S-3205.1

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**SENATE BILL 5987**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Senator Padden

AN ACT Relating to pretrial release programs to protect the public from harm; amending RCW 10.21.015, 10.21.017, 10.21.030, and 10.21.050; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that bail and other pretrial release programs seek to alleviate the harsh consequences of pretrial detention. While the primary function of bail is to ensure an accused's appearance in court, courts are allowed to pursue other compelling interests through regulation of pretrial release. The legislature further finds that public safety is one such compelling interest and additional measures need to be taken to identify restrictions necessary to protect the public from harm through appropriate sanctions and compliance with court ordered restrictions. The legislature further intends to require an individualized determination by a judicial officer of conditions of release for persons in custody. This requirement is consistent with constitutional requirements and court rules regarding the right of a detained person to a prompt determination of probable cause and judicial review of the conditions of release.

**Sec.**  RCW 10.21.015 and 2015 2nd sp.s. c 3 s 20 are each amended to read as follows:

(1) Under this chapter, "pretrial release program" is any program in superior, district, or municipal court, either run directly by a county or city, or by a private or public entity through contract with a county or city, into whose custody an offender is released prior to trial and which agrees to supervise the offender. As used in this section, "supervision" includes, but is not limited to, work release, day monitoring, electronic monitoring, or participation in a 24/7 sobriety program.

(2) A pretrial release program may not agree to supervise, or accept into its custody, an offender who is currently awaiting trial for a violent offense or sex offense, as defined in RCW 9.94A.030, who has been convicted of one or more violent offenses or sex offenses in the ten years before the date of the current offense, unless the offender's release before trial was secured with a payment of bail.

**Sec.**  RCW 10.21.017 and 2015 c 287 s 6 are each amended to read as follows:

Under this chapter where a person charged with a felony offense is ordered to enter a program of home detention, "home detention" means any program meeting the definition of home detention in RCW 9.94A.030, and complying with the requirements of RCW 9.94A.736.

**Sec.**  RCW 10.21.030 and 2015 c 287 s 5 are each amended to read as follows:

(1) The judicial officer in any felony, misdemeanor, or gross misdemeanor case may at any time amend the order to impose additional or different conditions of release. The conditions imposed under this chapter supplement but do not supplant provisions of law allowing the imposition of conditions to:

(a) Assure the appearance of the defendant at trial;

(b) Protect the public from harm; or ((~~to~~))

(c) Prevent interference with the administration of justice.

(2) Appropriate conditions of release under this chapter include, but are not limited to, the following:

(a) The defendant may be placed in the custody of a pretrial release program;

(b) The defendant may have restrictions placed upon travel, association, or place of abode during the period of release;

(c) The defendant may be required to comply with a specified curfew;

(d) The defendant may be required to return to custody during specified hours or to be placed on electronic monitoring, as defined in RCW 9.94A.030, if available. The defendant, if convicted, may not have the period of incarceration reduced by the number of days spent on electronic monitoring;

(e) The defendant may be required to comply with a program of home detention((~~, as~~)). For a felony offense, home detention is defined in RCW 9.94A.030;

(f) The defendant may be prohibited from approaching or communicating in any manner with particular persons or classes of persons;

(g) The defendant may be prohibited from going to certain geographical areas or premises;

(h) The defendant may be prohibited from possessing any dangerous weapons or firearms;

(i) The defendant may be prohibited from possessing or consuming any intoxicating liquors or drugs not prescribed to the defendant. The defendant may be required to submit to testing to determine the defendant's compliance with this condition;

(j) The defendant may be prohibited from operating a motor vehicle that is not equipped with an ignition interlock device;

(k) The defendant may be required to report regularly to and remain under the supervision of an officer of the court or other person or agency; and

(l) The defendant may be prohibited from committing any violations of criminal law.

**Sec.**  RCW 10.21.050 and 2010 c 254 s 7 are each amended to read as follows:

The judicial officer in any felony, misdemeanor, or gross misdemeanor case must, in determining whether there are conditions of release that will reasonably assure the safety of any other person and the community, take into account the available information concerning:

(1) The nature and circumstances of the offense charged, including whether the offense is a crime of violence;

(2) The weight of the evidence against the defendant; and

(3) The history and characteristics of the defendant, including:

(a) The person's character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to drug or alcohol abuse, criminal history, and record concerning appearance at court proceedings;

(b) Whether, at the time of the current offense or arrest, the defendant was on community supervision, probation, parole, or on other release pending trial, sentencing, appeal, or completion of sentence for an offense under federal, state, or local law; and

(c) The nature and seriousness of the danger to any person or the community that would be posed by the defendant's release.

**--- END ---**