

# HOUSE BILL REPORT

## HB 1906

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**As Reported By House Committee On:**  
Criminal Justice & Corrections

**Title:** An act relating to sentencing.

**Brief Description:** Revising sentencing of mentally ill defendants.

**Sponsors:** Representatives Costa, Ballasiotes, Quall, Blalock, Linville, Cole and Tokuda.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 2/25/97, 2/28/97 [DPS].

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Blalock; Delvin; Dickerson; Hickel; Mitchell and Sullivan.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Cairnes and Robertson.

**Staff:** Yvonne Walker (786-7841).

**Background:** Pre-sentence Reports. Before imposing a sentence upon an offender, the court usually conducts a pre-sentence hearing. At that time, the court may order the Department of Corrections to complete a pre-sentence report to assist in the trial court in sentencing an offender after he or she has been convicted. Pre-sentence reports usually include prior convictions, prior arrests, employment history, education history, and family and social background.

Community Placement & Community Supervision. Community placement– refers to a period of supervision over a prisoner after release from state prison. Community supervision– includes up to one year in the county jail and one year of supervision in the community.

As part of a community placement or a community supervision sentence, the court may order an offender, in addition to crime-related prohibitions, to: participate in employment; participate in education programs; undergo outpatient substance abuse treatment; remain in a specific geographical residence; report to the court or community corrections officer; pay specific fees; and perform community service work. Offenders are not required to undergo psychiatric evaluations or participate in available outpatient psychiatric treatment programs as part of their court ordered community placement or community supervision sentences.

Violations of Community Placement & Community Supervision Conditions. If an offender violates his or her conditions of community placement or community supervision, the court may modify its original order of judgement or sentence and impose further punishment. Some of these punishments include: work release, electronic monitoring, day reporting, curfew, inpatient treatment, community service, and even possible jail time.

**Summary of Substitute Bill:** This bill permits community corrections officers to have the power to intervene and require compliance if the judgement and sentence requires outpatient psychiatric treatment as one of the offender's community supervision or community placement conditions.

Pre-sentence Reports. If a court believes a person might be mentally ill then the court must order a pre-sentence report even if the person did not prevail or claim a defense of insanity. The evaluation will be performed by the Department of Corrections and may be included as part of an offender's pre-sentence report.

Community Placement & Community Supervision. After review of the offender's pre-sentence report and evaluations ordered under the incompetency and insanity statutes under RCW 10.77, the court may order further psychiatric evaluations and treatment as part of the offender's community placement or supervision sentence if the court determines that strong grounds exist for assessing the offender as mentally ill, and the mental illness is likely to have influenced the offense.

Violations of Community Placement & Community Supervision Conditions. When a violation concerns an offender's failure to participate in a psychiatric evaluation or a treatment program, the assigned community corrections officer may consult the service provider treating the offender. The officer may obtain any necessary information from the service provider regarding the status of the offender's treatment without the offender's consent.

The officer must continue to enforce offender psychiatric orders in the less-restrictive means as an alternative measure to incarceration. However, offenders who continually fail to receive psychiatric services and their behavior poses a serious

threat to themselves or society may be involuntarily committed to treatment or be subject to sanctions for violating the sentence by the court.

**Substitute Bill Compared to Original Bill:** The term psychiatric— is changed to mental health.—

Pre-sentence Reports. The term mentally ill— originally included persons considered acutely mentally ill, chronically mentally ill adults, and severely emotionally disturbed children. This term has been limited to include only those offenders considered gravely disabled or seriously disturbed.

The court may order mental health evaluations and treatment for the defendant, if, at the time of the crime, the defendant lacked the capacity to commit the crime, was incompetent to commit the crime, or was insane at the time of the crime.

Community Placement & Community Supervision. A provision is added to authorize the courts to consider— rather than directly invoke— an offender into psychiatric treatment involuntarily upon violations of his or her community placement and supervision orders.

**Appropriation:** None.

**Fiscal Note:** Requested on February 19, 1997.

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

**Testimony For:** The sentencing reform act is based on sentencing offenders as a result of their behavior. In many cases, an offender's mental illness is a direct reflection of his or her criminal behavior. This bill will help to steer many of those repeat offenders into the necessary mental health treatments which can help them live a normal, crime-free life back in the community. It is suspected that this bill will save the state and many taxpayers money in the long run by authorizing the courts and community corrections officers to have the power to intervene and require offender compliance if the sentence requires psychiatric treatment. Offenders complying to their treatments will less likely return to the Department of Corrections.

**Testimony Against:** None.

**Testified:** Representative Costa, prime sponsor (pro); Dave Savage, Department of Corrections (pro with concerns); David Lovell, University of Washington (pro); Jana Hoppler, Department of Social and Health Services (pro with concerns); Terry Kohl, Washington State Psychological Association (concerns); and Cherie Tessier, National Advisory Group for Criminal Justice (pro).