

HOUSE BILL REPORT

ESHB 2834

*As Passed House
February 18, 1992*

Title: An act relating to criminal sentencing.

Brief Description: Providing sentencing alternatives for offenders.

Sponsor(s): By House Committee on Human Services (originally sponsored by Representatives Hargrove, Riley, Leonard, Dellwo, Appelwick and Basich).

Brief History:

Reported by House Committee on:
Human Services, February 6, 1992, DPS;
Appropriations, February 10, 1992, DPS(HS-A APP);
Passed House, February 18, 1992, 59-39.

**HOUSE COMMITTEE ON
HUMAN SERVICES**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 10 members: Representatives Leonard, Chair; Riley, Vice Chair; Winsley, Ranking Minority Member; Tate, Assistant Ranking Minority Member; Anderson; Brekke; Hargrove; Hochstatter; R. King; and H. Myers.

Minority Report: *Without recommendation.* Signed by 1 member: Representative Beck.

Staff: Antonio Sanchez (786-7383).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill by Committee on Human Services be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass.* Signed by 25 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Appelwick; Belcher; Bowman; Braddock; Brekke; Carlson; Dorn; Ferguson; Fuhrman; Hine; Lisk; May; Mielke; Nealey; Pruitt; Rust; D. Sommers; H. Sommers; Valle; and Wang.

Staff: John Woolley (786-7154).

Background:

PART I - Work Responsibility and recuperation of inmate wages.

The Department of Corrections, Division of Correctional Industries, is required to develop and implement work programs that provide jobs, work experience and training to inmates, and to reduce a portion of the financial burden of corrections. To achieve these goals, the Division of Correctional Industries operates five classes of work programs.

All inmates working in Class I through Class IV receive financial compensation for their work that ranges from \$30 per month for Class IV work programs to the prevailing wage for offenders employed in Class I jobs. Class V jobs are court-ordered community work that are performed for the benefit of the community, without financial compensation.

The secretary of the Department of Corrections is required to develop a formula to determine the extent to which the wages an inmate earns while working in prison will be deducted to partially cover the cost of incarceration and the costs associated with the development and implementation of Correctional Industries programs. Under the formula currently used by the department, only inmates working in Class I jobs are required to pay a portion of their wages back to the department for the cost of incarceration. These inmates pay 15 percent of their gross wages. The funds go to the general fund. In fiscal year 1991, Class I inmates paid a total of \$151,134 of their gross wages into the general fund. The total gross wages paid to inmates working in Class I through Class IV Correctional Industries jobs in 1991 was \$3,561,194.

A 1992 Department of Corrections study indicated that significant increases in offender employment in Class I and II Correctional Industries programs could be realized.

PART II - Indeterminate Sentence Review Board and the addition of increased penalties for violent offenders in prison.

Ending indeterminate jurisdiction. The Indeterminate Sentence Review Board is scheduled to expire on June 30, 1998. Prior to that date the governor, through the Office of Financial Management, must recommend to the Legislature alternatives for "carrying out the duties of the board." The Office of Financial Management must consult with the board,

the Washington Association of Prosecuting Attorneys, Washington Defender Association, Department of Corrections, and Office of the Administrator for the Courts. The recommendations are due to the 1997 Legislature.

Parole eligibility review hearings. When the board reviews the "parole eligibility" of an offender the board must not release a prisoner unless in the board's opinion the prisoner's "rehabilitation has been complete and he or she is a fit subject for release."

Length of parole and revocations. When a prisoner is released on parole, the length of time the offender may be on parole is for the time remaining on the offender's statutory maximum. For some offenders that means the offender may be on parole for the rest of the offender's life. The parole board may grant a final discharge from parole prior to that time under certain circumstances, except if the offender is a habitual criminal, in which case the board must retain jurisdiction over the offender for the rest of the offender's life.

Under the Sentencing Reform Act (SRA), only certain offenders are supervised following release from prison. Sex and serious violent offenders are supervised for a minimum of two years. A sex or serious violent offender may be supervised longer than two years if the "good time" the offender earned in prison is more than two years. In that case the offender will be supervised for the length of the "good time" the offender earned. For example, a sex offender who was sentenced to 9 years in prison may have earned 3 years of "good time" and will be released in 6 years. That sex offender will be supervised for 3 years, the length of "good time" earned, rather than 2 years. Other SRA offenders may be supervised for one year or not at all.

If an offender violates the conditions of parole the board may reinstate the parole under the same or modified conditions or revoke the parole and return the offender to prison. The statute does not provide for imposition of intermediate sanctions as alternatives to prison. The board has been developing a "sanction grid" similar to the one used by the Department of Corrections for sanctioning the offenders under the department's supervision who violate conditions of supervision.

Summary of Bill:

PART I - Work responsibility and recuperation of inmate wages.

The Corrections Industries Program is mandated to achieve a 25 percent increase of all physically and mentally able inmates by December 30, 1996 and a total of 50 percent employment of Class I and Class II inmates by 1998. The Department of Corrections is required to charge inmates no less than 50 percent of their total gross wages for the cost of incarceration, up to gross wages of \$6 per hour. The 50 percent will not be charged to inmates until their personal savings account reaches a \$250 minimum. However, all inmates working in correctional industries are required to deposit 50 percent of their gross wages in an inmate personal savings account until the account reaches a \$250 minimum. The secretary of corrections is required to report by January 1, 1993 to the Senate and House on any impediments to complying with the percentage of inmates working in Class I and Class II correctional industries programs as outlined in the act.

PART II - Indeterminate Sentence Review Board and the addition of increased penalties for violent offenders in prison.

Penalty section for violent offenders in prison who commit other violent offenses. Offenders in prison because of a violent offense (murder, rape, assault, arson, kidnapping, robbery, or first degree burglary) can be sentenced to a mandatory minimum term of 15 years or their range under the SRA, whichever is greater if they commit a murder, first or second degree assault, rape, or robbery while in prison. The term imposed shall be consecutive to the term of the offenses that sent them to prison. The statutory maximums for crimes that have a maximum penalty of 10 years in prison (class B felonies such as assault in the second degree) will not apply to those offenses.

Ending indeterminate jurisdiction. The Indeterminate Sentence Review Board, rather than the governor, must prepare a detailed plan for terminating indeterminate jurisdiction over all remaining inmates and parolees no later than June 30, 1998, the date the board expires. The board must consider ex post facto and public safety issues. The board must consult with the attorney general and the Office of Financial Management in addition to the other parties named in the existing statute. The plan is due to the Legislature by December 1, 1992 instead of 1997.

Parole eligibility review hearings. When the board reviews the parole eligibility of offenders the board will operate under a new standard. The board must not release an offender if the board determines the offender presents a serious risk to the community on parole. Language requiring the board to consider whether the offender is

"rehabilitated" or a "fit subject for release" is stricken.

Length of parole and revocations. Terms of parole may be reduced for some parolees. The board must grant a final order of discharge from parole to a parolee who is on parole for an offense other than a sex or serious violent offense if the parolee has been on parole for two consecutive years and is not in violation. The board must grant a final order of discharge to a parolee who is on parole for a sex or serious violent offense if the parolee has been on parole for two consecutive years or for the time period earned for good behavior, whichever is longer, and the offender is not in violation.

The board must develop an administrative sanction grid for violations of parole conditions. Revocation of parole and return to state custody must be reserved as the last alternative to be imposed under the sanction grid.

Fiscal Note: New note requested February 20, 1992.

Effective Date: Ninety days after adjournment of session in which bill is passed. The sections governing the Indeterminate Sentence Review Board shall take effect immediately.

Testimony For: (Human Services): Work programs will reduce inmates' idleness and provide them with both values and experience that will benefit them when they are outside prison. It should serve as a means for reducing recidivism and reducing the cost of incarceration. The inmates and offenders that are on parole under the Indeterminate Sentencing Review Board (ISRB) system are treated significantly different from their offender peers. The pre-SRA offenders must face a different standard of conduct and, most important, different consequences. Often these parole offenders are sent back into the prison where they cost more money to the state and cannot be productive members of society.

(Appropriations): Same as Committee on Human Services.

Testimony Against: (Human Services): It may be difficult for the Department of Corrections to increase the Correctional Industries Program to 50 percent without spending a significant amount of money on new staff and on the space inside the correctional facilities.

Elimination of the ISRB could impact the judiciary system and result in increased costs. In addition, it raises public policy issues concerning the number and types of offenders it will impact. Practical concerns such as

security, transportation, scheduling of offenders in the courts, as well as the impact on local jails must be considered.

(Appropriations): Same as Committee on Human Services.

Witnesses: (Human Services): Representative Hargrove, prime sponsor (support); Judge Richard Strophy, Superior Court Judges Association (oppose); Douglas Sayan, citizen (support); Jean Wessman, Association of Counties (oppose); Ken Stark, Department of Social and Health Services (support concept, oppose fiscal impact); Mike Redman, Washington Association of Prosecuting Attorneys (support); and Melanie Steward, Treatment Alternatives for Street Criminals (support if funded).

(Appropriations): Representative Hargrove, prime sponsor; Judge Paul Hansen, Superior Court Snohomish County; Douglas Sayan, citizen; Kit Bail, Indeterminate Sentence Review Board; and Chase Reeveland, Department of Corrections.