S-3928.1 _____

SENATE BILL 6320

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State of Washington   **54th Legislature**   **1996 Regular Session**

By Senators McCaslin, Morton, Deccio, Haugen, Oke and Roach

Read first time 01/11/96. Referred to Committee on Law & Justice.

1   AN ACT Relating to release of sex offenders pending sentencing or
2 appeal; and amending RCW 10.64.025, 9.95.062, and 10.73.040.

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

4   **Sec. 1.** RCW 10.64.025 and 1989 c 276 s 2 are each amended to read
5 as follows:
6   A defendant who has been found guilty of a sex offense as defined
7 in RCW 9.94A.030 and is awaiting sentencing shall be detained without
8 exception. A defendant who has been found guilty of a felony other
9 than a sex offense and is awaiting sentencing shall be detained unless
10 the court finds by clear and convincing evidence that the defendant is
11 not likely to flee or to pose a danger to the safety of any other
12 person or the community if released. Any bail bond that was posted on
13 behalf of a defendant shall, upon the defendant's conviction, be
14 exonerated.

15   **Sec. 2.** RCW 9.95.062 and 1989 c 276 s 1 are each amended to read
16 as follows:
17   (1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant in
18 a criminal action shall not stay the execution of the judgment of

1 conviction <u>if the appeal pertains to a sex offense as defined in RCW</u>
2 <u>9.94A.030,</u> <u>or</u> if the court determines by a preponderance of the
3 evidence that:
4   (a) The defendant is likely to flee or to pose a danger to the
5 safety of any other person or the community if the judgment is stayed;
6 or
7   (b) The delay resulting from the stay will unduly diminish the
8 deterrent effect of the punishment; or
9   (c) A stay of the judgment will cause unreasonable trauma to the
10 victims of the crime or their families; or
11   (d) The defendant has not undertaken to the extent of the
12 defendant's financial ability to pay the financial obligations under
13 the judgment or has not posted an adequate performance bond to assure
14 payment.
15   (2) In case the defendant has been convicted of a felony, and has
16 been unable to obtain release pending the appeal by posting an appeal
17 bond, cash, adequate security, release on personal recognizance, or any
18 other conditions imposed by the court, the time the defendant has been
19 imprisoned pending the appeal shall be deducted from the term for which
20 the defendant was sentenced, if the judgment is affirmed.

21   **Sec. 3.** RCW 10.73.040 and 1893 c 61 s 31 are each amended to read
22 as follows:
23   In all criminal actions, except <u>sex offenses as defined in RCW</u>
24 <u>9.94A.030 and</u> capital cases in which the proof of guilt is clear or the
25 presumption great, upon an appeal being taken from a judgment of
26 conviction, the court in which the judgment was rendered, or a judge
27 thereof, must, by an order entered in the journal or filed with the
28 clerk, fix and determine the amount of bail to be required of the
29 appellant; and the appellant shall be committed until a bond to the
30 state of Washington in the sum so fixed be executed on his <u>or her</u>
31 behalf by at least two sureties possessing the qualifications required
32 for sureties on appeal bonds by section ten of this act, such bond to
33 be conditioned that the appellant shall appear whenever required, and
34 stand to and abide by the judgment or orders of the appellate court,
35 and any judgment and order of the superior court that may be rendered
36 or made in pursuance thereof. If the appellant be already at large on
37 bail, his <u>or her</u> sureties shall be liable to the amount of their bond,
38 in the same manner and upon the same conditions as if they had executed

1 the bond prescribed by this section; but the court may by order require
2 a new bond in a larger amount or with new sureties, and may commit the
3 appellant until the order be complied with.

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