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**Public Safety & Emergency  
Preparedness Committee**

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**SSB 5964**

**Brief Description:** Revising the definition of "most serious offense" and creating a task force to study crimes included in "most serious offense."

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Kline and Hargrove).

**Brief Summary of Substitute Bill**

- Creates the Task Force on Sentencing of Persistent Offenders.
- Adds any out-of-state conviction for a felony offense with a finding of sexual motivation if the minimum sentence imposed was 10 years or more to the definition of "most serious offense."

**Hearing Date:** 3/26/07

**Staff:** Jim Morishima (786-7191).

**Background:**

In 1993, the voters approved Initiative 593, otherwise known as the "three-strikes" law, which imposes a life sentence upon an offender who commits a third "most serious offense" (otherwise known as a "strike"). The list of most serious offenses includes:

- Any class A felony or conspiracy or solicitation to commit a class A felony;
- Any class B felony with a finding of sexual motivation;
- Assault in the second degree;
- Assault of a Child in the second degree;
- Child Molestation in the second degree;
- Controlled Substance Homicide;
- Extortion in the first degree;
- Incest in the first degree;

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- Incest in the second degree;
- Indecent Liberties;
- Kidnapping in the second degree;
- Manslaughter in the second degree;
- Promoting Prostitution in the first degree;
- Rape in the third degree;
- Robbery in the second degree;
- Sexual Exploitation of a Minor;
- Vehicular Assault (by being under the influence of intoxicating liquor or drugs, or by operation of a vehicle in a reckless manner);
- Any attempt to commit a most serious offense;
- Any felony with a deadly weapon special verdict; and
- Any federal or out-of-state conviction that is equivalent to a most serious offense.

As mentioned above, an out-of-state conviction may be considered a most serious offense if it would be a most serious offense in Washington. For example, in *State v. Russel*, 104 Wn.App. 422 (2001), the Washington Court of Appeals ruled that an Arizona robbery conviction was equivalent to Robbery in the second degree in Washington and therefore a most serious offense. However, the court also ruled that an Arizona kidnapping conviction was not equivalent to Kidnapping in the second degree in Washington and therefore not a most serious offense.

#### **Summary of Bill:**

The Task Force on Sentencing of Persistent Offenders (Task Force) is established. The Task Force consists of the following members:

- One member from each of the two largest caucuses of the Senate, appointed by the President of the Senate;
- One member from each of the two largest caucuses of the House of Representatives, appointed by the Speaker of the House;
- One police chief appointed by the Washington Association of Sheriffs and Police Chiefs;
- One representative of the Washington Association of Criminal Defense Lawyers;
- One representative of the Washington Association of Prosecuting Attorneys; and
- One representative of the Washington Coalition of Crime Victim Advocates.

The objectives of the Task Force are to:

- Examine existing evidence concerning the types of offenses committed by individuals convicted only of the crimes of Assault in the second degree and Robbery in the second degree and sentenced to life in prison as persistent offenders;
- Evaluate whether the inclusion of Assault in the second degree and Robbery in the second degree as most serious offenses has resulted in disproportionate sentencing; and
- Assess the objectives of the three-strikes law and evaluate whether the crimes of Assault in the second degree and Robbery in the second degree should continue to be classified as most serious offenses.

The Task Force must report its findings to the Legislature by December 31, 2007.

The following offense is added to the definition of most serious offense: any out-of-state conviction for a felony with a finding of sexual motivation if the minimum sentence imposed was 10 years or more.

**Appropriation:** None.

**Fiscal Note:** Available.

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