

HOUSE BILL REPORT

SSB 5010

As Reported by House Committee On: Public Safety

Title: An act relating to community custody conditions for marijuana.

Brief Description: Establishing that courts may order an offender to refrain from the consumption of marijuana as a part of community custody conditions.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Padden, Sheldon and Carrell).

Brief History:

Committee Activity:

Public Safety: 4/2/13 [DP].

Brief Summary of Substitute Bill

- Allows a court to order an offender to refrain from consuming marijuana while on community custody, except pursuant to a legal medical marijuana authorization.
- Prevents application of the medical marijuana exception if the Department of Corrections determines that marijuana consumption is inconsistent with and contrary to the offender's supervision.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 10 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Moscoso, Pettigrew, Ross and Takko.

Staff: Sarah Koster (786-7303).

Background:

When a court sentences an offender to a term of community custody, the court imposes conditions. Some of these conditions are mandatory, some apply unless they are waived by the court, and some may be imposed at the court's discretion. Refraining from possessing or

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consuming controlled substances, except by prescription, is a waivable condition. Refraining from consuming alcohol is a discretionary condition.

Recent changes to Washington's regulation and control of marijuana has left the law ambiguous regarding the court's authority to order an offender to refrain from the use of marijuana.

Summary of Bill:

In addition to other discretionary conditions, when a court sentences an offender to a term of community custody, the court has the discretion to order the offender to refrain from the use of marijuana, except in situations when the offender has a lawfully issued medical marijuana authorization. The medical marijuana authorization exception does not apply if the Department of Corrections (DOC) has determined that consumption is inconsistent with and contrary to the offender's supervision as provided by current law.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: 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 came from special assault units and only applies to felonies, because it is under the Sentencing Reform Act. Based on the circumstances of their offense, some felony offenders should stay away from all intoxicants. When marijuana was a controlled substance, refraining from its use was an automatic condition that the court would have to waive, while the use of alcohol was a discretionary condition. This bill moves marijuana down next to alcohol to be something that can be restricted if using it is something that can lead to re-offense behavior. There is one complication that makes marijuana different than alcohol and that is the medicinal marijuana usage.

The DOC policy is approved by a doctor and it allows medical marijuana usage to be approved or denied based on medical necessity and provides for an appeal process. The DOC's process that has been in place since the certification of medicinal marijuana works reasonably well. It is important that the DOC have the ability to restrict use of marijuana for those offenders with a criminal history with a nexus to that use of marijuana and this bill would support the DOC's ability to do that. The policy has been amended over time to describe criteria as to when the DOC would deny the use of medical marijuana and it has been successful for a number of years.

(Opposed) None.

Persons Testifying: Tom McBride, Washington Association of Prosecuting Attorneys; and Anna Aylward, Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.