

FINAL BILL REPORT

HB 1924

C 340 L 97

Synopsis as Enacted

Brief Description: Changing the sentencing for sex offenses.

Sponsors: Representatives Ballasiotes, Sheahan, Dickerson, Radcliff, Sheldon, Chopp, Mason, Conway, Costa, Mitchell, K. Schmidt, Buck, Wensman, Schoesler, Parlette, Hankins, Backlund, Johnson, D. Schmidt, Sterk, Sump, Cooke, Mastin, Scott, O'Brien, Cooper, Hatfield, Blalock, Kessler, Mulliken, Cole, Kenney, Gardner, McMorris and Tokuda.

House Committee on Criminal Justice & Corrections
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background: The Sentencing Reform Act governs the sentencing of adult felons. The act bases sentencing on the determination of an offender's standard sentencing range, which is calculated using the seriousness level of the current offense and the extent of the offender's criminal history.

First degree rape. First degree rape is committed by a person who has sexual intercourse with another person by forcible compulsion, but only if the perpetrator also commits any one of the following acts: (1) using or threatening to use a deadly weapon; (2) kidnaping the victim; (3) inflicting serious physical injury; or (4) feloniously entering a building or vehicle.

First degree rape has a seriousness level of 11, which, for a first-time offender, yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Second degree rape. Second degree rape is committed by a person who has sexual intercourse under any of the following special circumstances: (1) the perpetrator uses forcible compulsion; (2) the victim is physically or mentally incapable of consent; (3) the victim is developmentally disabled and the perpetrator has supervisory authority over the victim; (4) the sexual intercourse occurs during a health care visit where the victim does not consent to the sexual intercourse while knowing it was not for purposes of treatment; or (5) the victim is a resident of a facility for the mentally disordered or the chemically dependent, and the perpetrator has supervisory authority over the victim.

Second degree rape has a seriousness level of 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

First degree rape of a child. First degree rape of a child is committed by a person who has sexual intercourse with a child when: (1) the victim is less than 12 years old; (2) the perpetrator is at least two years older than the victim; and (3) the perpetrator is not married to the victim.

First degree rape of a child has a seriousness level of 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Second degree rape of a child. Second degree rape of a child is committed by a person who has sexual intercourse with a child when: (1) the victim is 12 or 13 years old; (2) the perpetrator is at least three years older than the victim; and (3) the perpetrator is not married to the victim.

Second degree rape of a child has a seriousness level of 10, which, for a first-time offender, yields a standard range of 51 to 68 months (a midpoint of five years).

Indecent liberties. Indecent liberties is committed when a person knowingly causes sexual contact with another person (other than his or her spouse), but only if any one of the special circumstances applying to second degree rape are also present (i.e., the presence of forcible compulsion, the victim being developmentally disabled, etc.).

Indecent liberties, when committed with forcible compulsion, has a seriousness level of nine, which, for a first-time offender, yields a standard range of 31 to 41 months (a midpoint of three years).

Indecent liberties, when committed in any manner other than with forcible compulsion, has a seriousness level of seven, which for a first-time offender yields a standard range of 15 to 20 months (a midpoint of 1.5 years).

Most Serious Sex Offenses. Under what is commonly referred to as the Two Strikes and You're Out– law, a person is considered a persistent offender– if:

- (1) the person has been convicted of any felony considered a most serious sex offense. The list of most serious sex offenses include:
 - (a) rape in the first degree;
 - (b) rape in the second degree;
 - (c) indecent liberties by forcible compulsion;
 - (d) murder in the first or second degree, kidnaping in the first or second degree, assault in the first or second degree, or burglary in the first degree when those offenses are committed with sexual motivation; or
 - (e) an attempt to commit any of those sex offenses; and

(2) the person has been convicted on at least one prior separate and distinct occasion of any one of the listed sex offenses.

The commission of the offense and the conviction for that offense count as a strike,— and both must occur before the next commission and conviction of an offense can count as another strike.—

Sexual Offender Special Sentencing Alternative (SOSSA). The court determines that a sex offender should receive a sentence under the sexual offender special sentencing alternative and the offender has a sentence of less than eight years of confinement, the court may suspend the sentence and require the offender to participate in the SOSSA program.

Sex offender registration. A sex offender must register with the county sheriff within 24 hours of being released from confinement. The crime of failing to register or notify the county sheriff in a timely fashion is either a class C felony or a gross misdemeanor, depending on the seriousness of the offender’s sex offense. The crime is a class C felony if the underlying sex offense was a class A felony, and is a gross misdemeanor for all other sex offenses.

Summary: First degree rape. The seriousness level for first degree rape is raised to 12, which for a first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).

Second degree rape. The seriousness level for second degree rape is raised to 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

First degree rape of a child. The seriousness level for first degree rape of a child is raised to 12, which for a first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).

Second degree rape of a child. The seriousness level for second degree rape of a child is raised to 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Indecent liberties, when committed with forcible compulsion. The seriousness level for indecent liberties, when committed with forcible compulsion, is raised to 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

Most Serious Sex Offenses. Under the Two Strikes and You’re Out— law, the list of most serious offenses— is expanded to incorporate all convictions for indecent liberties— offenses. These indecent liberties offenses include acts when committed

with forcible compulsion as well as those acts committed in manners other than forcible compulsion that are committed against both children and adults as well as those acts committed during the course of prostitution.

Sexual Offender Special Sentencing Alternative (SOSSA). The court is authorized to sentence a sex offender to a SOSSA program if the offender has received a sentence of less than 11 years of confinement instead of less than eight years of confinement.

Sex offender registration. The crime of failing to register as a sex offender is a class C felony if the underlying sex offense was a felony. If the underlying crime was not a felony sex offense then the failure to register as a sex offender is a gross misdemeanor.

Votes on Final Passage:

House 94 0
Senate 47 0 (Senate amended)
House (House refused to concur)
Senate (Senate refused to recede)
House 98 0 (House concurred)

Effective: July 27, 1997