

SENATE BILL REPORT

SB 6281

As Reported by Senate Committee On:
Human Services & Corrections, January 30, 2018
Ways & Means, February 5, 2018

Title: An act relating to allowing specified offenders to earn positive achievement time on community custody.

Brief Description: Allowing specified offenders to earn positive achievement time on community custody.

Sponsors: Senators Darneille, O'Ban, Dhingra, Kuderer and Hasegawa.

Brief History:

Committee Activity: Human Services & Corrections: 1/16/18, 1/30/18 [DPS-WM].
Ways & Means: 2/05/18 [w/oRec, DNP].

Brief Summary of First Substitute Bill

- Allows an offender sentenced to community custody to earn positive achievement time if the offender is in compliance with supervision terms.
- Provides that 15 days of positive achievement time may be earned for each month of community custody served.
- Provides a list of conditions that would disqualify the offender from earning positive achievement time.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6281 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt and Miloscia.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

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.

Majority Report: That it be referred without recommendation.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Braun, Ranking Member; Bailey, Becker, Billig, Carlyle, Conway, Darneille, Fain, Hasegawa, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker, Rivers, Van De Wege, Wagoner and Warnick.

Minority Report: Do not pass.

Signed by Senators Honeyford, Assistant Ranking Member; Brown and Schoesler.

Staff: Travis Sugarman (786-7446)

Background: Community custody is a portion of an offender's sentence served in the community, subject to controls placed by the Department of Corrections (DOC) on the offender's movement and activities. Certain offenders sentenced to prison must be sentenced to a term of community custody. Terms of community custody depend on the type of offense. Mandatory terms of community custody for certain offenses are:

- a three-year term for a sex offense or serious violent offense;
- an 18-month term for a violent offense, rather than a serious violent offense;
- a one-year term for crimes against persons, unlawful possession of a firearm when the offender is a criminal street gang member, certain drug offenses, or failure to register as a sex offender; and
- a length of term as authorized by statute for a sentencing alternative.

A court may impose up to one year of community custody for offenders who will be sentenced to a term of confinement for one year or less and therefore will serve their term of confinement in jail. Statute dictates which offenders sentenced to a term of community custody the DOC is required to supervise. DOC may not supervise any offender for which there is not express statutory authorization.

DOC is required to supervise all sex offenders, serious violent offenders, dangerous mentally ill offenders, offenders under the jurisdiction of the Indeterminate Sentence Review Board, offenders convicted of failure to register, certain domestic violence offenders, offenders serving a sentencing alternative, offenders under the Interstate Compact, and felony DUI offenders. For any other offender sentenced to a term of community custody, DOC is only required to supervise the offender if the offender is assessed at a high risk to reoffend. Unless the offender qualifies for a First-Time Offender Waiver, the statute does not authorize a term of community custody for any offender convicted of a property offense.

Summary of Bill (First Substitute): An offender sentenced to a term of community custody may earn positive achievement time. DOC must award positive achievement time to offenders who are in compliance with supervision terms and who are making progress towards the goals of their individualized supervision case plan.

Offenders may earn 15 days of positive achievement time for each month of community custody served. Positive achievement time is accrued monthly and may not be awarded until it is earned. An offender who is sentenced as a sex offender, for aggravated murder 1, who has received a First-Time Offender Waiver, parenting sentencing alternative, drug offender sentencing alternative, or special sex offender sentencing alternative, who is subject to supervision under the Interstate Compact for Adult Offender Supervision, has an

indeterminate sentence subject to parole, or who is serving community custody related to early release provisions applicable to persons committed prior to their 18th birthday may not earn positive achievement time.

DOC has discretion to implement this act over a 21-month period. An offender is not eligible to earn positive achievement time until the offender has received an orientation.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (First Substitute): The time available for DOC to implement the bill is increased from 12 to 21 months.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Human Services & Corrections): *The committee recommended a different version of the bill than what was heard.* OTHER: DOC is neutral on this bill. We believe it is good policy to expand the swift and certain model by applying incentives for positive behavior. Research and best practices support the use of both positive and negative incentives to effectively change behavior. A "swift and certain and fair" model is used in other states. The current Washington model uses negative incentives; a more comprehensive model would pair these with incentives for positive behavior. While this is good policy, it would add complexity and require resources for policy development. DOC would recommend adding an additional 6-12 months of implementation time.

Persons Testifying (Human Services & Corrections): OTHER: Alex MacBain, DOC.

Persons Signed In To Testify But Not Testifying (Human Services & Corrections): James McMahan, WA Assn. of Sheriffs and Police Chiefs.

Staff Summary of Public Testimony (Ways & Means): No public hearing was held.

Persons Testifying (Ways & Means): N/A.

Persons Signed In To Testify But Not Testifying (Ways & Means): N/A.