

# HOUSE BILL REPORT

## HB 1139

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As Reported By House Committee On:  
Corrections

**Title:** An act relating to persistent offenders.

**Brief Description:** Increasing penalties for persistent offenders.

**Sponsors:** Representatives Campbell, Ballasiotes, Chappell, Johanson, Mielke, Dorn, Lemmon, Mastin, R. Meyers, Padden, Vance, Ballard, Holm, Kremen, Brough, Jones, Quall, L. Johnson, Dyer, Rayburn, Kessler, Sheahan, Fuhrman, Horn, Long, Grant, Basich, Sheldon, Brumsickle, H. Myers, Van Luven, Talcott, Lisk, Edmondson, Casada, Thomas, Schoesler, Shin, Reams, Cooke, Springer, Miller, Karahalios, Morton, Wood, Tate, Foreman, Sehlin, Roland, Silver, J. Kohl and Forner.

**Brief History:**

Reported by House Committee on:  
Corrections, February 22, 1993, DPS.

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### HOUSE COMMITTEE ON CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; L. Johnson; Ogden; Riley; and Padden.

**Minority Report:** Do not pass. Signed by 1 member: Representative G. Cole.

**Staff:** Bill Lynch (786-7092)

**Background:** Persons who were convicted of crimes before July 1, 1984, which involved fraud or an intent to defraud as an element, or larceny or any felony, could be sentenced to a term of life imprisonment as a habitual criminal if they previously had been convicted twice of a felony, or convicted four times of any crime which involved fraud or intent to defraud as an element. Persons sentenced to life imprisonment as a habitual criminal were eligible for parole.

The Sentencing Reform Act applies to felonies committed on or after July 1, 1984. The sentencing grid used pursuant to the Sentencing Reform Act counts prior felony convictions as part of the offender's criminal history score. Offenders with previous convictions produce higher scores under the grid, and as a result, are given longer presumptive sentences. The sentencing judge can give an exceptional sentence that varies from the presumptive sentence if aggravating or mitigating circumstances are present. Certain offenses have mandatory minimum sentences that cannot be modified by an exceptional sentence.

The Sentencing Reform Act does not provide a punishment of life imprisonment for habitual or repeat offenders.

**Summary of Substitute Bill:** A procedure is established for increasing the determinate sentence for certain repeat offenders of serious crimes. An offender must be sentenced to the statutory maximum sentence for an offense if:

- The offender is sentenced for an offense with a seriousness level of X or above on the sentencing grid; and
- The offender had been previously convicted at least two prior times of offenses with a seriousness level of X or above; and
- The offender committed one of the prior offenses with a seriousness level of X or above after the offender had been convicted of another offense with a seriousness level of X or above.

If the statutory maximum sentence for an offense is life imprisonment, then the term for such repeat offender is established at 99 years. The increased determinate sentences do not apply to aggravated murder in the first degree.

Offenses that are ranked at a seriousness level of X or above are: Murder 1, Homicide by abuse, Murder 2, Assault 1, Assault of a child 1, Rape 1, Rape of a child 1, Kidnapping 1, Rape 2, Rape of a child 2, Child molestation 1, Damaging a building by explosion with threat to humans, Delivery of heroin or narcotics by an adult to a minor, and Leading organized crime.

**Substitute Bill Compared to Original Bill:** The original bill required a persistent offender to be sentenced to life imprisonment without the possibility of parole or early release. A persistent offender was defined as anyone who was separately convicted of three most serious offenses. A most serious offense included all class A felonies, any felony with a deadly weapon finding, any class B felony with

a finding of sexual motivation, and other crimes of violence.

**Fiscal Note:** Requested.

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

**Testimony For:** The cost of incarcerating repeat offenders cannot compare to the cost of having people seriously hurt. It also costs money to continually reprocess repeat offenders. A small percentage of the population commit most of the felonies, so locking them up longer will decrease crime. This will apply to career offenders. This will act as a deterrent to some offenders.

**Testimony Against:** None.

**Witnesses:** (All testified for original bill): Rep. Campbell and Rep. Ballasiotes, prime sponsors; Mike Patrick, Washington State Council of Police Officers; Dave La Course, Washington Citizens for Justice; Dennis Dyson, private citizen; Donald Foster, private citizen; Matt Thomas, Pierce County Prosecutor's Office; Doug Blair, Yakima County Sheriff.