

# SENATE BILL REPORT

## HB 1754

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As of March 22, 2017

**Title:** An act relating to sex offender treatment based on the offender's risk to reoffend.

**Brief Description:** Prioritizing sex offender treatment based on the offender's risk to reoffend.

**Sponsors:** Representatives Klippert and Hayes; by request of Department of Corrections.

**Brief History:** Passed House: 3/01/17, 95-3.

**Committee Activity:** Law & Justice: 3/22/17.

### Brief Summary of Bill

- Requires the Department of Corrections to prioritize access to sex offender treatment based on an offender's risk to sexually reoffend.

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## SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Shani Bauer (786-7468)

**Background:** Certain sex offenders are subject to determinate-plus sentencing, requiring the court to impose both a minimum and a maximum sentence. The minimum term is generally equal to the term under the standard range in the sentencing grid. The maximum term is the statutory maximum sentence for the crime, ranging from five years for a Class C felony to life for a Class A felony.

A determinate-plus offender is subject to the jurisdiction of the Indeterminate Sentence Review Board (ISRB). Prior to the expiration of an offender's minimum term, the ISRB will evaluate the offender. Upon expiration of the minimum term, the ISRB must release the offender unless the offender is likelier than not to commit a new sex offense. If released, the offender must remain on community custody status for the remainder of the maximum term.

Generally, an offender will be subject to determinate-plus sentencing for: Rape 1 and 2; Rape of a child 1 and 2; Child molestation 1; and Indecent liberties by forcible compulsion; or any of the following when committed with sexual motivation: Murder 1 and 2; Homicide by abuse; Kidnapping 1 and 2; Assault/Assault of a child 1 and 2; and Burglary 1.

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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.*

The Department of Corrections (DOC) must provide determinate-plus offenders with the opportunity for sex offender treatment during incarceration.

When assessing a sex offender's risk for reoffense, DOC utilizes the standard risk assessment tool used for other offenders and uses an additional risk assessment tool called the Static-99R. The Static-99R is specifically designed to assess the risk factors related to sexual reoffense. It is also the risk assessment tool utilized by law enforcement and the End of Sentence Review Committee to determine a sex offender's risk level for purposes of sex offender registration when the offender is released to the community.

**Summary of Bill:** DOC must determine placement for sex offender treatment by assessing an offender's risk for sexual reoffense as the primary factor. DOC must offer offenders the opportunity for sex offender treatment during incarceration based on the following priority:

1. Offenders who are assessed as a high risk for sexual reoffense.
2. Determinate-plus offenders who are assessed as a moderate risk for sexual reoffense.
3. Offenders not sentenced as a determinate-plus offender who are assessed as a moderate risk for sexual reoffense.
4. Determinate-plus offenders who are assessed as a low risk of reoffense but whose potential release will require participation in sex offender treatment as determined by the ISRB.

As capacity allows, DOC may offer treatment to other offenders assessed as a low risk for sexual reoffense. No enforceable right to participate in sex offender treatment is created by this section.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This is a DOC request bill that provides an important benefit for public safety. DOC currently treats sex offenders on a first come, first served basis. It would make more sense to prioritize treatment based on which offenders are the most likely to reoffend. As funds are available, DOC would also treat those that are less likely to reoffend. The ISRB has done an excellent job of applying science and research to its determinations. It doesn't make sense to put low risk offenders in treatment simply because they need to punch a ticket to get out. In some circumstances, providing treatment to low risk offenders can actually increase the risk of sexual reoffense. DOC uses the Static-99R to evaluate an offender's risk of sexual reoffense. The bill contains a safety mechanism to allow the ISRB to require treatment when the actuarials might not capture the offender's true risk.

**Persons Testifying:** PRO: Representative Brad Klippert, Prime Sponsor; Brad Meryhew, WA Association of Criminal Defense Lawyers; Jeff Landon, Department of Corrections; Kecia Rongen, Indeterminate Sentence Review Board

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