
SENATE BILL 5256

State of Washington

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By Senators Christian, Braun, and Saldaña

Read first time 01/14/25. Referred to Committee on Human Services.

1 AN ACT Relating to victims' participation in hearings conducted
2 by the indeterminate sentence review board; amending RCW 9.95.420,
3 10.95.030, 9.94A.730, 7.69.032, and 9.95.422; and reenacting and
4 amending RCW 9.95.260.

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

6 **Sec. 1.** RCW 9.95.420 and 2024 c 118 s 5 are each amended to read
7 as follows:

8 (1)(a) Except as provided in (c) of this subsection, before the
9 expiration of the minimum term, as part of the end of sentence review
10 process under RCW 72.09.340, 72.09.345, and where appropriate,
11 72.09.370, the department shall conduct, and the offender shall
12 participate in, an examination of the offender, incorporating
13 methodologies that are recognized by experts in the prediction of
14 sexual dangerousness, and including a prediction of the probability
15 that the offender will engage in sex offenses if released. The
16 examination shall also include whether the offender has met the
17 conditions of restorative justice as defined by the board.

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

20 (c) If at the time the sentence is imposed by the superior court
21 the offender's minimum term has expired or will expire within 120

1 days of the sentencing hearing, the department shall conduct, within
2 90 days of the offender's arrival at a department of corrections
3 facility, and the offender shall participate in, an examination of
4 the offender, incorporating methodologies that are recognized by
5 experts in the prediction of sexual dangerousness, and including a
6 prediction of the probability that the offender will engage in sex
7 offenses if released. The examination shall also include whether the
8 offender has met the conditions of restorative justice as defined by
9 the board.

10 (2) The board shall impose the conditions and instructions
11 provided for in RCW 9.94A.704. The board shall consider the
12 department's recommendations and may impose conditions in addition to
13 those recommended by the department. The board may impose or modify
14 conditions of community custody following notice to the offender. The
15 additional conditions may be based upon the crime of conviction, risk
16 of reoffense, or risk to community safety. The additional conditions
17 of community custody need not be crime-related if the conditions
18 reasonably relate to either the risk of reoffense or risk to
19 community safety.

20 (3) (a) Except as provided in (b) of this subsection, no later
21 than ninety days before expiration of the minimum term, but after the
22 board receives the results from the end of sentence review process
23 and the recommendations for additional or modified conditions of
24 community custody from the department, the board shall conduct a
25 hearing to determine whether ~~((it))~~: (i) It is more likely than not
26 that the offender will engage in sex offenses if released on
27 conditions to be set by the board; and (ii) the offender has
28 sufficiently met the conditions of restorative justice. The board may
29 consider an offender's failure to participate in an evaluation under
30 subsection (1) of this section in determining whether to release the
31 offender. The board shall order the offender released, under such
32 affirmative and other conditions as the board determines appropriate,
33 unless the board determines by a preponderance of the evidence that,
34 despite such conditions ~~((, it))~~: (A) It is more likely than not that
35 the offender will commit sex offenses if released; and (B) the
36 offender has not sufficiently met the conditions of restorative
37 justice, including evidence from an objection by a victim of a crime
38 for which the offender has been convicted. The board shall give great
39 weight to a victim's objection and make written findings on the

1 objection. If the board does not order the offender released, the
2 board shall establish a new minimum term as provided in RCW 9.95.011.

3 (b) If at the time the offender's minimum term has expired or
4 will expire within 120 days of the offender's arrival at a department
5 of correction's facility, then no later than 120 days after the
6 offender's arrival at a department of corrections facility, but after
7 the board receives the results from the end of sentence review
8 process and the recommendations for additional or modified conditions
9 of community custody from the department, the board shall conduct a
10 hearing to determine whether ~~((it))~~: (i) It is more likely than not
11 that the offender will engage in sex offenses if released on
12 conditions to be set by the board; and (ii) the offender has
13 sufficiently met the conditions of restorative justice. The board may
14 consider an offender's failure to participate in an evaluation under
15 subsection (1) of this section in determining whether to release the
16 offender. The board shall order the offender released, under such
17 affirmative and other conditions as the board determines appropriate,
18 unless the board determines by a preponderance of the evidence that,
19 despite such conditions~~((, it))~~: (A) It is more likely than not that
20 the offender will commit sex offenses if released; and (B) the
21 offender has not sufficiently met the conditions of restorative
22 justice, including evidence from an objection by a victim of a crime
23 for which the offender has been convicted. The board shall give great
24 weight to a victim's objection and make written findings on the
25 objection. If the board does not order the offender released, the
26 board shall establish a new minimum term as provided in RCW 9.95.011.

27 (4) In a hearing conducted under subsection (3) of this section,
28 the board shall provide opportunities for the victims of any crimes
29 for which the offender has been convicted to present statements as
30 set forth in RCW 7.69.032. The procedures for victim input shall be
31 developed by rule. Any victim of any crime for which the offender has
32 been convicted shall have the right to intervene and object on the
33 record to the release of the offender. To facilitate victim
34 involvement, county prosecutor's offices shall ensure that any victim
35 impact statements and known contact information for victims of record
36 are forwarded as part of the judgment and sentence.

37 **Sec. 2.** RCW 10.95.030 and 2024 c 118 s 7 are each amended to
38 read as follows:

1 (1) Except as provided in subsection (2) of this section, any
2 person convicted of the crime of aggravated first degree murder shall
3 be sentenced to life imprisonment without possibility of release or
4 parole. A person sentenced to life imprisonment under this section
5 shall not have that sentence suspended, deferred, or commuted by any
6 judicial officer and the indeterminate sentence review board or its
7 successor may not parole such prisoner nor reduce the period of
8 confinement in any manner whatsoever including but not limited to any
9 sort of good time calculation. The department of social and health
10 services or its successor or any executive official may not permit
11 such prisoner to participate in any sort of release or furlough
12 program.

13 (2) (a) (i) Any person convicted of the crime of aggravated first
14 degree murder for an offense committed prior to the person's 16th
15 birthday shall be sentenced to a maximum term of life imprisonment
16 and a minimum term of total confinement of 25 years.

17 (ii) Any person convicted of the crime of aggravated first degree
18 murder for an offense committed when the person is at least 16 years
19 old but less than 18 years old shall be sentenced to a maximum term
20 of life imprisonment and a minimum term of total confinement of no
21 less than 25 years.

22 (b) In setting a minimum term, the court must take into account
23 mitigating factors that account for the diminished culpability of
24 youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012)
25 including, but not limited to, the age of the individual, the youth's
26 childhood and life experience, the degree of responsibility the youth
27 was capable of exercising, and the youth's chances of becoming
28 rehabilitated.

29 (c) A person sentenced under this subsection shall serve the
30 sentence in a facility or institution operated, or utilized under
31 contract, by the state. During the minimum term of total confinement,
32 the person shall not be eligible for community custody, earned
33 release time, furlough, home detention, partial confinement, work
34 crew, work release, or any other form of early release authorized
35 under RCW 9.94A.728, or any other form of authorized leave or absence
36 from the correctional facility while not in the direct custody of a
37 corrections officer. The provisions of this subsection shall not
38 apply: (i) In the case of an offender in need of emergency medical
39 treatment; or (ii) for an extraordinary medical placement when
40 authorized under RCW 9.94A.728(1)(c).

1 (d) Any person sentenced pursuant to this subsection shall be
2 subject to community custody under the supervision of the department
3 of corrections and the authority of the indeterminate sentence review
4 board. As part of any sentence under this subsection, the court shall
5 require the person to comply with any conditions imposed by the
6 board.

7 (e) Any person sentenced pursuant to this subsection shall comply
8 with conditions imposed or modified pursuant to RCW 9.94A.704(10), in
9 addition to court-imposed conditions.

10 (f) No later than five years prior to the expiration of the
11 person's minimum term, the department of corrections shall conduct an
12 assessment of the offender and identify programming and services that
13 would be appropriate to prepare the offender for return to the
14 community. To the extent possible, the department shall make
15 programming available as identified by the assessment.

16 (g) No later than 180 days prior to the expiration of the
17 person's minimum term, the department of corrections shall conduct,
18 and the offender shall participate in, an examination of the person,
19 incorporating methodologies that are recognized by experts in the
20 prediction of dangerousness, and including a prediction of the
21 probability that the person will engage in future criminal behavior
22 if released on conditions to be set by the board. The examination
23 shall also include whether the person has met the conditions of
24 restorative justice as defined by the board. The board may consider a
25 person's failure to participate in an evaluation under this
26 subsection in determining whether to release the person. The board
27 shall order the person released, under such affirmative and other
28 conditions as the board determines appropriate, unless the board
29 determines by a preponderance of the evidence that, despite such
30 conditions(~~(, or it)~~): (i) It is more likely than not that the person
31 will commit new criminal law violations if released; and (ii) the
32 person has not sufficiently met the conditions of restorative
33 justice, including evidence from an objection by a victim of a crime
34 for which the person has been convicted. The board shall give great
35 weight to a victim's objection and make written findings on the
36 objection. If the board does not order the person released, the board
37 shall set a new minimum term not to exceed five additional years. The
38 board shall give public safety considerations the highest priority
39 when making all discretionary decisions regarding the ability for
40 release and conditions of release.

1 (h) In a hearing conducted under (g) of this subsection, the
2 board shall provide opportunities for victims and survivors of
3 victims of any crimes for which the offender has been convicted to
4 present statements as set forth in RCW 7.69.032. The procedures for
5 victim and survivor of victim input shall be provided by rule. Any
6 victim of any crime for which the offender has been convicted shall
7 have the right to intervene and object on the record to the release
8 of the offender. To facilitate victim and survivor of victim
9 involvement, county prosecutor's offices shall ensure that any victim
10 impact statements and known contact information for victims of record
11 and survivors of victims are forwarded as part of the judgment and
12 sentence.

13 (i) An offender released by the board is subject to the
14 supervision of the department of corrections for a period of time to
15 be determined by the board. The department shall monitor the
16 offender's compliance with conditions of community custody imposed by
17 the court or board and promptly report any violations to the board.
18 Any violation of conditions of community custody established or
19 modified by the board are subject to the provisions of RCW 9.95.425
20 through 9.95.440.

21 (j) An offender released or discharged under this section may be
22 returned to the institution at the discretion of the board if the
23 offender is found to have violated a condition of community custody.
24 The offender is entitled to a hearing pursuant to RCW 9.95.435. The
25 board shall set a new minimum term of incarceration not to exceed
26 five years.

27 **Sec. 3.** RCW 9.94A.730 and 2024 c 118 s 4 are each amended to
28 read as follows:

29 (1) Notwithstanding any other provision of this chapter, any
30 person convicted of one or more crimes committed prior to the
31 person's 18th birthday may petition the indeterminate sentence review
32 board for early release after serving no less than 20 years of total
33 confinement, provided the person has not been convicted for any crime
34 committed subsequent to the person's 18th birthday, the person has
35 not committed a disqualifying serious infraction as defined by the
36 department in the 12 months prior to filing the petition for early
37 release, and the current sentence was not imposed under RCW 10.95.030
38 or 9.94A.507.

1 (2) No later than five years prior to the date the offender will
2 be eligible to petition for release, the department shall conduct an
3 assessment of the offender and identify programming and services that
4 would be appropriate to prepare the offender for return to the
5 community. To the extent possible, the department shall make
6 programming available as identified by the assessment.

7 (3) No later than 180 days from receipt of the petition for early
8 release, the department shall conduct, and the offender shall
9 participate in, an examination of the person, incorporating
10 methodologies that are recognized by experts in the prediction of
11 dangerousness, and including a prediction of the probability that the
12 person will engage in future criminal behavior if released on
13 conditions to be set by the board. The examination shall also include
14 whether the person has met the conditions of restorative justice as
15 defined by the board. The board may consider a person's failure to
16 participate in an evaluation under this subsection in determining
17 whether to release the person. The board shall order the person
18 released under such affirmative and other conditions as the board
19 determines appropriate, unless the board determines by a
20 preponderance of the evidence that, despite such conditions ~~(, it)~~;
21 (a) It is more likely than not that the person will commit new
22 criminal law violations if released; and (b) the person has not
23 sufficiently met the conditions of restorative justice, including
24 evidence from an objection by a victim of a crime for which the
25 person has been convicted. The board shall give great weight to a
26 victim's objection and make written findings on the objection. The
27 board shall give public safety considerations the highest priority
28 when making all discretionary decisions regarding the ability for
29 release and conditions of release.

30 (4) In a hearing conducted under subsection (3) of this section,
31 the board shall provide opportunities for victims and survivors of
32 victims of any crimes for which the offender has been convicted to
33 present statements as set forth in RCW 7.69.032. The procedures for
34 victim and survivor of victim input shall be provided by rule. Any
35 victim of any crime for which the offender has been convicted shall
36 have the right to intervene and object on the record to the release
37 of the offender. To facilitate victim and survivor of victim
38 involvement, county prosecutor's offices shall ensure that any victim
39 impact statements and known contact information for victims of record

1 and survivors of victims are forwarded as part of the judgment and
2 sentence.

3 (5) Any person released by the board pursuant to this section
4 shall comply with conditions imposed or modified pursuant to RCW
5 9.94A.704(10), in addition to court-imposed conditions.

6 (6) An offender released by the board is subject to the
7 supervision of the department for a period of time to be determined
8 by the board, up to the length of the court-imposed term of
9 incarceration. The department shall monitor the offender's compliance
10 with conditions of community custody imposed by the court or board
11 and promptly report any violations to the board. Any violation of
12 conditions of community custody established or modified by the board
13 are subject to the provisions of RCW 9.95.425 through 9.95.440.

14 (7) An offender whose petition for release is denied may file a
15 new petition for release five years from the date of denial or at an
16 earlier date as may be set by the board.

17 (8) An offender released under the provisions of this section may
18 be returned to the institution at the discretion of the board if the
19 offender is found to have violated a condition of community custody.
20 The offender is entitled to a hearing pursuant to RCW 9.95.435. If
21 the board finds that the offender has committed a new violation, the
22 board may return the offender to the institution for up to the
23 remainder of the court-imposed term of incarceration. The offender
24 may file a new petition for release five years from the date of
25 return to the institution or at an earlier date as may be set by the
26 board.

27 **Sec. 4.** RCW 9.95.260 and 1999 c 323 s 4 and 1999 c 143 s 29 are
28 each reenacted and amended to read as follows:

29 (1) The indeterminate sentence review board shall, when requested
30 by the governor, pass on the representations made in support of
31 applications for pardons for convicted persons and make
32 recommendations thereon to the governor.

33 (2) It will be the duty of the secretary of corrections to
34 exercise supervision over such convicted persons as have been
35 conditionally pardoned by the governor, to the end that such persons
36 shall faithfully comply with the conditions of such pardons. The
37 indeterminate sentence review board shall also pass on any
38 representations made in support of applications for restoration of
39 civil rights of convicted persons, and make recommendations to the

1 governor. The department of corrections shall prepare materials and
2 make investigations requested by the indeterminate sentence review
3 board in order to assist the board in passing on the representations
4 made in support of applications for pardon or for the restoration of
5 civil rights.

6 (3) The board shall make no recommendations to the governor in
7 support of an application for pardon until a public hearing has been
8 held under this section or RCW 9.94A.885(3) upon the application. The
9 prosecuting attorney of the county where the conviction was obtained
10 shall be notified at least thirty days prior to the scheduled hearing
11 that an application for pardon has been filed and the date and place
12 at which the hearing on the application for pardon will be held. The
13 board may waive the thirty-day notice requirement in cases where it
14 determines that waiver is necessary to permit timely action on the
15 petition. A copy of the application for pardon shall be sent to the
16 prosecuting attorney. The prosecuting attorney shall make reasonable
17 efforts to notify victims, survivors of victims, witnesses, and the
18 law enforcement agency or agencies that conducted the investigation
19 of the date and place of the hearing. Information regarding victims,
20 survivors of victims, or witnesses receiving this notice are
21 confidential and shall not be available to the offender. The board
22 shall consider written, oral, audio, or videotaped statements
23 regarding the application for pardon received, personally or by
24 representation, from the individuals who receive notice pursuant to
25 this section. Any victim of any crime for which the person has been
26 convicted may intervene and object on the record. The board shall
27 give great weight to a victim's objection when deciding whether to
28 make a recommendation to the governor in support of an application
29 for pardon for the convicted person and consider a victim's objection
30 as an indicator that the convicted person has not sufficiently met
31 the conditions of restorative justice. The board shall make written
32 findings on the objection in its decision. This subsection is
33 intended solely for the guidance of the board. Nothing in this
34 section is intended or may be relied upon to create a right or
35 benefit, substantive or procedural, enforceable at law by any person.

36 **Sec. 5.** RCW 7.69.032 and 2009 c 138 s 1 are each amended to read
37 as follows:

38 (1) The legislature recognizes the significant concerns that many
39 victims, survivors of victims, and witnesses of crimes have when

1 offenders are considered for postsentence release from confinement.
2 Therefore, it is the intent of the legislature to ensure that
3 victims, survivors of victims, and witnesses of crimes are afforded
4 the opportunity to make a statement that will be considered prior to
5 the granting of postsentence release from confinement for any
6 offender under the jurisdiction of the indeterminate sentence review
7 board or its successor, or by the governor regarding an application
8 for pardon or commutation of sentence.

9 (2) Victims, survivors of victims, and witnesses of crimes have
10 the following rights:

11 (a) With respect to victims, survivors of victims, and witnesses
12 of crimes, to present a statement to the indeterminate sentence
13 review board or its successor, in person or by representation, via
14 audio or videotape or other electronic means, or in writing, prior to
15 the granting of parole or community custody release for any offender
16 under the board's jurisdiction.

17 (b) With respect to victims and survivors of victims, to present
18 a statement to the clemency and pardons board in person, via audio or
19 videotape or other electronic means, or in writing, at any hearing
20 conducted regarding an application for pardon or commutation of
21 sentence.

22 (c) With respect to victims and survivors of victims, to
23 intervene and object on the record to the parole or community custody
24 release of any offender under the indeterminate sentence review
25 board's jurisdiction, to have their objection be given great weight
26 by the board and considered an indicator that the offender has not
27 sufficiently met the conditions of restorative justice, and have
28 written findings made by the board on the objection.

29 **Sec. 6.** RCW 9.95.422 and 2016 c 218 s 2 are each amended to read
30 as follows:

31 (1) Upon receipt of a petition for early release submitted under
32 RCW 9.94A.730, or upon determination of a parole eligibility review
33 date pursuant to RCW 9.95.100 and 9.95.052, the indeterminate
34 sentence review board must provide notice and a copy of a petition or
35 parole eligibility documents to the sentencing court, prosecuting
36 attorney, and crime victim or surviving family member. The board may
37 request the prosecuting attorney to assist in contacting the crime
38 victim or surviving family member. If requested in writing by the
39 sentencing court, the prosecuting attorney, or the crime victim or

1 surviving family member, the indeterminate sentence review board must
2 also provide any assessment, psychological evaluation, institutional
3 behavior record, or other examination of the offender. Notice of the
4 early release hearing date or parole eligibility date, and any
5 evaluations or information relevant to the release decision, must be
6 provided at least ninety days before the early release hearing or
7 parole eligibility review hearing. The records described in this
8 section, and other records reviewed by the board in response to the
9 petition or parole eligibility review(~~(+)~~), must be disclosed in
10 full and without redaction. Copies of records to be provided to the
11 sentencing court and prosecuting attorney under this section must be
12 provided as required without regard to whether the board has received
13 a request for copies.

14 (2) For the purpose of review by the board of a petition for
15 early release or parole eligibility, it is presumed that none of the
16 records reviewed are exempt from disclosure to the sentencing court,
17 prosecuting attorney, and crime victim or surviving family member, in
18 whole or in part. The board may not claim any exemption from
19 disclosure for the records reviewed for an early release petition or
20 parole eligibility review hearing.

21 (3) The board and its subcommittees must provide comprehensive
22 minutes of all related meetings and hearings on a petition for early
23 release or parole eligibility review hearing. The comprehensive
24 minutes should include, but not be limited to, the board members
25 present, the name of the petitioner seeking review, the purpose and
26 date of the meeting or hearing, a listing of documents reviewed, the
27 names of members of the public who testify, any objection by a victim
28 of any crime for which the petitioner has been convicted, a summary
29 of discussion, the motions or other actions taken, written findings
30 on an objection by a victim, and the votes of board members by name.
31 For the purposes of this subsection, "action" has the same meaning as
32 in RCW 42.30.020. The comprehensive minutes must be publicly and
33 conspicuously posted on the board's website within thirty days of the
34 meeting or hearing, without any information withheld or redacted.
35 Nothing in this subsection precludes the board from receiving
36 confidential input from the crime victim or surviving family member.

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