

HOUSE BILL REPORT

SHB 2393

As Amended by the Senate

Title: An act relating to earning credit for complying with community custody conditions.

Brief Description: Earning credit for complying with community custody conditions.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Goodman, Klippert, Davis, Ormsby and Appleton).

Brief History:

Committee Activity:

Public Safety: 1/21/20, 1/30/20 [DPS];

Appropriations: 2/8/20 [DPS(PS)].

Floor Activity:

Passed House: 2/13/20, 96-0.

Senate Amended.

Passed Senate: 3/4/20, 44-4.

Brief Summary of Substitute Bill

- Allows a qualifying person to earn supervision compliance credit to reduce his or her term of community custody under the supervision of the Department of Corrections.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Appleton, 2nd Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Kelly Leonard (786-7147).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Public Safety be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Ormsby, Chair;

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.

Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Yvonne Walker (786-7841).

Background:

Community Custody. Community custody is the portion of a person's criminal sentence served in the community under the supervision of the Department of Corrections (DOC) following his or her release from confinement. Courts are mandated to order community custody for persons convicted of certain crimes.

Term. The term of community custody varies depending on the underlying offense. For a person sentenced to a term of confinement for more than 12 months, the court is required to order terms of community custody as follows:

- 36 months for a serious violent offense or sex offense;
- 18 months for other violent offenses; or
- 12 months for a crime against persons, certain drug offenses, felony Failure to Register, or Unlawful Possession of a Firearm committed by a criminal street gang member.

For a person sentenced to a term of confinement of 12 months or less for the same offenses specified above, the court may impose up to 12 months of community custody.

Regardless of the term ordered by the court, the DOC is authorized to carry out the community custody requirements only when a person is: classified as a high risk to reoffend; convicted of a serious violent offense, sex offense, qualifying domestic violence offense, or felony Driving Under the Influence; being supervised under the Interstate Compact; being supervised by the Indeterminate Sentencing Review Board; or serving a sentencing alternative.

Conditions and Sanctions. While on community custody, a person is subject to conditions imposed by the court and the DOC. The DOC may establish and modify conditions based on risks to community safety. The DOC may issue a warrant for the arrest of any person who violates a condition of community custody. If a person violates a condition, he or she may be subject to sanctions. Sanctions vary depending on the type of violation, the underlying offense, and other conditions. For many types of violations, a sanction can include being returned to confinement for a specified period.

In addition, a person convicted of certain offenses may qualify for a special sentencing alternative, where he or she receives a reduced or waived term of confinement and serves a longer term of community custody. For those persons, violations may result in the sentencing alternative being revoked and the person being required to return to confinement to complete the entire sentence.

Summary of Substitute Bill:

A person may earn supervision compliance credit to reduce the period of time he or she is required to serve in community custody. Credit accrues monthly, and may not be applied before being earned. A person may earn 15 days of credit for each month of community custody served.

Supervision compliance credit is awarded for complying with supervision terms and making progress towards the goals of an individualized supervision case plan, including: participating in specific targeted interventions, risk-related programming, or treatment; or completing steps towards specific, targeted goals that enhance protective factors and stability, as determined by the DOC.

Certain persons do not qualify for supervision compliance credit, including any person completing community custody as part of a sentencing alternative, any person released and currently being supervised by the Indeterminate Sentence Review Board, and any person subject to supervision under the Interstate Compact for Adult Offender Supervision.

The DOC may implement the supervision compliance credit program over a 12-month period. Any person currently in community custody must complete an orientation before being eligible to earn credit.

EFFECT OF SENATE AMENDMENT(S):

The amount of supervision compliance credit a person may earn on a monthly basis is reduced from 15 to 10 days.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Public Safety):

(In support) The policies in this bill were vetted and recommended by the Washington State Sentencing Guidelines Commission and the Washington State Criminal Sentencing Task Force (Task Force). While the Task Force is looking at broader issues with sentencing laws over the next year, there is an immediate need to improve community custody laws and practices.

This bill would allow persons to earn time off their supervision time through compliance credit. Credit is awarded only when it is earned, and it can be earned only for good behavior and compliance with conditions. Other states have implemented similar programs for providing compliance credit to persons in supervision. The research demonstrates that providing positive incentives, as opposed to just negative ones, is more effective at influencing behavior. In 2012 the state established "swift and certain" sanctions, which

provided community corrections officers (CCOs) with a "stick," but CCOs still need a "carrot." It can be extremely difficult for people to rehabilitate and change their habits. Positive incentives are four times more effective. By creating a steady, monthly award system, CCOs can better influence those who are being supervised and therefore positively impact public safety. Research shows that compliance credit programs are safe.

This bill will also allow CCOs to focus their time on high-risk individuals. Quality supervision is more important than quantity. It does not make sense for CCOs to spend time with those who are complying with conditions and making progress. They should focus their time on those who are ambivalent and out of compliance. Imposing excessive supervision on those who do not need it will not produce better outcomes. It can actually be counterproductive for low-risk persons.

The Sentencing Guidelines Commission evaluated several policy proposals in detail, and there was consensus on this particular policy change. Victims also support the proposal. As the state looks toward broader sentencing reform efforts, it is important to understand that the science on human behavior has advanced since the early 1980s. The current system still assumes that people are not capable of change, and it views incarceration and supervision as punishment only. However, science shows that people can change and safely reenter society. There is a public interest in establishing policies and practices with this in mind. This bill will create positive incentives for compliance, and indirectly allow CCOs to focus their time on those who will most benefit from it.

It makes sense to create parity between the earned early release time program for prison sentences and community custody. Persons can earn early release time off their prison term, and a similar program should be established for community custody.

(Opposed) People can absolutely rehabilitate themselves, and there is a shared interest in helping incarcerated and supervised persons become productive members of society. However, there should also be truth in sentencing. The state already allows inmates to earn a third off their sentences, and this bill would allow them to earn half off their community custody term. Creating positive incentives and reinforcement is a good idea, but it can be achieved through other means. It seems like this bill is being advanced to reduce CCO caseloads and cut costs.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) None.

Persons Testifying (Public Safety): (In support) Representative Goodman, prime sponsor; Stephen Sinclair, Mac Pevey, Lillian Wilbur, and Sarah Lewis, Department of Corrections; Russell Hauge, Sentencing Guidelines Commission; David Trieweiler, Washington Association of Criminal Defense Lawyers and Washington Defender Association; and Russell Brown, Washington Association of Prosecuting Attorneys.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Testifying (Appropriations): None.

Persons Signed In To Testify But Not Testifying (Public Safety): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.