

VETO MESSAGE ON HB 2320-S

March 30, 1996

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Substitute House Bill No. 2320 entitled:

"AN ACT Relating to persistent offenders;"

Substitute House Bill No. 2320 mandates life imprisonment upon an individual's second conviction for a number of sex offenses or for certain other offenses if specifically found to be sexually motivated. This legislation reaffirms our unconditional intolerance of persistent sex offenders and our commitment to keeping public safety paramount in our dealings with those who leave such devastating impacts on their victims -- and on all of us.

Substitute House Bill No. 2320 lists the various offenses that are subject to this mandatory sentencing. This roster of offenses prompts my concern and comment. When we make our choices and draw the line on whom we will automatically send to prison for life, we seldom have problems with the top of the list -- the most serious and reprehensible crimes -- which cry out for harsh penalties. No one disagrees that the sexually motivated murderer, the violent rapist, and even those who attempt such heinous crimes, deserve life-long exile from society. The difficulty arises when we try to decide where to end our list and distinguish those offenses that may not warrant life behind bars.

Substitute House Bill No. 2320 specifies that a second conviction of indecent liberties results in a mandatory life sentence. Under current law, an offender convicted of indecent liberties with one prior sex conviction normally faces a four to five year sentence. This overwhelming increase in punishment for this particular offense may very well be appropriate for each and every offender covered by this new law. I worry that, at least on occasion, it will not. Because life imprisonment follows immediately upon the second conviction of the enumerated offenses, there is no opportunity for consideration, no room for judgment, and no mechanism for later review. It is my hope that the legislature will consider the possibility of adding future review by a sentencing court to this model of life imprisonment.

I entreat the legislature, and all who share concern and interest with our system of criminal justice, to look closely at our changing mix of mandatory and discretionary sentencing. We should contemplate the wisdom of moving ever further from letting judges judge.

Section 2 of Substitute House Bill No. 2320 prohibits the Department of Corrections (DOC) from providing sex offender treatment or sex offender counseling to those individuals convicted under this law. Current DOC policy already bars offenders serving life terms from receiving treatment due to the limited available space in treatment programs. While I agree that the offender who will eventually be released back into society should receive priority in treatment, I am concerned about how this blanket prohibition might impact DOC's population.

Our sentencing laws, including this legislation, are increasing the number of sex offenders who will spend their lives or most of their lives incarcerated. We should not forget the danger these offenders pose to other inmates, particularly younger offenders who will be released at some point. The influence and effects that these "lifeters" may have on the more vulnerable members of the prison population is obvious. While many may argue that we must throw away the key on the former group, none can disagree that we should minimize the chance that the latter group will follow in their path.

Maintaining DOC's flexibility in dealing with lifetime inmates through treatment or counseling is prudent. It stands to be a cost effective tool and recognizes the changing reality we are imposing on the lives of those we incarcerate. I cannot approve a blanket prohibition against counseling or treatment for individuals sentenced under this law.

For this reason, I have vetoed section 2 of Substitute House Bill No. 2320.

With the exception of section 2, Substitute House Bill No. 2320 is approved.

Respectfully submitted,
Mike Lowry
Governor