

FINAL BILL REPORT

SHB 1319

C 134 L 15
Synopsis as Enacted

Brief Description: Making technical corrections to processes for persons sentenced for offenses committed prior to reaching eighteen years of age.

Sponsors: House Committee on Public Safety (originally sponsored by Representatives Goodman and Moscoso; by request of Department of Corrections).

House Committee on Public Safety
Senate Committee on Human Services, Mental Health & Housing

Background:

In June of 2012 the United States Supreme Court held, in *Miller v. Alabama*, that the Eighth Amendment ban on cruel and unusual punishment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile homicide offenders. In 2013 legislation was enacted to comply with *Miller v. Alabama*. Youth who commit Aggravated first degree Murder must be sentenced to a 25-year minimum sentence if the youth committed the crime before age 16 years old, or a minimum sentence between 25 years and life, if the youth committed the crime at age 16 or 17 years old. Life without parole is available within the discretion of the judge for youths who commit Aggravated first degree Murder at age 16 or 17 years old. In setting a minimum term, the court must take into account mitigating factors as provided in *Miller v. Alabama*.

During the minimum term of total confinement, the offender is not eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, any other form of early release, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. No later than 180 days prior to the expiration of the offender's minimum sentence, the Department of Corrections (DOC) must conduct an examination of the offender to assist in predicting the dangerousness and likelihood that the offender will engage in future criminal behavior if released. The Indeterminate Sentencing Review Board (ISRB) must order that the offender be released unless it determines by a preponderance of evidence that, despite conditions, it is more likely than not that the offender will commit new criminal law violations if released. If the ISRB does not order that the offender be released, it must set a new minimum term not to exceed five years for the offender prior to future review. If an offender is released after serving the minimum term of confinement, the offender is subject to community custody

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

under the supervision of the DOC and the authority of the ISRB for a period of time determined by the ISRB.

Any offender convicted of one or more crimes committed prior to his or her eighteenth birthday may petition the ISRB for early release after serving no less than 20 years in total confinement, provided that the offender has not had any new convictions subsequent to his or her eighteenth birthday, has not had a major violation in the 12 months prior to the petition, and is not serving a sentence for Aggravated first degree Murder or a sex offense.

Summary:

The DOC must supervise any offender who is released by the ISRB and who was sentenced to community custody or subject to community custody under the terms of release.

The DOC may release an offender from confinement when his or her release has been ordered by the ISRB, regardless of any mandatory sentence enhancements for firearms, deadly weapons, or sexual motivation.

An offender convicted of Aggravated first degree Murder prior to his or her eighteenth birthday may not earn early release time during the minimum term of confinement set by the court.

A juvenile offender released by the ISRB, who has been convicted of Aggravated first degree Murder, may be returned to confinement at the discretion of the ISRB when the offender has violated a condition of community custody. The ISRB shall set a new minimum term of incarceration not to exceed five years.

A juvenile offender released by the ISRB, other than those convicted of Aggravated first degree Murder or a sex offense, may be returned to confinement at the discretion of the ISRB for up to the remainder of the court-imposed term of incarceration when the offender has violated a condition of community custody. The offender may file a new petition for release five years from the date of return to confinement or at an earlier date set by the ISRB.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: April 29, 2015