

FINAL BILL REPORT

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Brief Description: Relating to persistent offenders; life sentence on third conviction.

By People of the State of Washington

BACKGROUND:

Any person who was convicted of a crime committed before July 1, 1984, which involved fraud or an intent to defraud as an element, or larceny or any felony, could be sentenced to life imprisonment as a habitual criminal if he or she had two prior felony convictions, or had been convicted four times of any crime which involved fraud or intent to defraud as an element. Any person sentenced to life imprisonment as a habitual criminal was still 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 receive higher scores under the grid, and as a result are given longer sentences. The sentencing judge can give an exceptional sentence that varies from the presumptive sentence if aggravating or mitigating circumstances are present. Certain offenses (i.e., first degree murder, first degree rape and first degree assault) have mandatory minimum sentences.

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

SUMMARY:

A person who meets the definition of a persistent offender must be sentenced to a term of life imprisonment without the possibility of parole, unless the offender is sentenced to death for the crime of aggravated murder.

"Persistent offender" is defined as an offender who has been convicted of a felony considered a "most serious offense," and has been previously convicted on at least two separate occasions of felonies that would be considered as most serious offenses.

"Most serious offense" is defined to include the following felonies or attempted felonies:

- Any Class A felony;
- Assault 2nd degree (Class B, Level IV);
- Assault of a child 2nd degree (Class B, Level IX);
- Child molestation 2nd degree (Class B, Level VII);
- Controlled substance homicide (Class B, Level IX);
- Extortion 1st degree (Class B, Level V);
- Incest with child under age 14 (sexual intercourse - Class B, Level VI; sexual contact - Class C, Level V);
- Indecent liberties (Class B, forced - Level IX, unforced - Level VII);
- Kidnapping 2nd degree (Class B, Level V);
- Leading organized crime (Class B, Level X);
- Manslaughter 1st degree (Class B, Level IX);
- Manslaughter 2nd degree (Class C, Level VI);
- Promoting prostitution 1st degree (Class B, Level III);
- Rape 3rd degree (Class C, Level V);
- Robbery 2nd degree (Class B, Level IV);
- Sexual exploitation (Class B, Level IX);
- Vehicular assault (Class C, Level IV);
- Vehicular homicide when proximately caused by driving under the influence or by driving recklessly (Class B, Level VII);
- Any other Class B felony with a finding of sexual motivation; and
- Any felony with a deadly weapon finding.

Persons convicted of first degree murder, first degree rape, and first degree assault are not eligible for community custody, earned early release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release or authorized leave of absence unless it is for emergency medical treatment or inpatient treatment because of a first degree rape conviction.

Sentencing judges, law enforcement agencies, and correctional facilities are authorized, but not required, to give offenders who have been convicted of a serious offense notice of sanctions imposed upon persistent offenders.

The Governor is urged to refrain from pardoning or granting clemency to anyone sentenced as a persistent offender until the offender has reached the age of at least 60 and is judged to no longer be a threat to society. The Governor must provide reports at least twice a year on the status of persistent offenders who are released during the Governor's tenure. The reports must continue for at least ten years after the offender's release or until the death of the offender.

EFFECTIVE: December 2, 1993