

# SENATE BILL REPORT

## SB 5486

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As of February 11, 2013

**Title:** An act relating to partial and total confinement options for offenders.

**Brief Description:** Providing partial and total confinement options for offenders.

**Sponsors:** Senators Kline, Shin and Nelson.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/07/13.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

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

**Background:** Generally, an offender who is convicted and receives a sentence of confinement of greater than one year must serve that term of confinement in a state correctional facility (prison). An offender who is convicted and receives a sentence of confinement of less than one year must serve that term of confinement in a county correctional facility (jail). Some specific sentences are served in a state correctional facility regardless of the term length, such as prison-based drug offender sentencing alternatives and sex offenders sentenced to a minimum and maximum term.

An offender who receives a sentence of greater than one year may spend very little time in a state correctional facility after subtracting any time served pre-trial and credit for earned early release. For example, an offender who was sentenced to 12 months may have served six months pre-trial and receive 33 percent or four months off for good time. The offender would spend no more than 60 days in the Department of Corrections' (DOC) custody and would likely never leave DOC's reception center.

Partial confinement means the offender spends a substantial portion of each day in an approved residence or other facility under contract with DOC, with the balance of the day spent in the community. Partial confinement may include home detention, work release, work crew, or home detention ordered by DOC as part of the parenting program. Home detention means a program of partial confinement available to offenders wherein the offender is confined in a private residence and subject to electronic surveillance. Home detention may not be imposed for a violent offense, a sex offense, a drug offense, assault in the third degree, assault of a child in the third degree, unlawful imprisonment, or harassment. Home detention

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may be imposed for possession of a controlled substance, burglary, or taking a motor vehicle without permission under certain conditions. An offender on home detention must seek and maintain employment or attend school and comply with court-ordered legal financial obligations.

**Summary of Bill:** If an offender has less than 120 days to serve of the offender's sentence at the time when the offender would otherwise be transferred to a state correctional facility, the offender must serve the remainder of their sentence in the local correctional facility. DOC may make an exception if the offender has a medical condition that would best be served in a state correctional facility. DOC must compensate the local jurisdiction at the agreed-upon rate for the time period the offender would have served in a state correctional facility.

An offender may spend the final 12 months of the offender's term of confinement in partial confinement, which may be directed by the court or by DOC. Partial confinement includes home detention, which may be served in a private residence or other facility utilized under contract with the state. An offender on home detention must be placed on electronic monitoring and must participate in programming and treatment that DOC determines is needed. DOC must assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements. DOC may return any offender serving a term of partial confinement to total confinement if the offender is not complying with the sentence requirements.

DOC may enter into contracts with public or private entities to provide transitional housing facilities for offenders who may be transferred to partial confinement. The entity must be able to provide transition support that enables an offender to participate in evidence-based programming such as substance abuse treatment, mental health treatment, and educational programming. Contracts for transitional housing must provide for:

- physical housing standards to ensure safe and quality housing;
- procedures for facilitated communication between the entity and the assigned certified corrections officer for offenders housed in the facility; and
- annual examinations to be conducted by DOC to ensure compliance with contractual standards.

An entity that provides transitional housing is not liable for civil damages for the criminal conduct of an offender to any greater extent than a regular tenant. The location of the facility is subject to the zoning laws of the city or county in which it may be situated and the siting provisions for a correctional facility.

DOC must establish, by rule, eligibility criteria for participation in the transitional housing program. Current statutory limitations for who may participate in home detention are removed.

DOC must supervise and consult with program participants, establish a written treatment plan for participants, and assist participants in locating available employment or vocational training opportunities. DOC may provide participants with transportation, suitable clothing and supplies, and a periodic stipend for food and other expenses. Participants must reimburse the program for expenses incurred. Employed participants must surrender their

paycheck to DOC so that DOC may deduct for reimbursement of costs, payment of room and board, child support, and the payment of legal financial obligations.

**Appropriation:** None.

**Fiscal Note:** Requested on February 6, 2013.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: We need to do better on offender reentry. This bill would increase the capacity of partial confinement and the time for transition. This would give an offender more time to reconnect with family, educational opportunities, and employment. The idea is to give an economic incentive to community members to provide housing for offenders. The jail program should be voluntary so that all counties do not have to participate and the rate should be negotiated between the county and DOC.

CON: Not all counties have the jail capacity to mandatorily take offenders. This would work if counties are allowed to individually contract with DOC for a negotiated rate.

OTHER: DOC values transition and community supports for offenders. We are interested in helping to work through the issues if this is the policy direction legislators want to take.

**Persons Testifying:** PRO: Senator Kline, prime sponsor; Dan Satterberg, King County Prosecutor's Office.

CON: Brian Enslow, WA State Assn. of Counties.

OTHER: Anmarie Aylward, DOC.