

# HOUSE BILL REPORT

## HB 2188

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### As Reported by House Committee On:

Human Services  
Ways & Means

**Title:** An act relating to early deportation of illegal alien offenders.

**Brief Description:** Changing the provisions relating to the early deportation of illegal alien offenders.

**Sponsors:** Representatives Ross, Schmick and Johnson; by request of Department of Corrections.

### Brief History:

#### Committee Activity:

Human Services: 2/18/09, 2/19/09 [DPS];  
Ways & Means: 2/24/09, 2/27/09 [DPS(HS)].

#### Brief Summary of Substitute Bill

- Removes the requirement of approval by the sentencing court and the prosecuting attorney in the county of conviction as a prerequisite to placing an alien offender on conditional release status.
- Removes the requirement that the Secretary of the Department of Corrections (Secretary) make a finding that a placement of an alien offender on conditional release status is in the best interests of the state.
- Adds a requirement that before an alien offender is placed on conditional release status, the Secretary must have reached an agreement with the Immigration and Customs Enforcement Agency (ICE) that once the offender has been placed in the custody of the ICE, that offender will remain in total confinement at a facility operated by the ICE pending the offender's return to his or her country of origin or other location designated in the deportation or exclusion order.

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## HOUSE COMMITTEE ON HUMAN SERVICES

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*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.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green, Klippert, Morrell, O'Brien and Walsh.

**Staff:** Linda Merelle (786-7092)

**Background:**

Any alien offender who has been sentenced under the Sentencing Reform Act of 1981 and who has been found by the U.S. Attorney General to be subject to a final order of deportation or exclusion may be placed on conditional release status. If placed on conditional release status, the offender is transferred to the custody of the Immigration and Customs Enforcement (ICE) division of the U.S. Department of Homeland Security.

An offender may not be released on a conditional release status unless the Secretary of the Department of Corrections finds that such a release is in the best interest of the state. Conditional release status may only be allowed with the approval of the sentencing court and the prosecuting attorney of the county of conviction.

If an offender is serving a sentence for a violent offense, sex offense, or for an offense that is a crime against a person, he or she may not be placed on conditional release status. Once an offender is turned over to the ICE, the Department of Corrections (DOC) shall issue a warrant for the offender's arrest within the United States which will remain in effect until the expiration of the conditional release. The unserved portion of an offender's term of confinement is tolled when the offender is released to the ICE. If the offender is arrested, the DOC must seek extradition as necessary and the offender must be returned to the DOC for the completion of the unserved portion of his or her term of total confinement.

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**Summary of Substitute Bill:**

The placement of an offender on conditional release status no longer requires the Secretary of the DOC (Secretary) to find that such placement is in the best interest of the state. The approval of the sentencing court and the prosecuting attorney is no longer needed.

An offender who is serving a sentence for an offense that is a crime against a person, but is not a violent or sex offender may be placed on conditional release status. If an offender is arrested after being placed on conditional release status, the DOC may, but is not required to, seek extradition to have the offender returned to the DOC.

**Substitute Bill Compared to Original Bill:**

The substitute bill adds a new requirement of the Secretary. Before an alien offender is placed on conditional release status, the Secretary must have reached an agreement with the ICE that once the offender has been placed in the custody of the ICE, that offender will remain in total confinement at a facility operated by the ICE pending the offender's return to his or her country of origin or other location designated by the deportation or exclusion order.

Further, under the substitute bill, alien offenders who are serving a sentence for a crime against a person are not eligible for placement on conditional release status.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 12, 2009.

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

**Staff Summary of Public Testimony:**

(In support) This bill is a timing bill. The individuals who would be placed on conditional release status would be deported before serving their sentence rather than after their sentence is served. This is not like the Arizona system.

(With concerns) The bill may not quite be the solution and projected savings will not be realized. Conditional release status should not be extended to persons serving sentences for crimes against persons. Often individuals who are placed in the custody of the ICE are released into King County from the federal facility on their own personal recognizance. We need to have a better commitment from the ICE that the offender will be deported once placed on conditional release status. Also, once placed on conditional release status, there is no opportunity to recoup restitution. There is no commitment from the federal agency that the offenders will be confined in their country of origin. The amount of savings projected presumes that no one would return to the United States and does not take into account the costs of transfer into federal custody or to the offender's country of origin.

(Opposed) None.

**Persons Testifying:** (In support) Representative Ross, prime sponsor; and John Scott Blonien, Department of Corrections.

(With concerns) Tom McBride, Washington Association of Prosecuting Attorneys.

**Persons Signed In To Testify But Not Testifying:** None.

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**HOUSE COMMITTEE ON WAYS & MEANS**

**Majority Report:** The substitute bill by Committee on Human Services be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Linville, Chair; Ericks, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Cody, Conway, Darneille, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Priest, Ross, Schmick, Seaquist and Sullivan.

**Staff:** Steve Smith (786-7178)

**Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Human Services:**

No new changes were recommended.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This is an agency request bill that is necessary to support the savings assumed in the Governor's budget. It is clear that the federal government will be responsible for the transportation of offenders back to their home country. Over 70 percent of the illegal alien offenders in our prison system are from Mexico. The federal government has about two planes per week that leave Sea-Tac airport returning illegal aliens to Mexico. The Immigration and Customs Enforcement Agency has indicated that they will expeditiously transport offenders back to their home countries. Once a person is released to the federal government a warrant is issued for their arrest. If someone is released by the federal government or comes back into the country, they would be returned to Washington to finish the remainder of their sentence.

(Opposed) None.

**Persons Testifying:** Representative Ross, prime sponsor; and Scott Blonien, Department of Corrections.

**Persons Signed In To Testify But Not Testifying:** None.