

SENATE BILL REPORT

SB 6276

As Reported By Senate Committee On:
Law & Justice, January 31, 1996

Title: An act relating to enhanced sentencing and supervision of sex offenders.

Brief Description: Enhancing sentences and supervision of sex offenders.

Sponsors: Senators Long, Smith, Roach, Haugen, Johnson, Quigley, Wood, Hargrove, Schow, Oke, A. Anderson, Rasmussen and McAuliffe.

Brief History:

Committee Activity: Law & Justice: 1/15/96, 1/31/96 [DPS-WM].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6276 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Smith, Chair; Fairley, Vice Chair; Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: Under the Sentencing Reform Act (SRA), all offenders receive a determinate sentence which generally consists of a term of total confinement and a subsequent one to two year period of supervision. In the case of sex offenders who are sentenced to prison, the act provides for supervision upon release for two years or for the period of earned early release, whichever is longer. At the end of that time, the offender is no longer subject to supervision, without regard to whether the offender continues to pose a threat of committing new offenses.

The SRA has been criticized for not adequately protecting public safety in regards to sex offenders. Some studies have found that the risk of recidivism for sex offenders continues well past the two years of supervision allowed by the SRA. Also, the public is confused and angered by the release from confinement of sex offenders where Level III community notification is found appropriate. Level III notification is reserved for those sex offenders who pose a high risk of reoffense.

It has been suggested that applying some elements of indeterminate sentencing to sex offenders would keep dangerous sex offenders in confinement longer, allow longer supervision of sex offenders, and enhance public safety. Sex offenders would continue to be sentenced according to the established standard ranges, but could be kept in prison beyond the standard range, up to the maximum sentence for the crime, if they continued to pose a threat to public safety.

Summary of Substitute Bill: All offenders convicted of a felony sex offense committed on or after July 1, 1996, are required to be sentenced to a maximum term. The maximum term is determined by the statutory maximum sentence for the offense (five years for a class C offense, 10 years for a class B, and life for a class A offense). The offender is also required to be sentenced to a minimum term which must be within the standard range for the offense, unless the court finds justification to impose an exceptional sentence. A Sex Offender Sentence Review Board is established with responsibility for determining whether offenders sentenced to prison should be released at the time of completion of the minimum term or retained in confinement.

Sex offenders sentenced to 12 months or less are released upon completion of their minimum term but remain on community supervision until expiration of the maximum term. Violations of community supervision can result in confinement for up to 60 days per violation, or the offender may be sentenced to total confinement for the maximum sentence allowed for the offense. In the latter case, the court also establishes a minimum term for the offender, and the Sex Offender Sentence Review Board determines whether the offender should be released upon serving that minimum term or retained in custody.

Sex offenders who are sentenced under the special sex offender sentencing alternative remain on community supervision for the length of their maximum sentence. If the court revokes their suspended sentence, the offender's minimum term is the standard range sentence originally suspended by the court. At the completion of the minimum term, the offender becomes subject to the jurisdiction of the Sex Offender Sentence Review Board.

The Sex Offender Sentence Review Board is given the responsibility to review sentences of sex offenders sentenced to prison to determine whether release is appropriate upon completion of the minimum term; to establish conditions of release for offenders who are released; to determine if an offender has violated conditions of release and impose sanctions for the violation; and to periodically review offenders who remain in confinement beyond the minimum term to determine if release is appropriate.

The board consists of five members appointed by the Governor with the consent of the Senate. Appointees must have background knowledge about sex offenders. The Governor is required to seek recommendations from law enforcement and prosecutors for at least two of the positions on the board. One or more members appointed must have current experience in the evaluation and treatment of sex offenders. Appointments to the board are for five years, with initial appointments staggered.

When deciding whether an offender should be released, the board is to give public safety considerations the highest priority. An offender may not be released unless the board finds the offender's rehabilitation has been complete and the offender is a fit subject for release. The board is to consider all relevant information, including prior offenses, amenability to, or performance in treatment, future dangerousness, and any history of substance abuse.

At the time of release of a sex offender, the board must establish conditions of release. The sentencing court and prosecuting attorney may advise the board of recommended conditions of release. All released offenders must be subject to the following conditions: no law violations; no illegal drug use; report as required to the Department of Corrections; and no contact with any victims or witnesses except as specifically allowed by the board.

Procedures are established for determining whether an offender has violated conditions of release. The offender has a right to a hearing and to be represented by counsel.

An additional class of crime is created and labeled a B+ felony. The maximum sentence for a B+ felony is 20 years imprisonment, a fine in an amount up to \$30,000, or both. The bill reclassifies Child molestation 2nd degree, Indecent liberties with forcible compulsion, and Incest 1st degree from Class B to Class B+ felonies. In addition, Rape 3rd degree, rape of a child 3rd degree, child molestation 3rd degree, and incest second degree are increased from class C felonies to class B. Other technical corrections are made to accommodate the creation of a B+ felony.

Substitute Bill Compared to Original Bill: The requirement to sentence offenders to a minimum and maximum term under the special sex offender sentence alternative is clarified.

The factors that the Sex Offender Sentence Review Board may consider when deciding whether to release an offender are revised.

Indecent liberties is only increased from a B to a B+ felony if committed by means of forcible compulsion.

Other technical and clarifying amendments are made.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect on July 1, 1996.

Testimony For: The bill would enhance public safety by keeping dangerous sex offenders in prison. Sex offenders who are released would also be kept on supervision longer and could be returned to prison if they violate conditions of their release.

Testimony Against: Current law provides adequate tools for the criminal justice system to protect the public from dangerous sex offenders.

Testified: Senator Long, prime sponsor (pro); Tom McBride, WA Assn. of Prosecuting Attorneys (pro); Mike Patrick, WA Council of Police Officers (pro); Robert Vincent (pro); Joe and Kari Hardy (pro); Debbie Ruggles, WA Coalition of Sexual Assaults Programs (pro); Hubert Locke, Sentencing Guidelines Commission (con); Mark Muenster, WA Assn. of Criminal Defense Lawyers (con).