

HOUSE BILL REPORT

SHB 1343

As Passed House
March 16, 1993

Title: An act relating to reducing the sentence of a person convicted of murder who alleges that the murder was in response to the victim's continuing pattern of physical or sexual abuse of the person or the person's children.

Brief Description: Allowing the reduction in sentences of battered women convicted of murder prior to July 23, 1989.

Sponsors: By House Committee on Corrections (originally sponsored by Representatives Morris, Ballasiotes, Brough, Leonard, Heavey, Scott, G. Cole, R. Fisher, Kremen, Long, Rust, Carlson, Veloria, Dellwo, Karahalios, Wang, Grant, Jones, Wolfe, Franklin, Forner, Jacobsen, Appelwick, Campbell, H. Myers, Kessler, Springer, Miller, Locke, Roland, Valle, Basich, Wood, Quall, King, Johanson, Hansen, L. Johnson, Ogden, J. Kohl, Wineberry and Anderson).

Brief History:

Reported by House Committee on:
Corrections, February 22, 1993, DPS;
Passed House, March 16, 1993, 95-3.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; G. Cole; L. Johnson; and Ogden.

Minority Report: Do not pass. Signed by 3 members: Representatives Edmondson, Assistant Ranking Minority Member; Riley; and Padden.

Staff: Jim Lux (786-7841).

Background: The Sentencing Reform Act requires judges to sentence a convicted defendant to the standard range for the offense committed unless the court finds mitigating or aggravating factors justify a sentence outside the standard range. The 1989 Legislature enacted a statute that allows a convicted defendant to receive a mitigated exceptional sentence below the standard range, if the victim subjected

the defendant or the defendant's children to a continuing pattern of physical or sexual abuse and the defendant committed the offense in response to the abuse. This statutory change is not retroactive and applies only to offenses occurring after the implementation date of July 23, 1989.

Individuals who murdered their spouses or partners prior to the July 23, 1989 effective date, where mitigating circumstances may have been present due to a continuing pattern of physical or sexual abuse that lead to the crime, may not have had the pattern of abuse considered at the time of sentencing.

Some offenders were sentenced prior to July 1, 1984 and are under the jurisdiction of Indeterminate Sentence Review Board. Others were sentenced under the Sentencing Reform Act after July 1, 1984, but before July 23, 1989, when the mitigating circumstances were enacted into law. The Indeterminate Sentence Review Board makes decisions about parole eligibility for offenders under their jurisdiction.

Summary of Bill: Convicted murderers may apply for retroactive application of the mitigating factor to have their sentences reduced. Petitioners must allege that the murder was committed in response to the victim's continuing pattern of physical or sexual abuse toward the petitioner or the petitioner's children. The petitioner must also allege that the sentencing court did not consider the mitigating evidence for purposes of establishing the original sentence.

Petitions for reduction of sentences are made to the Indeterminate Sentencing Review Board. If the offender is under the board's jurisdiction, the board may reduce the offender's minimum term and set an earlier parole eligibility date. If the offender was sentenced under the Sentencing Reform Act, the board will review the case and make a recommendation to the sentencing court for a reduction in the offender's sentence.

In its review, the board must find that the offender would have been eligible for a reduced sentence below the sentence originally imposed if the mitigating factor had been available for consideration by the court, when the crime was committed.

Inmates may petition the board by letter. The petitions are due October 1, 1993. The board may reset the minimum term and parole eligibility date of a petitioner convicted and sentenced before July 1, 1984, who is under their jurisdiction. The board shall complete its review of the petitions submitted by inmates sentenced after July 1, 1984

and submit recommendations to the sentencing courts or their successors by October 1, 1994. The court shall render its decision regarding reducing the inmate's sentence no later than six months after receiving the Indeterminate Sentencing Review Board's recommendation to reduce the sentence imposed.

The board shall solicit recommendations from the prosecuting attorneys of the counties where the petitioners were convicted, and shall accept input from other interested parties, i.e., defense attorneys. The court may consider any other recommendations and evidence concerning the issue of whether the defendant committed the crime in response to abuse.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 1993.

Testimony For: After July 1989, mitigating factors are available for the court to consider for reducing sentences when a murder is committed because of abuse of the defendant or the defendant's children. Mitigating factors due to abuse may not have been considered by the court in murder cases occurring before that date.

Testimony Against: None.

Witnesses: (Pro): Kit Bail, Indeterminate Sentencing Review Board; Mary Carroll and Lorelle Merker, private citizens; and Barbara Schnell, American Association of Retired Persons.