

SENATE BILL REPORT

SB 6509

As of January 31, 2018

Title: An act relating to correctional cost savings.

Brief Description: Concerning correctional cost savings.

Sponsors: Senators Braun and Pedersen.

Brief History:

Committee Activity: Law & Justice: 1/30/18.

Brief Summary of Bill

- Requires terms of community custody to run concurrently when an offender is serving consecutive terms of confinement for multiple sentences, unless a court specifically orders otherwise.
- Requires the Department of Corrections (DOC) to recalculate the community custody terms of certain currently incarcerated or supervised offenders.
- Removes the expiration date for the drug grid changes from the 2013-15 biennium that reduced the sentence range for certain offenses from 6 to 18 months to 6 to 12 months.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Shani Bauer (786-7468)

Background: Concurrent Community Custody. Current law addresses whether the court may enter sentences for multiple crimes to be served consecutively or concurrently. Sentences for multiple crimes are required to run concurrently except in certain circumstances. Generally, those circumstances are:

- sentences where the court has determined that circumstances apply to justify an exceptional sentence;
- sentences for two or more serious violent offenses;
- sentences for certain crimes involving the unlawful possession of a firearm; and

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- a sentence for a crime committed while the person was serving a sentence for another crime.

The statute is not clear on whether terms of community custody run concurrent or consecutive in these circumstances. DOC currently assumes that the term of community custody runs consistent with the term of confinement.

Sentencing for Drug Offenses. The Legislature adopted a separate sentencing grid that applies to drug offenses in 2003. Drug offenses committed on or after July 1, 2003, are divided into three seriousness levels. Offenders sentenced for Seriousness Level 1 drug offenses have a current offense of one of the following:

- possession or forged prescription of a controlled substance, legend drug, or marijuana;
- manufacturing, delivering, or possession with intent to deliver marijuana; or
- using a building for drug purposes.

Prior to 2013, the court had the discretion to impose a sentence of between 6 to 18 months for offenders with a criminal history of three to five prior felony offenses. As a result, the court could sentence the offender to either jail or prison depending on the length of the sentence. The drug sentencing grid was modified in 2013, so that any offender who commits a Seriousness Level 1 drug offense, and has a criminal history score within the range of three to five, will serve their sentence in jail unless an exceptional sentence is imposed. That change is set to expire July 1, 2018.

Summary of Bill: Concurrent Community Custody. Terms of community custody run concurrently when an offender is serving consecutive terms of confinement on multiple sentences, unless a court specifically orders otherwise. For all offenders currently in confinement or under active supervision, DOC must recalculate the scheduled end dates for terms of community custody, community supervision, and community placement so that they run concurrently to previously imposed sentences. The recalculations do not create any expectation that a term will end before July 1, 2018.

This bill applies retroactively and prospectively regardless of the date of an offender's underlying offense.

Sentencing for Drug Offenses. The expiration date is removed for the drug grid changes from the 2013-15 biennium that reduced the sentence range for certain offenses from 6 to 18 months to 6 to 12 months.

Appropriation: None.

Fiscal Note: Requested on January 26, 2018.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony: PRO: Eighty-eight percent of orders are silent as to whether community custody should run consecutively or concurrently. The proposed changes will clarify this issue and simplify entry of orders for records staff. Additionally, it will give further direction on how to enforce conditions and accountability when law violations occur. The drug sunset addresses the one cell in the drug grid that historically straddles jail and prison and replaces it with a presumptive jail sentence. Washington has made a conscious decision to preserve prison beds for serious and violent crimes. Only 7 percent of those currently incarcerated in prison are there for drug crimes. DOC is currently over capacity and the caseload forecast council continues to project capacity to go up. This bill addresses low level drug offenders that are better served in jail than prison. DOC is continuing to work with AOC on the judgement and sentence form. The form will have clear checkboxes for a judge to be able to order whether a sentence runs concurrent or consecutive.

CON: Supervision is effective to help a person reintegrate back into the community and reduce victimization in the community. We are not aware of any validated study as to diminishing returns by shortening periods of supervision. The presumption that community custody sentences are concurrent and then allowing judges to order consecutive terms is set up to fail. There is no budget certainty in the future due to judges' discretion. Offenders should be under supervision as long as possible to try to prevent new crimes and to get them to pay their restitution. The drug offender sentencing grid just feels like the state is pushing obligations down to the counties and jails. Counties do not have the ability to keep absorbing those costs. This change was temporarily put into place when the state was in a budget crisis. There was no anticipation that it be permanent at the time.

Persons Testifying: PRO: Dianne Ashlock, Records Director, Department of Corrections; Alex MacBain, Executive Policy Director, Department of Corrections.

CON: James McMahan, Washington Association Sheriffs and Police Chiefs; Michael Brunson, citizen.

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