

FINAL BILL REPORT

ESSB 5013

C 7 L 01
Synopsis as Enacted

Brief Description: Clarifying the definition of "persistent offender."

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators McCaslin, Haugen and Long).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: A persistent offender is an offender who has either three separate convictions for a "strike" offense or two separate convictions for a sex crime "strike" offense. A persistent offender must be sentenced to life in prison without possibility of parole. Prior "strike" convictions may have occurred in another state. To qualify as a prior sex crime "strike" offense, whether occurring in Washington or another jurisdiction, the prior criminal conviction, including attempts, is presently required to be specifically named on the list of "strike" offenses. The qualifying crimes include rape in the first or second degree, rape of a child in the first or second degree, and some serious violent felonies found to have been committed with sexual motivation.

Judges are not explicitly authorized to include as "strikes" those out-of-state crimes with different names which would be considered "strike" offenses in Washington, or Washington convictions for crimes having the same or similar elements but different names. Names of crimes frequently vary between states and have been changed in Washington. For example, in 1988 the Washington crimes of statutory rape in the first and second degree were replaced by the crimes of rape of a child in the first and second degree. The Washington crime of child rape in the first degree corresponds to portions of the Oregon crime of sodomy in the first degree. Confusion about whether to include prior sex offenses in determining an offender's status as "persistent" has led to inconsistent application of the "two strikes, you're out" law and therefore to inconsistencies in imposition of mandatory life sentences for offenders with similar criminal histories.

Summary: A federal or out-of-state prior sex offense conviction or a conviction under prior Washington law is considered a "strike" offense for the purpose of persistent offender categorization under the "two strikes, you're out" law if the crime is comparable to a currently named "strike" offense.

Votes on Final Passage:

Senate	46 0
House	88 0

Effective: July 22, 2001

