

HOUSE BILL REPORT

SSB 5089

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to failure to appear at a court proceeding.

Brief Description: Requiring previous bail jumpers to post bail.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Roach, Zarelli, Swecker and Hochstatter).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/26/97, 4/2/97 [DPA].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 12 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; O'Brien, Assistant Ranking Minority Member; Blalock; Cairnes; Delvin; Dickerson; Hickel; Mitchell; Robertson and Sullivan.

Staff: Pat Shelledy (786-7149).

Background: The Washington Constitution provides that any person charged with a crime shall be released on bail with sufficient sureties, except for capital offenses. Washington court rules also provide that any person charged with a crime other than a capital offense must be released on the person's personal recognizance pending trial unless the court determines that the accused will not appear when required, or there is a likely danger that the accused will commit a violent crime, seek to intimidate witnesses, or otherwise interfere with the administration of justice. Violent crimes—embraces more crimes than those characterized as violent— crimes under the Sentencing Reform Act and may include misdemeanors. The court may impose conditions of release or require the accused to post bail. The court must impose the least restrictive conditions so that the person is not held in pretrial detention in violation of the constitution.

When a person is convicted of a crime and pending sentencing or appeal following sentencing, the court makes similar decisions about releasing the offender, however, there is not a constitutional right to be released following convicted pending

sentencing or appeal. The Legislature has passed a number of statutes restricting the courts' authority to release offenders following conviction. Some of those provisions were passed in 1996.

Under principles of separation of powers, Washington courts have held that the decision regarding the release of an accused or convicted offender is a matter of the administration of justice, and thus falls within the purview of the judiciary and not the Legislature. However, the court has given some deference to the statutes governing the release of convicted offenders.

Summary of Amended Bill: The court may not release a person on personal recognizance if the person has been convicted of a crime and the person has failed to appear as directed by a court on two or more prior occasions.

Amended Bill Compared to Substitute Bill: Deletes the requirement that the person was actually convicted of bail jumping within the prior 10 years.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill does not go far enough. Very few offenders that fail to appear are actually convicted of bail jumping. The bill should be expanded to include offenders who have failed to appear even if they have not been convicted of bail jumping.

Testimony Against: None.

Testified: Gordon Walgren, Washington State Bail Agents.