

"Three Strikes: Second Look Review Board"  
PROPOSED LEGISLATION

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON

NEW SECTION

Sec. 1

Sec 2 RCW 9.94A.728 is 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) through (9) unchanged

(10) (new) An offender may leave a correctional facility subject to the authorization of the Second Look Review Board as described in section 3 of this act.

NEW SECTION. Sec. 3 A new section is added to chapter RCW 9.94A to read as follows:

(1) Notwithstanding any other provision of this chapter, any person who was sentenced under the Persistent Offender Act, RCW 9.94A.570, may petition the Second Look Review Board for early release after serving twenty years in prison, provided the current sentence was not for an offense listed under RCW 9.94A.507 (Sex Offenses) or RCW 10.95.030 (Aggravate First Degree Murder).

(2) The Second Look Review Board shall be comprised of two members of the Indeterminate Sentencing Review Board and one designated Superior Court Judge. Decisions shall be made by a majority vote.

(3) A "designated Superior Court judge" shall be a sitting or retired Superior Court judge including the judge who actually imposed the "life without the possibility of parole" sentence on the prisoner. If that judge is not available, then the presiding judge in the county in which the prisoner was convicted shall designate another sitting or retired judge to sit as the designated judge on the Second Look Review Board for the petitioner's review.

(4) There shall be a chairman of the Second Look Review Board designated by the Governor who shall assign petitions to individual ISRB members and designated judges.

- (5) The legislature shall provide financial support for the Second Look Review Board including a daily stipend for designated Superior Court Judges.
- (6) A person may file a petition for early release one year prior to his first date of eligibility to be released.
- (7) A person who files a petition thereby consents to a review of all his medical, mental health, and Department of Corrections' files.
- (8) Upon a petition for early release from an inmate, the Board shall consider, if available, the following factors and information: 1) public safety, 2) the nature and circumstances of the offenses committed including the current and past offenses, 3) the person's social and medical history, 4) the person's adjustment while incarcerated, including an infraction history, educational history and work history while incarcerated 5) the recommendations of the victims of the crime, 6) the recommendations of the police and prosecutors in the jurisdictions where the person's crimes were committed, 7) the available resources in the community to help the transition for the person to life outside of prison, 8) a risk assessment and psychological evaluation provided by the Department of Corrections, 9) the sentencing judge's analysis in imposing an exceptional sentence, if any, and 10) any other relevant factors. The Board shall also consider, if available, the letters of people in the community pledging their support of the person, if released. Further, the Board shall consider, if available, a release plan presented by the person showing where the person shall reside and how he or she shall support himself or herself during the first year after his release.
- (9) The DOC shall notify persons of their eligibility to file a petition pursuant to this statute at least three years prior to their eligibility.
- (10) The Board may take any of the following actions:
  - (a) Deny the petition without a hearing.
  - (b) Grant the petition and release the defendant on conditions.
  - (c) Conduct a hearing to consider additional information and then grant or deny the petition.
  - (d) Continue the consideration of the petition for a period of time up to twelve months.
- (11) If the Board grants or denies the petition, it shall specify the reasons for the decision.
- (12) If the Board denies the petition, the person may not petition again until three years after the denial of the petition.

- (13) The granting or denial of a petition is reviewable only if the Board fails to follow the proper procedure.
- (14) Action by the Board shall be rendered within 12 months of the filing of the petition. The decision shall be filed with the Superior Court in the county where the last offense took place and a certified copy shall be provided to the Department of Corrections. Before release of an inmate, the Department of Corrections shall have direct contact with the Board or Judge to confirm the decision.
- (15) The conditions on release may include: confinement in a halfway house for up to six months, regular drug testing, no law violations, restrictions on travel, no contact with certain individuals or classes of individuals, restrictions on type of employment and any other restrictions that the Board determines to be reasonable and appropriate. The Board shall order community supervision of the released person for a minimum of three years. The Department shall supervise the offender for the period ordered by the Board and may impose additional conditions.
- (16) The hearing may be conducted telephonically and without the person's physical presence at the hearing. When possible, video conferencing should be used. The person shall not have a right to appointed counsel. Both lawyers and non-lawyers may assist the person in the preparation of his or her petition and at the hearing.
- (17) The Board shall have jurisdiction over the person for the length of the person's original sentence.
- (18) In case of a violation of the conditions of release, the Board shall take appropriate action and impose appropriate sanctions.
- (19) The Board may develop and adopt rules to implement procedures to be followed in case of an alleged violation of conditions of release.
- (20) The provisions of this act apply retroactively to persons incarcerated on the effective date of this act, regardless of the date of the person's underlying offense.
- (21) This act does not create any expectation that a person or offender will be released before the end of his or her sentence, and persons and offenders have no reason to conclude that early release is a right, or entitlement, or that this act creates any liberty interest.
- (22) A presumption shall exist that the original sentence was appropriate, but that presumption can be overcome by information that is cogent and convincing that the person has reformed and poses little risk of recidivism if released early. The Board shall take into consideration whether the purposes of sentencing, as stated

in RCW 9.94A.010, have been satisfied.

- (23) The Board shall conduct an outcome study within three years of the date this code section goes into effect to determine the success of the program and to make recommendations for changes to the eligibility requirements.
- (24) Members of the Second Look Review Board shall not be civilly liable for decisions made while performing the duties of the board.
- (25) All information contained in a petition or that is submitted to the Board for review is subject to a public disclosure request.

NEW SECTION Sec 5 RCW 9.94A.570 is amended to read, in part: "Notwithstanding the statutory maximum sentence or any other provision of this chapter, a persistent offender may be released early by the "Second Look Review Board".

NEW SECTION. RCW 9.94A.501. The Department shall supervise any offender who is released by the Second Look Review Board who was sentenced to community custody or subject to community custody under the terms of release.