

HOUSE BILL REPORT

SB 5783

As Reported by House Committee On:
Public Safety

Title: An act relating to peace officers.

Brief Description: Authorizing peace officers to assist the department of corrections with the supervision of offenders.

Sponsors: Senators Rivers, Dandel, Fain, Sheldon, Hatfield and Benton.

Brief History:

Committee Activity:

Public Safety: 3/17/15, 3/31/15 [DPA].

Brief Summary of Bill
(As Amended by Committee)

- Requires the Department of Corrections to create a pilot program in which its duty officers, upon request of a general authority peace officer, would be required to respond to the location of the peace officer when the duty officer determines that a supervised offender at that location has violated the terms of the offenders supervision and that the violation merits either a warrantless arrest or search of the offender by the duty officer.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass as amended. Signed by 6 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Appleton, Moscoso and Pettigrew.

Minority Report: Without recommendation. Signed by 3 members: Representatives Hayes, Assistant Ranking Minority Member; Griffey and Wilson.

Staff: Cassie Jones (786-7303).

Background:

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.

If an offender violates any condition or requirement of a sentence, a community corrections officer (CCO) may arrest or cause the arrest of the offender without a warrant, pending a determination by the court or by the Department of Corrections (DOC). If there is reasonable cause to believe that an offender has violated a condition or requirement of the sentence, a CCO may require an offender to submit to a search of the offender's person, residence, automobile, or other personal property.

A CCO may also arrest an offender for any crime committed in the CCO's presence. The facts and circumstances of the conduct of the offender must be reported by the CCO, with recommendations, to the court, local law enforcement, or local prosecution for consideration of new charges. The CCO's report serves as the notice that the DOC will hold the offender for not more than three days from the time of notice for the new crime, except if the offender's underlying offense is for certain felony offenses, in which case the DOC will hold the offender for 30 days from the time of arrest or until a prosecuting attorney charges the offender with a crime, whichever occurs first. If a CCO arrests or causes the arrest of an offender, the offender must be confined and detained in the county jail of the county in which the offender was taken into custody. The sheriff of that county must receive and keep in the county jail, where room is available, all prisoners delivered to the jail by the CCO. Such offenders must not be released from custody on bail or personal recognizance, except upon approval of the court or authorized DOC staff, pursuant to a written order.

General authority Washington peace officer means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the State of Washington generally. This includes any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government.

Summary of Amended Bill:

The DOC is required to establish a pilot program in a county with 400,000 or more residents that borders the Columbia River, which would do the following:

- make sufficient numbers of duty officers available outside of normal business hours to respond to inquiries by general authority peace officers regarding supervised offenders believed to have violated the conditions of their supervision;
- require the duty officers to be able to determine if an offender is a supervised offender and the conditions of the offender's supervision;
- require the duty officers to be able to determine if a supervised offender has violated a condition of supervision;
- require a duty officer to respond to the location of a general peace officer when the duty officer determines that there is reasonable cause to believe that an offender is in violation of a condition of supervision and that the violation merits either a warrantless arrest or search of the supervised offender; and
- permit a general authority peace officer to detain a supervised offender pending the arrival of the duty officer.

The DOC is only required to establish the pilot program if funds are specifically appropriated for that purpose.

The pilot program must be operational by October 1, 2015, and expires October 1, 2017.

Amended Bill Compared to Original Bill:

All provisions of the original bill, which granted authority to general and limited authority peace officers to search, detain, and arrest offenders that have violated the terms of their community supervision, are removed.

The amended bill requires the DOC to establish a pilot program in a county with 400,000 or more residents that borders the Columbia River, which would do the following:

- make sufficient numbers of duty officers available outside of normal business hours to respond to inquiries by general authority peace officers regarding supervised offenders believed to have violated the conditions of their supervision;
- require the duty officers to be able to determine if an offender is a supervised offender and the conditions of the offender's supervision;
- require the duty officers to be able to determine if a supervised offender has violated a condition of supervision;
- require a duty officer to respond to the location of a general peace officer when the duty officer determines that there is reasonable cause to believe that an offender is in violation of a condition of supervision and that the violation merits either a warrantless arrest or search of the supervised offender; and
- permit a general authority peace officer to detain a supervised offender pending the arrival of the duty officer.

The DOC is only required to establish the pilot program if funds are specifically appropriated for that purpose.

The pilot program must be operational by October 1, 2015, and expires October 1, 2017.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 1, 2015.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support of original bill) There have been dramatic cutbacks in CCOs. The CCOs keep offenders on the straight and narrow. This bill is a solution to help assure community safety. It takes more than just CCOs to hold the offenders accountable. Everyone wants to live in a safer community and that is what this bill is about. Across the state, there are law enforcement officers who make daily contact with individuals on community custody. These

offenders have waived their constitutional rights regarding search and seizure. This bill would give law enforcement the authority to search individuals on community custody and hold them accountable for violations of the rules of supervision.

(With concerns on original bill) This is a well-intentioned bill. On the surface it makes sense to have law enforcement helping CCOs. There may be some unintended consequences. Parole and supervision are complicated issues. There are many different types of supervision. Some types could warrant an immediate arrest for a violation but some do not. This could lead to unlawful detentions. Swift and certain sanctions do not apply to every violation. Peace officers have not received the training that CCOs have had on appropriate sanctions. Also, CCOs try to give an offender tools to succeed and peace officers may not have these tools.

(Opposed on original bill) The CCOs can already enforce violations of community custody. This would take law enforcement away from their primary functions of investigations. This bill would also erode the privacy of individuals who live with probationers. There would also be no way for the courts to review what the officers have done with regard to the searches. The bill is too broad because it includes limited authority police officers. This bill is dangerous and unnecessary.

(Information only) There have been significant cuts to CCOs and caseloads over the last several years. Laws have been passed focusing on supervision of high risk offenders and as a result, lower risk offenders have been removed from supervision and some CCO positions have been lost. The work of a CCO is difficult and complex, and staff do an excellent job.

Persons Testifying: (In support of original bill) Senator Rivers, prime sponsor; Jason Grauneman, Clark County Sheriff's Office.

(With concerns on original bill) Matt Zuvich, Washington Federation of State Employees.

(Opposed on original bill) Mark Muenster, Washington Association of Criminal Defense Lawyers.

(Information only) Anna Aylward, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.