

HOUSE BILL REPORT

HB 2578

As Passed House:

February 14, 2004

Title: An act relating to adding situations in which a crime victim is vulnerable or incapable of resistance due to the lack of a fixed residence to the list of illustrative aggravating circumstances for which an exceptional sentence may be imposed.

Brief Description: Adding situations in which a crime victim is vulnerable or incapable of resistance due to the lack of a fixed residence to the list of illustrative aggravating circumstances for which an exceptional sentence may be imposed.

Sponsors: By Representatives O'Brien, Delvin, Pettigrew, Benson, Kessler, Haigh, Boldt, Clibborn and Pearson.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/27/04, 2/4/04 [DP].

Floor Activity:

Passed House: 2/14/04, 70-25.

Brief Summary of Bill

- Expands the illustrative list of aggravating factors that a court may consider when imposing an exceptional sentence to include offenses committed against victims who are vulnerable or incapable of resistance due to the lack of a fixed residence.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 5 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi, Pearson and Veloria.

Minority Report: Do not pass. Signed by 2 members: Representatives Mielke, Ranking Minority Member; and Ahern, Assistant Ranking Minority Member.

Staff: Sarah Shirey (Jim Morishima 786-7191).

Background:

Under the Sentencing Reform Act (SRA), when sentencing a defendant who is convicted of a felony, standard sentence ranges are statutorily prescribed. The standard range for a given offense is determined by the seriousness of the crime and the offender's criminal history. A sentence within the standard range may not be appealed. However, a court may depart from

the standard range, imposing an exceptional sentence above or below the standard range. Generally, the court must find there are substantial and compelling reasons known as "mitigating" or "aggravating" circumstances, to impose an exceptional sentence. A sentence above or below SRA's standard range may be appealed by the state or the defendant.

The SRA provides a list of illustrative factors that a court may consider to be mitigating or aggravating circumstances when deciding whether to impose a 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.

Summary of Bill:

The illustrative list of aggravating factors that a court may consider when deciding whether to impose an exceptional sentence outside of the standard range is expanded to include crimes committed against people that the offender knows to be vulnerable or incapable of resistance due to the lack of a fixed residence.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Current law allows judges to consider the vulnerability of victims as aggravating circumstances. Homeless people are among the most vulnerable in our society. Washington ranks as the third worst state for violence against the homeless. Seattle ranks as the seventh worst city for violence against the homeless. Courts should be able to consider the vulnerability of a victim due to lack of a home as an aggravating circumstance.

Testimony Against: None.

Persons Testifying: Seth Dawson, Washington State Coalition for the Homeless.

Persons Signed In To Testify But Not Testifying: None.