
**Criminal Justice & Corrections
Committee**

2SSB 6172

Brief Description: Increasing penalties for specified sex offenses.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators McAuliffe, Hargrove, Thibaudeau, Shin, Weinstein, Rockefeller, Keiser, Regala, Eide, Rasmussen and Benton).

Brief Summary of Second Substitute Bill

- Increases the penalty for Voyeurism and Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct.
- Increases the penalty for Communicating with a Minor for Immoral Purposes when the communication is made via an electronic communication.
- Designates Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct as a sex offense.

Hearing Date: 2/17/06

Staff: Jim Morishima (786-7191).

Background:

I. Voyeurism

A person is guilty of Voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films:

- Another person without the other person's knowledge and consent while the other person is in a place where he or she would have a reasonable expectation of privacy; or
- The intimate areas of another person without the other person's knowledge and consent and under circumstances where the person has a reasonable expectation of privacy, whether in a public or private place.

Voyeurism is an unranked class C felony.

II. Communicating with a Minor for Immoral Purposes

A person is guilty of Communicating with a Minor for Immoral Purposes if he or she communicates with a minor, or someone the person believes is a minor, for immoral purposes. Communicating with a Minor for Immoral Purposes is a gross misdemeanor, unless the person has a previous conviction for a sex offense, in which case the crime is a class C felony with a seriousness level of III.

III. Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct

A person is guilty of Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct if he or she knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct. The crime is an unranked class C felony.

IV. Sex Offenses

Several offenses are currently designated "sex offenses" for purposes of criminal sentencing. There are several consequences of an offense being a sex offense including:

- Ineligibility for 50 percent earned release credits for prison-bound offenders (the offender will be eligible for 10 percent or 33 percent depending on the sex offense involved);
- Mandatory terms of community custody for prison-bound offenders;
- Mandatory supervision by the Department of Corrections in the community;
- Triple scoring of prior sex offenses when computing the sentence for a new sex offense;
- Ineligibility for the Drug Offender Sentencing Alternative and the First-Time Offender Waiver; and
- Registration (note that the definition of "sex offense" for purposes of the registration statute is broader than the definition for purposes of sentencing).

V. The Special Sex Offender Sentencing Alternative

In 1984, the Legislature created the Special Sex Offender Sentencing Alternative (SSOSA). A SSOSA sentence consists of a suspended standard range sentence, incarceration for up to 12 months, treatment for up to five years, and a term of community custody. An offender is eligible for a SSOSA sentence if: (1) he or she is convicted of a sex offense that is not a serious violent offense or rape in the second degree, (2) he or she has no prior felony sex offenses, (3) he or she has no prior adult violent offenses within five years of the current offense, (4) the current offense did not cause substantial bodily harm to the victim, (5) he or she has an established relationship or connection to the victim, and (6) his or her standard sentence range includes the possibility of incarceration for less than 11 years.

Summary of Bill:

I. Voyeurism

The penalty for Voyeurism is increased by ranking the offense at seriousness level II.

II. Communicating with a Minor for Immoral Purposes

It is felony Communicating with a Minor for Immoral Purposes (as opposed to a gross misdemeanor) if the perpetrator makes the communication through the sending of an electronic communication.

III. Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct

The penalty for Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct is increased by ranking the offense at seriousness level VI.

IV. Sex Offenses

Possession of Depictions of Minor Engaged in Sexually Explicit Conduct is designated a sex offense.

V. The Special Sex Offender Sentencing Alternative

Because Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct is designated a sex offense, persons convicted of the crime are eligible for SSOSA as long as they meet all of the other eligibility criteria. It is clarified that "sex offense" for purposes of SSOSA eligibility includes Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill has passed, except of section 6, which takes effect on July 1, 2006. However, section 2 of the bill is null and void unless funded in the budget.