

# SENATE BILL REPORT

## 2SHB 1522

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As Reported By Senate Committee On:  
Law & Justice, February 23, 1998

**Title:** An act relating to sentencing.

**Brief Description:** Providing for enhanced sentencing for criminal street gang activity.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Carrell, Sheahan, Conway, Mielke, Sherstad, Talcott, Zellinsky, Benson, Johnson, DeBolt, Mitchell, Lambert, Cooke, Clements, Kastama, Sheldon, Linville, Pennington, Honeyford, Delvin, Radcliff, Costa, Robertson, Mulliken, Smith, McMorris, Scott, Bush, Backlund, Ballasiotes, Sterk, Sump, Crouse, Wensman, Lisk, Dunn, Buck, Hickel, Reams, D. Schmidt, Mastin, Sullivan, Chandler, O'Brien, K. Schmidt, Skinner, Hankins, Dyer, Cairnes, Huff, McDonald, Alexander, Boldt, Wolfe, Keiser, Quall, Thompson and Van Luven).

**Brief History:**

**Committee Activity:** Law & Justice: 3/26/97, 4/3/97 [DPA]; 2/23/98 [DPA].

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass as amended.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Long and Stevens.

**Staff:** Aldo Melchiori (786-7439)

**Background:** An adult convicted of a crime is sentenced under the provisions of the Sentencing Reform Act (SRA). The SRA specifies a standard sentence range based on the seriousness of the offense and the offender's prior criminal history score.

In some circumstances, a sentencing judge is required to impose an "enhancement" on the offender's sentence.

Juveniles adjudicated for an offense receive a disposition under the Juvenile Justice Act, unless the juvenile has been referred to adult court for prosecution. The judge must impose an enhancement on a juvenile offender who was armed with a firearm during the commission of certain offenses. The enhancement must be added to the entire standard range disposition, but the enhancement runs concurrently.

**Summary of Amended Bill:** An adult or juvenile offender who is found to have committed a felony offense must receive a penalty enhancement if the offense was committed for the benefit of, at the direction of, or in association with a criminal street gang; and with intent to promote, further, or assist in criminal conduct by gang members. Criminal street gang-- and pattern of criminal gang activity-- are defined.

If the offender is convicted of the felony in adult court, the penalty enhancement is two years. The court may impose a penalty enhancement that is greater than or less than two years if the court finds that there are aggravating or mitigating circumstances, but the penalty enhancement may not be greater than three years nor less than one year. The enhancement must run consecutively with any other sentence.

If the offender is adjudicated of the felony in juvenile court, the court must impose a penalty enhancement of 105 days, unless the court finds that there are aggravating or mitigating circumstances. The court may not impose a penalty enhancement greater than 120 days or less than 90 days. The enhancement must run consecutively.

The bill is null and void unless funded in the budget.

**Amended Bill Compared to Substitute Bill:** Malicious mischief is removed from the list of enumerated offenses. The effective date is changed to July 1, 1998.

**Appropriation:** None.

**Fiscal Note:** Requested on February 18, 1998.

**Effective Date:** The bill takes effect July 1, 1998.

**Testimony For:** The bill is funded in the House budget. It is a Washington version of a successful California law. The problem is the wide spectrum of street gang activity in many areas of the state. This bill only applies to a person convicted of a crime that was committed for the benefit of a street gang.

**Testimony Against:** This bill enhances punishment in violation of the right of free association with others. The definitions and procedures are vague. Current law already has sufficient aggravating circumstances to deal with criminal activity appropriately.

**Testified:** Representative Carrell, original prime sponsor (pro); Sherry Appleton and Mark Muenster, Washington Defenders Association/Washington Association of Criminal Defense Lawyers (con); Seth Fine and Jim Nagle, Washington Association of Prosecuting Attorneys (pro).