

HOUSE BILL REPORT

HB 2546

As Reported By House Committee On:
Law & Justice

Title: An act relating to residential burglary.

Brief Description: Including residential burglary in the list of most serious offenses.

Sponsors: Representatives Foreman, Sheahan, Robertson, Honeyford, Sheldon, Hickel, Campbell, Mulliken, Morris, Johnson, Thompson, Silver and McMorris.

Brief History:

Committee Activity:

Law & Justice: 1/24/96, 1/30/96 [DP].

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 14 members: Representatives Sheahan, Chairman; Delvin, Vice Chairman; Hickel, Vice Chairman; Dellwo, Ranking Minority Member; Costa, Assistant Ranking Minority Member; Campbell; Carrell; Chappell; Lambert; McMahan; Morris; Robertson; Smith and Sterk.

Minority Report: Do not pass. Signed by 2 members: Representatives Cody and Murray.

Staff: Pat Shelledy (786-7149).

Background: Initiative 593, commonly referred to as "Three Strikes and You're Out," took effect December 2, 1993. Under the initiative, offenders prosecuted as adults who are convicted of a "most serious offense" after having previously been convicted of a most serious offense on at least two separate occasions are considered "persistent offenders" and will be sentenced to life imprisonment without the possibility of parole. The list of crimes considered "most serious offenses" does not include residential burglary. Offenses committed while a juvenile are not counted as "strikes" unless the juvenile is prosecuted and convicted as an adult.

"Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

- (a) any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;
- (b) assault in the second degree;
- (c) assault of a child in the second degree;
- (d) child molestation in the second degree;
- (e) controlled substance homicide;
- (f) extortion in the first degree;
- (g) incest when committed against a child under age 14;
- (h) indecent liberties;
- (i) kidnapping in the second degree;
- (j) leading organized crime;
- (k) manslaughter in the first degree;
- (l) manslaughter in the second degree;
- (m) promoting prostitution in the first degree;
- (n) rape in the third degree;
- (o) robbery in the second degree;
- (p) sexual exploitation;
- (q) vehicular assault;
- (r) vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
- (s) any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;
- (t) any other felony with a deadly weapon verdict under RCW 9.94A.125;
- (u) any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

Summary of Bill: Residential burglary is added to the list of "most serious offenses."

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Residential burglary is a serious crime that violates the sanctuary of a person's home and causes victims tremendous distress. As a matter of policy, it should be considered a most serious offense, even if the bill has a fiscal impact.

Testimony Against: None.

Testified: Representative Foreman, prime sponsor; and Colonel Mel Pfankuche, Colonel Mel Pfankuche & Associates, Inc. (pro).