

# SENATE BILL REPORT

## SB 5011

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As Passed Senate, March 2, 2011

**Title:** An act relating to victimization of homeless persons.

**Brief Description:** Concerning the victimization of homeless persons.

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

**Brief History:**

**Committee Activity:** Judiciary: 1/14/11, 1/25/11, 2/04/11 [DP].

Passed Senate: 3/02/11, 49-0.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Carrell, Hargrove, Kohl-Welles, Regala and Roach.

**Staff:** Kim Johnson (786-7472)

**Background:** Under the Sentencing Reform Act, a standard sentence range is established by comparing the seriousness level of an offense to an offender score derived from the offender's criminal history and convictions for other current offenses. A sentence which is outside the standard sentence range is referred to as an exceptional sentence. A court may impose an exceptional sentence above the standard sentence range if:

- the state gives notice of its intention to rely on one or more of 28 statutory aggravating factors;
- a jury determines that the existence of one or more aggravating factors have been proven beyond a reasonable doubt; and,
- the court finds that substantial and compelling reasons justify an exceptional sentence.

**Summary of Bill:** A new statutory aggravating circumstance is created which would permit the court to impose an exceptional sentence above the standard sentence range if the offense was intentionally committed because the defendant perceived the victim to be homeless. This aggravating circumstance must be submitted to a jury and proven beyond a reasonable doubt.

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*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.*

"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 a supervised, publicly or privately operated shelter designed to provide temporary living accommodations; a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or, a private residence where the individual stays as a transient invitee.

**Appropriation:** None.

**Fiscal Note:** Available.

**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: I am formerly homeless. A lot of beatings and attacks are not reported. Most women who are homeless are raped within a month of being on the street. With more and more people and families that are becoming homeless during these economic times, there are not the resources to help them. You hear about extreme cases in the press, but not the everyday violence that is inflicted on the homeless.

There are some statistics from the National Coalition for the Homeless; the number of fatal attacks on homeless was twice the number of hate motivated homicides in the past ten years. One of the questions that was posed last year was whether the existing aggravating factors would sufficiently cover crimes against the homeless. The answer is no, because whether the person is homeless is always ancillary to other facts in the crime. The particularly vulnerable victim aggravating factor really is meant to deal with other vulnerabilities and will not adequately cover all the crimes against the homeless.

OTHER: We don't disagree with the goal of this bill. We believe the vulnerable victim aggravating factor will cover this population. Many people that are homeless are vulnerable for more than just being homeless, such as mental illness. We think that this will have very little deterrent effect. Resources ought to be spent on making people not homeless. Forty-three percent of crimes against homeless are committed by teens between the ages of 13-19. This bill is a symbolic gesture to homeless people.

**Persons Testifying:** PRO: Joe Ingram; Zach Carstensen, Jewish Federation.

OTHER: Bob Cooper, Washington Defender's Association.