
**Public Safety & Emergency Preparedness
Committee**

HB 2548

Brief Description: Concerning offenses against members of the military and their families.

Sponsors: Representative Kelley.

Brief Summary of Bill

- Makes it an aggravating circumstance if an offender commits an offense against a member of the military or his or her family and the defendant committed the offense knowing the military member was on deployment.

Hearing Date: 1/24/12

Staff: Yvonne Walker (786-7841).

Background:

Generally, the standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that, in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act (SRA) provides a list of factors that a court may consider in deciding whether to impose an exceptional sentence outside of the standard range. Some of the aggravating factors provided by the SRA include: behavior that manifested deliberate cruelty to a victim; vulnerability of a victim; an offense intentionally committed against a person perceived to be homeless; sexual motivation on the part of the defendant; and an ongoing pattern of multiple incidents of abuse to a victim.

In the case of an aggravating circumstance, where there is an exceptional sentence imposed above the standard sentence range, the prosecutor must provide notice that he or she is seeking a

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sentence above the standard range. The prosecutor must then prove the aggravating circumstances justifying such a sentence to a jury beyond a reasonable doubt.

Military "deployment" means the temporary transfer of a service member serving in an active-duty status to another location in support of a military operation, to include any tour of duty classified by the member's branch of the armed forces as remote or unaccompanied.

Summary of Bill:

A new aggravating circumstance is added to the list of circumstances that may lead to an exceptional sentence above the standard range. A court may impose an exceptional sentence above the range if: (1) the offense was committed against an active or reserve member of the United States military or naval forces or his or her immediate family, or a National Guard member or his or her immediate family; and (2) the defendant committed the current offense knowing the military member was on deployment. This aggravating circumstance must be found by a jury beyond a reasonable doubt before the exceptional sentence can be imposed.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.