

2 **ESHB 2834** - S COMM AMD

3 By Committee on Law & Justice

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 9.94A.060 and 1988 c 157 s 2 are each amended to read
8 as follows:

9 (1) The commission consists of fifteen voting members, one of whom
10 the governor shall designate as chairperson. With the exception of ex
11 officio voting members, the voting members of the commission shall be
12 appointed by the governor, subject to confirmation by the senate.

13 (2) The voting membership consists of the following:

14 (a) The head of the state agency having general responsibility for
15 adult correction programs, as an ex officio member;

16 (b) The director of financial management, as an ex officio member;

17 (c) Until July 1, (~~1992~~) 1998, the chair of the indeterminate
18 (~~sentencing~~) sentence review board, as an ex officio member, and
19 thereafter the chair of the clemency and pardons board, as an ex
20 officio member;

21 (d) Two prosecuting attorneys;

22 (e) Two attorneys with particular expertise in defense work;

23 (f) Four persons who are superior court judges;

24 (g) One person who is the chief law enforcement officer of a county
25 or city;

26 (h) Three members of the public who are not and have never been
27 prosecutors, attorneys, judges, or law enforcement officers.

1 In making the appointments, the governor shall seek the recommendations
2 of Washington prosecutors in respect to the prosecuting attorney
3 members, of the Washington state bar association in respect to the
4 attorney members, of the association of superior court judges in
5 respect to the members who are judges, and of the Washington
6 association of sheriffs and police chiefs in respect to the member who
7 is a law enforcement officer.

8 (3) All voting members of the commission, except ex officio voting
9 members, shall serve terms of three years and until their successors
10 are appointed and confirmed. However, the governor shall stagger the
11 terms by appointing four of the initial members for terms of one year,
12 four for terms of two years, and four for terms of three years.

13 (4) The speaker of the house of representatives and the president
14 of the senate may each appoint two nonvoting members to the commission,
15 one from each of the two largest caucuses in each house. The members
16 so appointed shall serve two-year terms, or until they cease to be
17 members of the house from which they were appointed, whichever occurs
18 first.

19 (5) The members of the commission shall be reimbursed for travel
20 expenses as provided in RCW 43.03.050 and 43.03.060. Legislative
21 members shall be reimbursed by their respective houses as provided
22 under RCW 44.04.120, as now existing or hereafter amended. Members
23 shall be compensated in accordance with RCW 43.03.250."

24 "Sec. 2. RCW 9.95.100 and 1955 c 133 s 11 are each amended to read
25 as follows:

26 (1) Any convicted person undergoing sentence in the penitentiary or
27 the reformatory, not sooner released under the provisions of this
28 chapter, shall, in accordance with the provisions of law, be discharged
29 from custody on serving the maximum punishment provided by law for the

1 offense of which such person was convicted, or the maximum term fixed
2 by the court where the law does not provide for a maximum term. ((The
3 board shall not, however, until his maximum term expires, release a
4 prisoner, unless in its opinion his rehabilitation has been complete
5 and he is a fit subject for release))

6 (2) When the board reviews the parole eligibility of an offender
7 for all offenders whose minimum terms have been set according to RCW
8 9.95.009(2), the board shall not release the offender unless the board
9 determines that the offender does not present a serious risk to the
10 community on parole."

11 "Sec. 3. RCW 9.95.0011 and 1989 c 259 s 4 are each amended to read
12 as follows:

13 (1) The indeterminate ((sentencing)) sentence review board shall
14 cease to exist on June 30, 1998. Prior to June 30, 1998, the board
15 shall review each inmate convicted of crimes committed before July 1,
16 1984, and prepare a report. This report shall include a recommendation
17 regarding the offender's suitability for parole, appropriate parole
18 conditions, and, for those persons committed under a mandatory life
19 sentence, duration of confinement.

20 (2) The ((governor, through the office of financial management,))
21 board shall recommend to the legislature ((alternatives for carrying
22 out the duties of the board)) a detailed plan by December 1, 1993, for
23 terminating the indeterminate jurisdiction on all remaining inmates and
24 parolees no later than June 30, 1998. The plan shall consider ex post
25 facto issues and public safety concerns. In developing
26 recommendations, the ((office of financial management)) board shall
27 consult with the ((indeterminate sentence review board)) office of
28 financial management, the attorney general, Washington association of
29 prosecuting attorneys, Washington defender association, department of

1 corrections, and administrator for the courts. Recommendations shall
2 include a detailed fiscal analysis and recommended formulas and
3 procedures for the reimbursement of costs to local governments if
4 necessary. ((Recommendations shall be presented to the 1997
5 legislature.))"

6 "Sec. 4. RCW 9.95.040 and 1986 c 224 s 9 are each amended to read
7 as follows:

8 The board shall fix the duration of confinement for persons
9 committed by the court before July 1, 1986, for crimes committed before
10 July 1, 1984. Within six months after the admission of the convicted
11 person to the penitentiary, reformatory, or such other state penal
12 institution as may hereafter be established, the board shall fix the
13 duration of his confinement. The term of imprisonment so fixed shall
14 not exceed the maximum provided by law for the offense of which he was
15 convicted or the maximum fixed by the court where the law does not
16 provide for a maximum term.

17 The following limitations are placed on the board or the court for
18 persons committed to prison on or after July 1, 1986, for crimes
19 committed before July 1, 1984, with regard to fixing the duration of
20 confinement in certain cases, notwithstanding any provisions of law
21 specifying a lesser sentence:

22 (1) For a person not previously convicted of a felony but armed
23 with a deadly weapon at the time of the commission of his offense, the
24 duration of confinement shall not be fixed at less than five years.

25 (2) For a person previously convicted of a felony either in this
26 state or elsewhere and who was armed with a deadly weapon at the time
27 of the commission of his offense, the duration of confinement shall not
28 be fixed at less than seven and one-half years.

1 The words "deadly weapon," as used in this section include, but are
2 not limited to, any instrument known as a blackjack, sling shot, billy,
3 sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver,
4 or any other firearm, any knife having a blade longer than three
5 inches, any razor with an unguarded blade, any metal pipe or bar used
6 or intended to be used as a club, any explosive, and any weapon
7 containing poisonous or injurious gas.

8 (3) For a person convicted of being an habitual criminal within the
9 meaning of the statute which provides for mandatory life imprisonment
10 for such habitual criminals, the duration of confinement shall not be
11 fixed at less than fifteen years. (~~The board shall retain~~
12 ~~jurisdiction over such convicted person throughout his natural life~~
13 ~~unless the governor by appropriate executive action orders otherwise.~~)

14 (4) Any person convicted of embezzling funds from any institution
15 of public deposit of which he was an officer or stockholder, the
16 duration of confinement shall be fixed at not less than five years.

17 Except when an inmate of the reformatory, penitentiary, or such
18 other penal institution as may hereafter be established has been
19 convicted of murder in the first or second degree, the board may parole
20 an inmate prior to the expiration of a mandatory minimum term, provided
21 such inmate has demonstrated a meritorious effort in rehabilitation and
22 at least two-thirds of the board members concur in such action:
23 PROVIDED, That any inmate who has a mandatory minimum term and is
24 paroled prior to the expiration of such term according to the
25 provisions of this chapter shall not receive a conditional release from
26 supervision while on parole until after the mandatory minimum term has
27 expired."

28 "Sec. 5. RCW 9.95.110 and 1955 c 133 s 12 are each amended to read
29 as follows:

1 (1) The board (~~(of prison terms and paroles)~~) may permit a
2 convicted person to leave the buildings and enclosures of the
3 penitentiary or the reformatory on parole, after such convicted person
4 has served the period of confinement fixed for him or her by the board,
5 less time credits for good behavior and diligence in work(~~(: PROVIDED,~~
6 ~~That in no case shall an)~~). No inmate may be credited with more than
7 one-third of his or her sentence as fixed by the board.

8 (2) The board (~~(of prison terms and paroles)~~) may establish rules
9 and regulations under which a convicted person may be allowed to leave
10 the confines of the penitentiary or the reformatory on parole(~~(, and)~~).
11 The board may return such person to the confines of the institution
12 from which he or she was paroled(~~(, at its discretion)~~) according to
13 RCW 9.95.121.

14 (3) On or after the effective date of this section, a person who is
15 released on parole shall be placed on parole for the following periods
16 of time: (a) A person convicted of a sex or serious violent offense
17 shall be on parole for two years from the date of release or up to the
18 period of time earned for good behavior awarded pursuant to RCW
19 9.95.070 and this section, whichever is longer; or (b) offenders
20 released on parole who are convicted of offenses other than sex or
21 serious violent offenses shall be on parole for two years from the date
22 of release. Under either (a) or (b) of this subsection, the parole
23 period shall not exceed the time remaining on the parolee's statutory
24 maximum sentence. Sanctions for violations of parole shall be imposed
25 as provided in RCW 9.95.121 and 9.95.125. Final discharge orders shall
26 be granted as provided in RCW 9.96.050."

27 **"Sec. 6.** RCW 9.95.121 and 1981 c 136 s 38 are each amended to read
28 as follows:

1 Within fifteen days from the date of notice to the department of
2 corrections of the arrest and detention of the alleged parole violator,
3 he shall be personally served by a state probation and parole officer
4 with a copy of the factual allegations of the violation of the
5 conditions of parole, and, at the same time shall be advised of his
6 right to an on-site parole revocation hearing and of his rights and
7 privileges as provided in RCW 9.95.120 through 9.95.126. The alleged
8 parole violator, after service of the allegations of violations of the
9 conditions of parole and the advice of rights may waive the on-site
10 parole revocation hearing as provided in RCW 9.95.120, and admit one or
11 more of the alleged violations of the conditions of parole. If the
12 board accepts the waiver it shall either, (1) reinstate the parolee on
13 parole under the same or modified conditions, and if reinstated, may
14 impose sanctions according to an administrative violation grid
15 developed by the board in cooperation with the department of
16 corrections, or (2) revoke the parole of the parolee and enter an order
17 of parole revocation and return to state custody. Revocation of parole
18 and return to state custody shall be reserved as the last alternative
19 to be imposed under the sanction grid. A determination of a new
20 minimum sentence shall be made within thirty days of return to state
21 custody which shall not exceed the maximum sentence as provided by law
22 for the crime of which the parolee was originally convicted or the
23 maximum fixed by the court. The offender shall be released according
24 to the provisions of RCW 9.95.100. Upon release the offender shall be
25 on parole for the period of time provided in RCW 9.95.110.

26 If the waiver made by the parolee is rejected by the board it shall
27 hold an on-site parole revocation hearing under the provisions of RCW
28 9.95.120 through 9.95.126."

1 **"Sec. 7.** RCW 9.95.125 and 1969 c 98 s 7 are each amended to read
2 as follows:

3 After the on-site parole revocation hearing has been concluded, the
4 members of the board having heard the matter shall enter their decision
5 of record within ten days, and make findings and conclusions upon the
6 allegations of the violations of the conditions of parole. If the
7 member, or members having heard the matter, should conclude that the
8 allegations of violation of the conditions of parole have not been
9 proven by a preponderance of the evidence, or, those which have been
10 proven by a preponderance of the evidence are not sufficient cause for
11 the revocation of parole, then the parolee shall be reinstated on
12 parole on the same or modified conditions of parole. If the member or
13 members having heard the matter should conclude that the allegations of
14 violation of the conditions of parole have been proven by a
15 preponderance of the evidence and constitute sufficient cause for the
16 revocation of parole, then such member or members shall enter an order
17 of parole revocation and either impose sanctions according to a
18 sanction grid as provided in RCW 9.95.121 or return the parole violator
19 to state custody. Within thirty days of the return of such parole
20 violator to a state correctional institution for convicted felons the
21 board (~~((of prison terms and paroles))~~) shall enter an order determining
22 a new minimum sentence, not exceeding the maximum penalty provided by
23 law for the crime for which the parole violator was originally
24 convicted or the maximum fixed by the court."

25 **"Sec. 8.** RCW 9.96.050 and 1980 c 75 s 1 are each amended to read
26 as follows:

27 (1) When a prisoner on parole has performed the obligations of his
28 release for such time as shall satisfy the indeterminate sentence
29 review board (~~((of prison terms and paroles))~~) that his or her final

1 release is not incompatible with the best interests of society and the
2 welfare of the paroled individual, the board may make a final order of
3 discharge and issue a certificate of discharge to the prisoner.

4 (2) The board retains the jurisdiction to issue a certificate of
5 discharge after the expiration of the prisoner's or parolee's maximum
6 statutory sentence(~~(: PROVIDED, That no such order of discharge shall~~
7 ~~be made in any case within a period of less than one year from the date~~
8 ~~on which the board has conditionally discharged the parolee from active~~
9 ~~supervision by a probation and parole officer, except where the~~
10 ~~parolee's maximum statutory sentence expires earlier))~~).

11 (3) The board shall grant a final order of discharge and issue a
12 certificate of discharge to a parolee on parole for an offense other
13 than a sex or serious violent offense who has been on parole for two
14 continuous years, if the parolee is not in violation as of the
15 effective date of this section. The board shall grant a final order of
16 discharge and issue a certificate of discharge to a parolee on parole
17 for a sex or serious violent offense who has been on parole for two
18 continuous years or for the time period earned for good behavior,
19 whichever is longer, if the parolee is not in violation as of the
20 effective date of this section.

21 (4) Such discharge, regardless of when issued, shall have the
22 effect of restoring all civil rights lost by operation of law upon
23 conviction, and the certification of discharge shall so state.

24 (5) The discharge provided for in this section shall be considered
25 as a part of the sentence of the convicted person and shall not in any
26 manner be construed as affecting the powers of the governor to pardon
27 any such person."

28 "NEW SECTION. Sec. 9. This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take
2 effect immediately."

3 "NEW SECTION. Sec. 10. If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected."

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10 On page 1, line 1 of the title, after "sentencing;" strike the
11 remainder of the title and insert "amending RCW 9.94A.060, 9.95.100,
12 9.95.0011, 9.95.040, 9.95.110, 9.95.121, 9.95.125, and 9.96.050;
13 prescribing penalties; and declaring an emergency."