeoff of truth in sentencing to save some money is not something that should be sacrificed and erodes public confidence in the criminal justice system. It is clear that you can expect crime to go up at least initially as a result of this bill. Future projections are very unstable as the legislature tends to change the criminal justice system every year. We therefore don't really trust the projected decrease in crime will come to fruition. We all believe in diversion and treatment, but don't know that the money reinvested will pay for the number of people that are being released to the community. There are ways to find this kind of savings elsewhere. For example, the prosecutors do not oppose the alien deportation bill or reduction in

supervision for first-time offender waiver. This bill goes in a different direction by allowing time off for high non-violent offenders. We would appreciate the opportunity to work on other cuts that do not go to the heart of the system.

Public safety is the paramount duty of local government. We, more than anyone, understand the budget pain here. Many cuts to the state budget also create pressure on the local governments. What is different with this bill is that there is a known and immediate impact to community safety. We would urge you to continue to look at the balance between incarceration and supervision.

This is the wrong approach to finding budget savings. High non-violent offenders are the highest recidivists. Without programming, they will continue to recidivate. The victims that will feel the impact of this the most are the very persons who are affected most by the other cuts that are made in the budget.

OTHER: The challenge is that domestic violence offenses are not included in violent offenses. For this reason, domestic violence offenders often get less consequences than offenders who commit other violent crimes. Victims of domestic violence consistently feel that offenders are not held accountable. This bill would exacerbate that. Reinvestment in evidence based programs is needed to ensure that recidivism continues to go down. The Evidence-Based Community Custody (EBCC) Workgroup, therefore, supports the investment portion of this bill and is neutral as to where the cuts should be made.

Persons Testifying: PRO: Senator Kline, prime sponsor; Dave Boerner, SGC; Catherine Chaney, Washington Defenders' Assn., Washington Assn. of Criminal Defense Lawyers.

CON: Brian Enslow, WA State Assn. of Counties; Jon Tunheim, Thurston County Prosecutor's Office; Stew Menefee, Grays Harbor County Prosecutor's Office; Russ Hauge, Kitsap County Prosecutor's Office; Don Pierce, WA Assn. of Sheriffs and Police Chiefs.

OTHER: Sandy Mullins, EBCC Workgroup; Grace Huang, WA State Coalition Against Domestic Violence.