

HOUSE BILL REPORT

HB 1727

As Reported By House Committee On:
Corrections

Title: An act relating to alien offenders.

Brief Description: Providing a procedure for releasing alien offenders for the purpose of deportation.

Sponsors: Representatives Morris, Long, G. Cole, Padden, Mastin, Lemmon and L. Johnson; by request of Department of Corrections.

Brief History:

Reported by House Committee on:
Corrections, March 3, 1993, DPS.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; G. Cole; L. Johnson; Ogden; Riley; and Padden.

Staff: Jim Lux (786-7841).

Background: Inmates incarcerated in state correctional facilities who are aliens, currently serve their entire sentence before being deported to their home country.

Summary of Substitute Bill: Any alien who is found by the United States attorney general, subject to a final order of deportation or exclusion, may be placed on conditional release status and released to the Immigration and Naturalization Service for deportation. Release for deportation can be any time before the expiration of the offender's criminal sentence. Release is at the discretion of the secretary of the Department of Corrections if the release is in the best interest of the state. Release may occur only with the approval of the sentencing court and the prosecuting attorney of the county of conviction. Conditional release continues until the offender's maximum sentence expires; and, if an offender has multiple current convictions, the maximum sentence allowed for each crime shall run concurrently. No release is permitted for

offenders serving a sentence for a violent offense, sex offense or any other offense that is a crime against a person.

Upon release of the offender to the Immigration and Naturalization Service, the unserved portion of confinement begins to toll. At the time of release, the department shall issue a warrant for the offender's arrest. If the deported alien offender reenters the United States and is arrested, law enforcement will know the Department of Corrections has an arrest warrant and return interest in the offender.

In a hearing, the department shall determine, whether the offender has illegally reentered the country and whether the offender shall be returned to the custody of the department or be released to the appropriate authorities.

An alien offender who is returned to the department to complete a term of confinement, must fully comply with all terms and conditions of the sentence.

Alien offenders released to the Immigration and Naturalization Service for deportation must fulfill their obligation to pay restitution or other legal financial obligations ordered by the sentencing court.

Any offender released and who returns illegally may not be released a second time.

The secretary is authorized to take all reasonable actions to implement this legislation and shall assist federal authorities in prosecuting alien offenders who illegally reenter the United States and enter the state of Washington.

The department is instructed to take the necessary steps to contract with countries bordering the continental United States for the transfer and incarceration of alien offenders from those bordering countries. Appropriate federal agencies shall be contacted to develop plans for these contracts. The department is to report back to the Legislature on its progress by December 12, 1993.

Substitute Bill Compared to Original Bill: Language is added clarifying the calculation of time of sentence for offenders with multiple crimes and convictions. The statutory maximum sentence allowed by law for each crime shall run concurrently. The tolling of unserved time on offender's sentences is changed from the time of arrest to the time the offender is released to the Immigration and Naturalization Service. The department shall issue an arrest warrant at the time of release to the Immigration and

Naturalization Service, rather than at the time of arrest for illegal reentry into the United States and the state of Washington. After the arrest of an alien offender for illegal reentry, the offender is returned to the department for an administrative hearing concerning the status of the offender's conditional release status. In the original bill, the offender was returned to the sentencing court for this hearing. The original language did not direct the department to pursue contracting with the offender's country of origin for the transfer and housing of deported offenders.

Fiscal Note: Available.

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

Testimony For: The ability to deport eligible alien offenders to their home country before their prison term is completed will reduce overcrowding and generate financial savings.

Testimony Against: None.

Witnesses: (Pro): Tom Rolfe, Department of Corrections; and Mike Redman, Washington Association of Prosecuting Attorneys.