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HOUSE BILL 3261

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State of Washington

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2006 Regular Session

By Representatives O'Brien, Rodne, Dickerson, Clements, Haigh, Simpson, Pearson, McDonald, Ericks, Kilmer and Williams

Read first time 01/30/2006. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to strengthening the review process by the  
2 indeterminate sentence review board by adding two members to the board  
3 and allowing victims to provide input at board hearings involving  
4 offenders sentenced under RCW 9.94A.712; amending RCW 9.95.003 and  
5 9.95.420; and declaring an emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 9.95.003 and 1997 c 350 s 2 are each amended to read  
8 as follows:

9 The board shall consist of a (~~chairman~~) chair, a vice-chair, and  
10 (~~two~~) three other members, each of whom shall be appointed by the  
11 governor with the consent of the senate. Each member shall hold office  
12 for a term of five years, and until his or her successor is appointed  
13 and qualified. The terms shall expire on April 15th of the expiration  
14 year. Vacancies in the membership of the board shall be filled by  
15 appointment by the governor with the consent of the senate. In the  
16 event of the inability of any member to act, the governor shall appoint  
17 some competent person to act in his stead during the continuance of  
18 such inability. The members shall not be removable during their

1 respective terms except for cause determined by the superior court of  
2 Thurston county. The governor in appointing the members shall  
3 designate one of them to serve as chairman at the governor's pleasure.

4 The members of the board and its officers and employees shall not  
5 engage in any other business or profession or hold any other public  
6 office without the prior approval of the executive ethics board  
7 indicating compliance with RCW 42.52.020, 42.52.030, 42.52.040 and  
8 42.52.120; nor shall they, at the time of appointment or employment or  
9 during their incumbency, serve as the representative of any political  
10 party on an executive committee or other governing body thereof, or as  
11 an executive officer or employee of any political committee or  
12 association. The members of the board shall each severally receive  
13 salaries fixed by the governor in accordance with the provisions of RCW  
14 43.03.040, and in addition shall receive travel expenses incurred in  
15 the discharge of their official duties in accordance with RCW 43.03.050  
16 and 43.03.060.

17 The board may employ, and fix, with the approval of the governor,  
18 the compensation of and prescribe the duties of a secretary and such  
19 officers, employees, and assistants as may be necessary, and provide  
20 necessary quarters, supplies, and equipment.

21 **Sec. 2.** RCW 9.95.420 and 2002 c 174 s 1 are each amended to read  
22 as follows:

23 (1)(a) Except as provided in (c) of this subsection, before the  
24 expiration of the minimum term, as part of the end of sentence review  
25 process under RCW 72.09.340, 72.09.345, and where appropriate,  
26 72.09.370, the department shall conduct, and the offender shall  
27 participate in, an examination of the offender, incorporating  
28 methodologies that are recognized by experts in the prediction of  
29 sexual dangerousness, and including a prediction of the probability  
30 that the offender will engage in sex offenses if released.

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

33 (c) If at the time the sentence is imposed by the superior court  
34 the offender's minimum term has expired or will expire within one  
35 hundred twenty days of the sentencing hearing, the department shall  
36 conduct, within ninety days of the offender's arrival at a department  
37 of corrections facility, and the offender shall participate in, an

1 examination of the offender, incorporating methodologies that are  
2 recognized by experts in the prediction of sexual dangerousness, and  
3 including a prediction of the probability that the offender will engage  
4 in sex offenses if released.

5 (2) The board shall impose the conditions and instructions provided  
6 for in RCW 9.94A.720. The board shall consider the department's  
7 recommendations and may impose conditions in addition to those  
8 recommended by the department. The board may impose or modify  
9 conditions of community custody following notice to the offender.

10 (3)(a) Except as provided in (b) of this subsection, no later than  
11 ninety days before expiration of the minimum term, but after the board  
12 receives the results from the end of sentence review process and the  
13 recommendations for additional or modified conditions of community  
14 custody from the department, the board shall conduct a hearing to  
15 determine whether it is more likely than not that the offender will  
16 engage in sex offenses if released on conditions to be set by the  
17 board. The board may consider an offender's failure to participate in  
18 an evaluation under subsection (1) of this section in determining  
19 whether to release the offender. The board shall order the offender  
20 released, under such affirmative and other conditions as the board  
21 determines appropriate, unless the board determines by a preponderance  
22 of the evidence that, despite such conditions, it is more likely than  
23 not that the offender will commit sex offenses if released. If the  
24 board does not order the offender released, the board shall establish  
25 a new minimum term, not to exceed an additional two years.

26 (b) If at the time the offender's minimum term has expired or will  
27 expire within one hundred twenty days of the offender's arrival at a  
28 department of correction's facility, then no later than one hundred  
29 twenty days after the offender's arrival at a department of corrections  
30 facility, but after the board receives the results from the end of  
31 sentence review process and the recommendations for additional or  
32 modified conditions of community custody from the department, the board  
33 shall conduct a hearing to determine whether it is more likely than not  
34 that the offender will engage in sex offenses if released on conditions  
35 to be set by the board. The board may consider an offender's failure  
36 to participate in an evaluation under subsection (1) of this section in  
37 determining whether to release the offender. The board shall order the  
38 offender released, under such affirmative and other conditions as the

1 board determines appropriate, unless the board determines by a  
2 preponderance of the evidence that, despite such conditions, it is more  
3 likely than not that the offender will commit sex offenses if released.  
4 If the board does not order the offender released, the board shall  
5 establish a new minimum term, not to exceed an additional two years.

6 (4) In a hearing conducted under subsection (3) of this section,  
7 the board shall make reasonable efforts to permit the victim of the  
8 offender's crime of conviction to present oral or written testimony to  
9 the board.

10 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
11 preservation of the public peace, health, or safety, or support of the  
12 state government and its existing public institutions, and takes effect  
13 immediately.

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