

SENATE BILL REPORT

SB 6511

As Reported by Senate Committee On:
Human Services & Corrections, January 31, 2018

Title: An act relating to concerning responses to violations of conditions of community custody related to in lieu of earned early release time.

Brief Description: Concerning responses to violations of conditions of community custody related to in lieu of earned early release time.

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

Brief History:

Committee Activity: Human Services & Corrections: 1/30/18, 1/31/18 [DP, w/oRec].

Brief Summary of Bill

- Removes authority for a Department of Corrections (DOC) hearing officer to revoke an individual's early release time by returning the individual to total confinement for up to the remaining portion of the sentence as a sanction for a violation of a condition or requirement of community custody.
- Requires the officer to impose a swift and certain sanction of up to 30 days for the violation.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; Carlyle, Frockt and Miloscia.

Minority Report: That it be referred without recommendation.

Signed by Senator O'Ban, Ranking Member.

Staff: Kevin Black (786-7747)

Background: An individual may receive early release time for good conduct and programming while serving a term of confinement, not to exceed one third of their sentence. If an incarcerated individual does not have positive behavior or does not participate in

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offered programming, the individual may lose earned time while confined as a means of holding the individual accountable, thus extending the individual's release date.

Under current law, when conditions of community custody are violated, supervised individuals who accrue earned time while confined may be returned to prison to serve any remaining period of earned time or may face a swift and certain (SAC) sanction of up to 30 days. Violations are defined as low-level or high-level violations. Once an offender has been sanctioned for five low-level violations, all subsequent violations are considered to be high-level violations. The first low-level violation must result in a nonconfinement sanction, while subsequent low-level violations may result in no more than three days confinement. A high-level violation may result in no more than 30 days confinement. A process is provided for the individual to appeal a sanction imposed to a panel of three reviewing officers.

Individuals who did not earn early release time, or who have already served the period of earned time while in the community, may be held accountable for violations only with a SAC sanction.

Summary of Bill: A DOC hearing officer is no longer authorized to return an offender who has been transferred to community custody in lieu of earned early release to total confinement for up to the remaining portion of the sentence as a sanction for violation behavior. Instead, the hearing officer must impose a swift and certain sanction.

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: PRO: Research indicates that it is not the length of the sentence that impacts behavior, but the surety that the sanction will be imposed. This increases consistency and fairness, and reduces complexity in tracking remaining earned time. It will also help reduce the strain on corrections capacity and is expected to reduce recidivism and new criminal convictions. SAC increases community safety by reducing disruption to protective factors such as sustainable housing, employment, and programming which are a challenge for offenders to find and maintain. SAC is based on a model from Hawaii which has been extensively studied and is very successful. It is grounded in fairness and agreed rules with the offender.

CON: This bill is intended to reduce the average daily population of prison by eliminating the hearing officer's ability to return an offender to prison. Offenders eligible for return to prison must pose a significant risk or exhibit signs that they are in their reoffense cycle. This undermines the foundation of the behavioral management system. The 30-day confinement cap will not be sufficient to change behavior or break the offense cycle. This bill is not based in research or best practice. There are other sound correctional practices that do not jeopardize public safety, fail to hold offenders accountable, or reduce the number of

community corrections officers who are the first line of defense between felony offenders and the community.

Persons Testifying: PRO: Mac Pevey, DOC.

CON: Judy Kuschel, Washington Federation of State Employees.

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