
HOUSE BILL 1221

State of Washington

60th Legislature

2007 Regular Session

By Representatives Hurst, Kelley, Sells, Dunshee, Kenney, Lovick, McCoy, O'Brien, Simpson and Pearson; by request of Indeterminate Sentence Review Board

Read first time 01/15/2007. Referred to Committee on Human Services.

1 AN ACT Relating to the release of offenders; and amending RCW
2 9.95.420, 9.95.435, and 9.96.050.

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

4 **Sec. 1.** RCW 9.95.420 and 2006 c 313 s 2 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.

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

16 (c) If at the time the sentence is imposed by the superior court
17 the offender's minimum term has expired or will expire within one
18 hundred twenty days of the sentencing hearing, the department shall
19 conduct, within ninety days of the offender's arrival at a department

1 of corrections facility, and the offender shall participate in, an
2 examination of the offender, incorporating methodologies that are
3 recognized by experts in the prediction of sexual dangerousness, and
4 including a prediction of the probability that the offender will engage
5 in sex offenses if released.

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

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

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

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

8 (4) In a hearing conducted under subsection (3) of this section,
9 the board shall provide opportunities for the victims of any crimes for
10 which the offender has been convicted to present oral, video, written,
11 or in-person testimony to the board. The procedures for victim input
12 shall be developed by rule. To facilitate victim involvement, county
13 prosecutor's offices shall ensure that any victim impact statements and
14 known contact information for victims of record are forwarded as part
15 of the judgment and sentence.

16 **Sec. 2.** RCW 9.95.435 and 2003 c 218 s 1 are each amended to read
17 as follows:

18 (1) If an offender released by the board under RCW 9.95.420
19 violates any condition or requirement of community custody, the board
20 may transfer the offender to a more restrictive confinement status to
21 serve up to the remaining portion of the sentence, less credit for any
22 period actually spent in community custody or in detention awaiting
23 disposition of an alleged violation and subject to the limitations of
24 subsection (2) of this section.

25 (2) Following the hearing specified in subsection (3) of this
26 section, the board may impose sanctions such as work release, home
27 detention with electronic monitoring, work crew, community restitution,
28 inpatient treatment, daily reporting, curfew, educational or counseling
29 sessions, supervision enhanced through electronic monitoring, or any
30 other sanctions available in the community, or may suspend the release
31 and sanction up to sixty days' confinement in a local correctional
32 facility for each violation, or revoke the release to community custody
33 whenever an offender released by the board under RCW 9.95.420 violates
34 any condition or requirement of community custody.

35 (3) If an offender released by the board under RCW 9.95.420 is
36 accused of violating any condition or requirement of community custody,
37 he or she is entitled to a hearing before the board or a designee of

1 the board prior to the imposition of sanctions. The hearing shall be
2 considered as offender disciplinary proceedings and shall not be
3 subject to chapter 34.05 RCW. The board shall develop hearing
4 procedures and a structure of graduated sanctions consistent with the
5 hearing procedures and graduated sanctions developed pursuant to RCW
6 9.94A.737. The board may suspend the offender's release to community
7 custody and confine the offender in a correctional institution owned,
8 operated by, or operated under contract with the state prior to the
9 hearing unless the offender has been arrested and confined for a new
10 criminal offense.

11 (4) The hearing procedures required under subsection (3) of this
12 section shall be developed by rule and include the following:

13 (a) Hearings shall be conducted by members or designees of the
14 board unless the board enters into an agreement with the department to
15 use the hearing officers established under RCW 9.94A.737;

16 (b) The board shall provide the offender with (~~written notice of~~
17 ~~the violation,~~) findings and conclusions which include the evidence
18 relied upon, and the reasons the particular sanction was imposed.
19 (~~The notice shall include a statement of the rights specified in this~~
20 ~~subsection, and the offender's~~) The offender will be notified of the
21 right to appeal the sanction and the right to file a personal restraint
22 petition under court rules after the final decision of the board;

23 (c) The hearing shall be held unless waived by the offender, and
24 shall be electronically recorded. For offenders not in total
25 confinement, the hearing shall be held within thirty days of service of
26 notice of the violation, but not less than twenty-four hours after
27 notice of the violation. For offenders in total confinement, the
28 hearing shall be held within thirty days of service of notice of the
29 violation, but not less than twenty-four hours after notice of the
30 violation. The board or its designee shall make a determination
31 whether probable cause exists to believe the violation or violations
32 occurred. The determination shall be made within forty-eight hours of
33 receipt of the allegation;

34 (d) The offender shall have the right to: (i) Be present at the
35 hearing; (ii) have the assistance of a person qualified to assist the
36 offender in the hearing, appointed by the (~~hearing examiner~~)
37 presiding hearing officer if the offender has a language or
38 communications barrier; (iii) testify or remain silent; (iv) call

1 witnesses and present documentary evidence; (v) question witnesses who
2 appear and testify; and (vi) be represented by counsel if revocation of
3 the release to community custody upon a finding of violation is a
4 probable sanction for the violation. The board may not revoke the
5 release to community custody of any offender who was not represented by
6 counsel at the hearing, unless the offender has waived the right to
7 counsel; and

8 (e) The sanction shall take effect if affirmed by the (~~hearing~~
9 ~~examiner~~) presiding hearing officer.

10 (5) Within seven days after the (~~hearing examiner's~~) presiding
11 hearing officer's decision, the offender may appeal the decision to the
12 full board or to a panel of three reviewing examiners designated by the
13 chair of the board or by the chair's designee. The sanction shall be
14 reversed or modified if a majority of the panel finds that the sanction
15 was not reasonably related to any of the following: (a) The crime of
16 conviction; (b) the violation committed; (c) the offender's risk of
17 reoffending; or (d) the safety of the community.

18 (6) For purposes of this section, no finding of a violation of
19 conditions may be based on unconfirmed or unconfirmable allegations.

20 **Sec. 3.** RCW 9.96.050 and 2002 c 16 s 3 are each amended to read as
21 follows:

22 (1)(a) When (~~a prisoner~~) an offender on parole has performed all
23 obligations of his or her release, including any and all legal
24 financial obligations, for such time as shall satisfy the indeterminate
25 sentence review board that his or her final release is not incompatible
26 with the best interests of society and the welfare of the paroled
27 individual, the board may make a final order of discharge and issue a
28 certificate of discharge to the (~~prisoner~~) offender. (~~The~~
29 ~~certificate of discharge shall be issued to the offender in person or~~
30 ~~by mail to the prisoner's last known address.~~)

31 (b) The board retains the jurisdiction to issue a certificate of
32 discharge after the expiration of the offender's or parolee's maximum
33 statutory sentence. If not earlier granted and any and all legal
34 financial obligations have been paid, the board shall issue a final
35 order of discharge three years from the date of parole unless the
36 parolee is on suspended or revoked status at the expiration of the
37 three years.

1 (c) The discharge, regardless of when issued, shall have the effect
2 of restoring all civil rights lost by operation of law upon conviction,
3 and the certification of discharge shall so state.

4 (d) This restoration of civil rights shall not restore the right to
5 receive, possess, own, or transport firearms.

6 (e) The board shall issue a certificate of discharge to the
7 offender in person or by mail to the offender's last known address.

8 (2) The board shall send a copy of every signed certificate of
9 discharge to the auditor for the county in which the offender was
10 sentenced and to the department of corrections. The department shall
11 create and maintain a data base containing the names of all felons who
12 have been issued certificates of discharge, the date of discharge, and
13 the date of conviction and offense.

14 ~~((The board retains the jurisdiction to issue a certificate of~~
15 ~~discharge after the expiration of the prisoner's or parolee's maximum~~
16 ~~statutory sentence. If not earlier granted, the board shall make a~~
17 ~~final order of discharge three years from the date of parole unless the~~
18 ~~parolee is on suspended or revoked status at the expiration of the~~
19 ~~three years. Such discharge, regardless of when issued, shall have the~~
20 ~~effect of restoring all civil rights lost by operation of law upon~~
21 ~~conviction, and the certification of discharge shall so state. This~~
22 ~~restoration of civil rights shall not restore the right to receive,~~
23 ~~possess, own, or transport firearms.))~~

24 (3) The discharge provided for in this section shall be considered
25 as a part of the sentence of the convicted person and shall not in any
26 manner be construed as affecting the powers of the governor to pardon
27 any such person.

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