

SENATE BILL REPORT

EHB 2279

As Reported by Senate Committee On:
Judiciary, March 25, 2009

Title: An act relating to the offense of assault of a child in the first degree by requiring the review of the sentencing of offenders and modifying the conditions of release.

Brief Description: Addressing the offense of assault of a child in the first degree by requiring the review of the sentencing of offenders and modifying the conditions of release.

Sponsors: Representatives Hurst, Hope, Dunshee, Kelley and Roach.

Brief History: Passed House: 3/10/09, 96-0.

Committee Activity: Judiciary: 3/25/09 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Regala, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Kohl-Welles, Roach and Tom.

Staff: Brandon Roche (786-7405)

Background: A person commits Assault of a Child in the first degree if the offender is over the age of 18 years old and that offender:

- commits assault in the first degree against a child under the age of 13; or
- intentionally assaults a child under the age of 13 by (1) recklessly inflicting great bodily harm to the child; or (2) causing substantial bodily harm to the child, and has previously engaged in a pattern or practice of abuse of a child.

The crime of Assault of a Child in the first degree is a serious violent offense that is classified as a seriousness level XII, class A felony offense under the Sentencing Reform Act. A first-time offender with no previous criminal history would receive a sentence of 93 - 123 months in prison. A person convicted of a serious violent offense is limited to having his or her sentence reduced by no more than 10 percent via earned release time (good time). As a class A felony offense, the crime of Assault of a Child is also a strike under Washington's "Three Strikes and You're Out" law where a persistent offender is subject to a sentence of life in prison without the possibility of parole.

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.

The crime of Assault of a Child is also considered a "crime against persons." If a crime is designated as a crime against persons, additional restrictions may be imposed on the convicted person at sentencing. Such restrictions include that the convicted person cannot have that person's record of conviction cleared, cannot qualify to earn up to 50 percent of earned release time, and may be subject to a mandatory term of community custody.

Summary of Bill: Community Custody. As a condition of community custody, the court must prohibit an offender sentenced for Assault of a Child in the first degree from serving in any paid or volunteer capacity where that offender has control or supervision of children under the age of 13.

Sentencing Guidelines Commission (Commission). The Commission must study the crime of Assault of a Child in the first degree. As part of the study, the Commission must consider whether the current statutory sentence for Assault of a Child in the first degree should be revised while taking into account the following factors:

- the use of advisory sentencing guidelines for Assault of a Child in the first degree;
- the modification of the mandatory minimum term of confinement for an offender convicted of Assault of a Child in the first degree;
- the statutory provisions surrounding earned early release for an offender convicted of Assault of a Child in the first degree;
- the restructuring or adjusting of community custody conditions for offenders convicted of Assault of a Child in the first degree;
- the use of determinate plus sentencing that provides for a minimum and a maximum term of confinement for an offender convicted of Assault of a Child in the first degree; and
- the fiscal impact of any proposed recommendations.

The Commission must submit its findings and recommendations to the appropriate committees of the Legislature by December 31, 2009.

This act is known as the Eryk Woodruff Public Safety Act of 2009.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on August 1, 2009.

Staff Summary of Public Testimony: PRO: We were approached to pass a law that would protect children in these environments. We should not let something like this to happen again.

In September of 2007 our son was severely beaten and is permanently damaged. We're afraid of putting him in daycare. We understand that this bill is not going to affect our case. We just want to prevent the pain we feel from happening to other families. This was

perpetrated by my best friend's husband and he had been convicted before. This isn't just somebody who lost their cool, these people are dangerous.

Persons Testifying: PRO: Representative Hurst, prime sponsor; Representative Hope; Russell Woodruff, Rachel Pierce, parents.