

# FINAL BILL REPORT

## SB 5987

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C 276 L 18  
Synopsis as Enacted

**Brief Description:** Concerning pretrial release programs.

**Sponsors:** Senator Padden.

**Senate Committee on Law & Justice**  
**House Committee on Public Safety**

**Background:** The state Constitution guarantees the right to bail for the accused except if charged with a capital offense or an offense punishable by the possibility of life in prison. A judicial officer has discretion to release a person pending trial upon the payment of bail, or on personal recognizance, with or without certain additional conditions of release, except as described in the Constitution.

Conditions of release must be imposed to assure the appearance of the defendant at trial, or prevent interference with the administration of justice.

A judicial officer must consider several factors when deciding whether to impose conditions of release including:

- the nature and circumstances of the offense charged, including whether the offense is a crime of violence;
- the weight of the evidence against the defendant; and
- the history and characteristics of the defendant, including:
  - (1) the person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;
  - (2) whether, at the time of the current offense or arrest, the defendant was on community supervision, probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, state, or local law; and
  - (3) the nature and seriousness of the danger to any person or the community that would be posed by the defendant's release.

Conditions of release may include being placed in the custody of a pretrial release program. A pretrial release program is any program, public or private, which supervises an offender released from custody prior to trial. Supervision can refer to any of a range of programs

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including, but not limited to, home detention, work release, day monitoring, or electronic monitoring. Home detention is partial confinement available to offenders where the offender is confined in a private residence 24-hours a day, unless an absence from the residence is permitted in a court order, and the offender is subject to electronic monitoring.

A pretrial release program may not agree to supervise or accept into its custody an offender who is currently awaiting trial for a violent offense or sex offense, and who has been convicted of one or more violent offenses or sex offenses in the ten years before the date of the current offense, unless the offender's release before trial was secured with payment of bail.

In 2010, the Legislature enacted conditions of release for persons in custody for felony. A recent Supreme Court decision in *Blomstrom v. Tripp* ruled that certain conditions of release such as pretrial urine analysis testing in DUI cases is unconstitutional. The court stated in part that the relevant statute does not apply to any charge other than a felony charge. The defendants in the *Blomstrom* case had no prior convictions for DUI and their charges were misdemeanors, not felonies.

**Summary:** Clarifies that a pretrial release program is any program in superior, district, or municipal courts. Home detention may include a person charged with a felony offense. Conditions of release may be imposed in any felony, gross misdemeanor, or misdemeanor case. The purposes allowing conditions of release must include protecting the public from harm.

**Votes on Final Passage:**

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House receded/amended)
Senate	49	0	(Senate concurred)

**Effective:** June 7, 2018