

SENATE BILL REPORT

ESSB 5121

As Passed Senate, February 3, 2021

Title: An act relating to expanding eligibility for the graduated reentry program.

Brief Description: Expanding eligibility for the graduated reentry program.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Darneille, Das, Dhingra, Hasegawa, Mullet, Nguyen and Wilson, C.; by request of Department of Corrections).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/14/21, 1/22/21 [DPS, DNP].

Floor Activity:

Passed Senate: 2/3/21, 28-21.

Brief Summary of Engrossed First Substitute Bill

- Alters eligibility for the Graduated Reentry Program at the Department of Corrections by creating two participation tracks.
- Modifies length of participation and minimum total confinement requirements for each track.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 5121 be substituted therefor, and the substitute bill do pass.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Saldaña and Wilson, C.

Minority Report: Do not pass.

Signed by Senators Gildon, Ranking Member; Dozier and McCune.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kelsey-anne Fung (786-7479)

Background: Graduated Reentry Program. The Graduated Reentry Program at the Washington State Department of Corrections (DOC) was established in law in 2018. According to DOC, the intent of the program is to improve public safety by targeting interventions and programs for incarcerated individuals' successful transition into the community.

The program allows incarcerated individuals to serve up to the last six months of their sentence in the community in partial confinement on electronic home monitoring under the jurisdiction of DOC. To participate in the program, the incarcerated individual must have served at least 12 months in total confinement at a state correctional facility and the individual must have an approved residence and living arrangement prior to transfer to home detention. DOC administers the program and must find that the program is an appropriate placement for the incarcerated individual and assist the individual's transition from confinement to the community.

While participating in the program, DOC must:

- require the individual be placed on electronic home monitoring;
- require the person to participate in programming and treatment that DOC must assign based on the person's assessed need; and
- assign a community corrections officer who will monitor the person's compliance with conditions of partial confinement and programming requirements.

DOC may issue rental vouchers for up to six months if an approved address cannot be obtained without the assistance of a rental voucher.

A participant in the program may be returned to total confinement by DOC for any reason including, but not limited to, the person's noncompliance with any sentence requirement.

DOC performs a quasi-judicial function by selecting incarcerated individuals to participate in the program and setting, modifying, and enforcing the requirements of the program. DOC is not liable for the acts of participants in the program unless DOC acted with willful and wanton disregard.

Release Prior to Expiration of Sentence. Generally, a person sentenced to DOC custody may not leave the correctional facility or be released prior to the expiration of the sentence unless a statutory exception applies. Partial confinement is one such exception for qualifying incarcerated individuals, and partial confinement refers to work release, home detention, work crew, electronic home monitoring, or a combination of these programs.

Certain incarcerated individuals may not qualify for transfer to partial confinement programs. For instance, individuals serving sentences for offenses with mandatory minimums cannot be released from total confinement prior to serving the minimum

prescribed sentence.

Summary of Engrossed First Substitute Bill: Two participation tracks are created for persons to be eligible for the Graduated Reentry Program at DOC. For track one, individuals who are not subject to deportation order, civil commitment, or interstate compact for adult offender supervision must serve at least six months in total confinement in a state correctional facility to be eligible to serve up to the final five months of the person's term of confinement in the Graduated Reentry Program. For track two, individuals who are not currently serving a sentence for a sex, violent, or crime against a person offense, and who are not subject to a deportation order or the jurisdiction of the Indeterminate Sentence Review Board, must serve at least four months in total confinement at a state correctional facility to be eligible to serve the remaining portion of the person's term of confinement in the Graduated Reentry Program.

DOC must publish a monthly report on its website with the number of persons who were transferred during the month to home detention as part of the Graduated Reentry Program. DOC must submit an annual report by December 1st to the appropriate committees of the Legislature with the number of persons who were transferred to home detention as part of the Graduated Reentry Program during the prior year.

Changes to partial confinement and the Graduated Reentry Program apply prospectively and retroactively to persons currently serving a sentence in any facility or institution either operated by the state or utilized under contract.

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: *The committee recommended a different version of the bill than what was heard.* PRO: This expands upon the success of an already established program at DOC and gives DOC flexibility to make individualized assessments about the applicability of different forms of supervision, and determine how long a person needs to stay inside prison and how quickly a person can be returned to the community with reentry supports and intensive supervision. This is in line with DOC's mission to improve public safety by positively changing lives and will contribute to people successfully reentering the community. Program participants are required to do programming and treatment based on their individualized assessed needs, and could include mental health services, substance abuse treatment, positive behavioral interventions, classes and life skills, and job training. This allows for connections with education, jobs, family, and community supports to create a seamless transition from DOC to the community.

These kinds of structured transition opportunities improve public safety, maintain accountability, and provide rehabilitative services designed to break the cycle of incarcerated and reduce systemic socioeconomic disadvantages.

CON: The bill as drafted leaves out many details and guardrails on how DOC would use its authority to implement the program. The Legislature should provide investments and supports to help individuals with successful reentry, but I would like to see good data on how the existing program is working, whether the supervision provided to participants under this program is effective, and whether community corrections officers are able to provide effective supervision with their current caseloads. Savings from this bill should be statutorily captured and reinvested into productive reentry programs.

Persons Testifying: PRO: Senator Jeannie Darneille, Prime Sponsor; Stephen Sinclair, Department of Corrections; Danielle Armbruster, Department of Corrections; Mac Pevey, Department of Corrections; Kehaulani Walker, Families of the Incarcerated.

CON: James McMahan, Washington Association Sheriffs and Police Chiefs; Russell Brown, Washington Association of Prosecuting Attorneys.

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