

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6286

Chapter 174, Laws of 2002

57th Legislature
2002 Regular Session

INDETERMINATE SENTENCE REVIEW BOARD--SEX OFFENDERS

EFFECTIVE DATE: 3/27/02

Passed by the Senate March 11, 2002
YEAS 45 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 5, 2002
YEAS 96 NAYS 0

FRANK CHOPP

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6286** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

Secretary

Approved March 27, 2002

FILED

March 27, 2002 - 8:54 a.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6286

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long and Hargrove)

READ FIRST TIME 02/04/2002.

1 AN ACT Relating to the time permitted for review by the
2 indeterminate sentence review board of sex offenders who are sentenced
3 to short sentences under RCW 9.94A.712; amending RCW 9.95.420 and
4 9.95.011; and declaring an emergency.

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

6 **Sec. 1.** RCW 9.95.420 and 2001 2nd sp.s. c 12 s 306 are each
7 amended to read as follows:

8 (1)(a) Except as provided in (c) of this subsection, before the
9 expiration of the minimum term, as part of the end of sentence review
10 process under RCW 72.09.340, 72.09.345, and where appropriate,
11 72.09.370, the department shall conduct, and the offender shall
12 participate in, an examination of the offender, incorporating
13 methodologies that are recognized by experts in the prediction of
14 sexual dangerousness, and including a prediction of the probability
15 that the offender will engage in sex offenses if released.

16 (b) The board may contract for an additional, independent
17 examination, subject to the standards in this section.

18 (c) If at the time the sentence is imposed by the superior court
19 the offender's minimum term has expired or will expire within one

1 hundred twenty days of the sentencing hearing, the department shall
2 conduct, within ninety days of the offender's arrival at a department
3 of corrections facility, and the offender shall participate in, an
4 examination of the offender, incorporating methodologies that are
5 recognized by experts in the prediction of sexual dangerousness, and
6 including a prediction of the probability that the offender will engage
7 in sex offenses if released.

8 (2) The board shall impose the conditions and instructions provided
9 for in RCW 9.94A.720. The board shall consider the department's
10 recommendations and may impose conditions in addition to those
11 recommended by the department. The board may impose or modify
12 conditions of community custody following notice to the offender.

13 (3)(a) Except as provided in (b) of this subsection, no later than
14 ninety days before expiration of the minimum term, but after the board
15 receives the results from the end of sentence review process and the
16 recommendations for additional or modified conditions of community
17 custody from the department, the board shall conduct a hearing to
18 determine whether it is more likely than not that the offender will
19 engage in sex offenses if released on conditions to be set by the
20 board. The board may consider an offender's failure to participate in
21 an evaluation under subsection (1) of this section in determining
22 whether to release the offender. The board shall order the offender
23 released, under such affirmative and other conditions as the board
24 determines appropriate, unless the board determines by a preponderance
25 of the evidence that, despite such conditions, it is more likely than
26 not that the offender will commit sex offenses if released. If the
27 board does not order the offender released, the board shall establish
28 a new minimum term, not to exceed an additional two years.

29 (b) If at the time the offender's minimum term has expired or will
30 expire within one hundred twenty days of the offender's arrival at a
31 department of correction's facility, then no later than one hundred
32 twenty days after the offender's arrival at a department of corrections
33 facility, but after the board receives the results from the end of
34 sentence review process and the recommendations for additional or
35 modified conditions of community custody from the department, the board
36 shall conduct a hearing to determine whether it is more likely than not
37 that the offender will engage in sex offenses if released on conditions
38 to be set by the board. The board may consider an offender's failure
39 to participate in an evaluation under subsection (1) of this section in

1 determining whether to release the offender. The board shall order the
2 offender released, under such affirmative and other conditions as the
3 board determines appropriate, unless the board determines by a
4 preponderance of the evidence that, despite such conditions, it is more
5 likely than not that the offender will commit sex offenses if released.
6 If the board does not order the offender released, the board shall
7 establish a new minimum term, not to exceed an additional two years.

8 **Sec. 2.** RCW 9.95.011 and 2001 2nd sp.s. c 12 s 320 are each
9 amended to read as follows:

10 (1) When the court commits a convicted person to the department of
11 corrections on or after July 1, 1986, for an offense committed before
12 July 1, 1984, the court shall, at the time of sentencing or revocation
13 of probation, fix the minimum term. The term so fixed shall not exceed
14 the maximum sentence provided by law for the offense of which the
15 person is convicted.

16 The court shall attempt to set the minimum term reasonably
17 consistent with the purposes, standards, and sentencing ranges adopted
18 under RCW 9.94A.850, but the court is subject to the same limitations
19 as those placed on the board under RCW 9.92.090, 9.95.040 (1) through
20 (4), 9.95.115, 9A.32.040, 9A.44.045, and chapter 69.50 RCW. The
21 court's minimum term decision is subject to review to the same extent
22 as a minimum term decision by the parole board before July 1, 1986.

23 Thereafter, the expiration of the minimum term set by the court
24 minus any time credits earned under RCW 9.95.070 and 9.95.110
25 constitutes the parole eligibility review date, at which time the board
26 may consider the convicted person for parole under RCW 9.95.100 and
27 9.95.110 and chapter 72.04A RCW. Nothing in this section affects the
28 board's authority to reduce or increase the minimum term, once set by
29 the court, under RCW 9.95.040, 9.95.052, 9.95.055, 9.95.070, 9.95.080,
30 9.95.100, 9.95.115, 9.95.125, or 9.95.047.

31 (2)(a) Except as provided in (b) of this subsection, not less than
32 ninety days prior to the expiration of the minimum term of a person
33 sentenced under RCW 9.94A.712, for a sex offense committed on or after
34 ((July)) September 1, 2001, less any time credits permitted by statute,
35 the board shall review the person for conditional release to community
36 custody as provided in RCW 9.95.420. If the board does not release the
37 person, it shall set a new minimum term not to exceed an additional two

1 years. The board shall review the person again not less than ninety
2 days prior to the expiration of the new minimum term.

3 (b) If at the time a person sentenced under RCW 9.94A.712 for a sex
4 offense committed on or after September 1, 2001, arrives at a
5 department of corrections facility, the offender's minimum term has
6 expired or will expire within one hundred twenty days of the offender's
7 arrival, then no later than one hundred twenty days after the
8 offender's arrival at a department of corrections facility, but after
9 the board receives the results from the end of sentence review process
10 and the recommendations for additional or modified conditions of
11 community custody from the department, the board shall review the
12 person for conditional release to community custody as provided in RCW
13 9.95.420. If the board does not release the person, it shall set a new
14 minimum term not to exceed an additional two years. The board shall
15 review the person again not less than ninety days prior to the
16 expiration of the new minimum term.

17 NEW SECTION. Sec. 3. This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately.

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor March 27, 2002.

Filed in Office of Secretary of State March 27, 2002.