

SENATE BILL REPORT

SB 5981

As of February 1, 2024

Title: An act relating to people convicted of one or more crimes committed before the person's 18th birthday petitioning the indeterminate sentence review board.

Brief Description: Concerning the indeterminate sentence review board.

Sponsors: Senators Frame, Kuderer, Trudeau, Wilson, J., Wilson, C., Lovelett, Kauffman, Nguyen, Hasegawa, Nobles and Saldaña.

Brief History:

Committee Activity: Human Services: 1/15/24, 1/18/24 [DP-WM, w/oRec].
Ways & Means: 2/01/24.

Brief Summary of Bill

- Allows a person convicted of a crime committed prior to the person's 18th birthday to petition the Indeterminate Sentence Review Board for early release at age 24, provided the person has not been convicted of a Class A or Class B felony offense committed after turning 18, among other conditions.
- Allows the Department of Corrections to provide rental vouchers to successful petitioners if rental assistance will allow the petitioner to safely release.

SENATE COMMITTEE ON HUMAN SERVICES

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Frame and Nguyen.

Minority Report: That it be referred without recommendation.
Signed by Senators Boehnke, Ranking Member; Warnick and Wilson, J..

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Kelsey-anne Fung (786-7479)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sarian Scott (786-7729)

Background: Juvenile Rehabilitation to 25. In 2019 the Legislature passed legislation commonly referred to as JR to 25, which extended the period for which individuals convicted of offenses that occurred before the person turned 18 could remain in a juvenile rehabilitation facility from age 21 to age 25. When the individual reaches age 25, they must be transferred from the custody of the Department of Children, Youth, and Families Juvenile Rehabilitation to the Department of Corrections (DOC).

Indeterminate Sentence Review Board. In 1981 the Legislature passed the Sentencing Reform Act (SRA), which established determinate sentencing. There are some exceptions to determinate sentencing where certain incarcerated individuals are eligible for review after serving a certain number of years. The Indeterminate Sentence Review Board (ISRB) has the authority to review and release incarcerated individuals if the statutory criteria is met for the following three populations:

- Parole Cases—persons who committed crimes prior to the SRA, July 1, 1984;
- Community Custody Board—persons who committed certain sex offenses after August 31, 2001, and who have determinate-plus sentences; and
- Juvenile Board Cases—persons who committed crimes under age 18 and were sentenced for terms longer than 20 years.

There are two types of Juvenile Board Cases: juveniles convicted of aggravated first degree murder and juveniles sentenced to 20 years or more.

Review of Long-Term Juvenile Sentences. Any person convicted of one or more crimes committed prior to the person's 18th birthday may petition ISRB for early release after serving no less than 20 years in total confinement, provided the person has not been convicted for any crime committed after turning age 18, has not had a major violation in the 12 months prior to filing the petition, and is not serving a sentence for first degree aggravated murder or a sex offense.

No later than five years prior to the date the person will be eligible to petition for release, DOC must assess the person and identify appropriate programming and services to prepare the person for return to the community. To the extent possible, DOC must make programming identified by the assessment available. No later than 180 days from receipt of the petition, DOC must examine the person to predict dangerousness and the probability the person will engage in future criminal behavior if released on conditions set by ISRB.

ISRB must order release with conditions set by ISRB unless it is determined by a preponderance of evidence that, despite conditions, it is more likely than not the person will

commit new crimes if released. ISRB must give highest priority to public safety considerations when making decisions. During the review, ISRB must provide the opportunity for victims and survivors of victims to present statements. If the petition is denied, the person may petition again in five years or at an earlier date determined by ISRB. If the person is released, the person is subject to community custody under the supervision of DOC and the authority of ISRB for a period of time determined by ISRB.

Summary of Bill: The eligibility criteria are changed for when a person may petition ISRB for early release. Any person convicted of a crime committed prior to the person's 18th birthday may petition ISRB for early release after reaching the age of 24 or older, provided the person has not been convicted for any Class A or Class B felony offense committed after the person turned 18, the person has not committed a major infraction in the 12 months prior to filing the petition, and the current sentence being served is not for first degree aggravated murder or a sex offense.

DOC may provide rental vouchers to a person who successfully petitions ISRB for early release if rental assistance will allow the petitioner to safely release. DOC must maintain a list of housing providers who are authorized to receive rental vouchers. If more than two voucher recipients will be residing per dwelling unit, their rental vouchers may only be paid to a housing provider on DOC's list. For each successful petitioner who receives a rental voucher, DOC must gather data as recommended by the Washington State Institute for Public Policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

This act applies retroactively to persons incarcerated on the effective date of this act, regardless of the date of the offense or conviction. This act does not create any right or entitlement to release from incarceration before the end of a term of incarceration imposed by the court.

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 (Human Services): PRO: The science is clear that adolescent brains are not fully developed and youth have a harder time regulating risk and being subjected to peer pressure and not fully understanding the consequences of their actions. Society should not make people wait 20 years to have an opportunity for review by the ISRB when a person has taken accountability for their actions, taken advantage of education or vocation programs offered at juvenile rehabilitation facilities, and rehabilitated themselves for the better. The ISRB review is not a promise or guarantee of early release

but provides some hope to young people serving long sentences. This bill is focused on restorative justice and rehabilitation, and increasing public safety by allowing people to focus on getting better so they never commit another crime.

Many youth at the juvenile rehabilitation facility received long sentences as if they were adults. Many have rehabilitated and changed their lives for the better such as becoming an author, getting a bachelor's degree, and becoming a mentor to younger individuals at the facility. The moment they transfer to DOC, the process of rehabilitation ends and the debilitation begins. All the skills learned while in the juvenile system are lost when a person is transferred to DOC.

This bill incentivizes accountability and commitment to rehabilitation and successful transition to adulthood so the person can return to society. This bill improves households and breaks the cycle of violence by giving youth the resources and skills they need and a fair chance they never had. This bill recognizes that young people can change and mature, and demonstrate growth during confinement.

Long sentences do not reduce recidivism but increase it. It is counterintuitive to have a young person transfer to the adult correctional system when youth are more amendable to change than adults. This bill limits the chance of being hardened or institutionalized by serving a long time in the system. Long sentences will not heal trauma and pain, and are not in the best interest of healing. Everyone rehabilitates at a different pace. Society can reap the rewards that these individuals offer communities and families, including mentorship and cautionary tales to younger kids, and intervening in the next generation of children.

CON: This bill would give more weight to rehabilitation than all other things by changing the requirement that a person must not have a conviction for committing any crime after turning 18. By specifying only convictions for Class A or Class B felonies after turning 18, a person could commit an unlimited number of gross misdemeanors. This would ignore repetitive behavior.

The timeframe of age 24 is a very short time of incarceration for some of the more significant kinds of crimes. One option could be to limit it to crimes with shorter sentences. This fails to appreciate the significant conduct of more severe crimes. This bill does not strike the right balance. Any resentencing should consider a review of all cases eligible for resentencing because failure to do so minimizes the impact on victims.

OTHER: There was no testimony provided. The person was available for questions.

Persons Testifying (Human Services): PRO: Senator Noel Frame, Prime Sponsor; Alexis Hale; Lola Luna, Justice for Girls Coalition; Maryanne Atkins, Justice for Girls Coalition; Edgar Calixto, Green Hill School Capitol Classroom; Caya Lenay, Green Hill Capitol Classroom; Chris Ativalu-Ford, Green Hill Capitol Classroom; Ronald Ackerson Jr, Green Hill School Capitol Classroom; Gordon Hill, King County Department of Public Defense;

Anthony Smith, Department of Corrections - Washington Corrections Center.

CON: James McMahan, WA Assoc Sheriffs & Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys.

OTHER: Kecia Rongen, Indeterminate Sentence Review Board.

Persons Signed In To Testify But Not Testifying (Human Services): No one.

Staff Summary of Public Testimony (Ways & Means): PRO: We want to acknowledge the committee's work to ensure safe communities. The cost to house an inmate is almost \$57,000. This money is better spent on education and rehabilitation to return these youth to society. The ISRB has been a reliable tool in considering a person's rehabilitation while ensuring a safe community. This bill would empower youth and support their ability to change by sending the message that their future is more important than the acts of their past.

This bill provides an opportunity to capitalize on the power of confession and rehabilitation. The fiscal note assumes all petitioners will be eligible for release, which is unlikely. Further, there should be a cost savings generated by released youth. Nothing in the current bill changes the law around presumptive release. Victims are given a place at the table in this process.

CON: We support recovery and think people should do better and should not be defined by their past. We have a concern with the language that would allow any person to petition for release at the age of 24 regardless of what they have done, how many crimes they have committed, or how long they have been confined. This creates a public safety concern. The presumption of release is also a concern. For example, a person who has committed a school shooting and has served four to five years would have a presumption of release at the time of petition. We don't believe this is appropriate.

Persons Testifying (Ways & Means): PRO: Edgar Calixto, TVW's Capitol Classroom; Chris Ativalu-Ford, TVW's Capitol Classroom; Ronald Ackerson Jr, TVW's Capitol Classroom; TJ Pullar, TVW's Capitol Classroom; Karen Pillar, TeamChild.

CON: James McMahan, WA Assoc Sheriffs & Police Chiefs; Russell Brown, WA Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.