

# SENATE BILL REPORT

## SB 6242

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As of February 10, 2016

**Title:** An act relating to the indeterminate sentence review board.

**Brief Description:** Requiring the indeterminate sentence review board to provide certain notices upon receiving a petition for early release.

**Sponsors:** Senators O'Ban, Pedersen, Padden, Roach, Hargrove, Pearson, Darneille, Frockt and Sheldon.

**Brief History:**

**Committee Activity:** Law & Justice: 1/18/16, 2/03/16 [DPS-WM].

**Ways & Means:** 2/08/16.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 6242 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Frockt, Pearson and Roach.

**Staff:** Lindsay Erickson (786-7465)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Travis Sugarman (786-7446)

**Background:** The Indeterminate Sentence Review Board (ISRB) was created in 1986. Prior to that time, the ISRB had been the Board of Prison Terms and Paroles. The ISRB has been given authority over the release and supervision of the following types of offenders:

- felony offenders who committed crimes before July 1, 1984 and went to prison;
- a select group of sex offenders who have committed offenses after August 31, 2001; and
- certain offenders who committed crimes while under the age of 18.

The ISRB is located in Olympia and merged with the Department of Corrections on July 1, 2011. The Chair and three Board Members are appointed by the Governor to serve five year

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*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.*

terms. Staff support the ISRB by providing case analysis, maintaining offender records, and providing administrative assistance to the Chair and the Board Members.

**Summary of Bill (Recommended Substitute):** Notice. When the ISRB receives a petition for early release submitted under RCW 9.94A.730 - certain offenders who committed crimes while under the age of 18 - or upon determination of a parole eligibility review date pursuant to RCW 9.95.100 and 9.95.052 - felony offenders who committed crimes before July 1, 1984 and went to prison - the ISRB must provide notice and a copy of the petition or parole eligibility documents to the sentencing court, prosecuting attorney, and the crime victim or surviving family member. The ISRB must also provide any assessment, psychological evaluation, institutional behavior record, or other examination of the offender to the sentencing court and prosecuting attorney. The crime victim or surviving family member will only receive the documents if requested. Notice of the early release hearing date or parole eligibility date, and any evaluations or information relevant to the release decision, must be provided at least 90 days before the early release hearing or parole eligibility hearing. These records and other records reviewed by the ISRB in response to the petition must be disclosed in full and without redaction. Copies of records to be provided to the sentencing court and prosecuting attorney must be provided as required without regard to whether the ISRB has received a request for copies.

Records Disclosure. It is presumed that none of the records reviewed are exempt from disclosure to the sentencing court, prosecuting attorney, and crime victim or surviving family member, in whole or in part. The ISRB may not claim any exemption from disclosure for the records reviewed for an early release petition or parole eligibility review hearing. The new disclosure provisions do not preclude a crime victim or surviving family member from submitting confidential input to the ISRB.

#### Video Recordings and Minutes.

The ISRB and its committees must:

1. video record all meetings and hearings relating to a petition for early release;
2. provide comprehensive minutes of all related meetings and hearings on a petition for early release, which should include, but not be limited to:
  - a. the ISRB members who are present;
  - b. the name of the petitioner seeking review;
  - c. the purpose and date of the meeting or hearing;
  - d. a listing of documents reviewed;
  - e. the names of members of the public who testify;
  - f. a summary of discussion;
  - g. the motions or other actions taken; and
  - h. the votes of ISRB members by name; and
3. post the videos and comprehensive minutes publicly and conspicuously on the ISRB's web site within 30 days of the meeting or hearing, without information withheld or redacted.

**EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (Recommended Substitute):** Expands notification and disclosure requirements to include offenders under jurisdiction of the ISRB for conviction of a felony committed before July 1, 1984 and sent to prison.

Adds language that requires notification to be provided to crime victims “or surviving family member.”

Specifies that crime victim or surviving family member will only receive documents if requested.

Adds provision that the ISRB may request the prosecuting attorney to assist in contacting the crime victim or surviving family member.

Removes exemption from public inspection and copying, and provides that none of the records reviewed are exempt from disclosure to the sentencing court, prosecuting attorney, and the crime victim or surviving family member.

Clarifies that nothing in the bill would preclude the ISRB from receiving confidential input from the crime victim or surviving family member.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony on Original Bill (Law & Justice):** PRO: This bill is a result of a work session in which victims and their families expressed frustration over the ISRB lack of notification pertaining to petitions for release. The ISRB was originally designed to cover a carryover caseload, but the intent was to phase out the ISRB over time. Now, more cases are coming under the ISRB jurisdiction due to the sex offender determinate plus population and the offenders who were under the age of 18 at the time they committed a crime and who are subject to a mandatory review of their sentences after 20 years. Prosecutors need notice of these hearings so they can be of assistance to the ISRB and victims. Prosecutors have access to important case documents, victim advocacy resources, and they often maintain contact with victims and can assist with involving them in the ISRB process. Prosecutors are interested in ISRB transparency and need more than just notice, they need access to the unredacted materials as well.

**Persons Testifying on Original Bill (Law & Justice):** PRO: Senator O'Ban, prime sponsor; Jon Tunheim, WA Assoc. of Prosecuting Attorneys (WAPA); Jon Meyer, WAPA.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: These are almost entirely homicide cases. The most important part of this bill is providing notice and sharing the psychiatric evaluations. If you need to look for fiscal savings, Section 2 is the operative section, Subsection 3 deals with recording these hearings and posting minutes. That's where'd I'd look for savings.

**Persons Testifying (Ways & Means):** PRO: Tom McBride, WAPA.

**Persons Signed In To Testify But Not Testifying:** No one.