

SENATE BILL REPORT

SHB 3124

As of February 17, 2000

Title: An act relating to sentencing of sexually violent predators.

Brief Description: Revising sentencing for sexually violent predators.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives H. Sommers, Huff, Kessler, Ballasiotes, O'Brien and Alexander).

Brief History:

Committee Activity: Judiciary: 2/23/2000.

SENATE COMMITTEE ON JUDICIARY

Staff: Aldo Melchiori (786-7439)

Background: Under the Community Protection Act, a sexually violent predator may be civilly committed to a secured facility after serving his or her criminal sentence. A sexually violent predator is a person who has been convicted of, charged with and found not guilty by reason of insanity of, or found to be incompetent to stand trial for a crime of sexual violence and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in future predatory acts of sexual violence. Sexually violent predators are committed to the custody of the Department of Social and Health Services for control, care, and treatment until they are safe to be released or transferred to a less restrictive alternative.

Summary of Bill: First or second degree rape, first or second degree rape of a child, first degree child molestation, and indecent liberties by forcible compulsion are defined as predatory crimes of sexual violence if they are committed against a stranger or an individual with whom a relationship was established or promoted for the purpose of victimization. First or second degree murder, homicide by abuse, first or second degree kidnaping, first or second degree assault, first degree assault of a child, and first degree burglary, with a finding of sexual motivation are also included under the same circumstances. Attempt to commit any of these crimes are also a crimes of predatory sexual violence.

An offender is sentenced as a sexually violent predator if the offender commits a sex offense after July 1, 2000, and the court finds that the offense, or any prior offense, was a predatory crime of sexual violence. The option is not available if the offender is a persistent offender. If the court finds, by a preponderance of the evidence, that sentencing as a sexually violent predator applies, the court imposes either: (1) the Special Sex Offender Sentencing Alternative (SSOSA) if the offender is otherwise eligible; or (2) a maximum term equal to the statutory maximum for the offense and a minimum term either within the standard sentence range for the offense or outside the standard sentence range if the criteria for imposing an exceptional sentence are satisfied.

Aggravating factors justifying an exceptional sentence include: the offender has a history of such acts, and lacks amenability to treatment or the conduct involved multiple incidents of cruelty or sexual deviance, directed at the victim over a long period.

If the offender is sentenced to SSOSA, the court imposes a minimum term of confinement within the standard range for the offense and a maximum term equal to the statutory maximum for the offense before suspending the sentence.

A sexually violent predator must be given the opportunity for treatment during incarceration. As part of the end-of-sentence review, the Department of Corrections (DOC) examines the offender and evaluates the probability that the offender will commit a new predatory crime of sexual violence if released. Ninety days prior to release, the Indeterminate Sentencing Review Board (ISRB) holds a hearing to determine the likelihood of the offender's committing a predatory crime of sexual violence if released on conditions set by the ISRB. Unless the board determines that it is more likely than not that the offender will commit another predatory crime of sexual violence, the offender must be released under conditions set by the board. Otherwise, a new minimum term is established. Released offenders are supervised by DOC for compliance with the required conditions, which can be modified at any time, until the expiration of the maximum term of the sentence.

An offender who violates a condition of release can be arrested and detained by a community corrections officer. When an offender is accused of violating a condition of release, other than the commission of a new crime, the offender is entitled to due process before one or more members of the ISRB. The offender is entitled to an attorney. The ISRB may modify the conditions of release, impose sanctions based on an administrative grid, or return the offender to state custody. The ISRB does not terminate on June 30, 2008.

When the attempted crime is first degree child molestation, indecent liberties by forcible compulsion, first or second degree rape, or rape of a child, attempt is a class A felony. Second degree assault and second degree kidnaping become class A felonies when accompanied by a finding of sexual motivation. Indecent liberties is a class A felony when committed by forcible compulsion.

The provisions of the act are null and void unless specifically funded in the budget.

Appropriation: None.

Fiscal Note: Requested on February 7, 2000.

Effective Date: Ninety days after adjournment of session in which bill is passed. The provisions apply to offenses committed on or after July 1, 2000.