
**Public Safety & Emergency Preparedness
Committee**

SB 5011

Brief Description: Concerning the victimization of homeless persons.

Sponsors: Senators White, Kohl-Welles, Murray, Chase, Nelson and McAuliffe.

Brief Summary of Bill

- Makes it an aggravating circumstance if an offense was intentionally committed because the defendant perceived the victim to be homeless.

Hearing Date: 3/16/11

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; 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 is imposed above the standard sentence range, the prosecutor must provide notice that he or she is seeking a sentence above the standard range. The prosecutor must then prove the aggravating circumstances justifying such a sentence to a jury beyond a reasonable doubt.

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.

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. The aggravating circumstance would permit the court to impose an exceptional sentence above the range if the offense was intentionally committed because the defendant perceived the victim to be homeless. This aggravating circumstance must be found by a jury beyond a reasonable doubt before the exceptional sentence can be imposed.

"Homelessness" or "homeless" is defined as a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is: (1) a supervised, publicly or privately operated shelter designed to provide temporary living accommodations; (2) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or (3) a private residence where the individual stays as a transient invitee.

Appropriation: None.

Fiscal Note: Available.

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