
HOUSE BILL 2521

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Finn, Roberts, and Haigh

Read first time 01/17/12. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to creating a citizens' custody review board;
2 amending RCW 9.94A.728; and adding a new chapter to Title 9 RCW.

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

4 NEW SECTION. **Sec. 1.** Washington state will benefit through the
5 adoption of a citizens' custody review board, an entity authorized to
6 determine whether individuals, whom society no longer needs to hold in
7 prison for public safety, should be released from custody.

8 With the availability of trained medical professionals and
9 assessment tools to conduct analyses of an offender's risk to reoffend,
10 the incarceration of low-risk, long-term offenders has no merit when
11 such incarceration diverts limited public resources at the expense of
12 public education, health, and other public services.

13 NEW SECTION. **Sec. 2.** It is the policy of Washington state that:
14 (1) A citizens' custody review board be established to review
15 custody records of offenders who have been sentenced to the department
16 of corrections and, except as provided in subsection (2) of this
17 section, shall have exclusive jurisdiction over all offenders who have
18 served:

1 (a) Twenty years or more of a sentence imposed by the court
2 pursuant to a single cause number; or

3 (b) A total of twenty-five years in the department of corrections
4 pursuant to multiple cause numbers since the offender was eighteen
5 years of age.

6 (2) The citizens' custody review board shall not have jurisdiction
7 over offenders sentenced pursuant to RCW 9.94A.507 or sentenced as
8 persistent offenders, as defined in 9.94A.030(37)(b).

9 (3) The citizens' custody review board shall:

10 (a) Consist of five members, in accordance with the following:

11 (i) At least one retired judge;

12 (ii) At least two persons who have employment experience as a
13 police officer or corrections official; and

14 (iii) At least one former offender.

15 (b) Serve at the discretion of the governor and the first five
16 appointed members may serve varied term lengths as set by the governor.
17 Thereafter, each appointee shall serve a three-year term. The governor
18 shall appoint the chair of the citizens' custody review board;

19 (c) By agreement of the members, set meeting dates and provide
20 thirty days in advance of each meeting. The citizens' custody review
21 board shall meet at least four times per year. Special meetings may be
22 called, as needed, as determined by the chair; and

23 (d) Serve without compensation. While conducting the business of
24 the citizens' custody review board, members may receive per diem
25 expenses pursuant to the rules of the office of financial management.

26 (4) Three of the members shall be appointed by the governor and two
27 of the members shall be appointed by the Washington state association
28 of counties.

29 NEW SECTION. **Sec. 3.** (1) The department of corrections shall
30 provide space in which the citizens' custody review board may meet and
31 conduct its business and shall provide clerical assistance.

32 (2) The citizens' custody review board may conduct business in a
33 space provided by a local reentry coalition if such space is made
34 available.

35 (3)(a) The citizens' custody review board shall survey community
36 reentry organizations, by county, shall determine the ability of each

1 organization to provide support for offenders returning to communities;
2 and shall designate one or more local reentry coalitions to be
3 responsible for offenders who are released pursuant to this act.

4 (b) Only local reentry coalitions designated by the citizens'
5 custody review board shall be responsible for the supervision of an
6 offender released under this act.

7 NEW SECTION. **Sec. 4.** (1) The citizens' custody review board shall
8 meet to review cases selected by the chair.

9 (2) Priority for initial applications for review shall be given to
10 offenders with the most time served. The citizens' custody review
11 board, within ninety days of receipt of an application from an
12 offender, must provide to each applicant an estimated schedule for
13 review of the application and determination regarding eligibility for
14 release.

15 (3) The citizens' custody review board shall consider the criteria
16 set forth in section 6 of this act when:

17 (a) Making its decision regarding the release of an offender from
18 the custody of the department of corrections; and

19 (b) Determining the conditions of an offender's release.

20 (4) The citizens' custody review board shall consult with local or
21 regional community custody offices of the department of corrections and
22 with local law enforcement to establish postrelease conditions for an
23 offender.

24 (5) During the first twelve months of an offender's release by the
25 citizens' custody review board, the local reentry coalition responsible
26 for the offender's supervision shall provide monthly progress reports
27 to the citizens' custody review board. Thereafter, the local reentry
28 coalition shall provide quarterly reports until the offender has
29 completed his or her second year in the community.

30 (6) A majority vote by the members of the citizens' custody review
31 board controls in the determination of:

32 (a) An offender's application for release; and

33 (b) Whether an offender who has been released shall be returned to
34 the custody of the department of corrections.

35 NEW SECTION. **Sec. 5.** (1) Within one year of the effective date of
36 this section, the citizens' custody review board shall complete the

1 review of records of offenders identified by the department of
2 corrections who qualify for release from custody pursuant to section
3 2(1) of this act.

4 (2) An offender or the secretary of the department of corrections,
5 on behalf of an offender, may petition the citizens' custody review
6 board based upon the offender's proven potential to reenter society as
7 a functioning citizen.

8 (3) Upon the denial of an offender's petition for release, the
9 citizens' custody review board may schedule a subsequent hearing to
10 review the offender's application for release.

11 NEW SECTION. **Sec. 6.** (1) The citizens' custody review board may
12 consider the following factors in its determination of whether an
13 offender shall be released from the department of corrections before
14 the end of his or her sentence:

15 (a) The length of time served by the offender in total confinement
16 within the department of corrections;

17 (b) Documentation of participation in rehabilitation activities and
18 volunteer programs provided within the department of corrections;

19 (c) The existence of a local citizens' reentry coalition program
20 for transitioning offenders or evidence of local community or family
21 support for the offender seeking release;

22 (d) A local citizens' reentry coalition, or community or family
23 support group must be able to provide necessary support services for
24 successful reentry, as determined by the citizens' custody review
25 board;

26 (e) Results of consultation by the citizens' custody review board
27 with the local or regional community corrections offices regarding
28 available resources to support a released offender;

29 (f) The offender's likelihood to reoffend as determined by the
30 results of a risk assessment conducted by the department of
31 corrections;

32 (g) The offender's level of education or skills training;

33 (h) The existence of a reentry plan that has been approved by the
34 citizens' custody review board; and

35 (i) Public safety.

36 (2) If the citizens' custody review board denies release for an

1 offender, the offender may again petition for release under this act
2 after at least three years have elapsed from the date of the denial.

3 NEW SECTION. **Sec. 7.** (1) If an offender violates the terms of
4 release as set by the citizens' custody review board, a three-member
5 panel of members of the board shall convene to determine whether to
6 petition the full citizens' custody review board to provide additional
7 postrelease support to the offender or to return the offender to the
8 department of corrections to serve the remainder of his or her
9 sentence.

10 (a) The three-member panel shall conduct a hearing, and the
11 proceeding shall not be subject to chapter 34.05 RCW, the
12 administrative procedure act.

13 (b) Prior to the hearing, the panel shall verify that proper notice
14 of the hearing has been given and that the offender was properly served
15 with the notice of allegations, hearing, and rights.

16 (c) The hearing shall be electronically recorded and the recording
17 shall be retained for twelve months.

18 (d) The offender may call witnesses to testify on his or her behalf
19 at the hearing. The panel may limit the number of witnesses and the
20 scope of testimony to matters relevant to the allegations.

21 (e) The hearing shall be open to the public unless a majority of
22 the members of the panel, for a specifically stated reason, closes the
23 hearing in whole or in part.

24 (f) The panel:

25 (i) Shall evaluate evidence and weigh the credibility of the
26 witnesses;

27 (ii) May question witnesses in an impartial manner to elicit any
28 facts deemed necessary to fairly and adequately decide the matter;

29 (iii) Shall render or defer a decision; and

30 (iv) Shall take any other actions necessary and authorized by this
31 act and law.

32 (2) When requested by the citizens' custody review board, the local
33 or regional community corrections office shall act promptly to return
34 an offender to the custody of the department of corrections, under its
35 existing procedures.

36 (3) The decision of the citizens' custody review board to return an
37 offender to custody pursuant to this section is final.

1 **Sec. 8.** RCW 9.94A.728 and 2010 c 224 s 6 are each amended to read
2 as follows:

3 No person serving a sentence imposed pursuant to this chapter and
4 committed to the custody of the department shall leave the confines of
5 the correctional facility or be released prior to the expiration of the
6 sentence except as follows:

7 (1) An offender may earn early release time as authorized by RCW
8 9.94A.729;

9 (2) An offender may leave a correctional facility pursuant to an
10 authorized furlough or leave of absence. In addition, offenders may
11 leave a correctional facility when in the custody of a corrections
12 officer or officers;

13 (3)(a) The secretary may authorize an extraordinary medical
14 placement for an offender when all of the following conditions exist:

15 (i) The offender has a medical condition that is serious and is
16 expected to require costly care or treatment;

17 (ii) The offender poses a low risk to the community because he or
18 she is currently physically incapacitated due to age or the medical
19 condition or is expected to be so at the time of release; and

20 (iii) It is expected that granting the extraordinary medical
21 placement will result in a cost savings to the state.

22 (b) An offender sentenced to death or to life imprisonment without
23 the possibility of release or parole is not eligible for an
24 extraordinary medical placement.

25 (c) The secretary shall require electronic monitoring for all
26 offenders in extraordinary medical placement unless the electronic
27 monitoring equipment interferes with the function of the offender's
28 medical equipment or results in the loss of funding for the offender's
29 medical care, in which case, an alternative type of monitoring shall be
30 utilized. The secretary shall specify who shall provide the monitoring
31 services and the terms under which the monitoring shall be performed.

32 (d) The secretary may revoke an extraordinary medical placement
33 under this subsection at any time.

34 (e) Persistent offenders are not eligible for extraordinary medical
35 placement;

36 (4) The governor, upon recommendation from the clemency and pardons
37 board, may grant an extraordinary release for reasons of serious health

1 problems, senility, advanced age, extraordinary meritorious acts, or
2 other extraordinary circumstances;

3 (5) No more than the final six months of the offender's term of
4 confinement may be served in partial confinement designed to aid the
5 offender in finding work and reestablishing himself or herself in the
6 community or no more than the final twelve months of the offender's
7 term of confinement may be served in partial confinement as part of the
8 parenting program in RCW 9.94A.6551. This is in addition to that
9 period of earned early release time that may be exchanged for partial
10 confinement pursuant to RCW 9.94A.729(5)(d);

11 (6) The governor may pardon any offender;

12 (7) The department may release an offender from confinement any
13 time within ten days before a release date calculated under this
14 section;

15 (8) An offender may leave a correctional facility prior to
16 completion of his or her sentence if the sentence has been reduced as
17 provided in RCW 9.94A.870; (~~and~~))

18 (9) An offender may be released upon the decision of the citizens'
19 custody review board pursuant to sections 2, 5, and 6 of this act; and

20 (10) Notwithstanding any other provisions of this section, an
21 offender sentenced for a felony crime listed in RCW 9.94A.540 as
22 subject to a mandatory minimum sentence of total confinement shall not
23 be released from total confinement before the completion of the listed
24 mandatory minimum sentence for that felony crime of conviction unless
25 allowed under RCW 9.94A.540.

26 NEW SECTION. **Sec. 9.** Except as otherwise restricted by federal
27 law, an offender released pursuant to this act is subject only to the
28 conditions of release established by the citizens' custody review
29 board.

30 NEW SECTION. **Sec. 10.** The Washington state institute for public
31 policy shall conduct a study of the effect of this act on recidivism
32 and other outcomes. By December 1, 2014, the institute shall make a
33 preliminary report of its findings to the governor and the appropriate
34 legislative committees. By December 1, 2015, the institute shall make
35 a final report of its findings to the governor and the appropriate
36 legislative committees.

1 NEW SECTION. **Sec. 11.** Sections 1 through 7, 9, and 10 of this act
2 constitute a new chapter in Title 9 RCW.

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