

# HOUSE BILL REPORT

## ESHB 2571

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**As Passed House:**  
February 15, 2010

**Title:** An act relating to the definition of predatory.

**Brief Description:** Modifying the definition of predatory.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representative Appleton).

**Brief History:**

**Committee Activity:**

Public Safety & Emergency Preparedness: 1/20/10, 1/22/10 [DPS].

**Floor Activity:**

Passed House: 2/15/10, 98-0.

**Brief Summary of Engrossed Substitute Bill**

- Modifies the definition of "predatory" for the purposes of sex offender sentencing to include perpetrators who are teachers, counselors, volunteers, or other persons in authority in home-based instruction.

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### HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Kirby and Ross.

**Staff:** Alexa Silver (786-7190).

**Background:**

The term "predatory" is defined in the Sentencing Reform Act to mean any of the following:

1. the perpetrator was a stranger to the victim;
2. the perpetrator established a relationship with the victim, and a significant reason for doing so was the victimization of the victim; or

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

3. the perpetrator was a:
  - a. teacher, counselor, volunteer, or other person of authority in a public or private school where the victim was a student under the perpetrator's authority;
  - b. coach, trainer, volunteer, or other person of authority in a recreational activity in which the victim participated and was under the perpetrator's authority; or
  - c. pastor, elder, volunteer, or other person of authority in a church or religious organization where the victim was a participant under the perpetrator's authority.

For purposes of perpetrators in schools, home-based instruction is excluded.

In a prosecution for rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, when there is sufficient admissible evidence that the offense was predatory, the prosecutor must file a special allegation. The prosecutor has the burden to prove beyond a reasonable doubt that the offense was predatory. If the offense is found to be predatory, the court must impose a higher minimum sentence on the offender. The minimum term imposed for a predatory offense is the greater of 25 years or the maximum term in the standard sentence range.

**Summary of Engrossed Substitute Bill:**

The definition of "predatory" includes a perpetrator who was a teacher, counselor, volunteer, or other person in authority in home-based instruction when the victim was a student receiving home-based instruction under his or her authority or supervision.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(With concerns on original bill, in support of substitute bill) Excluding coaches and the clergy was a drafting mistake that should be corrected. Based on this clarification, the substitute bill is supported.

(Opposed) None.

**Persons Testifying:** Representative Appleton, prime sponsor; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; and Maureen Fitzgerald, Children's Advocacy Centers of Washington.

**Persons Signed In To Testify But Not Testifying:** None.