

HOUSE BILL ANALYSIS

HB 1383

Title: An act relating to criminal sentencing.

Brief Description: Establishing restitution for rape of a child.

Sponsors: Representatives Sheahan and Dickerson.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Staff: Pat Shelledy (786-7149)

Background: Restitution. When an adult offender is convicted of a felony, the court must impose restitution as part of the sentence when the offense results in injury to any person or damage to any property. Restitution is considered part of the penalty for purposes of meeting the goals of sentencing and is not intended to replace or limit civil redress. Restitution must be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from the injury. It may not include reimbursement for mental anguish, pain and suffering, or other intangible losses, but may include costs of counseling reasonably related to the offense. An offender remains under the court's jurisdiction for a maximum of ten years following release from confinement to collect restitution. The court must set a minimum monthly payment after considering a variety of factors, such as the total amount due, the offender's assets, and the offender's ability to pay. The payment schedule may be modified if warranted by a change in the offender's financial circumstances. The department of corrections supervises collection of restitution.

Statutory provisions governing restitution do not explicitly require the court to impose the costs of medical expenses associated with a pregnancy resulting from raping a child or any child support ordered for the child born from that rape.

Exceptional sentences. An adult offender convicted of a felony may be sentenced to a sentence above the presumptive standard range for his or her offense established under the Sentencing Reform Act if the court finds that substantial and compelling reasons exist to justify an exceptional sentence. The court may consider a variety of aggravating factors when determining whether to impose an exceptional sentence above the standard range. Some of those factors are enumerated in statute. Other factors have been developed by the courts in case law.

The list of aggravating factors does not include a specific provision authorizing imposition of an exceptional sentence if the offense resulted in the pregnancy of a child

victim of rape.

Summary: Restitution. If the offender is convicted of any of the degrees of raping a child and the child victim becomes pregnant, the court must include in its restitution order all of the victim's medical expenses associated with the rape and the pregnancy, and child support, if any is ordered pursuant to a separate civil superior court or administrative order. The offender will remain under the court's jurisdiction for purposes of satisfying this portion of the restitution obligation until the offender has satisfied the support obligation or twenty-five years following release from confinement. The criminal sentencing court may not modify the terms of the civil order establishing support, but may modify the overall restitution payment obligation.

Exceptional Sentences. The court may impose an exceptional sentence above the standard range if a child victim of rape becomes pregnant as a result of the rape.

Require the Exercise of Rule- Making Powers: No

Fiscal Note: Requested on February 3, 1997.

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