



Skagit County Prosecuting Attorney

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Standards for Discretionary Resentencing

RCW 36.27.130 permits prosecutors to petition the court to resentence a defendant convicted of certain qualifying offenses “if the original sentence no longer advances the interests of justice.”

According to the legislature:

It is the intent of the legislature to give prosecutors the discretion to petition the court to resentence an individual if the person's sentence no longer advances the interests of justice. The purpose of sentencing is to advance public safety through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, this purpose is best served by terms that are proportionate to the seriousness of the offense and provide uniformity with the sentences of offenders committing the same offense under similar circumstances. By providing a means to reevaluate a sentence after some time has passed, the legislature intends to provide the prosecutor and the court with another tool to ensure that these purposes are achieved.

If the prosecutor petitions the court for resentencing, some of the factors to be considered by the court are:

- (1) the inmate's disciplinary record and record of rehabilitation while incarcerated;
- (2) evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate's risk for future violence; and
- (3) evidence that reflects changed circumstances since the inmate's original sentencing such that the inmate's continued incarceration no longer serves the interests of justice.

RCW 36.27.130(3).

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Convictions not subject to resentencing pursuant to RCW 36.27.130 include:

- Life sentences for aggravated first degree murder (RCW 10.95.030(1));
- Life sentences for persistent offenders (RCW 9.94A.570);
- Enhancements for firearms and deadly weapons (RCW 9.94A.533(3));
- Mandatory minimum sentences for first degree murder (20-year minimum), first degree rape (5-year minimum), and sexual violent predator escape (5-year minimum) (RCW 9.94A.540).

In reviewing a request for resentencing, this office will consider the factors to be considered by the court, the packet submitted by the defendant as below described, the input of the victim(s) or next of kin, whether the defendant's conviction and sentence were the result of a plea agreement with the State, how much of the sentence has been served, whether the defendant is seeking an exceptional sentence below the standard range, and any other factor that is pertinent to the case. This office will also consider any mitigating or aggravating circumstance related to the crime(s) of conviction as well as any prior criminal history.

In making a request for this office to petition the court for resentencing, the defendant must provide the following materials to this office:

A written request with the following information:

- Basis for request in light of the legislative intent of the statute;
- The cause number of conviction and full name of defendant;
- Reasons why the original sentence no longer serves the interests of justice;
- The desired sentence at resentencing;
- A written statement in the defendant's own words expressing how s/he has been rehabilitated, a sincere acknowledgment of the harm done to the victim and/or the victim's family.

Post Conviction Documents:

- Work history;
- Vocational achievements;
- Educational achievements;
- Other programmatic achievements;
- Treatment records;
- Infraction history;
- Psychological evaluation/ Risk assessment;
- Security group threat status history;
- Intense management unit status history;
- Medical documentation (if relevant to request);
- Release plan demonstrating re-entry readiness;
- Statement of support network upon release;
- At least two letters of support.

This office will review requests to petition to resentence in the following manner:

The Chief Criminal Deputy will review the request to ensure that all the required documentation has been provided by the defendant.

The Chief will solicit input from the victim(s) or next of kin.

The Chief will review the request with the elected Prosecuting Attorney.

The Prosecuting Attorney may decide to not seek resentencing and this decision is final. This office will notify the defendant or defense attorney if any of the decision reached.

The Prosecuting Attorney may make a conditional determination to petition for resentencing. If this determination is made, then the Prosecuting Attorney or designee shall discuss with the defendant or defense attorney the desired resentencing recommendation. Final agreement to file a Petition for Resentencing requires mutual accord of the parties to all conditions of the resentencing recommendation.

This office will notify the victim(s) or next of kin of any decision made and the decisions therefore.