
HOUSE BILL 2719

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Dorn, Tate, Campbell, Long, Van Luven and Brough

Read first time 01/21/94. Referred to Committee on Judiciary.

1 AN ACT Relating to stay of judgment pending appeal; amending RCW
2 9.95.062 and 10.64.025; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that a convicted
5 defendant does not have a constitutional or statutory right to release
6 following conviction while pending appeal. The postconviction bail
7 decision is within the court's inherent power as defined by statute and
8 court rule. A convicted defendant's defense has had the benefit of
9 review by the police, prosecutor, and trier of fact and therefore the
10 defendant will presumably have to serve the sentence imposed absent an
11 error of law. The legislature finds that a convicted defendant who
12 faces a lengthy jail or prison term has a greater incentive to flee the
13 jurisdiction following conviction than prior to conviction. Further,
14 the legislature finds that the community and victims of crimes of
15 harassment or other crimes against persons may have a reasonable fear
16 that a convicted defendant will continue to pose a danger to them if
17 released. Therefore, the legislature intends that courts, when
18 exercising their discretion to stay judgments of convicted defendants,

1 impose a higher standard of review upon defendants convicted of crimes
2 against persons and crimes of harassment.

3 **Sec. 2.** RCW 9.95.062 and 1989 c 276 s 1 are each amended to read
4 as follows:

5 (1) Except as provided in subsection (2) of this section and
6 notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant in a
7 criminal action shall not stay the execution of the judgment of
8 conviction, (~~if~~) unless the court determines by a preponderance of
9 the evidence that:

10 (a) The defendant is (~~likely~~) unlikely to flee or unlikely to
11 pose a danger to the safety of any other person or the community if the
12 judgment is stayed; or

13 (b) The delay resulting from the stay will not unduly diminish the
14 deterrent effect of the punishment; or

15 (c) A stay of the judgment will not cause unreasonable trauma to
16 the victims of the crime or their families; or

17 (d) The defendant has (~~not~~) undertaken to the extent of the
18 defendant's financial ability to pay the financial obligations under
19 the judgment or has (~~not~~) posted an adequate performance bond to
20 assure payment.

21 (2) An appeal by a defendant convicted of a crime against persons
22 as defined in RCW 9.94A.440 or a crime of harassment as defined in RCW
23 9A.46.060 shall not stay execution of the judgment of conviction unless
24 the court finds by clear, cogent, and convincing evidence that:

25 (a) The defendant is unlikely to flee or unlikely to pose a danger
26 to the safety of the victim, any other person, or the community if the
27 judgment is stayed; or

28 (b) A stay of the judgment will not cause unreasonable trauma to
29 the victims of the crime or their families.

30 (3) The court shall obtain the input of the crime victims or the
31 victims' families if available when the court considers whether to stay
32 the judgment.

33 (4) In any contested bail hearing, the court shall make findings of
34 fact under this section.

35 (5) In case the defendant has been convicted of a felony, and has
36 been unable to obtain release pending the appeal by posting an appeal
37 bond, cash, adequate security, release on personal recognizance, or any
38 other conditions imposed by the court, the time the defendant has been

1 imprisoned pending the appeal shall be deducted from the term for which
2 the defendant was sentenced, if the judgment is affirmed.

3 **Sec. 3.** RCW 10.64.025 and 1989 c 276 s 2 are each amended to read
4 as follows:

5 A defendant who has been found guilty of a felony and is awaiting
6 sentencing shall be detained unless the court finds by clear and
7 convincing evidence that: (1) The defendant is not likely to flee or
8 to pose a danger to the safety of any other person or the community if
9 released; or (2) the defendant's release will not cause unreasonable
10 trauma to victims of the crime or to their families. Any bail bond
11 that was posted on behalf of a defendant shall, upon the defendant's
12 conviction, be exonerated.

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