

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5243

60th Legislature
2007 Regular Session

Passed by the Senate April 16, 2007
YEAS 48 NAYS 0

President of the Senate

Passed by the House April 3, 2007
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5243** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5243

AS AMENDED BY THE HOUSE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Brandland, Hargrove, McAuliffe, Stevens, Rasmussen, Shin and Roach; by request of Department of Social and Health Services)

READ FIRST TIME 02/13/07.

1 AN ACT Relating to increasing the length of confinement for a
2 parole violation committed by certain juvenile sex offenders under the
3 jurisdiction of the department of social and health services, juvenile
4 rehabilitation administration; amending RCW 13.40.210; creating a new
5 section; prescribing penalties; and providing an effective date.

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

7 **Sec. 1.** RCW 13.40.210 and 2002 c 175 s 27 are each amended to read
8 as follows:

9 (1) The secretary shall set a release date for each juvenile
10 committed to its custody. The release date shall be within the
11 prescribed range to which a juvenile has been committed under RCW
12 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning
13 offenders the department determines are eligible for the juvenile
14 offender basic training camp program. Such dates shall be determined
15 prior to the expiration of sixty percent of a juvenile's minimum term
16 of confinement included within the prescribed range to which the
17 juvenile has been committed. The secretary shall release any juvenile
18 committed to the custody of the department within four calendar days
19 prior to the juvenile's release date or on the release date set under

1 this chapter. Days spent in the custody of the department shall be
2 tolled by any period of time during which a juvenile has absented
3 himself or herself from the department's supervision without the prior
4 approval of the secretary or the secretary's designee.

5 (2) The secretary shall monitor the average daily population of the
6 state's juvenile residential facilities. When the secretary concludes
7 that in-residence population of residential facilities exceeds one
8 hundred five percent of the rated bed capacity specified in statute, or
9 in absence of such specification, as specified by the department in
10 rule, the secretary may recommend reductions to the governor. On
11 certification by the governor that the recommended reductions are
12 necessary, the secretary has authority to administratively release a
13 sufficient number of offenders to reduce in-residence population to one
14 hundred percent of rated bed capacity. The secretary shall release
15 those offenders who have served the greatest proportion of their
16 sentence. However, the secretary may deny release in a particular case
17 at the request of an offender, or if the secretary finds that there is
18 no responsible custodian, as determined by the department, to whom to
19 release the offender, or if the release of the offender would pose a
20 clear danger to society. The department shall notify the committing
21 court of the release at the time of release if any such early releases
22 have occurred as a result of excessive in-residence population. In no
23 event shall an offender adjudicated of a violent offense be granted
24 release under the provisions of this subsection.

25 (3)(a) Following the release of any juvenile under subsection (1)
26 of this section, the secretary may require the juvenile to comply with
27 a program of parole to be administered by the department in his or her
28 community which shall last no longer than eighteen months, except that
29 in the case of a juvenile sentenced for rape in the first or second
30 degree, rape of a child in the first or second degree, child
31 molestation in the first degree, or indecent liberties with forcible
32 compulsion, the period of parole shall be twenty-four months and, in
33 the discretion of the secretary, may be up to thirty-six months when
34 the secretary finds that an additional period of parole is necessary
35 and appropriate in the interests of public safety or to meet the
36 ongoing needs of the juvenile. A parole program is mandatory for
37 offenders released under subsection (2) of this section. The decision
38 to place an offender on parole shall be based on an assessment by the

1 department of the offender's risk for reoffending upon release. The
2 department shall prioritize available parole resources to provide
3 supervision and services to offenders at moderate to high risk for
4 reoffending.

5 (b) The secretary shall, for the period of parole, facilitate the
6 juvenile's reintegration into his or her community and to further this
7 goal shall require the juvenile to refrain from possessing a firearm or
8 using a deadly weapon and refrain from committing new offenses and may
9 require the juvenile to: (i) Undergo available medical, psychiatric,
10 drug and alcohol, sex offender, mental health, and other offense-
11 related treatment services; (ii) report as directed to a parole officer
12 and/or designee; (iii) pursue a course of study, vocational training,
13 or employment; (iv) notify the parole officer of the current address
14 where he or she resides; (v) be present at a particular address during
15 specified hours; (vi) remain within prescribed geographical boundaries;
16 (vii) submit to electronic monitoring; (viii) refrain from using
17 illegal drugs and alcohol, and submit to random urinalysis when
18 requested by the assigned parole officer; (ix) refrain from contact
19 with specific individuals or a specified class of individuals; (x) meet
20 other conditions determined by the parole officer to further enhance
21 the juvenile's reintegration into the community; (xi) pay any court-
22 ordered fines or restitution; and (xii) perform community restitution.
23 Community restitution for the purpose of this section means compulsory
24 service, without compensation, performed for the benefit of the
25 community by the offender. Community restitution may be performed
26 through public or private organizations or through work crews.

27 (c) The secretary may further require up to twenty-five percent of
28 the highest risk juvenile offenders who are placed on parole to
29 participate in an intensive supervision program. Offenders
30 participating in an intensive supervision program shall be required to
31 comply with all terms and conditions listed in (b) of this subsection
32 and shall also be required to comply with the following additional
33 terms and conditions: (i) Obey all laws and refrain from any conduct
34 that threatens public safety; (ii) report at least once a week to an
35 assigned community case manager; and (iii) meet all other requirements
36 imposed by the community case manager related to participating in the
37 intensive supervision program. As a part of the intensive supervision
38 program, the secretary may require day reporting.

1 (d) After termination of the parole period, the juvenile shall be
2 discharged from the department's supervision.

3 (4)(a) The department may also modify parole for violation thereof.
4 If, after affording a juvenile all of the due process rights to which
5 he or she would be entitled if the juvenile were an adult, the
6 secretary finds that a juvenile has violated a condition of his or her
7 parole, the secretary shall order one of the following which is
8 reasonably likely to effectuate the purpose of the parole and to
9 protect the public: (i) Continued supervision under the same
10 conditions previously imposed; (ii) intensified supervision with
11 increased reporting requirements; (iii) additional conditions of
12 supervision authorized by this chapter; (iv) except as provided in
13 (a)(v) and (vi) of this subsection, imposition of a period of
14 confinement not to exceed thirty days in a facility operated by or
15 pursuant to a contract with the state of Washington or any city or
16 county for a portion of each day or for a certain number of days each
17 week with the balance of the days or weeks spent under supervision; (v)
18 the secretary may order any of the conditions or may return the
19 offender to confinement for the remainder of the sentence range if the
20 offense for which the offender was sentenced is rape in the first or
21 second degree, rape of a child in the first or second degree, child
22 molestation in the first degree, indecent liberties with forcible
23 compulsion, or a sex offense that is also a serious violent offense as
24 defined by RCW 9.94A.030; and (vi) the secretary may order any of the
25 conditions or may return the offender to confinement for the remainder
26 of the sentence range if the youth has completed the basic training
27 camp program as described in RCW 13.40.320.

28 (b) The secretary may modify parole and order any of the conditions
29 or may return the offender to confinement for up to twenty-four weeks
30 if the offender was sentenced for a sex offense as defined under RCW
31 9A.44.130 and is known to have violated the terms of parole.
32 Confinement beyond thirty days is intended to only be used for a small
33 and limited number of sex offenders. It shall only be used when other
34 graduated sanctions or interventions have not been effective or the
35 behavior is so egregious it warrants the use of the higher level
36 intervention and the violation: (i) Is a known pattern of behavior
37 consistent with a previous sex offense that puts the youth at high risk
38 for reoffending sexually; (ii) consists of sexual behavior that is

1 determined to be predatory as defined in RCW 71.09.020; or (iii)
2 requires a review under chapter 71.09 RCW, due to a recent overt act.
3 The total number of days of confinement for violations of parole
4 conditions during the parole period shall not exceed the number of days
5 provided by the maximum sentence imposed by the disposition for the
6 underlying offense pursuant to RCW 13.40.0357. The department shall
7 not aggregate multiple parole violations that occur prior to the parole
8 revocation hearing and impose consecutive twenty-four week periods of
9 confinement for each parole violation. The department is authorized to
10 engage in rule making pursuant to chapter 34.05 RCW, to implement this
11 subsection, including narrowly defining the behaviors that could lead
12 to this higher level intervention.

13 (c) If the department finds that any juvenile in a program of
14 parole has possessed a firearm or used a deadly weapon during the
15 program of parole, the department shall modify the parole under (a) of
16 this subsection and confine the juvenile for at least thirty days.
17 Confinement shall be in a facility operated by or pursuant to a
18 contract with the state or any county.

19 (5) A parole officer of the department of social and health
20 services shall have the power to arrest a juvenile under his or her
21 supervision on the same grounds as a law enforcement officer would be
22 authorized to arrest the person.

23 (6) If so requested and approved under chapter 13.06 RCW, the
24 secretary shall permit a county or group of counties to perform
25 functions under subsections (3) through (5) of this section.

26 NEW SECTION. Sec. 2. This act applies prospectively only and not
27 retroactively. It applies only to juvenile offenders who have been
28 adjudicated for an offense that occurred on or after the effective date
29 of this act.

30 NEW SECTION. Sec. 3. This act takes effect October 1, 2007.

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