

HOUSE BILL REPORT

HB 1754

As Reported by House Committee On:
Public Safety

Title: An act relating to sex offender treatment based on the offender's risk to reoffend.

Brief Description: Prioritizing sex offender treatment based on the offender's risk to reoffend.

Sponsors: Representatives Klippert and Hayes; by request of Department of Corrections.

Brief History:

Committee Activity:

Public Safety: 2/6/17, 2/9/17 [DP].

Brief Summary of Bill

- Requires the Department of Corrections to prioritize access to sex offender treatment based on an offender's risk to reoffend, rather than provide access to treatment for all offenders serving determinate-plus sentences.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 10 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Pettigrew and Van Werven.

Staff: Omeara Harrington (786-7136).

Background:

Prison-Based Sex Offender Treatment.

The Department of Corrections (DOC) operates prison-based sex offender treatment and assessment programs for male and female sex offenders. Participation in a sex offender treatment program is voluntary. The DOC maintains a waiting list for treatment, and access to treatment may depend on various factors including risk of reoffense, sentence structure, court-ordered treatment, and release date. The program is approximately nine to 12 months in duration and typically occurs in the last 12-18 months of the participant's incarceration.

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.

In order to be admitted to a sex offender treatment program, the offender must:

- be currently incarcerated for a sex offense, or have been convicted of a sex offense for a previous term of incarceration;
- be eligible for release at some future date;
- acknowledge or recall having committed at least one sex offense; and
- agree to attend treatment and follow treatment rules and expectations.

Participants in sex offender treatment programs receive both intensive group therapy and individual counseling. Offenders meet individually with a therapist on a monthly basis. Therapy groups of 12-14 members meet six hours each week to address specific goals such as gaining insight, preventing relapse, and adopting pro-social attitudes and behaviors. Additional psycho-educational and skill building groups that address sexual deviancy, self-regulation, sex education, community transition, and other topics may also be available.

Determinate-Plus Sentencing.

Felony offenses are generally sentenced according to a determinate sentencing scheme under the Sentencing Reform Act (SRA). Under determinate sentencing, an offender is given a sentence within a prescribed sentencing range that falls within the statutory maximum penalty for the offense.

Certain sex offenders are sentenced under a "determinate-plus" sentencing scheme, as opposed to the determinate sentencing scheme. The offenders who are sentenced to determinate-plus sentences are those who do not qualify as "persistent offenders" subject to two strike or three strike laws, but are either convicted of a two strike offense, or are convicted of a sex offense and have a prior conviction for a two strike offense. Two strike offenses include Rape in the first or second degree, Rape of a Child in the first or second degree, Child Molestation in the first degree, Indecent Liberties by Forcible Compulsion, and certain offenses accompanied by a finding of sexual motivation.

A determinate-plus sentence must contain a minimum term of confinement that falls within the standard SRA range, based on the seriousness level of the offense and the individual offender's offender score. In addition, the sentence must contain a maximum sentence that is equal to the statutory maximum sentence for the offense.

Offenders serving determinate-plus sentences are overseen by the Indeterminate Sentence Review Board (ISRB) through the maximum term of the sentence. After the offender serves the minimum term, the ISRB determines whether the offender will be released from prison. If the ISRB decides against release, a new minimum term is set. If the offender is released, he or she is placed on community custody.

The DOC must provide offenders sentenced to determinate-plus sentences with the opportunity for sex offender treatment.

Summary of Bill:

Rather than requiring the DOC to provide an opportunity for sex offender treatment to all offenders sentenced to determinate-plus sentences, the DOC must prioritize placement for sex offender treatment by assessing an offender's risk for sexual reoffense. High-risk offenders must be given priority for treatment, regardless of whether or not they are serving a determinate-plus sentence.

Offenders must be offered sex offender treatment during incarceration in the following descending priority:

- offenders who are assessed as high risk;
- offenders sentenced under the determinate-plus scheme who are assessed as moderate risk;
- offenders sentenced outside of the determinate-plus scheme who are assessed as moderate risk; and
- offenders sentenced under the determinate-plus scheme who are assessed as low risk for sexual re-offense but whose potential release will require participation in sex offender treatment, as determined by the ISRB.

As capacity allows, offenders who were sentenced outside of the determinate-plus scheme and who are assessed as low risk for sexual reoffense, may be offered the opportunity for sex offender treatment during incarceration.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill prioritizes sex offender treatment based on an offender's risk to reoffend, allowing access to high risk offenders first, and then to lower risk offenders if there is remaining space. The DOC offers a variety of evidence-based programs related to changing offender thinking and behaviors, including sex offender treatment. This change aligns with other DOC programming that uses risk assessment for placement in evidence-based programming. The current statutory language uses sentence structure for prioritization, resulting in lower risk offenders sometimes having access to treatment over higher risk offenders. Recidivism data does not support putting these resources toward low risk offenders. Those who are at low risk of sexual re-offense often see sufficient risk reduction from other types of programs, like substance abuse treatment. There is also research indicating that participation by persons with low risk in treatments designed for higher risk individuals may lead to an increase in the risk for reoffense. The risk assessment tool is the Static-99R, which is a widely validated, 10-item tool looking at factors that are commonly used to gauge general recidivism, as well as sexual deviancy. The DOC has a robust risk analysis unit with high levels of quality assurance and staff training and certification. This

bill was drafted in collaboration with the ISRB and allows the ISRB to override the priority ranking to have an offender placed into treatment.

(Opposed) None.

Persons Testifying: Representative Klippert, prime sponsor; and Jeff Landon, Washington State Department of Corrections.

Persons Signed In To Testify But Not Testifying: None.