

# SENATE BILL REPORT

## 2SSB 6460

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As Passed Senate, February 9, 2006

**Title:** An act relating to penalties for crimes committed with sexual motivation.

**Brief Description:** Increasing penalties for crimes committed with sexual motivation.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, McCaslin, McAuliffe, Keiser, Rasmussen, Benton, Roach and Oke; by request of Attorney General).

**Brief History:**

**Committee Activity:** Human Services & Corrections: 1/19/06, 2/1/06 [DPS].

Ways & Means: 2/6/06, 2/7/06 [DP2S].

Passed Senate: 2/9/06, 42-6.

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 6460 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell and McAuliffe.

**Staff:** Kiki Keizer (786-7430)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 6460 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Doumit, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Fairley, Parlette, Pflug, Rasmussen, Regala, Roach, Rockefeller and Schoesler.

**Staff:** Elaine Deschamps (786-7441)

**Background:** To commit a crime with sexual motivation means that a crime was committed, at least in part, for a person's sexual gratification.

With few exceptions, a prosecutor must file a special allegation of sexual motivation when enough admissible evidence exists to justify a finding of sexual motivation by a reasonable and objective fact-finder. The prosecutor must then prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation.

A special verdict or a judicial finding of fact that the accused committed a crime with sexual motivation may have the effect of subjecting a person to penalties such as those that would inhere to someone convicted of an offense defined as a sex offense under the law. Such

consequences might include ineligibility for certain sentencing alternatives, such as the First Time Offender Waiver or the Drug Offender Sentencing Alternative. Once incarcerated, he or she is not eligible for as much earned early release time as other offenders. After release, he or she must comply with the state's registration requirements and is subject to a mandatory term of community custody and mandatory Department of Corrections supervision in the community. If sentenced for a subsequent offense, the seriousness level of his or her prior sex offense will be tripled for purposes of sentencing.

**Summary of Bill:** A statutory sexual motivation enhancement is created for sentencing purposes. Additional time in total confinement, consecutive to all other sentencing provisions, must be served if a conviction includes a special verdict or judicial finding that the crime underlying the conviction was committed with sexual motivation.

If a person's previous sentence has included a sexual motivation enhancement, the time that must be served in total confinement for subsequent sexual motivation enhancements doubles.

If the standard sentence range exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

A sentencing court may impose a sentence outside the standard range (e.g., consider sexual motivation an aggravating factor, allowing imposition of a sentence up to the statutory maximum).

Time that must be served in total confinement must be calculated before earned early release time is credited.

**Appropriation:** None.

**Fiscal Note:** Requested for substitute bill on February 6, 2006.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** July 1, 2006.

**Testimony For (Human Services & Corrections):** This bill sets mandatory prison terms for sexually motivated crimes. Sex offenses should be more stringently punished than other crimes.

**Testimony Against (Human Services & Corrections):** Determinate-plus sentencing already gives us the ability to increase confinement for those who are not ready for release. It's better to have flexibility in sentencing rather than set up what is, in effect, a mandatory minimum sentence that is outside the sentencing range that applies to other crimes.

**Who Testified (Human Services & Corrections):** PRO: Todd Bowers, Assistant Attorney General.

CON: Jennifer Shaw, ACLU of Washington.

**Testimony For (Ways & Means):** Crimes committed with sexual motivation are undoubtedly more pernicious than those without, and thus warrant a sentence enhancement.

**Testimony Against (Ways & Means):** None.

**Who Testified (Ways & Means):** PRO: Hunter Goodman, Assistant Attorney General for Legislative Affairs.