

HOUSE BILL REPORT

SSB 6531

As Passed House:
March 29, 2016

Title: An act relating to changing who the department of corrections is required to supervise based on the current offense as defined in RCW 9.94A.501(4)(e)(ii) and the maximum duration of community custody as defined in RCW 9.94A.501(8).

Brief Description: Changing who the department of corrections is required to supervise based on the current offense as defined in RCW 9.94A.501(4)(e)(ii) and the maximum duration of community custody as defined in RCW 9.94A.501(8).

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senator Hargrove; by request of Department of Corrections).

Brief History:

Committee Activity:

None.

Floor Activity:

Passed House: 3/29/16, 76-18.

Brief Summary of Substitute Bill

- Limits the time period by which the Department of Corrections may supervise an offender on community custody, by creating statutory maximum supervision periods, unless an exceptional sentence is imposed.

Staff: Yvonne Walker (786-7841).

Background:

Community custody is the portion of an offender's sentence served in the community subject to supervision by the Department of Corrections (DOC). While on community custody, offenders are subject to a variety of conditions imposed by the court and the DOC. If an offender violates the conditions, the offender may be required to serve up to the remaining portion of his or her sentence in confinement.

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.

Certain felony offenses carry a mandatory term of community custody as imposed by the courts. For instance, if an offender is sentenced to the custody of the DOC for a sex offense or a serious violent offense, the court must, in addition to the other terms of the sentence, sentence the offender to community custody for three years. If the offender is convicted of a violent offense (that is not a serious violent offense), the court must sentence the offender to 18 months of community custody. Other offenders that have been convicted of a crime against persons, Unlawful Possession of a Firearm where the offender is a criminal street gang member or associate, a drug offense, or a first felony violation of Failure to Register, must be sentenced to one year of community custody.

The DOC also provides community custody supervision to offenders who:

1. are convicted of the following misdemeanor and gross misdemeanor offenses and are sentenced to probation in superior court:
 - Sexual Misconduct with a Minor in the second degree;
 - Custodial Sexual Misconduct in the second degree;
 - Communication with a Minor for Immoral Purposes;
 - nonfelony Failure to Register as a Sex Offender; and
 - a repetitive domestic violence offense;
2. are classified as high risk to reoffend; or
3. regardless of risk classification, are convicted of a sex offense or serious violent offense, identified as a dangerous mentally ill offender, have an indeterminate sentence, have a current conviction for a felony level Failure to Register offense, have a current conviction for a domestic violence felony offense, are sentenced to an alternative to incarceration sentence, or are convicted of a vehicular homicide, vehicular assault, or driving under the influence offense, or are convicted of a determinate plus sex offense.

Washington v Bruch.

In *Washington v Bruch* the Supreme Court reviewed a case where a defendant was convicted of two counts of second degree Child Molestation and two counts of third degree Rape of a Child. The trial court imposed a standard range sentence of 116 months of confinement and ordered community custody for a period of at least 4 months, plus all accrued earned early release time at the time of release. The defendant appealed his sentence, arguing that the court-imposed term of community custody was indeterminate and may exceed the statutory requirement of three years of community custody. The Supreme Court rejected Bruch's challenge, ruling that the total sentence did not exceed the applicable statutory maximum sentence for the offense.

Summary of Bill:

The period of time that the DOC may supervise an offender is limited to the statutory maximum periods authorized in statute for community supervision unless the court imposes an exceptional term of community custody.

In addition, a statutory amendment is made to clarify that the DOC must supervise an offender sentenced to community custody if the person has a current conviction for a domestic violence felony offense where domestic violence was plead and proven.

Appropriation: None.

Fiscal Note: Available.

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