

# HOUSE BILL REPORT

## 2SHB 2225

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### As Passed House:

February 8, 1996

**Title:** An act relating to increasing the punishment for rape and indecent liberties.

**Brief Description:** Enhancing punishment for sex offenses.

**Sponsors:** By House Committee on Appropriations (originally sponsored by Representatives Ballasiotes, Schoesler, Pennington, Sheldon, Kessler, D. Sommers, Radcliff, Koster, Delvin, Conway, Scheuerman, Campbell, Horn, Sheahan, Quall, Mitchell, Thompson, Blanton, Costa, Backlund and Benton).

### Brief History:

#### Committee Activity:

Corrections: 1/19/96, 1/26/96 [DPS];

Appropriations: 2/1/96, 2/3/96 [DP2S(w/o sub COR)].

**Floor Activity:** 2/8/96, 97-0.

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### HOUSE COMMITTEE ON CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Ballasiotes, Chairman; Blanton, Vice Chairman; Quall, Ranking Minority Member; Tokuda, Assistant Ranking Minority Member; Cole; Dickerson; Koster; Radcliff; Schoesler and D. Sommers.

**Staff:** Rick Neidhardt (786-7841).

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Corrections. Signed by 30 members: Representatives Huff, Chairman; Clements, Vice Chairman; Pelesky, Vice Chairman; H. Sommers, Ranking Minority Member; Valle, Assistant Ranking Minority Member; Basich; Beeksma; Brumsickle; Carlson; Chappell; Cooke; Crouse; Dellwo; Dyer; Foreman; Grant; Hargrove; Hickel; Jacobsen; Kessler; Lambert; Linville; McMorris; Poulsen; Reams; Rust; Sehlin; Sheahan; Talcott and Wolfe.

**Staff:** Dave Johnson (786-7154).

**Background:** The Sentencing Reform Act governs the sentencing of adult felons. The act bases sentencing on the determination of an offender's standard sentencing range, which is calculated using the seriousness level of the current offense and the extent of the offender's criminal history.

First degree rape is committed by a person who has sexual intercourse with another person by forcible compulsion, but only if the perpetrator also commits any one of the following acts: (1) using or threatening to use a deadly weapon; (2) kidnapping the victim; (3) inflicting serious physical injury; or (4) feloniously entering a building or vehicle.

First degree rape has a seriousness level of 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Second degree rape is committed by a person who has sexual intercourse under any of the following special circumstances: (1) the perpetrator uses forcible compulsion; (2) the victim is physically or mentally incapable of consent; (3) the victim is developmentally disabled and the perpetrator has supervisory authority over the victim; (4) the sexual intercourse occurs during a health care visit where the victim does not consent to the sexual intercourse while knowing it was not for purposes of treatment; or (5) the victim is a resident of a facility for the mentally disordered or the chemically dependent, and the perpetrator has supervisory authority over the victim.

Second degree rape has a seriousness level of 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

First degree rape of a child is committed by a person who has sexual intercourse with a child when: (1) the victim is less than 12 years old; (2) the perpetrator is at least two years older than the victim; and (3) the perpetrator is not married to the victim.

First degree rape of a child has a seriousness level of 11, which for a first-time offender yields a standard range of 78 to 102 months (a midpoint of 7.5 years).

Second degree rape of a child is committed by a person who has sexual intercourse with a child when: (1) the victim is 12 or 13 years old; (2) the perpetrator is at least three years older than the victim; and (3) the perpetrator is not married to the victim.

Second degree rape of a child has a seriousness level of 10, which for a first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

Indecent liberties is committed when a person knowingly causes sexual contact with another person (other than his or her spouse), but only if any one of the special circumstances listed above for second degree rape are also present (i.e., the presence of forcible compulsion, the victim being developmentally disabled, etc.).

Indecent liberties, when committed with forcible compulsion, has a seriousness level of nine, which for a first-time offender yields a standard range of 31 to 41 months (a midpoint of three years).

Indecent liberties, when committed in any manner other than with forcible compulsion, has a seriousness level of seven, which for a first-time offender yields a standard range of 15 to 20 months (a midpoint of 1.5 years).

Special sex offender sentencing alternative. The special sex offender sentencing alternative (SSOSA) is a discretionary sentencing option allowing a judge to give an eligible sex offender a suspended sentence, including offender treatment in the community.

Current law establishes a number of limitations on the offenders who are eligible for SSOSA:

- (1) the current offense must be a felony sex offense;
- (2) the offender must have no prior felony sex offenses; and
- (3) the standard range sentence for the offense cannot exceed eight years in length.

For an eligible sex offender, the judge must consider the victim's opinion about an SSOSA sentence, as well as an expert's evaluation of the offender's amenability to treatment. The judge can then impose an SSOSA sentence, if doing so will benefit both the community and the offender.

**Summary of Bill:** Legislative findings are made regarding the seriousness of offenses involving rape or indecent liberties.

First degree rape. The seriousness level for first degree rape is raised to 14, which for a first-time offender yields a standard range of 240 to 320 months (a midpoint of 23.3 years).

Second degree rape, when committed with forcible compulsion. The seriousness level for second degree rape, when committed with forcible compulsion, is raised to 13, which for a first-time offender yields a standard range of 123 to 164 months (a midpoint of 12 years). The seriousness level for second degree rape, when committed in any manner other than forcible compulsion, is not changed.

First degree rape of a child. The seriousness level for first degree rape of a child is raised to 14, which for a first-time offender yields a standard range of 240 to 320 months (a midpoint of 23.3 years).

Second degree rape of a child. The seriousness level for second degree rape of a child is raised to 13, which for a first-time offender yields a standard range of 123 to 164 months (a midpoint of 12 years).

Indecent liberties, when committed with forcible compulsion. The seriousness level for indecent liberties, when committed with forcible compulsion, is raised to 12, which for a first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years). The seriousness level for indecent liberties, when committed in any manner other than forcible compulsion, is not changed.

Special sex offender sentencing alternative. A sex offender remains eligible of an SSOSA sentence even if the offender's standard range sentence is longer than eight years. The other limitations on SSOSA are retained.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 4, 1996.

**Effective Date of Substitute Bill:** This bill takes effect July 1, 1996.

**Testimony For:** (Corrections) Increasing the initial sentences for serious sex offenses can deter the commission of future offenses. This bill raised the penalties even for first-time offenses. The bill increases public safety. Even though judges already have discretion to go above the current standard sentencing ranges, some don't use this enough. The ranges themselves should be increased.

(Appropriations) This bill would help deal with the problem of sex offenders. The bill does not replace either the current three strikes law or the civil commitment of sex offender law, but it provides another needed tool.

**Testimony Against:** (Corrections) Current law already provides sufficient criminal penalties for rapes and indecent liberties. We already have the "Three Strikes and You're Out" law. Judges can issue exceptional sentences. Penalties for sex offenses were already increased in 1990.

(Appropriations) None.

**Testified:** (Corrections) Representative Ida Ballasiotes, prime sponsor; Dick VanWagenen, Sentencing Guidelines Commission (con); Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs (pro); and Mike Patrick, Washington State Council of Police Officers (pro).

(Appropriations) Representative Ida Ballasiotes, prime sponsor.