

SENATE BILL REPORT

ESHJR 4220

As of February 25, 2010

Brief Description: Amending the state Constitution so that the provision relating to bailable crimes by sufficient sureties is modified.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Kelley, Green, Conway, Parker, Hurst, Campbell, Wallace, Orcutt, Simpson, Ericks, Ericksen, Van De Wege, Morrell, Takko, Appleton, Maxwell, Orwall, Pearson, Kirby, Sells, Kenney, Johnson, Dammeier, Roberts and McCune; by request of Governor Gregoire).

Brief History: Passed House: 2/05/10, 80-17.

Committee Activity: Judiciary: 2/26/10.

SENATE COMMITTEE ON JUDICIARY

Staff: Juliana Roe (786-7438)

Background: Under Article I, Sec. 20 of the Washington State Constitution, all persons charged with a crime are entitled to bail, except for those charged with a capital offense. The Washington State Supreme Court has defined a capital offense as an offense for which a sentence of death may be imposed. *In re Berry*, 198 Wash. 317, 88 P.2d 427 (1939). The court further limited this definition in *State v. Anderson*, holding that an aggravated first degree murder prosecution in which the state does not seek the death penalty is not a capital case (for the purposes of granting peremptory challenges). 108 Wn.2d 188, 736 P.2d 661 (1987).

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Amendments): Under Article I, Sec. 20 of the Washington State Constitution, all persons charged with a crime are entitled to bail except when a person is charged with an offense involving: (1) the intentional death of another; (2) the intentional infliction of great bodily harm on another; (3) a choate sex offense for which the maximum sentence is the possibility of life in prison; or (4) an offense that may result in a mandatory life sentence without the possibility of release upon conviction, when the proof is evident or the presumption great. The Legislature determines the standards the courts must follow in making decisions on whether to grant bail for persons charged with these types of offenses.

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.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The resolution takes effect upon ratification by the majority of voters at the next general election.