

ALTERNATE HOUSE BILL 2521

AN ACT Relating to creating a citizens' custody review board; amending RCW 9.94A.728; and adding a new chapter to Title 9 RCW.

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

NEW SECTION. **Sec. 1.** Washington state will benefit through the adoption of a citizens' custody review board, hereinafter referred to as the board, an entity authorized to determine whether individuals, who society no longer needs to hold in prison for public safety, should be released from custody.

With the availability of trained medical mental health and rehabilitation professionals and assessment tools to conduct analysis of an offender's risk to reoffend, the incarceration of low-risk, long-term offenders has no merit when such incarceration diverts limited public resources at the expense of public education, health, and other public services.

NEW SECTION. **Sec. 2.** It is the policy of Washington State that:

(1) A board shall be established to review custody records of offenders who have been sentenced to the department of corrections and shall have exclusive jurisdiction over all offenders who by the effective date of this act have served:

(a) Fifteen years or more of a sentence imposed by the court pursuant to a single cause number; or

(b) A total of twenty years in the department of corrections pursuant to multiple cause numbers since the offender was eighteen years of age.

(2) The board shall be composed of ten members to be appointed by the governor and shall be representative of the community as follows:

(a) Two persons with public safety experience;

(b) Two members of the Washington state bar;

(c) Two persons with experience as a local elected official;

(d) Two persons who are members of the Washington state legislature;

(e) Two persons who have been incarcerated for ten years or more with the Washington State Department of Corrections.

(3) The board shall not have jurisdiction over offenders serving life sentences or are classified under RCW (*sex offender laws covering "unreleaseable"*).

(4) The board members shall serve at the discretion of the governor and the first ten appointed members may serve varied term lengths as set by the governor. Thereafter, each appointee shall serve a three-year term. The governor shall appoint the chair of the citizen's custody review board;

(5) By agreement of the members, the board shall set meeting dates and provide notice thirty days in advance of each meeting. The board shall meet at least four times per year. Special meetings may be called, as needed, as determined by the chair.

(6) The board members shall serve without compensation. While conducting the business of the board, members may receive per diem expenses pursuant to the rules of the office of financial management.

(7) Five members of the board shall constitute a quorum for hearings.

(8) Regional Department of Corrections facilities shall be available for board hearings.

(9) The board shall be an independent entity, not a part of any other justice system, local or state.

NEW SECTION. **SEC. 3.** The department of corrections shall provide space in which the board may meet and conduct its business and shall provide clerical assistance as needed.

(2) The board also may conduct business in a space provided by a local reentry coalition if such space is made available.

(3) (a) The board shall survey community reentry organizations, by county, and shall determine the ability of each organization to provide support for offenders returning to communities; and shall designate one or more local reentry coalitions to be responsible for offenders who are released pursuant to this act.

(b) Only local reentry coalitions designated by the board shall be responsible for the supervision of an offender released under this act.

NRW SECTION. **SEC. 4.** (1) The board shall meet to review cases selected by the chair.

(2) Priority for initial applications for review shall be given to offenders with the most time served. The board, within ninety days of receipt of an application from an offender, must provide each applicant an estimated schedule for review of the application and determination regarding eligibility for release.

(3) The board shall consider the criteria set forth in section 6 of this act when:

(a) Making its decision regarding the release of an offender from the custody of the department of corrections; and

(b) Determining the conditions of an offender's release.

(4) The board shall consult with local or regional community custody offices of the department of corrections and with local law enforcement to establish post-release conditions for an offender.

(5) During the first twelve months of an offender's release by the board, the local reentry coalition responsible for the offender's supervision shall provide monthly progress reports to the board. Thereafter, the local reentry coalition shall provide quarterly reports until the offender has completed his or her second year in the community.

(6) A majority vote by the members of the board controls in the termination of:

(a) An offender's application for release; and

(b) Whether an offender who has been released shall be returned to the custody of the department of corrections.

NEW SECTION. **SEC. 5.** (1) Within one year of the effective date of this section, the board shall complete the review of records of offenders identified by the department of corrections who qualify for release from custody pursuant to section (2)(1) of this act.

(2) An offender or the secretary of the department of corrections, on behalf of an offender, may petition the board based upon the offender's proven potential to reenter society as a functioning citizen.

(3) Upon denial of an offender's petition for release, the board may schedule a subsequent hearing to review the offender's application for release.

NEW SECTION. **SEC. 6.** (1) The board may consider the following factors in its determination of whether an offender shall be released from the department of corrections before the end of his or her sentence:

(a) The length of time served by the offender in total confinement within the department of corrections;

(b) Documentation of participation in rehabilitation activities and volunteer programs provided within the department of corrections.

(c) The existence of a local citizen's reentry coalition program for transitioning offenders or evidence of local community or family support for the offender seeking release;

(d) A local citizens' reentry coalition, or community or family support group must be able to provide necessary support services for successful reentry, as determined by the board;

(e) Results of consultation by the board with the local or regional community corrections offices regarding available resources to support a released offender;

(f) The offender's likelihood to reoffend as determined by the results of a risk assessment conducted through the department of corrections;

(g) The offender's level of education or skills training;

(h) The existence of a reentry plan that has been approved by the board; and

(i) Public safety.

(2) If the board denies release for an offender, the offender may again petition for release under this act after at least two years have elapsed from the date of the denial.

NEW SECTION. **SEC 7.** (1) If an offender violates the terms of release as set by the board, a three-member panel of members of the board selected by the chair shall convene to determine whether to petition the full board to provide additional post-release support to the offender or to return the offender to the department of corrections to serve the remainder of his or her sentence.

(a) The three-member panel shall conduct a hearing, and the proceeding shall not be subject to chapter 34.05 RCW, the administrative procedures act.

(b) Prior to the hearing, the panel shall verify that proper notice of the hearing has been given and that the offender was properly served with the notice of allegations, hearing and rights.

(c) The hearing shall be electronically recorded and the recording shall be retained for twelve months.

(d) The offender may call witnesses to testify on his or her behalf at the hearing. The panel may limit the number of witnesses and the scope of testimony to matters relevant to the allegations.

(e) The hearing shall be open to the public unless a majority of the members of the panel, for a specifically stated reason, closes the hearing in whole or in part.

(f) The panel:

(i) Shall evaluate evidence and weigh the credibility of the witnesses;

(ii) May question witnesses in an impartial manner to elicit any facts deemed necessary to fairly and adequately decide the matter;

(iii) Shall render a decision; and

(iv) Shall take any other actions necessary and authorized by this act and law.

(2) When requested by the board, the local or regional community corrections office shall act promptly to return an offender to the custody of the department of corrections, under its existing procedures.

(3) The decision of the board to return an offender to custody pursuant to this section is final.

SEC. 9. RCW 9.94A.728 and 2010 c 224 s 6 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) An offender may earn early releases time as authorized by RCW 9.94A.729;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3) (a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(iii) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time.

(e) Persistent offenders are not eligible for extraordinary placement;

(4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(5) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community or no more than the final

twelve months of the offender's term of confinement may be served in partial confinement as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(6) The governor may pardon any offender;

(7) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(8) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(9) An offender may be released upon the decision of the citizens custody review board pursuant to sections 2, 5, and 6 of this act.

NEW SECTION. **SEC. 9.** Except as otherwise restricted by federal law, an offender released pursuant to this act is subject only to the conditions of release established by the citizens' custody review board.

NEW SECTION. **SEC. 10.** The Washington state institute for public policy shall conduct a study of the effect of this act on recidivism and other outcomes. By December 1, 2014, the institute shall make a preliminary report of its findings to the governor and the appropriate legislative committees. By December 1, 2015, the institute shall make a final report of its findings to the governor and the appropriate legislative committees.

NEW SECTION. **SEC. 11.** The department of corrections shall determine the monthly savings of incarceration for each offender released from custody. The county receiving the released offender shall receive from the state of Washington an amount of twenty percent of each monthly savings for a period of one year for support of a local therapeutic court.

NEW SECTION. **SEC 12.** Sections 1 through 7, 9, 10, and 11 constitute a new chapter in Title 9 RCW.

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