

# HOUSE BILL REPORT

## HB 1849

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### As Passed Legislature

**Title:** An act relating to imposing an exceptional sentence.

**Brief Description:** Expanding aggravating circumstances when a court may impose an exceptional sentence.

**Sponsors:** Representatives Kagi, Carrell, Tokuda, Boldt, Lovick, Barlean, McIntire, Edwards, Kenney and Schual-Berke.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/19/99, 2/24/99 [DP].

#### Floor Activity:

Passed House: 3/9/99, 92-0.

Senate Amended.

Passed Senate: 4/8/99, 46-0.

House Concurred.

Passed Legislature.

### Brief Summary of Bill

- Expands the list of aggravating factors in the Sentencing Reform Act to include offenders who knew the victim was a runaway (or a youth who was not residing with a legal custodian) and the offender established or promoted the relationship for the primary purposes of victimization.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

**Staff:** Yvonne Walker (786-7841).

### Background:

In sentencing a defendant who is convicted of a misdemeanor or gross misdemeanor, the court generally has complete leeway to impose any sentence up to the maximum allowed by law.

Under the Sentencing Reform Act (SRA), however, "presumptive" sentence ranges are statutorily prescribed and when sentencing a defendant who is convicted of a felony, the standard range is presumed to be appropriate for the typical felony case. However, the law provides that in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the presumptive range (with a mitigating circumstance) or above the range (with an aggravating circumstance) if there are sufficient "mitigating" or "aggravating" factors. The SRA provides "illustrative" mitigating and aggravating factors as examples of the kinds of factors a court may use to justify an "exceptional" sentence outside of the presumptive range. Among the illustrative aggravating factors provided by the SRA are deliberate cruelty by a defendant, vulnerability of a victim, sexual motivation on the part of the defendant, and multiple incidents of abuse of a victim.

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**Summary of Bill:**

The list of "illustrative" aggravating factors in the Sentencing Reform Act is expanded to include "an offender who knew the victim was a runaway (a youth who was not residing with a legal custodian)" and the offender established or promoted the relationship for the primary purposes of victimization. This new illustrative aggravating circumstance is an example of a kind of factor a court may use to justify an exceptional sentence outside of the presumptive range.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Although some would like to see this bill written broader to cover more than just homeless youth, still others are satisfied that this bill will help to overall reduce victimization of homeless youth. This bill is a continuation of the original "Hope Act" which was enacted to help protect runaway and homeless youth on the streets.

Youth are vulnerable to all kinds of exploitation while living on the street. In fact, studies have shown that one-third of the youth on the streets have been robbed or assaulted or both, with about one-sixth of the youth in shelters reporting robbery or assault or both. The findings paint a picture of a climate of violence on the street that

puts these young people at risk of becoming the victims or the perpetrators of violence, or both.

Offenders have been known to convince kids to try drugs or coerce them into the profession of prostitution. Unfortunately, many times these kids often become so dependent on the offender and, as a result, are exploited due to their vulnerability.

This bill will send a solid and important message to kids and adults that victimization of vulnerable runaway youth will not be tolerated.

**Testimony Against:** None.

**Testified:** (In support) Representative Kagi, prime sponsor; Representative Carrell, secondary sponsor; Seth Dawson, Common Ground for Children; and Jim Theofilis.