

HOUSE BILL REPORT

HB 2202

As Reported By House Committee On:
Corrections

Title: An act relating to the indeterminate sentence review board.

Brief Description: Limiting the indeterminate sentence review board's power to change confinements.

Sponsors: Representatives Ballasiotes, Campbell, Wood, Ballard, Foreman, Kessler, Dyer, Reams, Forner, Brough, Edmondson, Cooke, Chandler, Johanson and Lisk.

Brief History:

Reported by House Committee on:
Corrections, January 19, 1994, DPS.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; G. Cole; L. Johnson; Ogden; and Padden.

Staff: Rick Neidhardt (786-7841).

Background: Indeterminate Sentence Review Board. The indeterminate sentence review board plays a role in determining the length of confinement for crimes committed prior to July 1, 1984. The board is not involved in the sentencing for any crimes committed on or after that date.

Imposition of Indeterminate Sentences. Crimes committed before July 1, 1984, are punished through indeterminate sentences. Unlike the sentencing scheme in place for crimes committed since that date, indeterminate sentences do not specify the exact length of confinement at the time of sentencing. Rather, indeterminate sentencing involves setting a minimum term and a maximum term of confinement. The actual length of confinement depends on the offender's conduct in prison and the offender's progress toward rehabilitation.

The maximum term of an indeterminate sentence is set by the court that convicted the offender. Since 1986, the court

also sets the minimum term. The minimum sentence was previously set by a parole board.

The indeterminate sentence review board has the authority to review, refix and redetermine the court's minimum term order. This usually occurs in two situations. First, it can occur when the board determines an inmate is not parolable at the end of the minimum term, requiring the board to add additional time to the minimum term. Second, additional time can be added to a minimum term if the offender commits infractions while in confinement.

Sentencing for Multiple Crimes. When multiple crimes are being sentenced at one time, the sentencing court (or before 1986, the parole board) originally chose whether to impose the terms of sentence concurrently or consecutively. Consecutive sentences are served one after the other; concurrent sentences are served simultaneously. The sentencing court is given discretion in making this decision.

The Washington State Supreme Court has held in In re Irwin, 110 Wn.2d 175 (1988), that the board must exercise its own discretion when addressing the concurrent/consecutive issue. Even when the sentencing court orders consecutive terms, the board cannot automatically impose consecutive terms. The board must instead take into account not only the appropriate sentence under the old indeterminate sentencing system, but also must attempt to make decisions that are reasonably consistent with (1) the sentences that would have been imposed under the more recent Sentencing Reform Act and (2) the recommendations of the court and prosecutor. Thus, when the Sentencing Reform Act would impose concurrent terms, the board must do so as well unless it articulates an adequate aggravating factor to justify consecutive terms.

Summary of Substitute Bill: The indeterminate sentence review board may not change or modify the concurrent or consecutive structure of any sentence as set by the sentencing court.

The bill contains a severability clause.

Substitute Bill Compared to Original Bill: The substitute bill clarifies ambiguous language in the original bill.

Fiscal Note: Requested January 14, 1994.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill was passed.

Testimony For: A sentencing court's decision to impose consecutive or concurrent sentences should not be subject to modification at a later date. Prior to Irwin, the Board did not alter this aspect of a sentence.

Testimony Against: None.

Witnesses: Representative Ballasiotes (in favor); Kathryn Bail, Indeterminate Sentence Review Board (favors bill with amendment to clarify language).