

HOUSE BILL REPORT

SSB 5221

As Reported by House Committee On:
Human Services

Title: An act relating to indeterminate sentenced offenders.

Brief Description: Revising provisions relating to the release of offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Marr, Stevens, Carrell, Eide, Regala, Brandland, Kilmer and Rasmussen; by request of Indeterminate Sentence Review Board).

Brief History:

Committee Activity:

Human Services: 3/26/07 [DP].

Brief Summary of Substitute Bill

- Revises the authority of the Indeterminate Sentence Review Board to set new minimum terms, impose local confinement for violations, and modifies language pertaining to the hearings.

HOUSE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass. Signed by 7 members: Representatives Dickerson, Chair; Roberts, Vice Chair; Walsh, Assistant Ranking Minority Member; Bailey, Darneille, McCoy and O'Brien.

Staff: Sonja Hallum (786-7092).

Background:

The Indeterminate Sentence Review Board (ISRB) makes decisions regarding the release and supervision of two types of offenders: offenders sentenced under indeterminate sentencing and those sentenced under determinate plus sentencing.

Criminal defendants in Washington who committed crimes before July 1, 1984, were subject to indeterminate sentencing. Under that system, a judge imposed a minimum and a maximum sentence. As a person neared the end of his or her minimum sentence, the Parole Board

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(which was the predecessor to the ISRB) would determine if release was appropriate. If the Parole Board decided not to release the person, it would assign a new minimum term, after which the person would be reevaluated to determine whether release was appropriate.

Most persons who have committed crimes in Washington after July 1, 1984, are subject to determinate sentencing, which is characterized by specific sentences that are prescribed for various crimes. However, certain persons who have committed serious sex offenses are subject to determinate plus sentencing, in which the judge imposes a minimum and a maximum sentence. As a person sentenced under the determinate plus system reaches the end of his or her minimum sentence, the ISRB determines if release and supervision are appropriate.

In determining whether to release a determinate plus offender, the ISRB must consider whether the offender is more likely than not to commit a new sex offense after release. If the ISRB determines that an offender is more likely than not to commit a new sex offense, the ISRB must establish a new minimum term for the offender, not to exceed an additional two years. The ISRB must hold another release hearing for the offender 120 days prior to the offender's new release date.

When a determinate plus offender violates the conditions of his or her community custody, the ISRB may impose sanctions such as work release, home detention with electronic monitoring, work crew, curfew, daily reporting, treatment, community restitution, or may suspend or revoke the offender's release to community custody. The current statutory language does not authorize the ISRB to impose a sanction of confinement less than complete revocation of the offender's community custody release.

An offender who is accused of violating a condition of his or her community custody is entitled to a violation hearing before the ISRB or its designee.

Summary of Bill:

The new minimum term established by the ISRB for a determinate plus offender who is not released may not exceed five years. However, an offender may petition for an earlier review if circumstances change or the ISRB receives new information that would warrant an earlier review. In setting a new minimum term, the ISRB may consider the length of time necessary for the offender to complete treatment, as well as other factors relating to the offender's release.

A determinate plus offender who has been released and violates the terms of his or her community custody may be sanctioned with a term of confinement up to 60 days.

The requirement for the ISRB to provide notice of a violation to the offender is replaced with the requirement that the ISRB provide the offender with findings and conclusion relating to the sanctions imposed and notification of the right to appeal.

References to hearing examiner are updated to "presiding hearing officer."

The ISRB may issue a certificate of discharge to an offender who has performed all the obligations of his or her release including the payment of any and all legal financial obligations. The certificate of discharge has the effect of restoring all civil rights lost upon conviction for the offense.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The ISRB was given a new set of duties with the creation of determinate plus sentencing. This bill allows sex offenders to be held for five years rather than two years if they are not ready to be released. However, an offender is allowed to petition for an earlier review if the situation changes.

(Opposed) The increase from two years to five years is significant. This is after they have already served their minimum sentence. The petition for a new hearing is not a mandatory review. There is no obligation to hear the petition. There may be an ex post facto problem with this bill that rises to a constitutional level. This is really a caseload issue, but has significant impact on a liberty interest.

Persons Testifying: (In support) Senator Hargrove, prime sponsor.

(Opposed) Harry Steinmetz, Washington Association of Criminal Defense Lawyers.

Persons Signed In To Testify But Not Testifying: None.