

HOUSE BILL REPORT

ESSB 5219

As Reported by House Committee On:

Community Safety
Appropriations

Title: An act relating to partial confinement eligibility and alignment.

Brief Description: Concerning partial confinement eligibility and alignment.

Sponsors: Senate Committee on Human Services (originally sponsored by Senators Wilson, C., Frame, Lovick, Nobles and Wellman; by request of Office of the Governor).

Brief History:

Committee Activity:

Community Safety: 3/18/25, 3/26/25 [DP];
Appropriations: 4/4/25, 4/7/25 [DPA].

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

- Aligns partial confinement programs in the Department of Corrections to permit a person to serve up to the last 18 months of the person's term of confinement in the program.
- Expands eligibility and modifies requirements related to partial confinement programs.

HOUSE COMMITTEE ON COMMUNITY SAFETY

Majority Report: Do pass. Signed by 6 members: Representatives Goodman, Chair; Simmons, Vice Chair; Davis, Farivar, Fosse and Obras.

Minority Report: Without recommendation. Signed by 2 members: Representatives Graham, Ranking Minority Member; Burnett.

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

Staff: Lena Langer (786-7192).

Background:

Partial Confinement.

A person sentenced to the custody of the Department of Corrections (DOC) may not leave the correctional facility or be released prior to the expiration of the sentence unless a statutory exception applies. Partial confinement is one such exception for qualifying incarcerated persons, and refers to work release, home detention, work crew, electronic home monitoring, or a combination of these programs, which a person may participate in up to one year. Certain incarcerated persons may not qualify for transfer to partial confinement, such as persons serving sentences for offenses with mandatory minimums.

Work Release.

The work release program is a partial confinement program where eligible incarcerated persons may serve up to the last 12 months of their term of confinement in a work release facility, known as a reentry center. Work release may be authorized for the person to have full-time or part-time employment at specialized programs; participate in a vocational training program, including attendance at an accredited college; secure services to support transition back to the community; or as a sanction for violating community supervision conditions. Only incarcerated persons with minimum security status may be transferred to work release.

Graduated Reentry.

The Graduated Reentry Program (GRE) is a partial confinement program that allows incarcerated persons to serve part of their sentence on home detention in the community. There are two tracks with different eligibility requirements, minimum total confinement times, and maximum lengths of participation.

For track one, a person who is not subject to a deportation order, civil commitment, or interstate compact for adult offender supervision must serve at least six months in total confinement in a state correctional facility to be eligible to serve up to the final five months of the term of confinement in the GRE.

For track two, a person who is not currently serving a sentence for a sex, violent, or crime against a person offense, and who is not subject to a deportation order or the jurisdiction of the Indeterminate Sentence Review Board, must serve at least four months in total confinement at a state correctional facility to be eligible to serve up to the final 18 months of the term of confinement in the GRE.

The GRE must be an appropriate placement for the individual. The person must have an approved residence and living arrangement prior to transfer to home detention, and may be eligible to receive a rental voucher for up to six months. The GRE participants must be placed on electronic home monitoring, participate in programming and treatment, and be

monitored by a community corrections officer.

Before the DOC can transfer a person to the GRE, the DOC must conduct a comprehensive assessment for substance use disorder (SUD). If the person is assessed to have an SUD, the DOC must assist the person in enrolling in SUD treatment services at the level deemed appropriate by the assessment. A person transferred to the GRE must begin receiving SUD treatment services as soon as practicable after transfer to avoid any treatment delays. The SUD treatment services include, as deemed necessary by the assessment, access to medication-assisted treatment and counseling programs.

Community Parenting Alternative.

The Community Parenting Alternative (CPA) is a partial confinement program where eligible incarcerated individuals may serve up to the last 12 months of their term of confinement on home detention in the community. Individuals in the residential parenting program, a correctional nursery program administered by the DOC, may participate in the CPA for up to the final 18 months of their term of confinement.

To be eligible for the CPA, the person must:

- not have a current conviction for a felony that is classified as a sex offense or serious violent offense;
- not have a current conviction for a violent offense, or where the person has a current conviction for a violent offense, not have been determined to be at a high risk to reoffend;
- be a parent with guardianship or legal custody of a minor child; an expectant parent; or a biological parent, adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense;
- be subject to a sentence range with a high end of greater than one year;
- sign a release of information waiver regarding current or prior child welfare involvement; and
- have it be determined by the DOC that the person's participation in the parenting program is in the best interests of the child.

A person must provide an approved residence and living arrangement prior to transfer to home detention. While on home detention, the person must be placed on electronic home monitoring and participate in programming and treatment. The DOC must assign a community corrections officer to monitor the person and collaborate and communicate with a social worker if the person has an open child welfare case with the Department of Children, Youth, and Families.

Summary of Bill:

Partial Confinement.

A person may participate in a partial confinement program up to the last 18 months of their term of confinement.

Community Parenting Alternative.

Eligibility and participation requirements for the CPA are modified. A person can participate in the CPA for up to the last 18 months of their term of confinement, rather than the last 12 months. The provision allowing participants in the residential parenting program to be in the CPA for the final 18 months of a person's term of confinement is removed.

Eligibility for the CPA is expanded to include:

- a caregiver, in addition to a biological parent, adoptive parent, custodian, or stepparent, who has a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense; and
- an individual expected to take over the duties of a parent or caregiver and be responsible for exercising the day-to-day care and control of a minor child, who is not prohibited from contact with a minor child by any law, court order, or any other restriction.

If the individual's earned release date changes after placement in the CPA, the DOC may extend the duration of participation in the CPA by up to six months or up to the earned release date, whichever comes first.

The DOC may not transfer an individual to the CPA until the DOC has a clinically appropriate evaluation for an SUD. If the person is diagnosed with an SUD, the DOC must assist the person in enrolling in SUD treatment services at the level deemed clinically appropriate. Individuals transferred to participate in the CPA and diagnosed with an SUD must begin receiving SUD treatment services as soon as practicable after transfer to avoid any delays in treatment. The SUD treatment services include, as deemed necessary by the evaluation, access to medication-assisted treatment and counseling programs.

Graduated Reentry Program.

Eligibility and participation requirements for the GRE are modified. For track one, where an incarcerated person must serve a minimum of six months in total confinement, the maximum participation time allowed in the GRE is increased from five months to nine months. For track two, where a qualifying person may participate up to the last 18 months of the person's term of confinement, the minimum required total confinement time is reduced from four months to three months.

Instead of requiring the DOC to conduct a comprehensive SUD assessment before an individual may transfer to the GRE, the DOC may not transfer an individual to the GRE until the DOC has a clinically appropriate evaluation for an SUD. If the person is diagnosed with an SUD, the DOC must assist the person in enrolling in SUD treatment services at the level deemed clinically appropriate. Individuals transferred to participate in the GRE and diagnosed with an SUD must begin receiving SUD treatment services as soon

as practicable after transfer to avoid any delays in treatment. The SUD treatment services include, as deemed necessary by the evaluation, access to medication-assisted treatment and counseling programs.

Work Release.

A person can participate in work release up to the last 18 months of the person's term of confinement, instead of the last 12 months. The DOC may not transfer an individual to work release until the DOC has a clinically appropriate evaluation for an SUD. If the person is diagnosed with an SUD, the DOC must assist the person in enrolling in SUD treatment services at the level deemed clinically appropriate. Individuals transferred to participate in work release and diagnosed with an SUD must begin receiving SUD treatment services as soon as practicable after transfer to avoid any delays in treatment. The SUD treatment services include, as deemed necessary by the evaluation, access to medication-assisted treatment and counseling programs.

Changes related to the CPA, the GRE, work release, and partial confinement programs apply prospectively and to persons currently serving a sentence in any facility or institution operated by the state or utilized under contract.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) Currently, the point in a person's term of incarceration at which the person may participate in a partial confinement program varies from program to program. As a result of the different timelines, incarcerated people choose the path that may not be the best for them or that meets their needs, but the one that gives them the shortest route out of total confinement. The bill aligns the timelines for the different partial confinement programs. This is an agency request bill that will align the programs and will allow a person to participate in a program up to the last 18 months of their term of confinement. The bill also aligns the SUD evaluations for persons before being transferred to different partial confinement programs.

The partial confinement programs offer targeted pathways to encourage individuals to be active participants in their reentry. The programs allow individuals to maintain employment, pursue education, and connect with their families while serving out the final months of their sentences in the community. Aligning the partial confinement program timelines will empower individuals to pursue the program that best suits their needs. Amending the eligibility for the CPA will reunite more families. The changes to the SUD

services in the bill will allow the DOC to better utilize limited resources and transfer individuals to partial confinement more efficiently.

This bill aligns the DOC policies with what works. Providing safe structures for persons leaving incarceration and programs that will support them in their reentry to the community represents a commitment to building healthier families and stronger communities. Reintegration is difficult for formerly incarcerated individuals and their families. Allowing incarcerated parents to reunite with their children earlier will strengthen their bonds and benefit them and the community. Studies have consistently shown that work release programs reduce recidivism rates. People in recovery would never do the things they did during active addiction. Giving people the opportunity to have extended periods of time participating in therapeutic programs with accountability measures will increase their chances of successful reentry to the community.

(Opposed) There is disagreement with aligning the partial confinement programs by increasing participation in the programs up to 18 months. Allowing a person to be released up to 18 months prior to the expiration of their sentence is a concern for public safety and a problem for the sentencing grid. Nothing in this bill requires a person to have positive accomplishments or rehabilitation to be eligible for partial confinement programs, including the GRE. This bill lets more people out of prison early, and this is not in the interest of public safety.

The changes in the bill contribute to the feeling that there is a revolving door, in the sense that people who harm their communities are quickly put back into the community. Under current policy, the GRE programs fall short on adequate monitoring to protect communities. People are engaging in drug trafficking while subject to electronic home monitoring because they are not being actively monitored by the DOC. Until there are adequate resources to monitor people in this program, the programs should not be expanded.

There are also concerns about the changes in the bill that pertain to the CPA. There are concerns with expanding the CPA to include persons who did not have an ongoing relationship with the child at the time of the crime. There are also concerns with the language that requires a person participating in the CPA, when clinically appropriate, to be provided with self-administered fentanyl testing supplies and medications designed to reverse the effects of opioid overdose. That language is concerning when the person may have been convicted of drug possession, drug dealing, or drug manufacturing crimes.

Persons Testifying: (In support) Senator Claire Wilson, prime sponsor; Erin Lopez; April Provost, Washington Recovery Alliance; Carrie Stanley, Department of Corrections; and Megan Pirie, Department of Corrections.

(Opposed) James McMahan, WA Assoc Sheriffs and Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys; and Anne Anderson, Washington State Narcotics

Investigators Association.

Persons Signed In To Testify But Not Testifying: Teresa Sanders.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended. Signed by 18 members: Representatives Ormsby, Chair; Gregerson, Vice Chair; Macri, Vice Chair; Berg, Bergquist, Callan, Cortes, Doglio, Fitzgibbon, Lekanoff, Peterson, Pollet, Ryu, Springer, Stonier, Street, Thai and Tharinger.

Minority Report: Do not pass. Signed by 13 members: Representatives Couture, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Penner, Assistant Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Burnett, Caldier, Corry, Dye, Keaton, Leavitt, Manjarrez, Marshall and Rude.

Staff: Yvonne Walker (786-7841).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Community Safety:

The Appropriations Committee recommended adding a provision that provides that—where eligibility for the Community Parenting Alternative Program is expanded to include a person expected to take over the duties of a caregiver or parent and be responsible for exercising the day-to-day care and control of a minor child—the person must have a proven, established, ongoing, and substantial relationship with the minor child to be eligible.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) The cost of incarceration is staggering in Washington. This bill takes a crucial step in aligning Washington's partial confinement programs with evidence-based practices that support successful reintegration while saving state dollars. Partial confinement is not about reducing sentencing, but about making reentry work.

Formerly incarcerated individuals can face many barriers to housing and employment, as well as a social stigma. What helps such individuals to succeed are mentors, community programs, and people who believe in their potential. This bill will invest in those types of

supports including peer mentorship, trauma-informed care, education, and reentry services. These are cost saving strategies that reduce recidivism and help people return as positive contributors to their community.

This bill promotes incarcerated individuals' successful reentry into communities, and promises a major payoff in both fiscal terms and human returns for success. We cannot afford to keep sending people to prison who do not need to be there.

(Opposed) There are concerns about the public safety implications of the Graduated Reentry Program (GRE) expansion under this bill. For individuals convicted of Crimes Against Persons and other violent crimes, this bill will allow such convicted individuals to spend more time in the community than incarcerated in a facility. In addition, the Community Parenting Alternative now allows for a person, who never had a relationship with their child, to be released 18 months early and to become a caregiver for that child. This reduces public safety.

Furthermore, under this bill, a convicted person would only have to spend 90 days in prison for being convicted of a felony, which is the same amount of time a person could spend in jail for a simple misdemeanor trespassing offense. In addition, there is no requirement for individuals participating in the GRE program to participate or complete any type of programming.

What will eventually happen is that prosecutors will start to charge and prosecute these crimes as misdemeanors as opposed to a felony offense because under this bill a person would spend more time in jail for a misdemeanor conviction than they would for a felony offense. This is not good policy.

Persons Testifying: (In support) Laurie Dawson; Tamara Light, Information For Change Washington; Heather Kelly, League of Women Voters of Washington; and Stanley Harewood, All of Us or None.

(Opposed) James McMahan, WA Association Sheriffs and Police Chiefs; and Russell Brown, WA Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.