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**SUBSTITUTE SENATE BILL 5760**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senator Kline)

READ FIRST TIME 03/02/05.

1 AN ACT Relating to persistent offenders; amending RCW 9.94A.570 and  
2 9.95.900; and adding new sections to chapter 9.95 RCW.

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

4 **Sec. 1.** RCW 9.94A.570 and 2000 c 28 s 6 are each amended to read  
5 as follows:

6 (1) Notwithstanding the statutory maximum sentence or any other  
7 provision of this chapter, a persistent offender, with a criminal  
8 history or current offense that includes at least one completed or  
9 attempted class A felony or sex offense, shall be sentenced to a term  
10 of total confinement for life without the possibility of release or,  
11 when authorized by RCW 10.95.030 for the crime of aggravated murder in  
12 the first degree, sentenced to death. In addition, no offender subject  
13 to this section may be eligible for community custody, earned release  
14 time, furlough, home detention, partial confinement, work crew, work  
15 release, or any other form of release as defined under RCW 9.94A.728  
16 (1), (2), (3), (4), (6), (8), or (9), or any other form of authorized  
17 leave from a correctional facility while not in the direct custody of  
18 a corrections officer or officers, except: (~~(1)~~) (a) In the case of

1 an offender in need of emergency medical treatment; or ~~((+2+))~~ (b) for  
2 the purpose of commitment to an inpatient treatment facility in the  
3 case of an offender convicted of the crime of rape in the first degree.

4 (2) Notwithstanding the statutory maximum sentence or any other  
5 provision of this chapter, a persistent offender, with a criminal  
6 history or current offense that does not include any completed or  
7 attempted class A felonies or sex offenses, shall be sentenced to a  
8 term of total confinement for life. Prior to serving a minimum  
9 twenty-year period of total confinement, no offender subject to this  
10 section may be eligible for community custody, earned release time,  
11 furlough, home detention, partial confinement, work crew, work release,  
12 or any other form of release as defined under RCW 9.94A.728 (1), (2),  
13 (3), (4), (6), (8), or (9), or any other form of authorized leave from  
14 a correctional facility while not in the direct custody of a  
15 corrections officer or officers, except in the case of an offender in  
16 need of emergency medical treatment. After serving the minimum twenty-  
17 year period of total confinement, the offender may be eligible for  
18 community custody, earned release time, furlough, home detention,  
19 partial confinement, work crew, work release, or any other form of  
20 release as defined under RCW 9.94A.728 (1), (2), (3), (4), (6), (8), or  
21 (9), or any other form of authorized leave from a correctional  
22 facility.

23 **Sec. 2.** RCW 9.95.900 and 2001 2nd sp.s. c 12 s 353 are each  
24 amended to read as follows:

25 (1) Except as provided in subsection (2) of this section, the  
26 following sections of law do not apply to any felony offense committed  
27 on or after July 1, 1984: RCW 9.95.010, 9.95.011, 9.95.013, 9.95.015,  
28 9.95.017, 9.95.040, 9.95.045, 9.95.047, 9.95.052, 9.95.080, 9.95.100,  
29 9.95.115, 9.95.116, 9.95.120, 9.95.124, 9.95.125, 9.95.130, 9.95.190,  
30 9.95.200, 9.95.204, 9.95.206, 9.95.210, 9.95.212, 9.95.214, 9.95.220,  
31 9.95.230, 9.95.240, 9.95.250, 9.95.260, 9.95.265, 9.95.280, 9.95.290,  
32 9.95.310, 9.95.320, 9.95.330, 9.95.340, 9.95.350, 9.95.360, 9.95.370,  
33 72.04A.070, and 72.04A.080.

34 (2) The following sections apply to any felony offense committed  
35 before July 1, 1984, and to any offense sentenced under RCW 9.94A.712  
36 and committed on or after July 1, 2001: RCW 9.95.003, 9.95.005,  
37 9.95.007, 9.95.020, 9.95.030, 9.95.031, 9.95.032, 9.95.055, 9.95.060,

1 9.95.062, 9.95.063, 9.95.064, 9.95.070, 9.95.090, 9.95.110, 9.95.121,  
2 9.95.122, 9.95.123, 9.95.126, 9.95.140, 9.95.150, 9.95.160, 9.95.170,  
3 9.95.300, and 9.96.050.

4 (3) The following sections apply to any felony offense sentenced  
5 under RCW 9.94A.570(2): RCW 9.95.003, 9.95.005, 9.95.007, 9.95.020,  
6 9.95.030, 9.95.031, 9.95.032, 9.95.055, 9.95.060, 9.95.062, 9.95.063,  
7 9.95.064, 9.95.090, 9.95.110, 9.95.121, 9.95.122, 9.95.123, 9.95.126,  
8 9.95.140, 9.95.150, 9.95.160, 9.95.170, 9.95.300, section 3 of this  
9 act, and 9.96.050.

10 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.95 RCW  
11 to read as follows:

12 (1) The twenty-year period of total confinement imposed under RCW  
13 9.94A.570(2) constitutes the conditional release eligibility review  
14 date at which time the board shall review the offender for conditional  
15 release to community custody. Nothing in this section or in RCW  
16 9.94A.570 affects the board's authority to increase the minimum term of  
17 total confinement set by the court.

18 (2) Not less than ninety days prior to the conditional release  
19 eligibility review date, the board shall review the offender for  
20 conditional release to community custody. If the board does not  
21 release the offender, it shall set a new term not to exceed an  
22 additional two years confinement. The board shall continue biennial  
23 review for conditional release eligibility until the offender qualifies  
24 for conditional release or the offender has completed the life  
25 sentence.

26 (3) In making its determination on duration of total confinement,  
27 the board shall consider the purposes, standards, and sentencing ranges  
28 adopted in chapter 9.94A RCW, the recommendations of the sentencing  
29 judge and prosecuting attorney, statements and recommendations from the  
30 crime victims, if any, and shall attempt to make determinations  
31 reasonably consistent with those purposes, standards, and ranges. The  
32 board shall give public safety and future dangerousness in the  
33 community considerations the highest priority when making its  
34 decisions.

35 (4) The board shall make adequate written reasons for its decision  
36 to grant conditional release to community custody or extend the term of  
37 total confinement.

1           (5) The offender's eligibility for conditional release to community  
2 custody shall be subject to the terms and conditions imposed by the  
3 board for such time as the board shall designate. An offender who  
4 breaches a term or condition of conditional release is subject to all  
5 of the procedures and remedies provided in this chapter.

6           NEW SECTION. **Sec. 4.** A new section is added to chapter 9.95 RCW  
7 to read as follows:

8           Notwithstanding RCW 9.94A.345 and 10.01.040, this act applies to  
9 all offenders whose criminal history and current offense satisfy the  
10 requirements of RCW 9.94A.570(2).

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