

SENATE BILL REPORT

SB 5006

As Reported By Senate Committee On:
Law & Justice, March 4, 1997
Ways & Means, March 10, 1997

Title: An act relating to enhanced sentencing and supervision of sex offenders.

Brief Description: Enhancing sentences and supervision of sex offenders.

Sponsors: Senators Long, Hargrove, McCaslin, Haugen, Sheldon, Winsley, Goings, Deccio, McAuliffe, Franklin, Rasmussen, Hale, Johnson and Oke.

Brief History:

Committee Activity: Law & Justice: 3/4/97 [DP-WM, DNP].
Ways & Means: 3/10/97 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Goings, Hargrove, Haugen, Long, McCaslin, Stevens and Zarelli.

Minority Report: Do not pass.

Signed by Senator Fairley.

Staff: Mychal Schwartz (786-7444)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5006 be substituted therefor, and the substitute bill do pass.

Signed by Senators Deccio, Vice Chair; Bauer, Brown, Fraser, Hochstatter, Kohl, Long, Loveland, Roach, Rossi, Schow, Sheldon, Snyder, Spanel, Thibaudeau, Winsley and Zarelli.

Staff: Bryon Moore (786-7726)

Background: Under the Sentencing Reform Act (SRA), all offenders receive a determinate sentence which generally consists of a term of total confinement and a subsequent one to two year period of supervision. In the case of sex offenders who are sentenced to prison, the act provides for supervision upon release for three years or for the period of earned early release, whichever is longer. At the end of that time, the offender is no longer subject to supervision, without regard to whether the offender continues to pose a threat of committing new offenses.

The SRA has been criticized for not adequately protecting public safety in regards to sex offenders. Some studies have found that the risk of recidivism for sex offenders continues well past the two years of supervision allowed by the SRA. Also, the public is confused and angered by the release from confinement of sex offenders where Level III community notification is found appropriate. Level III notification is reserved for those sex offenders who pose a high risk of reoffense.

It has been suggested that applying some elements of indeterminate sentencing to sex offenders would keep dangerous sex offenders in confinement longer, allow longer supervision of sex offenders, and enhance public safety. Sex offenders would continue to be sentenced according to the established standard ranges, but could be kept in prison beyond the standard range, up to the maximum sentence for the crime, if they continued to pose a threat to public safety.

Summary of Substitute Bill: All offenders convicted of a felony sex offense committed on or after July 1, 1997, are required to be sentenced to a maximum term. The maximum term is determined by the statutory maximum sentence for the offense (five years for a class C offense, 10 years for a class B, and life for a class A offense). The offender is also required to be sentenced to a minimum term which must be within the standard range for the offense, unless the court finds justification to impose an exceptional sentence. A Indeterminate Sentence Review Board (ISRB) is given the responsibility for determining whether offenders sentenced to prison should be released at the time of completion of the minimum term or retained in confinement.

Sex offenders sentenced to 12 months or less are released upon completion of their minimum term but remain on community supervision until expiration of the maximum term. Violations of community supervision can result in confinement for up to 60 days per violation, or the offender may be sentenced to total confinement for the maximum sentence allowed for the offense. In the latter case, the court also establishes a minimum term for the offender, and the ISRB determines whether the offender should be released upon serving that minimum term or retained in custody.

Sex offenders who are sentenced under the special sex offender sentencing alternative remain on community supervision for the length of their maximum sentence. If the court revokes their suspended sentence, the offender's minimum term is the standard range sentence originally suspended by the court. At the completion of the minimum term, the offender becomes subject to the jurisdiction of the ISRB.

The ISRB is given the responsibility to review sentences of sex offenders sentenced to prison to determine whether release is appropriate upon completion of the minimum term; to establish conditions of release for offenders who are released; to determine if an offender has violated conditions of release and impose sanctions for the violation; and to periodically review offenders who remain in confinement beyond the minimum term to determine if release is appropriate.

When deciding whether an offender should be released, the ISRB is to give public safety considerations the highest priority. An offender may not be released unless the board finds the offender's risk to the community can be reasonably managed under release conditions established by the board. The ISRB is to consider all relevant information, including prior

offenses, amenability to, or performance in treatment, future dangerousness, and any history of substance abuse.

At the time of release of a sex offender, the ISRB must establish conditions of release. The sentencing court and prosecuting attorney may advise the board of recommended conditions of release. All released offenders must be subject to the following conditions: no law violations; no illegal drug use; report as required to the Department of Corrections; and no contact with any victims or witnesses except as specifically allowed by the board. Procedures are established for determining whether an offender has violated conditions of release. The offender has a right to a hearing and to be represented by counsel.

An additional class of crime is created and labeled a B+ felony. The maximum sentence for a B+ felony is 20 years imprisonment, a fine in an amount up to \$30,000, or both. The bill reclassifies Child molestation 2nd degree, Indecent liberties with forcible compulsion, and Incest 1st degree from Class B to Class B+ felonies. In addition, Rape 3rd degree, rape of a child 3rd degree, child molestation 3rd degree, and incest second degree are increased from class C felonies to class B. Other technical corrections are made to accommodate the creation of a B+ felony.

Substitute Bill Compared to Original Bill: The provisions establishing the Sex Offender Review Board are removed. These functions and responsibilities are given to the Indeterminate Sentence Review Board.

Appropriation: None.

Fiscal Note: Requested February 24, 1997.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: No offenders cause greater fear among the public than sex offenders. The public needs protection from those offenders who are likely to reoffend and who are not covered by either the two strikes or three strikes portions of the persistent offender law. The bill would not reduce any offender's sentence and would only affect the offenders from whom the public needs to be protected. The bill will help offenders to not reoffend and gives individualized care and analysis to offenders. Even though the price of the bill is high, it is well worth the cost. The bill would give the public an option that is not available currently. It combines the strengths of determinate sentencing with those of indeterminate sentencing.

Testimony Against: None.

Testified: Senator Long, prime sponsor; Deborah Ruggles, Washington Coalition of Sexual Assault Programs; Detective Bob Schilling, Seattle Police Department Sexual Offenders Unit; Dr. Arthur Gordon, Director of Sex Offender Treatment Program at Twin Rivers; Tom McBride, Washington Association of Prosecuting Attorneys; Judge Faith Ireland, King County Superior Court.