

FINAL BILL REPORT

SSB 6007

C 271 L 94

SYNOPSIS AS ENACTED

Brief Description: Revising provisions relating to crimes.

SPONSORS: Senate Committee on Law & Justice (originally sponsored by Senators A. Smith and Nelson)

SENATE COMMITTEE ON LAW & JUSTICE

SENATE COMMITTEE ON WAYS & MEANS

HOUSE COMMITTEE ON CORRECTIONS

HOUSE COMMITTEE ON APPROPRIATIONS

BACKGROUND:

Changes were suggested in the definition of and penalty for certain crimes.

Attempted Murder: Attempted murder in the second degree is currently a class B felony with a maximum sentence of ten years in prison. The standard range under the Sentencing Reform Act is 75 percent of the range for murder in the second degree. If an offender has prior convictions, the standard range may exceed ten years. It is suggested that attempted murder in the second degree should be a class A felony with a maximum sentence of 20 years to allow imposition of the full standard range.

Witness Intimidation and Tampering: This is a particular problem in cases of child abuse and neglect because the victim is often most vulnerable to influence from the defendant or others just prior to reporting the crime. It has been suggested that these statutes be amended to specifically reference intimidation occurring prior to reporting a crime.

Child Molestation: There have been some cases involving adults ordering a child to molest another child for the adult's gratification. Current child molestation statutes do not prohibit this activity.

DNA Identification: In 1989, the Legislature provided that any individual convicted of a felony sex or violent offense must have a blood sample drawn for purposes of DNA identification analysis. It has been suggested that this provision be extended to juveniles adjudicated guilty of equivalent offenses.

Toxicologist as Witness: Under court rules, the state toxicologist can be required to appear to testify about the simulator solution used in the breath test instrument, if requested to appear at least seven days before the trial. This results in numerous requests for the appearance of the toxicologist. Upon appearance, however, the defense attorney often will stipulate to admission of a certificate and the toxicologist is not required to testify. It has been suggested that the defendant should be required to give earlier notice of intent to require the toxicologist's appearance.

Restitution: Statutes in the Sentencing Reform Act conflict on whether an offender remains under the court's jurisdiction for restitution monitoring for ten years from the imposition of the sentence or ten years from release from total confinement.

Bail Jumping: Separate statutes defining the crime of bail jumping have created confusion. It is proposed that the comprehensive statute found in the criminal code be retained, and the other provision which applies only to failure to appear after release on personal recognizance be repealed.

Stalking: Since the stalking statute was enacted in 1992, law enforcement officials and prosecutors have discovered problems implementing the statute. In some cases, it cannot be shown that the victim was followed. Also, not all protection orders trigger enhancement of the crime from gross misdemeanor to class C felony level. Suggestions have been made for other circumstances which should make the crime a class C felony.

Discharge of Offenders: In felony cases where the standard range does not exceed 12 months of incarceration, the court may impose a term of community supervision in addition to other penalties. It has been suggested that offenders who complete all requirements of their sentence should be allowed to request early termination from supervision.

Siting of Correctional Facilities: The Department of Corrections has no specific requirements in statute for public participation or notification before or during the siting of a correctional facility.

SUMMARY:

Attempted Murder: The crime of attempted murder in the second degree is a class A felony.

Witness Intimidation and Tampering: The crimes of bribing, intimidating a witness, and tampering with a witness include inducing a person to refrain from reporting information relevant to a criminal investigation or the abuse or neglect of a minor child.

Child Molestation: The crimes of child molestation first, second, and third degree and sexual misconduct with a minor first and second degree include knowingly causing another

person under the age of 18 to have sexual contact with a child.

DNA Identification: Beginning on July 1, 1994, juveniles adjudicated guilty of a sex offense or a violent offense are required to have a blood sample drawn for purposes of DNA identification analysis.

Toxicologist as Witness: The defendant may subpoena the toxicologist who conducts the analysis of the simulator solution used in the alcohol/breath testing equipment if the defendant gives the state toxicologist notice of intention to do so at least 30 days prior to issuing a subpoena.

Restitution: For purposes of monitoring payment of restitution, felony offenders remain under the court's jurisdiction for a maximum of ten years from release from total confinement or ten years from entry of the judgment and sentence, whichever period is longer.

Bail Jumping: The statute providing a criminal penalty for failure to appear before the court after release on personal recognizance is repealed.

Stalking: The elements of the crime of stalking are changed and clarified. A person is guilty of stalking if the person harasses or repeatedly follows another person and the victim was in fear of injury to person or property. The terms "follows," "harasses" and "repeatedly" are defined. The definition of "follows" expressly provides that it is not necessary to prove that the alleged stalker followed the victim in transit from one location to another.

Stalking is a class C felony if: the stalker violates any protective order protecting the victim; the stalker was armed with a deadly weapon while stalking the victim; the victim is or was a law enforcement officer, judge, juror, attorney, legislator, victim advocate, or community corrections officer and was stalked to retaliate for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or the victim is a current, former or prospective witness and was stalked as a result of the witness' testimony or potential testimony.

Violation of a temporary or permanent protective order is a crime of harassment.

A juvenile charged with felony stalking may not be characterized as a minor or first offender under the juvenile offender disposition grid.

Discharge of Offenders: An offender on community supervision for a crime other than a violent offense or a sex offense may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision. The offender must have completed at least one-half of the term of supervision and must have met all other sentence requirements.

Siting of Correctional Facilities: The Department of Corrections is required to establish a process for notice and public participation in establishing work release and other community-based facilities. The department is required to send notification and hold public hearings when three or fewer sites have been proposed for final consideration. An additional round of public notification and a public hearing must be conducted in the local community selected as the final proposed site.

Notification must be provided to newspapers, local radio stations, television stations and cable networks. School districts, private schools, kindergartens, city and county libraries, other local government offices and residents within a radius of one-half mile must be notified about the proposed facility siting. In addition, the department is required to provide notice to the local chamber of commerce, economic development agencies and any other local organizations that request notification.

VOTES ON FINAL PASSAGE:

Senate	43	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	96	0
Senate	45	0

EFFECTIVE: June 9, 1994
July 1, 1994 (Section 1001)