

# HOUSE BILL REPORT

## ESHB 1663

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**As Passed House:**

February 14, 2002

**Title:** An act relating to sentencing of hate crimes.

**Brief Description:** Authorizing an exceptional sentence when a crime is motivated by hate.

**Sponsors:** By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives McDermott, O'Brien, Darneille, Ruderman, Murray, Schual-Berke, Romero, Conway, Poulsen and Santos; by request of Governor Locke).

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 1/23/02 [DPS].

**Floor Activity:**

Passed House: 2/14/02, 92-6.

**Brief Summary of Engrossed Substitute Bill**

- Expands the illustrative list of aggravating factors that a court may consider when imposing an exceptional sentence to include hate crimes.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi and Kirby.

**Minority Report:** Do not pass. Signed by 1 member: Representative Morell.

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

**Background:**

The Sentencing Reform Act (SRA) governs the sentencing of adult felons who commit a crime after July 1, 1984. Generally, these felons receive a sentence within the standard range for the offense which, under the SRA, is calculated using the seriousness level of the current offense and the extent of the offender's criminal history.

Although the standard range is presumed appropriate for the typical felony case, a court may depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). To impose an exceptional sentence, generally, the court must find there are substantial and compelling reasons. Further, the court is required to set forth the reasons in writing.

The SRA provides a list of illustrative factors that a court may consider in deciding whether to impose an exceptional sentence outside of the standard range. Some of the illustrative aggravating factors provided by the SRA include: behavior that manifested into deliberate cruelty to a victim; vulnerability of a victim; sexual motivation on the part of the defendant; or an ongoing pattern of multiple incidents of abuse to a victim.

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**Summary of Engrossed Substitute Bill:**

The illustrative list of aggravating factors that a court may consider when deciding whether to impose an exception sentence outside of the standard range is expanded to include hate crimes. Specifically, a court may consider imposing a sentence above the standard range when the court finds the defendant's motivation for committing the crime was the defendant's perception of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap.

Furthermore, the illustrative list of aggravating factors is also expanded to include any offense where a person knowingly and maliciously makes a false statement accusing another person of committing a hate crime.

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**Appropriation:** None.

**Fiscal Note:** Original available. Requested on substitute January 17, 2002.

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

**Testimony For:** This is a Governor's request bill and the need for it has been shown even more clearly over the last four months. Some people of Mideastern and South Asian origin have been attacked right here in Washington for no other reason than because of their nationality or origin. Hate crimes not only hurt victims but they also terrorize entire communities.

The current statute already includes a variety of crimes against people that can be used to impose an exceptional sentence against a person. This bill allows courts to sentence offenders guilty of committing a hate crime above the normal standard range and solely extends the list of aggravating factors to include those crimes that are committed due to a

person's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap.

Crimes motivated by hate can be a greater harm on their victims and communities than other crimes by virtue of the fact that the victims are not necessarily chosen because of who they are individually, but because of their status. This bill is important for two reasons:

1) communities affected by hate crimes must know that they are supported; and 2) this is an important tool to show that Washington will not tolerate hate crimes.

**Testimony Against:** None.

**Testified:** Representative McDermott, prime sponsor; Dick Van Wagenen, Governor's Policy Office; Remy Trupin, Jewish Federaton of Greater Seattle; Pamela Crone, Northwest Women's Law Center; Roger A. Yockey, Washington Association of Churches; and Robby Stern, Washington State Labor Council.