

# HOUSE BILL ANALYSIS

## HB 1849

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**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.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

**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.

**Summary:**

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.

**Fiscal Note:** Available.

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

Office of Program Research