

HOUSE BILL REPORT

HB 1194

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to bail for felony offenses.

Brief Description: Continuing to determine bail for the release of a person arrested and detained for a felony offense on an individualized basis by a judicial officer.

Sponsors: Representatives Kelley and Ladenburg.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/25/11, 2/11/11 [DPS].

Brief Summary of Substitute Bill

- Requires that bail for class A and B felonies continue to be determined on an individualized basis by a judicial officer.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Alexa Silver (786-7190).

Background:

Bail may be granted by a judge at the defendant's preliminary appearance, or it may be granted according to a bail schedule. A bail determination must be made as soon as practicable after detention begins, but in no case later than the close of business the next judicial day. When probable cause and bail are determined at the same time, the determination must be made within 48 hours of arrest.

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.

The Washington Supreme Court has held that whether to promulgate a bail schedule is a question best left to the counties. In counties that have a bail schedule, a defendant may post bail without a judicial officer's determination. The availability and amount of bail for the particular offense are specified in the bail schedule. Most counties have a bail schedule for misdemeanors, and prior to January 1, 2011, seven counties had a bail schedule for felonies.

House Bill 2625, which was enacted during the 2010 legislative session, required that a judicial officer make a bail determination on an individualized basis for a person arrested and detained for a felony. This requirement went into effect January 1, 2011, and will expire August 1, 2011.

Summary of Substitute Bill:

When a person is arrested and detained for a class A or B felony, a judicial officer must make a bail determination on an individualized basis.

Substitute Bill Compared to Original Bill:

The substitute bill limits the requirement of an individualized determination by a judicial officer to class A and B felonies, excluding class C felonies.

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 provision was originally included in the bill responding to the shooting of the Lakewood police officers. Just recently there was another shooting committed by a person released on bail. Only seven counties previously had a felony bail schedule. Probable cause hearings are held over the weekend, and bail review may be done at the same time.

(With concerns) Judges, prosecutors, and defense attorneys updated the Snohomish County bail schedule in 2005. If a person is charged with a class A felony, a violent offense, or a domestic violence offense, the person must see a judge. A person charged with a class C property offense should be allowed to bail out. The Bail Practices Work Group determined that bail schedules have value.

(Opposed) None.

Persons Testifying: (In support) Representative Kelley, prime sponsor.

(With concerns) Mark Roe, Washington Association of Prosecuting Attorneys, Snohomish County.

Persons Signed In To Testify But Not Testifying: None.