
**Public Safety & Emergency
Preparedness Committee**

HB 2968

Brief Description: Addressing crimes against persons.

Sponsors: Representatives Pearson, O'Brien, Kelley, Simpson and Kretz.

Brief Summary of Bill

- Expands the definition of "crime against persons" to include other felony offenses.
- Expands the definition of "crime against persons" to include attempts, solicitations, and conspiracies.

Hearing Date: 1/30/08

Staff: Jim Morishima (786-7191).

Background:

The standards for prosecutorial discretion in the Sentencing Reform Act contain a list of "crimes against persons." Crimes on this list include:

- Aggravated Murder 1;
- Arson 1;
- Assault 1, 2, and 3;
- Assault of a Child 1, 2, and 3;
- Bomb Threat (against a person);
- Burglary 1;
- Child Molestation 1, 2, and 3;
- Communicating with a Minor for Immoral Purposes;
- Counterfeiting;
- Custodial Assault;
- Domestic Violence Court Order Violations;
- Extortion 1 and 2;

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.

- Incest 1 and 2;
- Identity Theft 1 and 2;
- Indecent Liberties;
- Intimidating a Juror;
- Intimidating a Public Servant;
- Intimidating a Witness;
- Kidnapping 1 and 2;
- Manslaughter 1 and 2;
- Murder 1 and 2;
- Promoting a Suicide Attempt;
- Promoting Prostitution 1;
- Rape 1, 2, and 3;
- Rape of a Child 1, 2, and 3;
- Riot (against a person);
- Robbery 1 and 2;
- Stalking;
- Unlawful Imprisonment;
- Vehicular Assault; and
- Vehicular Homicide.

Over time, the list of crimes against persons has been put to use in a variety of contexts other than prosecutorial standards. For example, persons sentenced to more than a year of confinement for a crime against persons must receive a mandatory term of community custody (for offenders sentenced to a year or less of confinement, this term is optional). Last year, the Washington Supreme Court ruled that community custody may not be imposed for attempts at a crime against persons because attempts are not specifically included on the list. In re the Postsentence Review of Leach, 161 Wn.2d 180 (2007).

Other purposes for which the list of crimes against persons are used include:

- Requiring the Department of Corrections to supervise offenders convicted of crimes against persons;
- Making offenders convicted of crimes against persons ineligible for 50 percent earned release time;
- Determining whether an offense is a "serious offense" for purposes of involuntary medication for competency restoration;
- Determining whether certain criminal history records may be disseminated without restriction; and
- Determining whether a prosecutor must file an information in juvenile court.

Summary of Bill:

The existing list of "crimes against persons" is re-named "crimes affecting persons." The list of crimes affecting persons is made applicable only to provisions involving standards for prosecution.

A new definition is created for "crimes against persons." The new definition applies to:

- Imposing mandatory and permissive terms of community custody;

- Making offenders convicted of crimes against persons ineligible for 50 percent earned release time;
- Determining whether an offense is a "serious offense" for purposes of involuntary medication for competency restoration;
- Determining whether certain criminal history records may be disseminated without restriction; and
- Determining whether a prosecutor must file an information in juvenile court.

The new definition of crimes against persons includes every offense on the old list plus:

- Child Selling/Child Buying;
- Commercial Sexual Abuse of a Minor;
- Criminal Mistreatment 1 and 2;
- Custodial Sexual Misconduct;
- Cyberstalking;
- Dealing in Depictions of a Minor Engaged in Sexually Explicit Conduct;
- Drive-by Shooting;
- Driving Under the Influence of Intoxicating Liquor or Drug;
- Harassment;
- Hit and Run (injury or death);
- Homicide by Abuse;
- Homicide by Watercraft;
- Luring;
- Malicious Harassment;
- Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct;
- Residential Burglary;
- Sending or Bringing Into the State Depictions of a Minor Engaged in Sexually Explicit Conduct;
- Sexual Exploitation of a Minor;
- Sexual Misconduct with a Minor 1;
- Sexually Violating Human Remains;
- Sexually Violent Predator Escape;
- Telephone Harassment;
- Voyeurism; and
- Attempts, conspiracies, and solicitations to commit crimes in the definition.

Appropriation: None.

Fiscal Note: Requested on January 27, 2008.

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