

# HOUSE BILL REPORT

## HB 1281

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### As Passed Legislature

**Title:** An act relating to the rights of victims, survivors, and witnesses of crimes to be heard before the indeterminate sentence review board and clemency and pardons board.

**Brief Description:** Addressing the rights of victims, survivors, and witnesses of crimes.

**Sponsors:** Representatives Hurst, Pearson, Appleton, O'Brien, Goodman, Orcutt, Morrell, Ormsby, Simpson and Orwall.

### Brief History:

#### Committee Activity:

Human Services: 1/29/09, 2/2/09 [DP].

#### Floor Activity

Passed House: 2/27/09, 94-0.

Passed Senate: 4/7/09, 45-0.

Passed Legislature.

### Brief Summary of Bill

- Allows victims, survivors of victims, and witnesses to make statements to the Indeterminate Sentencing Review Board (ISRB) before the release of an offender under the jurisdiction of the ISRB is released.
- Allows victims and survivors of victims to present statements to the Clemency and Pardons Board regarding an application for pardon or commutation of a sentence.

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### HOUSE COMMITTEE ON HUMAN SERVICES

**Majority Report:** Do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Green, Klippert, Morrell, O'Brien and Walsh.

**Staff:** Linda Merelle (786-7092)

### Background:

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*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.*

### Indeterminate Sentencing Review Board.

Washington's Indeterminate Sentencing Review Board (ISRB) is made up of five members and oversees two different groups of offenders. The first group is made up of offenders who committed their offenses before July 1, 1984. These offenders have indeterminate sentences. This means that the court, at the time of sentencing, set a maximum sentence for the offender. The minimum sentence was set by the ISRB. If the ISRB determines that a person may be released before their maximum sentence, the person is released on parole. The Department of Corrections (DOC) supervises ISRB cases in the community. The community corrections officers report to the ISRB when an offender violates the rules of parole.

The second group that the board oversees is made up of sex offenders. The sex offenders supervised within this group committed their offenses after August 31, 2001, and they have "indeterminate-plus" sentences rather than the determinate sentences imposed under the Sentencing Reform Act. This means that the sentencing judge sets a minimum prison term in accordance with the Sentencing Reform Act sentencing guidelines. The maximum term is the statutory maximum term for the specific crime. After the minimum sentence is served, the ISRB determines whether the offender can actually leave prison. If the ISRB decides against release, time is added to the sentence, and a new minimum is set. If the person is released, he or she is placed on community custody. The ISRB holds hearings to determine if an offender has violated the terms of community custody. These offenders are also supervised in the community by the DOC.

### Clemency and Pardons Board.

The Clemency and Pardons Board receives petitions from individuals, organizations, and the DOC for review and commutation of sentences and pardoning of offenders, and in some instances for the restoration of civil rights. The Clemency and Pardons Board makes recommendations to the Governor.

### Rights of Victims, Survivors and Witnesses.

The rights of victims, survivors, and witnesses are set forth in statute, but they only apply to criminal court and juvenile court proceedings. For example, some of the rights that victims and witnesses have are the right to receive, at the time of reporting a crime to law enforcement officials, a written statement of the rights of crime victims. They have the right to be informed by law enforcement agencies or the prosecuting attorney of the final disposition of the case in which the victim, survivor, or witness is involved. They have the right to receive protection from harm and threats of harm arising out of the cooperation with law enforcement and prosecutor efforts. They have a right to submit a victim impact statement or a report to the court which shall be included in all presentence reports and permanently included in the files and records accompanying the offender. They have the right to present a statement personally or by representation at the sentencing hearing for felony convictions.

### **Summary of Bill:**

Victims, survivors of victims, and witnesses will have a right to make a statement that will be considered by the ISRB (or its successor) prior to the granting of post sentence release from confinement. The statements may be made in person, by representation, via audio, videotape, or other electronic means, or in writing. Victims and survivors of victims will have the right to present a statement to the Clemency and Pardons Board. They may use the same means as allowed before the ISRB.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 3, which reinstates prior law related to the end of sentence review for sex offenders, after a scheduled expiration and takes effect August 1, 2009.

**Staff Summary of Public Testimony:**

(In support) In 1989 the state Constitution was amended to include a series of victim's rights. From that, the Indeterminate Sentencing Review Board (ISRB) began a practice to include victims' rights. While revising the Washington Administrative Code regarding the accommodations that would be made for statements to the ISRB, they recognized that the crime victims' bill had no provision to allow victims or witnesses to address the board. At the time that the victims' right statute was passed, the state was switching from an indeterminate sentencing model to a determinant sentencing model. Some thought that the ISRB would go out of business, but that did not occur. It is very important for the victims and their survivors to have the right to speak. For some survivors of victims, it was not until they had an opportunity to present information to the ISRB about the victim and the victim's life that they were able to begin to heal.

(Opposed) None.

**Persons Testifying:** Representative Hurst, prime sponsor; Jeri Costa and Ellen Hanegan-Cruse, Indeterminate Sentence Review Board; Scott Stubberfield; and Dave Johnson, Washington Coalition of Crime Victim Advocates.

**Persons Signed In To Testify But Not Testifying:** None.