An Idea for “Second Look” Authority

I. Eligibility

Offenders convicted of a crime or crimes committed on or after July 1, 1984, other than:

1) Aggravated Murder in the First Degree; or
2) Persistent Offenders (RCW 9.94A.570) (3/2 Strikes); or
3) Sex Offenses under RCW 9.94A.712 (Determinate +); and

who has served 20 or more continuous years of total confinement.

II. Authority

1) The Indeterminate Sentence Review Board is authorized to review and determine whether service of the balance of the original sentence of total confinement is consistent with the purposes of the Sentencing Reform Act (RCW 9.94A.010)

III. Criteria

In making this review and determination the Indeterminate Sentence Review Board shall consider:

1) all the circumstances which existed at the time of the original sentence and whether those circumstances constitute mitigating or aggravating circumstances under RCW 9.94A.535 as originally adopted or as subsequently amended; and
2) changes in the offender's circumstances which have occurred since the original sentence was imposed; including the offender's conduct in the institution and the offender's participation in programs in the institution; and
3) the current risk assessment of the offender.

IV. Process

1) The offender and his or her representative, the victim(s) and his or her representative, if feasible, and the state may participate in the hearing before the ISRB.
2) The ISRB shall set forth the reasons for its decision in written findings of fact and conclusions of law. (See RCW 9.94A.535).

3) All decisions shall be subject to appeal by the offender or the state. The appeal shall be to the court of appeals. RCW 9.94A.585(2).

4) Review by court of appeals governed by RCW 9.94A.585(4-6).

V. Result

1) If the ISRB determines that continued service of the original sentence in total confinement is not consistent with the purposes of the Sentencing Reform Act and that the offender may be transferred to community custody without risk to the safety of the community, it may transfer the offender to community custody for the balance of the original sentence on such conditions as the ISRB may determine. (See RCW 9.94A.703).

2) An offender transferred to community custody shall be subject to supervision of the Department of Corrections. (See RCW 9.94A.704, .706 and .708).