
HOUSE BILL 1978

State of Washington 59th Legislature 2005 Regular Session

By Representatives O'Brien and Sells

Read first time 02/14/2005. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to examination of offenders to determine sexual
2 dangerousness; and amending RCW 9.95.420.

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

4 **Sec. 1.** RCW 9.95.420 and 2002 c 174 s 1 are each amended to read
5 as follows:

6 (1)(a) Except as provided in (c) of this subsection, before the
7 expiration of the minimum term, as part of the end of sentence review
8 process under RCW 72.09.340, 72.09.345, and where appropriate,
9 72.09.370, the department shall conduct, and the offender shall
10 participate in, an examination of the offender, incorporating
11 methodologies that are recognized by experts in the prediction of
12 sexual dangerousness, ~~((and))~~ including a prediction of the probability
13 that the offender will engage in sex offenses if released, and a
14 determination of whether the offender has a congenital or acquired
15 condition affecting the emotional or volitional capacity which
16 predisposes the offender to the commission of criminal sexual acts in
17 a degree constituting such offender a menace to the health and safety
18 of others.

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

3 (c) If at the time the sentence is imposed by the superior court
4 the offender's minimum term has expired or will expire within one
5 hundred twenty days of the sentencing hearing, the department shall
6 conduct, within ninety days of the offender's arrival at a department
7 of corrections facility, and the offender shall participate in, an
8 examination of the offender, incorporating methodologies that are
9 recognized by experts in the prediction of sexual dangerousness,
10 (~~and~~) including a prediction of the probability that the offender
11 will engage in sex offenses if released, and a determination of whether
12 the offender has a congenital or acquired condition affecting the
13 emotional or volitional capacity which predisposes the offender to the
14 commission of criminal sexual acts in a degree constituting such
15 offender a menace to the health and safety of others.

16 (2) The board shall impose the conditions and instructions provided
17 for in RCW 9.94A.720. The board shall consider the department's
18 recommendations and may impose conditions in addition to those
19 recommended by the department. The board may impose or modify
20 conditions of community custody following notice to the offender.

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

37 (b) If at the time the offender's minimum term has expired or will
38 expire within one hundred twenty days of the offender's arrival at a

1 department of correction's facility, then no later than one hundred
2 twenty days after the offender's arrival at a department of corrections
3 facility, but after the board receives the results from the end of
4 sentence review process and the recommendations for additional or
5 modified conditions of community custody from the department, the board
6 shall conduct a hearing to determine whether it is more likely than not
7 that the offender will engage in sex offenses if released on conditions
8 to be set by the board. The board may consider an offender's failure
9 to participate in an evaluation under subsection (1) of this section in
10 determining whether to release the offender. The board shall order the
11 offender released, under such affirmative and other conditions as the
12 board determines appropriate, unless the board determines by a
13 preponderance of the evidence that, despite such conditions, it is more
14 likely than not that the offender will commit sex offenses if released.
15 If the board does not order the offender released, the board shall
16 establish a new minimum term, not to exceed an additional two years.

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