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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-4595.1/02

ATTY/TYPIST: KT:mos

BRIEF DESCRIPTION:

2 **SSB 6286** - H COMM AMD

3 By Committee on Criminal Justice & Corrections

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

7 "**Sec. 1.** RCW 9.95.420 and 2001 2nd sp.s. c 12 s 306 are each  
8 amended to read as follows:

9 (1)(a) Except as provided in (c) of this subsection, before the  
10 expiration of the minimum term, as part of the end of sentence review  
11 process under RCW 72.09.340, 72.09.345, and where appropriate,  
12 72.09.370, the department shall conduct, and the offender shall  
13 participate in, an examination of the offender, incorporating  
14 methodologies that are recognized by experts in the prediction of  
15 sexual dangerousness, and including a prediction of the probability  
16 that the offender will engage in sex offenses if released.

17 (b) The board may contract for an additional, independent  
18 examination, subject to the standards in this section.

19 (c) If at the time the sentence is imposed by the superior court  
20 the offender's minimum term has expired or will expire within one  
21 hundred twenty days of the sentencing hearing, the department shall  
22 conduct, within ninety days of the offender's arrival at a department  
23 of corrections facility, and the offender shall participate in, an  
24 examination of the offender, incorporating methodologies that are  
25 recognized by experts in the prediction of sexual dangerousness, and  
26 including a prediction of the probability that the offender will engage  
27 in sex offenses if released.

28 (2) The board shall impose the conditions and instructions provided  
29 for in RCW 9.94A.720. The board shall consider the department's  
30 recommendations and may impose conditions in addition to those  
31 recommended by the department. The board may impose or modify  
32 conditions of community custody following notice to the offender.

33 (3)(a) Except as provided in (b) of this subsection, no later than  
34 ninety days before expiration of the minimum term, but after the board  
35 receives the results from the end of sentence review process and the  
36 recommendations for additional or modified conditions of community

1 custody from the department, the board shall conduct a hearing to  
2 determine whether it is more likely than not that the offender will  
3 engage in sex offenses if released on conditions to be set by the  
4 board. The board may consider an offender's failure to participate in  
5 an evaluation under subsection (1) of this section in determining  
6 whether to release the offender. The board shall order the offender  
7 released, under such affirmative and other conditions as the board  
8 determines appropriate, unless the board determines by a preponderance  
9 of the evidence that, despite such conditions, it is more likely than  
10 not that the offender will commit sex offenses if released. If the  
11 board does not order the offender released, the board shall establish  
12 a new minimum term, not to exceed an additional two years.

13 (b) If at the time the offender's minimum term has expired or will  
14 expire within one hundred twenty days of the offender's arrival at a  
15 department of correction's facility, then no later than one hundred  
16 twenty days after the offender's arrival at a department of corrections  
17 facility, but after the board receives the results from the end of  
18 sentence review process and the recommendations for additional or  
19 modified conditions of community custody from the department, the board  
20 shall conduct a hearing to determine whether it is more likely than not  
21 that the offender will engage in sex offenses if released on conditions  
22 to be set by the board. The board may consider an offender's failure  
23 to participate in an evaluation under subsection (1) of this section in  
24 determining whether to release the offender. The board shall order the  
25 offender released, under such affirmative and other conditions as the  
26 board determines appropriate, unless the board determines by a  
27 preponderance of the evidence that, despite such conditions, it is more  
28 likely than not that the offender will commit sex offenses if released.  
29 If the board does not order the offender released, the board shall  
30 establish a new minimum term, not to exceed an additional two years.

31 **Sec. 2.** RCW 9.95.011 and 2001 2nd sp.s. c 12 s 320 are each  
32 amended to read as follows:

33 (1) When the court commits a convicted person to the department of  
34 corrections on or after July 1, 1986, for an offense committed before  
35 July 1, 1984, the court shall, at the time of sentencing or revocation  
36 of probation, fix the minimum term. The term so fixed shall not exceed  
37 the maximum sentence provided by law for the offense of which the  
38 person is convicted.

1 The court shall attempt to set the minimum term reasonably  
2 consistent with the purposes, standards, and sentencing ranges adopted  
3 under RCW 9.94A.850, but the court is subject to the same limitations  
4 as those placed on the board under RCW 9.92.090, 9.95.040 (1) through  
5 (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The  
6 court's minimum term decision is subject to review to the same extent  
7 as a minimum term decision by the parole board before July 1, 1986.

8 Thereafter, the expiration of the minimum term set by the court  
9 minus any time credits earned under RCW 9.95.070 and 9.95.110  
10 constitutes the parole eligibility review date, at which time the board  
11 may consider the convicted person for parole under RCW 9.95.100 and  
12 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the  
13 board's authority to reduce or increase the minimum term, once set by  
14 the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080,  
15 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

16 (2)(a) Except as provided in (b) of this subsection, not less than  
17 ninety days prior to the expiration of the minimum term of a person  
18 sentenced under RCW 9.94A.712, for a sex offense committed on or after  
19 ((July)) September 1, 2001, less any time credits permitted by statute,  
20 the board shall review the person for conditional release to community  
21 custody as provided in RCW 9.95.420. If the board does not release the  
22 person, it shall set a new minimum term not to exceed an additional two  
23 years. The board shall review the person again not less than ninety  
24 days prior to the expiration of the new minimum term.

25 (b) If at the time a person sentenced under RCW 9.94A.712 for a sex  
26 offense committed on or after September 1, 2001, arrives at a  
27 department of corrections facility, the offender's minimum term has  
28 expired or will expire within one hundred twenty days of the offender's  
29 arrival, then no later than one hundred twenty days after the  
30 offender's arrival at a department of corrections facility, but after  
31 the board receives the results from the end of sentence review process  
32 and the recommendations for additional or modified conditions of  
33 community custody from the department, the board shall review the  
34 person for conditional release to community custody as provided in RCW  
35 9.95.420. If the board does not release the person, it shall set a new  
36 minimum term not to exceed an additional two years. The board shall  
37 review the person again not less than ninety days prior to the  
38 expiration of the new minimum term.

1        NEW SECTION.    **Sec. 3.**    This act is necessary for the immediate  
2 preservation of the public peace, health, or safety, or support of the  
3 state government and its existing public institutions, and takes effect  
4 immediately."

5        Correct the title.

EFFECT:    Adds an emergency clause.    The act takes effect  
immediately upon enactment.

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