
Public Safety Committee

HB 2316

Brief Description: Addressing earned second chances.

Sponsors: Representatives Roberts, Goodman, Clibborn, Haigh, Freeman, Green, Pettigrew, Ormsby, Seaquist, Jinkins, Appleton, Fitzgibbon, Tharinger and Ryu.

Brief Summary of Bill

- Permits offenders who have served 15 years or more of a sentence to petition the Indeterminate Sentence Review Board (ISRB) for early release.
- Provides for release of an offender unless the ISRB determines, after a hearing, that it is more likely than not that the offender will commit a new violent offense if released with conditions.

Hearing Date: 1/22/14

Staff: Sarah Koster (786-7303).

Background:

An offender sentenced under the Sentencing Reform Act may not be released prior to expiration of his or her sentence except subject to: (1) earned early release time; (2) authorized furlough; (3) extraordinary medical placement; (4) extraordinary release by the Governor; (5) pardon; or (6) partial confinement for the last six months of a sentence.

No form of early release is authorized for offenders convicted of Murder in the first degree, Assault or Assault of a Child in the first degree in which death was intended or likely, Rape in the first degree, or Sexually Violent Predator Escape until a statutory minimum term of between five and 20 years has been served. No form of early release is available for offenders convicted of Aggravated Murder in the first degree.

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.

Sentencing enhancements, which lengthen the duration of a sentence in certain circumstances, such as if the offender was armed with a deadly weapon, are mandatory and may not be reduced by any other sentencing provision.

The Indeterminate Sentence Review Board (ISRB) has responsibility over the supervision, parole, and revocation of those persons sentenced to felony offenses prior to the effective date of the Sentencing Reform Act, July 1, 1984. The ISRB also has jurisdiction over offenders sentenced to a "determinate plus" sentence, a sentencing scheme which was created in 2001. 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 a hearing to determine if an offender has violated the terms of community custody. The offenders are also supervised in the community by the Department of Corrections.

An offender is subject to determinate plus sentencing if he or she is convicted of:

1. Rape or Rape of a Child in the first or second degrees, Child Molestation in the first degree, or Indecent Liberties with forcible compulsion;
2. any of the following offenses with a finding of sexual motivation: Murder in the first or second degrees, Homicide by abuse, Kidnapping in the first or second degrees, Assault in the first or second degrees, Assault of a Child in the first or second degrees, or Burglary in the first degree; or
3. any sex offense, if the person has a prior conviction for one of the above offenses.

Summary of Bill:

An offender convicted of any offense, except aggravated murder in the first degree, may petition the ISRB for release. For offenders sentenced to a determinate plus sentence or for an offense committed prior to July 1, 1984, review, release, and supervision by the ISRB is unchanged.

First, the Department of Corrections will examine the petitioning offender, using methodologies recognized by experts in the prediction of criminal dangerousness, and create a prediction of the probability that the offender will engage in violent offenses if released.

Then, the ISRB will hold a hearing at which the offender is entitled to present evidence on his or her behalf. He or she will not be represented by counsel unless the ISRB determines that the offender is not able to adequately represent him or herself, in which case an attorney will be appointed. There must be an opportunity for victims to present statements to the ISRB.

If, after the hearing, the ISRB determines that it is more likely than not that the person will commit a new violent offense, if released with conditions, the person will not be released. Otherwise, the person will be released. In making the release determination, public safety is given the highest consideration, but the ISRB may also consider efforts towards rehabilitation, completion of a basic education program, skills for employment, and the availability of community or family support for the person upon release. The ISRB's decision is final and not subject to review or appeal.

If an offender is released, he or she is subject to community custody for a term of up to five years, as determined by the ISRB. The offenders are supervised in the community by the Department of Corrections. If an offender on supervision is accused of violating a condition of supervision, the ISRB may impose sanctions in the community, or up to 60 days confinement in a local correctional facility, after a hearing held by the ISRB.

The bill applies retroactively to all eligible offenders incarcerated on the effective date of the act.

Appropriation: None.

Fiscal Note: Requested on January 20, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.