

SENATE BILL REPORT

ESHB 2571

As of February 26, 2010

Title: An act relating to the definition of predatory.

Brief Description: Modifying the definition of predatory.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representative Appleton).

Brief History: Passed House: 2/15/10, 98-0.

Committee Activity: Judiciary: 2/26/10.

SENATE COMMITTEE ON JUDICIARY

Staff: Kim Johnson (786-7472)

Background: In a prosecution for rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, when there is sufficient admissible evidence that the offense was predatory, the prosecutor must file a special allegation. The prosecutor has the burden to prove beyond a reasonable doubt that the offense was predatory. If the offense is found to be predatory, the court must impose a higher minimum sentence on the offender. The minimum term imposed for a predatory offense is the greater of 25 years or the maximum term in the standard sentence range.

The term predatory is defined in the Sentencing Reform Act to mean any of the following:

- the perpetrator was a stranger to the victim;
- the perpetrator established a relationship with the victim, and a significant reason for doing so was the victimization of the victim; or
- the perpetrator was a:
 1. teacher, counselor, volunteer, or other person of authority in a public or private school where the victim was a student under the perpetrator's authority;
 2. coach, trainer, volunteer, or other person of authority in a recreational activity in which the victim participated and was under the perpetrator's authority; or
 3. pastor, elder, volunteer, or other person of authority in a church or religious organization where the victim was a participant under the perpetrator's authority.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

For purposes of perpetrators in schools, home-based instruction is excluded.

Summary of Bill: The definition of predatory includes a perpetrator who was a teacher, counselor, volunteer, or other person in authority in home-based instruction when the victim was a student receiving home-based instruction under his or her authority or supervision.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This is a simple bill. When I was looking at malicious harassment statutes I notice that there was an exemption for home-based instruction. I can't understand why those persons should be exempted. I worked with the home school community to get the language correct.

OTHER: We're fine with the bill and have talked with the other home school families and organizations who understand the bill and are OK with it.

Persons Testifying: PRO: Representative Appleton, prime sponsor.

OTHER: Dianna Brannan, Christian Homeschool Network.