

SENATE BILL REPORT

SB 5760

As Reported By Senate Committee On:
Judiciary, March 1, 2005

Title: An act relating to persistent offenders.

Brief Description: Changing the sentence for certain persistent offenders.

Sponsors: Senator Kline.

Brief History:

Committee Activity: Judiciary: 2/8/05, 3/1/05 [DPS, DNP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5760 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Hargrove, Rasmussen and Thibaudeau.

Minority Report: Do not pass.

Signed by Senator Carrell.

Staff: Aldo Melchiori (786-7439)

Background: A persistent offender is subject to a sentence of life imprisonment without the possibility of parole. A person is considered a "persistent offender" if he or she commits three most serious offenses. A "most serious offense" includes: any class A felony; assault in the second degree; assault of a child in the second degree; child molestation in the second degree; controlled substance homicide; extortion in the first degree; incest when committed against a child under age fourteen; certain indecent liberties convictions; kidnaping in the second degree;

leading organized crime; manslaughter in the first degree; manslaughter in the second degree; promoting prostitution in the first degree; rape in the third degree; robbery in the second degree; sexual exploitation; certain vehicular assaults and vehicle homicides; any class B felony offense with a finding of sexual motivation; and any felony with a deadly weapon verdict.

Summary of Substitute Bill: Offenders with a criminal history or a current offense that includes a completed or attempted class A felony or sex offense continue to be sentenced to life imprisonment without the possibility of release. If, however, the offenders criminal history or current offense do not include any class A felony or sex offenses, the offender is sentenced to life imprisonment.

After serving a minimum of twenty years in prison, the offender's eligibility for conditional release is determined by the indeterminate sentence review board. The board considers the

purposes and standards of the sentencing reform act, as well as statements and recommendations from the crime victims, prosecuting attorney, and sentencing judge. The board must give future dangerousness and public safety considerations the highest priority. The board may set terms of conditional release or extend the minimum term for up to two years. Every two years thereafter, a hearing is held to determine whether the offender is eligible for conditional release. All decisions must be supported by written reasons.

Conditional release, if granted, is subject to such terms and conditions the board deems appropriate. An offender who breaches a term or condition of release is subject to all of the current procedures and remedies available to the board.

The changes apply to all current persistent offenders who do not have a criminal history or a current offense that includes a completed or attempted class A felony or sex offense.

Substitute Bill Compared to Original Bill: In addition to all completed and attempted class A felonies, an offender is not eligible for release if they have committed a sex offense. These offenders continue to receive life imprisonment without the possibility of release. Instead of being resentenced, currently incarcerated offenders who meet the restrictions are made subject to the new provisions. The minimum term of incarceration for eligible offenders is raised from fifteen to twenty years. Instead of review by the court after the minimum twenty year term, the indeterminate sentence review board makes the release determinations. The emergency clause is removed.

Appropriation: None.

Fiscal Note: Requested on February 4, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For: We are housing people for life when they do not pose a risk to society. There is no reason to keep people incarcerated when statistics show us that they are past their crime committing years. Dangerousness to the community should be the paramount criteria for release. Money we are using to keep class B felony offenders in prison would be better spent on education or other social programs. This is not a partisan issue, it is a question of good policy. The persistent offender law is racially discriminatory. People are receiving grossly disproportionate penalties under the persistent offender provisions. The mandatory nature of these provisions eliminate judicial discretion to impose just sentences.

Testimony Against: None.

Other: The persistent offender provisions were passed by the people, so changes should be carefully considered. This change would not save very much money and there is no evidence of egregious injustices in Washington. Sex offenders should be kept in for life without parole because they have a longer period during which they recidivate. Review by the independent sentencing review board instead of judges would save local money.

Who Testified: PRO: Senator Kline, prime sponsor; Justice Sanders, Justice of the Washington Supreme Court; Sharon Dozier; Wes Richards, WDA, WACDL; Ramona

Brandes, WDA, WACDL; Rev. Paul Benz, Lutheran Public Policy Office; Jill Stephens.
OTHER: Tom McBride, WAPA; Russ Hauge, WAPA.