

SENATE BILL REPORT

SB 6842

As Reported By Senate Committee On:
Human Services & Corrections, February 07, 2008

Title: An act relating to providing greater clarification and uniformity in community custody and sentencing law by reorganizing provisions, simplifying the application of current laws to crimes committed after the effective date of the offender accountability act through nonsubstantive amendments, and applying the provisions of current law, to the extent constitutionally permissible, to crimes committed prior to the effective date of the offender accountability act.

Brief Description: Making technical revisions to provisions relating to sentencing and supervision of criminal offenders.

Sponsors: Senator Hargrove.

Brief History:

Committee Activity: Human Services & Corrections: 2/1/08, 2/7/08 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6842 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: When the Sentencing Reform Act (SRA) was passed by the Legislature in 1984, it contained very limited provisions for the supervision of offenders. Over time, the Legislature added back supervision in varying lengths of time and for varying offenses.

Prior to 2000 offenders sentenced to supervision were either on community supervision or community placement. Community supervision usually referred to non-felony offenders. Community placement included a two-part supervision process. Community custody was that portion of time the offender spent in the community in lieu of earned release. Post-release supervision was the period of time the offender was on supervision following the end of a determinate sentence.

In 1999 the Legislature passed the Offender Accountability Act (OAA). The OAA attempted to simplify and streamline the supervision process by consolidating supervision into one term, community custody, and giving the Department of Corrections the authority to sanction

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.

offenders who violate their supervision. Previously, final authority for sanctions only existed with the courts.

The intended simplification has not been realized as the resulting code provisions still contain references to the various types of supervision – community supervision, community placement, post-release supervision, and community custody along with references to their associated dates of applicability. The court's authority to order conditions as part of supervision also varies depending on the dates of conviction for the offender. These provisions are scattered throughout the code.

A Joint Legislative Task Force for Community Custody and Community Supervision (Task Force) was convened in 2006. DOC presented the Task Force with 36 different supervision scenarios that may apply to offenders on supervision. The Task Force recommended that the SRA be simplified to assist community corrections officers in better supervising offenders.

The Sentencing Guidelines Commission (SGC) convened a subcommittee late in 2007 to redraft and reorganize the supervision provisions of the SRA. The SGC endorsed the work of the subcommittee and recommended the draft to the Legislature.

Summary of Bill (Recommended Substitute): Provisions relating to supervision in the SRA are reorganized. Supervision is defined as "community custody" and all other terms are removed. Conditions that the court may include in an offender's sentence as part of community custody are consolidated in one section. Date references are removed to reflect that the current SRA applies to all offenders sentenced after the effective date of the act.

Obsolete provisions, including the definitions of community supervision, community placement, and post-release supervision, are moved to a separate chapter.

No substantive changes are made to those provisions that apply to offenders who committed their crimes after the effective date of the OAA. Pre-OAA offenders (those offenders to which community placement and other terms applied) are given different treatment under this bill. When an offender is sentenced after the effective date of this act for a crime committed prior to July 1, 2000, the court must apply the provisions of the SRA to the extent that it is constitutionally permissible. To the extent that it is not constitutionally permissible, the court must specify in the judgment and sentence those provisions that do not apply. The SGC is directed to prepare a summary of the circumstances under which application of this act is not constitutionally permissible.

The effective date of the act is delayed to allow the Code Reviser to report to the 2009 Legislature any amendment necessary to accomplish the purposes of this act. Section 19 of this act expires July 1, 2010. The effective date of the act is delayed to allow the Code Reviser to report to the 2009 Legislature any amendment necessary to accomplish the purposes of this act.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Makes technical changes identified as necessary to ensure the bill's non-substantive impact. These changes do not effect a change of current law. Adds an expiration date for Section 19 to clarify that any changes in this bill do not impact the expiration date of the section as provided in SB 5990 (2003).

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: August 1, 2009.

Staff Summary of Public Testimony on Original Bill: PRO: The SGC has unanimously endorsed this bill along with four superior court judge representatives. This is an effort to simplify the SRA, which is highly complex due to years and years of adding to the statutes. The complexity obscures policy choices and judgments that need to be made on various issues. We can make progress toward the shared goal of simplification by dealing with structure and language first before substance. The SGC intends to spend the next year working on policy choices and come back next session with a series of recommendations. To the extent humanly possible, no substantive changes are made in this bill.

No one understands the current supervision structure. This reorganization brought to light provisions that don't necessarily make sense. This draft does not fix them. You can't fix something that you don't understand to begin with. There are improvements that need to be made to the supervision scheme, but there is no one who can tell you that this is not an improvement over what we have now. It is a base on which to make future changes and avoid unanticipated consequences by those changes. However, this is not meant to be the last word on correcting community corrections.

It is extremely difficult for community corrections to understand the requirements of supervision. With this much complexity, something is bound to fall through the cracks. This bill is about making the law more understandable and the community safer.

CON: This bill doesn't appear to be policy neutral. Once offenders on supervision become violators, they are held in a county facility. This appears to shift the burden as to who pays for those costs.

The judges have commented on several occasions that there needs to be a complete and full overhaul of the SRA. A reorganization should be done in that context. This does not simplify supervision, it only reorganizes it. It leaves in provisions that are bad policy. It also appears to make permanent those provisions that are intended to be temporary, such as the 50 percent earned release time.

Persons Testifying: PRO: David Boerner, Sentencing Guidelines Commission; Seth Fine, Snohomish County Deputy Prosecutor; Russ Hauge, Washington Association of Prosecuting Attorneys; Jeri Costa, Indeterminate Sentence Review Board.

CON: Michael West, King County Department of Adult and Juvenile Detention; Martha Harden Cesar, Superior Court Judges Association.