

SENATE BILL REPORT

SHB 1727

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, APRIL 1, 1993

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

**SPONSORS:** House Committee on Corrections (originally sponsored by Representatives Morris, Long, G. Cole, Padden, Mastin, Lemmon and L. Johnson; by request of Department of Corrections)

**HOUSE COMMITTEE ON CORRECTIONS**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Majority Report:** Do pass as amended.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Rinehart, and Spanel.

**Staff:** Susan Carlson (786-7418)

**Hearing Dates:** March 24, 1993; April 1, 1993

**BACKGROUND:**

As of January 30, 1993, approximately 11 percent of the offenders incarcerated in state correctional facilities were illegal aliens. Approximately one-half of those offenders have been convicted of nonviolent crimes. When the federal Immigration and Naturalization Service (INS) determines that an offender is an illegal alien, it issues a detainer instructing the Department of Corrections (DOC) not to release the person except to INS. Upon completion of the offender's sentence, the inmate is turned over to INS for deportation.

It has been suggested that DOC should be allowed to release some nonviolent alien offenders to INS earlier than at the end of the offender's sentence.

**SUMMARY:**

An alien offender committed to the custody of the Department of Corrections under the Sentencing Reform Act, for whom a final order of deportation has been issued, may be placed on conditional release status and released to INS for deportation at any time prior to expiration of the offender's term of confinement. The conditional release continues until expiration of the statutory maximum sentence for the crime.

Before release can occur, the secretary of the department must first determine that it is in the best interests of the state. Also, releases may only occur with the approval of the sentencing court and the prosecuting attorney.

Alien offenders serving a sentence for a violent offense or a sex offense, or any other offense that is a crime against a person are not eligible for early release.

At the time of release to INS, the unserved portion of the term of confinement is tolled and a warrant is issued for the offender's arrest. The warrant remains in effect until the end of the conditional release period. If arrested, the offender is returned to the department and is entitled to a hearing before the imposition of sanctions. The hearing is conducted in the same manner as community custody violation hearings.

Release to INS for deportation does not relieve the alien offender of the obligation to pay restitution or other legal financial obligations.

An offender released under these provisions who returns to the United States illegally may not be released again under this act.

The secretary shall assist federal authorities in prosecuting alien offenders who illegally reenter the United States. The department is also required to investigate the possibility of contracting with countries bordering the United States for the transfer and incarceration of alien offenders from those bordering countries. The department is required to develop a plan to implement such a program and report to the Legislature concerning the plan by December 12, 1993.

**SUMMARY OF PROPOSED SENATE AMENDMENT:**

If the offender is arrested before the end of the conditional release period, the offender is returned to the department to complete the unserved portion of his or her total confinement.

The section requiring the department to investigate contracting with border countries for transfer of alien offenders is stricken.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available

**TESTIMONY FOR:**

The bill allows early release of some offenders for deportation by the Immigration and Naturalization Service. Release must be approved by the department, the prosecuting attorney and the court, and offenders convicted of violent or sex crimes, or any other crime against a person are not eligible for consideration for early release.

**TESTIMONY AGAINST:** None

**TESTIFIED:** Representative Morris, prime sponsor; Tom Rolfs, Department of Corrections (pro); Mike Redman, Washington Association of Prosecuting Attorneys (pro)