

SENATE BILL REPORT

2SHB 2225

As Reported By Senate Committee On:
Law & Justice, February 22, 1996

Title: An act relating to increasing the punishment for rape and indecent liberties.

Brief Description: Enhancing punishment for sex offenses.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, Schoesler, Pennington, Sheldon, Kessler, D. Sommers, Radcliff, Koster, Delvin, Conway, Scheuerman, Campbell, Horn, Sheahan, Quall, Mitchell, Thompson, Blanton, Costa, Backlund and Benton).

Brief History:

Committee Activity: Law & Justice: 2/19/96, 2/22/96 [DP-WM, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Smith, Chair; Goings, Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

Minority Report: Do not pass and do not be referred to Committee on Ways & Means.

Signed by Senator Fairley, Vice Chair.

Staff: Susan Carlson (786-7418)

Background: The Sentencing Reform Act establishes a standard sentencing range for every felony crime. The range is determined by the seriousness level of the current offense and the extent of the offender's criminal history.

First degree rape is committed if a person has sexual intercourse with another person by forcible compulsion and the perpetrator: (1) used or threatened to use a deadly weapon; (2) kidnapped the victim; (3) inflicted serious physical injury; or (4) feloniously entered a building or vehicle. First degree rape has a seriousness level of 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Second degree rape is committed if a person has sexual intercourse under any of the following circumstances: (1) the perpetrator uses forcible compulsion; (2) the victim is physically or mentally incapable of consent; (3) the victim is developmentally disabled and the perpetrator has supervisory authority over the victim; (4) the sexual intercourse occurs during a health care visit; or (5) the victim is a resident of a facility for the mentally disordered or the chemically dependent, and the perpetrator has supervisory authority over the victim. Second degree rape has a seriousness level of 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

First degree rape of a child is committed if a person has sexual intercourse with a child less than 12 years old, and the perpetrator is at least two years older than the victim, and is not married to the victim. First degree rape of a child has a seriousness level of 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Second degree rape of a child is committed if a person has sexual intercourse with a child who is 12 or 13 years old, the perpetrator is at least three years older than the victim, and the perpetrator is not married to the victim. Second degree rape of a child has a seriousness level of 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

Indecent liberties is committed when a person knowingly causes another person (other than his or her spouse) to have sexual contact with him or her, and one of the special circumstances listed above for second degree rape is also present (i.e., the presence of forcible compulsion, the victim being developmentally disabled, etc.).

Indecent liberties, when committed with forcible compulsion, has a seriousness level of nine, which for a first-time offender yields a standard range of 31 to 41 months (a midpoint of three years). Indecent liberties, when committed in any manner other than with forcible compulsion, has a seriousness level of seven, which for a first-time offender yields a standard range of 15 to 20 months (a midpoint of 1.5 years).

Special sex offender sentencing alternative. The special sex offender sentencing alternative (SSOSA) is a discretionary sentencing option allowing a judge to give an eligible sex offender a suspended sentence. Current law establishes a number of limitations on the offenders who are eligible for SSOSA, including that the sentence for the offense cannot exceed eight years in length.

Summary of Bill: Legislative findings are made regarding the seriousness of offenses involving rape or indecent liberties.

First degree rape. The seriousness level for first degree rape is raised to 14, which for a first-time offender yields a standard range of 240 to 320 months (a midpoint of 23.3 years).

Second degree rape. The seriousness level for second degree rape, when committed with forcible compulsion, is raised to 13, which for a first-time offender yields a standard range of 123 to 164 months (a midpoint of 12 years). The seriousness level for second degree rape, when committed in any manner other than forcible compulsion, is not changed.

First degree rape of a child. The seriousness level for first degree rape of a child is raised to 14, which for a first-time offender yields a standard range of 240 to 320 months (a midpoint of 23.3 years).

Second degree rape of a child. The seriousness level for second degree rape of a child is raised to 13, which for a first-time offender yields a standard range of 123 to 164 months (a midpoint of 12 years).

Indecent liberties. The seriousness level for indecent liberties, when committed with forcible compulsion, is raised to 12, which for a first-time offender yields a standard range of 93 to

123 months (a midpoint of nine years). The seriousness level for indecent liberties, when committed in any manner other than forcible compulsion, is not changed.

Special sex offender sentencing alternative. A sex offender remains eligible for SSOSA even if the offender's standard range sentence is longer than eight years.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect July 1, 1996.

Testimony For: The bill appropriately increases the standard range sentence for serious sex offenders.

Testimony Against: The increase in seriousness of these crimes is disproportionate with other crimes.

Testified: PRO: Rep. Ballasiotes, prime sponsor; Kristine Rowland; Courtney May, Geraldine Jacobson; Pennie Saun; Tom McBride, WA Assn. of Prosecuting Attorneys; Debra Ruggles, WA Coalition of Sexual Assault Programs; Julie Line, Tennis Shoe Brigade; CON: Terry Kohl, WA Defenders Assn. and WA Assn. of Criminal Defense Lawyers.