

SENATE BILL REPORT

SB 6531

As Reported by Senate Committee On:
Law & Justice, March 28, 2016

Title: An act relating to changing who the department of corrections is required to supervise.

Brief Description: Changing who the department of corrections is required to supervise.

Sponsors: Senator Hargrove; by request of Department of Corrections.

Brief History:

Committee Activity: Law & Justice: 3/28/16, 3/28/16 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6531 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Frockt, Pearson and Roach.

Staff: Lindsay Erickson (786-7465)

Background: Community Supervision. The Department of Corrections (DOC) is required to supervise the following offenders sentenced to community custody:

1. offenders who are classified at a high risk to reoffend; and
2. regardless of risk classification, those offenders who:
 1. are convicted of a sex offense or serious violent offense;
 2. are identified as dangerously mentally ill;
 3. have an indeterminate sentence;
 4. are convicted of a failure to register;
 5. have a current conviction for domestic violence felony offense where domestic violence was pleaded and proven after August 1, 2011, and a prior conviction for a repetitive domestic violent offense or domestic violence felony offense where domestic violence was pleaded and proven after August 1, 2011 (this section applies only to offenses committed prior to July 24, 2015);
 6. have a conviction for a domestic violence felony offense where domestic violence was pleaded and proven;

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.

7. are sentenced to a Drug Offender Sentencing Alternative, Special Sex Offender Sentencing Alternative, Parenting Sentencing Alternative, or First Time Offender Waiver;
8. must be supervised under the Interstate Compact;
9. are convicted and sentenced for vehicular homicide, vehicular assault, felony DUI, or felony physical control; or
10. are certain misdemeanor sex offenders and repeat domestic violence offenders.

Supervision for Domestic Violence (DV) Offenders. In 2015, Senate Bill 5070 amended the law to require the DOC to supervise an offender with a conviction for a DV felony offense where DV was plead and proven, regardless of risk classification. The new language did not specify if the law should apply to offenders with prior DV convictions, current DV convictions, or both. Prior to the enactment of SB 5070, offenders with a current DV conviction needed at least one prior conviction for a repetitive DV offense in order to be placed under mandatory DOC supervision.

State v. Bruch Washington Supreme Court Case (2015). In *State v. Bruch*, the 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." Bruch challenged the sentence and argued 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 reasoned that the statutory scheme contemplates that an offender might serve more time in community custody than imposed by the sentencing court if he earns early release. The court stated that the trial court's intended sentence - a total term of 120 months - is not undermined by giving effect to the DOC's authority to transfer earned early release into community custody.

Summary of Bill (Recommended Substitute): Clarifies that the DOC must supervise an offender ordered to community custody by the court for a current plead and proven DV conviction, regardless of risk.

Authorizes the DOC to supervise offenders up to the length of supervision that can be imposed by a court.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute): Title was changed to be more narrow.

Appropriation: None.

Fiscal Note: Available.

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: The first portion of the bill will clarify which domestic violence offenders the DOC must supervise and is consistent with the intent of SB 5070 from 2015. The second portion of the bill says that the DOC will now supervise up to the amount of time of community custody that the court could have imposed. The fiscal note for the bill is based solely on the *Bruch* portions of the bill, because DOC does not know the impact of the portions relating to domestic violence offender supervision. The *Bruch* portion of the bill relating to the statutory maximum is projected to reduce some DOC staffing in the area of community corrections.

Persons Testifying: PRO: Alex MacBain, Department of Corrections.

Persons Signed In To Testify But Not Testifying: No one.