

HOUSE BILL REPORT

SSB 6400

As Reported by House Committee On:
Human Services

Title: An act relating to moral guidance of incarcerated persons.

Brief Description: Establishing programs for the moral guidance of incarcerated persons.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senator Carrell).

Brief History:

Committee Activity:

Human Services: 2/28/08 [DPA].

**Brief Summary of Substitute Bill
(As Amended by House Committee)**

- Requires the Department of Corrections (DOC) to establish an oversight committee to develop a comprehensive interagency plan to provide voluntary, nondenominational moral and character-building residential services and supports for offenders who are incarcerated in prison.
- Requires that institutional chaplains be appointed as employees of the DOC and authorizes the Secretary of the DOC to further contract with chaplains as necessary to meet the religious needs of inmates whose religious denominations are not represented by the appointed institutional chaplains and where volunteer chaplains are not available.
- Prohibits any requirement that chaplains must carry personal liability insurance as a condition of providing services as a result of an appointment, contract, or on a volunteer basis.
- Allows chaplains, whether voluntary, employed, or contracted by the DOC, to request that the Attorney General authorize the defense of any action or proceeding for damages arising out the course of the chaplain's duties.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Dickerson, Chair; Roberts, Vice Chair; Ahern, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Bailey, Darneille, McCoy and O'Brien.

Staff: Linda Merelle (786-7092).

Background:

The Offender Re-entry bill passed during the 2007 legislative session was designed to prepare offenders for re-entry to their communities by providing for education, substance abuse treatment, and job training.

The DOC currently offers Moral Reconciliation Therapy (MRT) in five of its 15 correctional facilities as part of their substance abuse treatment programs. The MRT, in general terms, attempts to teach offenders why they should stay out of trouble and how they could go about making decisions that would keep them out of trouble. The MRT emphasizes the transformation of the individual's value structure. A goal of MRT is to shift an individual's set of priorities so that they become committed to behavioral change.

Many courts have reviewed cases that challenged the programming models of correctional facilities. These challenges have primarily been brought pursuant to the Establishment Clause of the First Amendment, which prohibits mandatory participation in religion or its exercise. Crucial to the ability to allow challenged, faith-based programs to continue are the requirements that programs are voluntary and that no state funds are used for them. In a 2001 opinion, the Washington Court of Appeals found that where there was both a religious-based and non-religious-based option for a chemical dependency treatment program required by the DOC, an offender could choose to participate in either program. If the offender failed to participate at all, he or she could be sanctioned by the DOC.

Summary of Amended Bill:

This bill: (1) requires the DOC to establish an oversight committee to develop a comprehensive interagency plan to provide voluntary, nondenominational moral and character-building residential services for offenders who are incarcerated in prison; and (2) sets forth the qualifications and legal protections regarding defenses of claims for damages and from any resulting judgments for chaplains appointed by the DOC, hired through contract, or who provide their services on a volunteer basis.

Oversight Committee

This committee shall include representatives with decision-making authority from:

- the DOC;
- the Department of Social and Health Services;
- the Washington Association of Sheriffs and Police Chiefs;

- county law and justice councils;
- county community transition coordination networks;
- specialized county courts such as those addressing child dependency, drug, mental health, and domestic violence related crimes;
- prosecuting attorneys and public defenders;
- at least three faith-based organizations that work primarily in the prisons;
- at least three faith-based organizations that work primarily with offenders in the community;
- a religious program manager employed by the DOC;
- one institutional staff chaplain employed by the DOC;
- three chaplains: volunteer, contracted, and Native American program specialist with the DOC;
- six representatives from secular organizations in private and public sectors that have evidence-based expertise in character and moral skills building, education, and residential programming;
- two persons representing victims of crimes and their family members and friends;
- one former inmate of the DOC; and
- one individual representing families of inmates who are incarcerated in the DOC.

Interagency Plan

In developing this plan, the oversight committee shall seek from the public input on moral and character-based residential programs in the state's adult correctional facilities. The public shall include faith-based communities, state institutions of higher education, and the business community.

The oversight committee shall develop the interagency plan by June 30, 2010. An interim report is due to the Legislature by January 1, 2009.

The interagency plan must include:

- identification of existing state services and programs and recognized community-based services and programs for building moral character for those who are incarcerated;
- identification of methods to improve collaboration and coordination of existing services and community-based services and programs;
- recommendations concerning new services and programs for adults who are incarcerated, involving both interagency and community-based efforts;
- identification of evidence-based practices and areas for further research to support the long-term provision of moral and character-building services and programs;
- a plan for offering both nondenominational and secular programming; and
- a system to prevent the diversion of public funds to religious activities.

Chaplains

Institutional chaplains shall be appointed as employees of the DOC and the Secretary of the DOC may further contract with chaplains to meet the religious needs of inmates where volunteer chaplains are not available. The appointed chaplains shall have qualifications

necessary to function as religious program coordinators for all faith groups represented within the DOC. These qualifications shall be consistent with community standards of the given faith group to which the chaplain belongs. A chaplain shall not be required to violate the tenets of his or her faith when acting in an ecclesiastical role.

Chaplains, whether voluntary, contracted with, or employed by the DOC, may not be compelled to carry personal liability insurance as a condition of carrying out his or her duties. Chaplains may request that the Attorney General authorize the defense of an action or proceeding for damages against the chaplain in the course of his or her duties. If a chaplain has been represented by the Office of the Attorney General, any judgment awarded against the chaplain shall be paid by the state.

Amended Bill Compared to Substitute Bill:

The amended bill that passed out of the committee modified the legislative intent removing descriptions of specific pro-social behaviors necessary for the successful re-entry to Washington communities.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is a great beginning for building character and morals into our corrections system. This bill is really about universal truths and helping individuals change their thinking process. Our system could design a program for this purpose or implement a program that already exists. The DOC supports the task force. It is important to have multi-disciplinary participation. Also, representation by our lawyers of any staff that are sued would be a good thing. The DOC is in favor of having a conversation with other disciplines, and the idea that there might be a new program which allows the enhancement of re-entry is attractive.

This bill is the product of more than 40 community representatives. We should not wait until inmates are heading for the exit gates. Intensive, in-prison living unites the tasks of working on moral and character-building and release planning. We want community programs to take ownership of re-entry. These are good programs, and we understand the limits placed by courts regarding the use of funds for religious purposes and voluntariness. The funds for contract chaplains are already there, and the DOC has already been hiring contract chaplains. The important part of the bill, with respect to the chaplains, is the legal defense and the insurance requirements.

The DOC Special Needs Unit is top notch. It deals with good people who have done really bad things. We can house these people and see them become better people. Ninety-seven percent of offenders from state prisons will return to the community. This bill assures that they will have a better cognitive framework when they are released from prison. It will help reduce recidivism. It is vitally important to deal with internal struggles of incarcerated men and women. The bill also offers support to chaplains who provide spiritual guidance and professional services.

Talking to someone in the religious field was very beneficial to making lifestyle changes. It is valuable to have community connections when you are released from prison to be able to continue the lifestyle and continue to develop personally. Church support was very helpful in being able to reach the person that I wanted to be. It was not until I was able to really understand my beliefs and values, which affected my thinking and behaviors, that I was able to change them which, in turn, changed my behavior. It is highly important for prisoners to have access to certain skills that they may not have had when growing up so that they can learn to make positive decisions.

(Opposed) None.

Persons Testifying: Senator Carrell, prime sponsor; Ruben Cedeno, Department of Corrections; Gary Friedman, Religious Services Advisory Committee, Department of Corrections; Carol Clarke; Thomas Wayne, Archdiocese of Seattle; Brenda Lopez, Parent-to-Parent; and Kimberly Mays, Post-Prison Education Program.

Persons Signed In To Testify But Not Testifying: None.