

SENATE BILL REPORT

SB 5203

As Reported By Senate Committee On:
Human Services & Corrections, February 9, 1995

Title: An act relating to admissibility in court of records certified by the secretary of corrections or his or her designee.

Brief Description: Specifying the admissibility in court of records certified by the department of corrections.

Sponsors: Senators Hargrove, Long, Franklin and Kohl; by request of Department of Corrections.

Brief History:

Committee Activity: Human Services & Corrections: 1/19/95, 2/9/95 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5203 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Franklin, Vice Chair; Fairley, Kohl, Long, Moyer, Palmer, Prentice, Schow, Smith and Strannigan.

Staff: Andrea McNamara (786-7483)

Background: Under the rules of evidence, official government records that are duly certified by an authorized individual may be admitted into evidence in a court proceeding without the need for further authentication and despite the fact that they may contain otherwise inadmissible hearsay evidence. The Department of Corrections has recently experienced an increase in demand for certified copies of department records. This increase is a result of prosecutors seeking to introduce into evidence the prior criminal records of offenders for the purpose of documenting previous convictions under Initiative 593. Initiative 593 imposes a life sentence without possibility of release if a person is convicted of three or more designated felonies.

No statutory provision specifically identifies who within the department has the authority to certify department records. Current law is also unclear about whether the secretary of the department may delegate his custodial authority over the records, to allow his designees to attend court proceedings for the purposes of introducing the records into evidence.

Summary of Substitute Bill: The secretary's powers include the ability to delegate the authority to certify and maintain custody of records in the department's files.

The department may charge reasonable fees for copying, certifying, and mailing documents in the department's files.

Substitute Bill Compared to Original Bill: The substitute does not address which records within the department's files may be admissible under the public records exception to the hearsay rules of evidence. Instead, it clarifies that the secretary may delegate his or her custodial and certification authority over department records for the purposes of, among other things, admitting the records into evidence. The court retains exclusive authority to rule on the admissibility of any records offered by any party from the files of the Department of Corrections.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (original bill) Department of Corrections records are increasingly being requested to document prior convictions in cases under the "three strikes and you're out" initiative. There is no reason the secretary should have to personally appear in court to supply these records. This bill makes a more efficient process for getting the department records into court.

Testimony Against: (original bill) The bill may create a new exception to the hearsay rule and will require the admission into evidence of a vast array of documents that have no indicia of reliability, including prison guards' notes and counsellors' impressions. The records would be admissible in any type of proceeding, not just criminal trials involving three strikes cases.

Testified: Eldon Vail, Assistant Director, Department of Corrections Division of Prisons (pro); Robert Spaulding, Washington Association of Criminal Defense Lawyers and the Washington Defender Association (con); Seth Dawson, Washington Association of Prosecuting Attorneys (pro).