

HOUSE BILL REPORT

HB 2957

As Reported by House Committee On:
General Government Appropriations

Title: An act relating to transferring the indeterminate sentence review board and its functions to the department of corrections.

Brief Description: Transferring the indeterminate sentence review board to the department of corrections.

Sponsors: Representatives Williams and Darneille; by request of Governor Gregoire.

Brief History:

Committee Activity:

General Government Appropriations: 1/28/10, 2/4/10 [DPS].

Brief Summary of Substitute Bill

- Transfers the Indeterminate Sentence Review Board and its functions to the Department of Corrections.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Blake, Crouse, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Alex MacBain (786-7288).

Background:

When the Sentencing Reform Act (SRA) was enacted in 1981, Washington changed from an indeterminate to a determinate sentencing scheme. Under the indeterminate scheme, the Board of Prison Terms and Paroles (Board) had jurisdiction over the committed offenders and would decide when the offender would be paroled and under what circumstances the offender's parole could be revoked. The judge would recommend a minimum term, but other responsibilities rested with the Board.

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 1986 the Board was redesignated the Indeterminate Sentence Review Board (ISRB). The ISRB assumed the responsibility of supervision, parole, and revocation of those persons sentenced to felony offenses prior to July 1, 1984, which was the effective date of the SRA.

The Legislature contemplated phasing out the ISRB as more and more prisoners were sentenced under the SRA. In 1986 the Legislature provided that the ISRB would cease to exist on June 30, 1992, and that all of its powers, functions, and duties involving persons sentenced under the indeterminate sentencing scheme would be transferred to the superior courts of Washington. In 1989 the Legislature delayed the termination of the ISRB until 1998, and in 1997 termination of the ISRB was again delayed until June 30, 2008.

In 2001 legislation was enacted that created a type of sentencing known as "determinate plus" sentencing. In determinate plus sentencing, the court will sentence the offender to a minimum term and a maximum term. The ISRB is required to evaluate the offender prior to the expiration of the minimum term. 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 Department of Corrections (DOC).

The ISRB is comprised of the chair and four other members, all appointed by the Governor.

Summary of Substitute Bill:

The ISRB and its functions are transferred into the DOC. All materials held by the ISRB related to its operation are transferred to the custody of the DOC. All the employees of the ISRB are transferred to the DOC without a loss of rights, subject to the civil service rules. The duties of the ISRB will continue to be performed.

Substitute Bill Compared to Original Bill:

The General Government Appropriations Committee recommended language that clarifies the autonomy of the ISRB members with respect to the decisions that they make concerning offenders.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2010.

Staff Summary of Public Testimony:

(In support) This merger is one of the Governor's proposals to streamline and increase the efficiency of government. With respect to the budget impacts, there was never an intention to reduce services as a result of the merger. At the time of the Governor's budget proposal, it was estimated that the DOC could absorb the workload of the victim liaison without affecting services. Since that time new information has been provided on this issue and there is now support for maintaining the victim liaison position after the merger.

(In Support with amendment) In recognition of the current fiscal crisis that the state is facing, the merger of the Indeterminate Sentence Review Board (ISRB) into the Department of Corrections (DOC) makes a lot of sense both fiscally and logistically. There is an amendment that has been forwarded to the chair of the committee which would clarify the autonomy of the ISRB board members with respect to the decisions that the members make concerning offenders, and would safeguard the quasi-judicial immunity that individual board members have relative to the discretionary decisions that they make.

(In support with concerns) The model of having an autonomous parole board under the larger umbrella of a correctional agency works quite well in other states. One concern that has been expressed by the board members is that the bill as currently drafted does not guarantee the autonomy of the decisions that are made by the ISRB board members. Another concern relates to the resources that would be reduced in the merger. The DOC will be able to absorb many of the functions; however, three FTEs of the seven and half full time equivalents (FTEs) that would be reduced are driven by statute and increasing workload. The DOC will likely not be able to absorb the workload associated with a confidential secretary position, a victim liaison, and a correctional records technician in a manner that would allow the ISRB to keep within its statutory requirements.

(Opposed) Putting the ISRB under the DOC would be a violation of the separation of powers clause, due to the quasi-judicial function of the ISRB. It would not be appropriate to place trial court judges under the DOC simply because they handle criminal cases. This merger is also a conflict of interest. There is often a great deal of tension between the ISRB board and the DOC in situations where the ISRB board wants an offender to go through a particular program and the DOC doesn't have an opening or funding for the program. In such cases, it would be very difficult for the ISRB to assert its interest and the interest of the inmates if it is a part of the DOC.

Persons Testifying: (In support) John Lane, Office of the Governor.

(In support with amendment) Scott Blonien, Department of Corrections.

(In support with concerns) Lynne DeLano, Indeterminant Sentence Review Board.

(Opposed) Don Miller, Washington Corrections Center, Airway Heights Correctional Center, and Coyote Ridge Correctional Center.

Persons Signed In To Testify But Not Testifying: None.