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**SENATE BILL 5256**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Christian, Braun, and Saldaña

AN ACT Relating to victims' participation in hearings conducted by the indeterminate sentence review board; amending RCW 9.95.420, 10.95.030, 9.94A.730, 7.69.032, and 9.95.422; and reenacting and amending RCW 9.95.260.

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

**Sec.**  RCW 9.95.420 and 2024 c 118 s 5 are each amended to read as follows:

(1)(a) Except as provided in (c) of this subsection, before the expiration of the minimum term, as part of the end of sentence review process under RCW 72.09.340, 72.09.345, and where appropriate, 72.09.370, the department shall conduct, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released. The examination shall also include whether the offender has met the conditions of restorative justice as defined by the board.

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

(c) If at the time the sentence is imposed by the superior court the offender's minimum term has expired or will expire within 120 days of the sentencing hearing, the department shall conduct, within 90 days of the offender's arrival at a department of corrections facility, and the offender shall participate in, an examination of the offender, incorporating methodologies that are recognized by experts in the prediction of sexual dangerousness, and including a prediction of the probability that the offender will engage in sex offenses if released. The examination shall also include whether the offender has met the conditions of restorative justice as defined by the board.

(2) The board shall impose the conditions and instructions provided for in RCW 9.94A.704. The board shall consider the department's recommendations and may impose conditions in addition to those recommended by the department. The board may impose or modify conditions of community custody following notice to the offender. The additional conditions may be based upon the crime of conviction, risk of reoffense, or risk to community safety. The additional conditions of community custody need not be crime-related if the conditions reasonably relate to either the risk of reoffense or risk to community safety.

(3)(a) Except as provided in (b) of this subsection, no later than ninety days before expiration of the minimum term, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether ((~~it~~)): (i) It is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board; and (ii) the offender has sufficiently met the conditions of restorative justice. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions((~~, it~~)): (A) It is more likely than not that the offender will commit sex offenses if released; and (B) the offender has not sufficiently met the conditions of restorative justice, including evidence from an objection by a victim of a crime for which the offender has been convicted. The board shall give great weight to a victim's objection and make written findings on the objection. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(b) If at the time the offender's minimum term has expired or will expire within 120 days of the offender's arrival at a department of correction's facility, then no later than 120 days after the offender's arrival at a department of corrections facility, but after the board receives the results from the end of sentence review process and the recommendations for additional or modified conditions of community custody from the department, the board shall conduct a hearing to determine whether ((~~it~~)): (i) It is more likely than not that the offender will engage in sex offenses if released on conditions to be set by the board; and (ii) the offender has sufficiently met the conditions of restorative justice. The board may consider an offender's failure to participate in an evaluation under subsection (1) of this section in determining whether to release the offender. The board shall order the offender released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions((~~, it~~)): (A) It is more likely than not that the offender will commit sex offenses if released; and (B) the offender has not sufficiently met the conditions of restorative justice, including evidence from an objection by a victim of a crime for which the offender has been convicted. The board shall give great weight to a victim's objection and make written findings on the objection. If the board does not order the offender released, the board shall establish a new minimum term as provided in RCW 9.95.011.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for the victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim input shall be developed by rule. Any victim of any crime for which the offender has been convicted shall have the right to intervene and object on the record to the release of the offender. To facilitate victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

**Sec.**  RCW 10.95.030 and 2024 c 118 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of good time calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's 16th birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of 25 years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least 16 years old but less than 18 years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than 25 years.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728(1)(c).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) Any person sentenced pursuant to this subsection shall comply with conditions imposed or modified pursuant to RCW 9.94A.704(10), in addition to court-imposed conditions.

(f) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(g) No later than 180 days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The examination shall also include whether the person has met the conditions of restorative justice as defined by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions((~~, it~~)): (i) It is more likely than not that the person will commit new criminal law violations if released; and (ii) the person has not sufficiently met the conditions of restorative justice, including evidence from an objection by a victim of a crime for which the person has been convicted. The board shall give great weight to a victim's objection and make written findings on the objection. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(h) In a hearing conducted under (g) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. Any victim of any crime for which the offender has been convicted shall have the right to intervene and object on the record to the release of the offender. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(i) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(j) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

**Sec.**  RCW 9.94A.730 and 2024 c 118 s 4 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, any person convicted of one or more crimes committed prior to the person's 18th birthday may petition the indeterminate sentence review board for early release after serving no less than 20 years of total confinement, provided the person has not been convicted for any crime committed subsequent to the person's 18th birthday, the person has not committed a disqualifying serious infraction as defined by the department in the 12 months prior to filing the petition for early release, and the current sentence was not imposed under RCW 10.95.030 or 9.94A.507.

(2) No later than five years prior to the date the offender will be eligible to petition for release, the department shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(3) No later than 180 days from receipt of the petition for early release, the department shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The examination shall also include whether the person has met the conditions of restorative justice as defined by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions((~~, it~~)): (a) It is more likely than not that the person will commit new criminal law violations if released; and (b) the person has not sufficiently met the conditions of restorative justice, including evidence from an objection by a victim of a crime for which the person has been convicted. The board shall give great weight to a victim's objection and make written findings on the objection. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be provided by rule. Any victim of any crime for which the offender has been convicted shall have the right to intervene and object on the record to the release of the offender. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(5) Any person released by the board pursuant to this section shall comply with conditions imposed or modified pursuant to RCW 9.94A.704(10), in addition to court-imposed conditions.

(6) An offender released by the board is subject to the supervision of the department for a period of time to be determined by the board, up to the length of the court-imposed term of incarceration. The department shall monitor the offender's compliance with conditions of community custody imposed by the court or board and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(7) An offender whose petition for release is denied may file a new petition for release five years from the date of denial or at an earlier date as may be set by the board.

(8) An offender released under the provisions of this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. If the board finds that the offender has committed a new violation, the board may return the offender to the institution for up to the remainder of the court-imposed term of incarceration. The offender may file a new petition for release five years from the date of return to the institution or at an earlier date as may be set by the board.

**Sec.**  RCW 9.95.260 and 1999 c 323 s 4 and 1999 c 143 s 29 are each reenacted and amended to read as follows:

(1) The indeterminate sentence review board shall, when requested by the governor, pass on the representations made in support of applications for pardons for convicted persons and make recommendations thereon to the governor.

(2) It will be the duty of the secretary of corrections to exercise supervision over such convicted persons as have been conditionally pardoned by the governor, to the end that such persons shall faithfully comply with the conditions of such pardons. The indeterminate sentence review board shall also pass on any representations made in support of applications for restoration of civil rights of convicted persons, and make recommendations to the governor. The department of corrections shall prepare materials and make investigations requested by the indeterminate sentence review board in order to assist the board in passing on the representations made in support of applications for pardon or for the restoration of civil rights.

(3) The board shall make no recommendations to the governor in support of an application for pardon until a public hearing has been held under this section or RCW 9.94A.885(3) upon the application. The prosecuting attorney of the county where the conviction was obtained shall be notified at least thirty days prior to the scheduled hearing that an application for pardon has been filed and the date and place at which the hearing on the application for pardon will be held. The board may waive the thirty-day notice requirement in cases where it determines that waiver is necessary to permit timely action on the petition. A copy of the application for pardon shall be sent to the prosecuting attorney. The prosecuting attorney shall make reasonable efforts to notify victims, survivors of victims, witnesses, and the law enforcement agency or agencies that conducted the investigation of the date and place of the hearing. Information regarding victims, survivors of victims, or witnesses receiving this notice are confidential and shall not be available to the offender. The board shall consider written, oral, audio, or videotaped statements regarding the application for pardon received, personally or by representation, from the individuals who receive notice pursuant to this section. Any victim of any crime for which the person has been convicted may intervene and object on the record. The board shall give great weight to a victim's objection when deciding whether to make a recommendation to the governor in support of an application for pardon for the convicted person and consider a victim's objection as an indicator that the convicted person has not sufficiently met the conditions of restorative justice. The board shall make written findings on the objection in its decision. This subsection is intended solely for the guidance of the board. Nothing in this section is intended or may be relied upon to create a right or benefit, substantive or procedural, enforceable at law by any person.

**Sec.**  RCW 7.69.032 and 2009 c 138 s 1 are each amended to read as follows:

(1) The legislature recognizes the significant concerns that many victims, survivors of victims, and witnesses of crimes have when offenders are considered for postsentence release from confinement. Therefore, it is the intent of the legislature to ensure that victims, survivors of victims, and witnesses of crimes are afforded the opportunity to make a statement that will be considered prior to the granting of postsentence release from confinement for any offender under the jurisdiction of the indeterminate sentence review board or its successor, or by the governor regarding an application for pardon or commutation of sentence.

(2) Victims, survivors of victims, and witnesses of crimes have the following rights:

(a) With respect to victims, survivors of victims, and witnesses of crimes, to present a statement to the indeterminate sentence review board or its successor, in person or by representation, via audio or videotape or other electronic means, or in writing, prior to the granting of parole or community custody release for any offender under the board's jurisdiction.

(b) With respect to victims and survivors of victims, to present a statement to the clemency and pardons board in person, via audio or videotape or other electronic means, or in writing, at any hearing conducted regarding an application for pardon or commutation of sentence.

(c) With respect to victims and survivors of victims, to intervene and object on the record to the parole or community custody release of any offender under the indeterminate sentence review board's jurisdiction, to have their objection be given great weight by the board and considered an indicator that the offender has not sufficiently met the conditions of restorative justice, and have written findings made by the board on the objection.

**Sec.**  RCW 9.95.422 and 2016 c 218 s 2 are each amended to read as follows:

(1) Upon receipt of a petition for early release submitted under RCW 9.94A.730, or upon determination of a parole eligibility review date pursuant to RCW 9.95.100 and 9.95.052, the indeterminate sentence review board must provide notice and a copy of a petition or parole eligibility documents to the sentencing court, prosecuting attorney, and crime victim or surviving family member. The board may request the prosecuting attorney to assist in contacting the crime victim or surviving family member. If requested in writing by the sentencing court, the prosecuting attorney, or the crime victim or surviving family member, the indeterminate sentence review board must also provide any assessment, psychological evaluation, institutional behavior record, or other examination of the offender. Notice of the early release hearing date or parole eligibility date, and any evaluations or information relevant to the release decision, must be provided at least ninety days before the early release hearing or parole eligibility review hearing. The records described in this section, and other records reviewed by the board in response to the petition or parole eligibility review((~~[,]~~)), must be disclosed in full and without redaction. Copies of records to be provided to the sentencing court and prosecuting attorney under this section must be provided as required without regard to whether the board has received a request for copies.

(2) For the purpose of review by the board of a petition for early release or parole eligibility, it is presumed that none of the records reviewed are exempt from disclosure to the sentencing court, prosecuting attorney, and crime victim or surviving family member, in whole or in part. The board may not claim any exemption from disclosure for the records reviewed for an early release petition or parole eligibility review hearing.

(3) The board and its subcommittees must provide comprehensive minutes of all related meetings and hearings on a petition for early release or parole eligibility review hearing. The comprehensive minutes should include, but not be limited to, the board members present, the name of the petitioner seeking review, the purpose and date of the meeting or hearing, a listing of documents reviewed, the names of members of the public who testify, any objection by a victim of any crime for which the petitioner has been convicted, a summary of discussion, the motions or other actions taken, written findings on an objection by a victim, and the votes of board members by name. For the purposes of this subsection, "action" has the same meaning as in RCW 42.30.020. The comprehensive minutes must be publicly and conspicuously posted on the board's website within thirty days of the meeting or hearing, without any information withheld or redacted. Nothing in this subsection precludes the board from receiving confidential input from the crime victim or surviving family member.

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