

HOUSE BILL REPORT

HB 2119

*As Passed House
March 19, 1991*

Title: An act relating to the sentencing of offenders convicted of sexually violent offenses.

Brief Description: Sentencing sexually violent offenders.

Sponsor(s): Representatives Appelwick and Vance.

Brief History:

Reported by House Committee on:
Judiciary, March 5, 1991, DP;
Passed House, March 19, 1991, 97-1.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *Do pass.* Signed by 18 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; Vance; and Wineberry.

Staff: Pat Shelledy (786-7149).

Background: The Community Protection Act of 1990 provided that "sexually violent predators" may be indefinitely civilly committed to the Department of Social and Health Services. A "sexually violent predator" is defined as any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

"Predatory" means that the acts are directed toward strangers or individuals with whom the offender has established a relationship for the primary purpose of victimization.

"Sexually violent offenses" include sex offenses that involve physical violence, sex offenses that are considered "violent" because the victims are children, offenses such as murder, assault, and burglary that are "sexually motivated," and attempts to commit any of those offenses.

The act provides for evaluation of the person the State seeks to commit, a trial by jury, and review proceedings following commitment. The act applies to adults and juveniles.

Critics of the civil commitment provisions argue that the act is an unconstitutional "preventative detention" of individuals that have either served their time on convictions or have not been convicted of a crime. Other complaints have been that sex offenders are not "mentally ill" and therefore commitment for treatment is inappropriate and illusory. Further, critics are concerned about the inaccuracy of predicting future dangerous behavior. They argue that the criminal justice system and not the mental health system is the appropriate mechanism for society to address sex offenders.

Summary of Bill: If the Washington Supreme Court, in a final decision, finds that civil commitment of sexually violent predators is unconstitutional, then offenders convicted of a sexually violent offense committed on or after the Washington Supreme Court's decision, may be given an exceptional sentence of life imprisonment without the possibility of release, if:

(a) An adult offender committed the sexually violent offense within 24 months of a conviction or convictions for a sexually violent offense or offenses, whether the prior convictions were for offenses committed when the offender was an adult or a juvenile. The 24-month period is tolled during any time the offender is in jail, prison, a mental institution, or a juvenile detention or correction facility; or

(b) An adult offender has two prior convictions of sexually violent offenses, whether the prior offenses were committed as an adult or a juvenile.

"Sexually violent offense" means a sex offense that currently may form the basis for civil commitment as a sexually violent predator under the Community Protection Act of 1990, except the definition does not include attempts to commit a sexually violent offense.

The statutory maximum provisions for each of the new sexually violent offenses are amended to provide that the statutory maximum is life imprisonment without release, community custody, or parole if the court imposes an exceptional sentence under the act.

Fiscal Note: Requested January 24, 1991.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Original bill draft H-0080.2/91: None. Information was provided about fiscal impact without commenting upon the policy behind the bill.

Testimony Against: Original bill draft H-0080.2/91: None. Information was provided about fiscal impact without commenting upon the policy behind the bill.

Witnesses: Original bill draft H-0080.2/91: Ruben Cedenó, Department of Corrections (no position - just provided information regarding impact of bill); and Don Moore, Sentencing Guidelines Commission (no position - just provided information about impact of bill).