

HOUSE BILL REPORT

SB 5094

As Passed House - Amended:

March 4, 1998

Title: An act relating to the release of offenders.

Brief Description: Prescribing procedures for release of offenders.

Sponsors: Senator Roach.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/20/98, 2/27/98 [DPA].

Floor Activity:

Passed House - Amended: 3/4/98, 98-0.

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; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; Hickel; McCune; Mitchell; Radcliff and Sullivan.

Staff: Yvonne Walker (786-7841).

Background: Current law requires defendants who have been convicted of felony offenses to be detained in jail or prison pending sentencing unless the court finds they do not pose a flight risk or a danger to the safety of any person or the community, and the offense for which they have been convicted is not one of a specific list of felony sex offenses (i.e., rape of an adult or child, child molestation, luring, incest, etc.) or an offense with a finding of sexual motivation.

Courts are given the discretion under current law to stay the implementation of a judgment and sentence (to not hold or detain a defendant in incarceration) during an appeal from a criminal conviction unless the court finds certain circumstances to exist.

The court may not stay execution of a judgment and sentence (release a defendant) pending appeal if a preponderance of the evidence shows any of the following:

- (a) the defendant is likely to flee or pose a danger to the community;

- (b) the delay will unduly diminish the deterrent effect of the punishment;
- (c) the stay will cause unreasonable trauma to the victims of the crime or their families;
- (d) the defendant has not made sufficient efforts to pay financial obligations under the judgment; or
- (e) the crime is an offense with a finding of sexual motivation or one of the following felony sex offenses: Rape in the first or second degree; rape of a child in the first, second, or third degree; child molestation in the first, second, or third degree; sexual misconduct with a minor in the first or second degree; indecent liberties; incest; luring; any class A or B felony that is a sexually motivated offense; communication with minors for immoral purposes; or any offense that is a criminal attempt, solicitation, or conspiracy to commit one of those offenses.

Releases pending sentencing or appeal may be conditioned on the posting of an appeal bond, cash, or other security, or a defendant may be released on his or her personal recognizance.

Summary of Bill: When deciding whether an offender should be detained after conviction pending sentencing, the court must consider whether the release will cause unreasonable trauma to the victims of the crime or their families, in addition to considering the offender's risk to flee or whether the offender poses a danger to the community.

If the court releases the defendant and does not require the defendant to post bond, cash, or other security, the court must state its reasons for that decision on record.

A provision is added to provide that bonds are not exonerated until an offender is remanded to custody, rather than upon conviction, after which an offender may be on release, and not necessarily in custody.

In addition, this act requires the Department of Corrections to provide two studies to be conducted within existing department funds. Reports on both studies are due to the Legislature by December 31, 1998. The first examines the residential proximity of recently released offenders who have committed sex crimes against children to schools and day care centers. The second examines other states' posting of sex offender information on the internet, its associated costs and effectiveness, and estimates on the time, costs, and resources needed to establish such a program in Washington.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Many times when deciding whether an offender should be detained after conviction, courts fail to consider whether the release will cause unreasonable trauma to the victims of the crime or their families. This is a good bill which will be extremely helpful especially when it is applied to victims of domestic violence cases. However, an amendment should be made to allow families of offenders to post bail only one time instead of twice. Bail is usually posted once from the time when an offender is arrested to conviction and another from the time of conviction to sentencing when an offender is remanded to custody.

Testimony Against: None.

Testified: Pro: Senator Pam Roach, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.