

HOUSE BILL ANALYSIS

HB 1176

Title: An act relating to persistent offenders.

Brief Description: Adding child rape to the two strikes list.

Sponsors: Representatives Koster, Boldt, Smith, Backlund, Dunn, McMorris, Schoesler, Sheldon, Johnson, DeBolt and Mulliken.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: Under what is commonly referred to as the "Two Strikes and You're Out" law, a person is considered a persistent offender– if:

- (1) the person has been convicted of any of the following sex offenses:
 - (a) rape in the first degree;
 - (b) rape in the second degree;
 - (c) indecent liberties by forcible compulsion;
 - (d) murder in the first or second degree, kidnapping in the first or second degree; assault in the first or second degree, or burglary in the first degree when those offenses are committed with sexual motivation; or
 - (e) an attempt to commit any of those sex offenses; and
- (2) the person has been convicted on at least one prior separate and distinct occasion of any one of the listed sex offenses.

The commission of the offense and the conviction for that offense count as a strike,– and both must occur before the next commission and conviction of an offense can count as another strike.–

Persistent offenders– are sentenced to life imprisonment without possibility of parole. RCW 9.94A.120(4). Persistent offenders– are not eligible for community custody, earned early release time, furlough, home detentions, partial confinement, work crew, work release, or any other form of early release. RCW 9.94A.120(4).

A person commits rape of a child in the first degree when the person has sexual intercourse with a child who is less than 12 years old and not married to the perpetrator, and the perpetrator is at least 2 years older than the child.

A person commits rape of a child in the second degree when the person has sexual intercourse with a child who is at least 12 years old, but less than 14 years old and not married to the perpetrator, and the perpetrator is at least 3 years older than the child.

Rape of a child in the first degree and rape of a child in the second degree are not included in the two strikes– list of sex offenses.

Summary of Bill: Rape of a child in the first degree and rape of a child in the second degree are added to the sex offenses listed in the Two Strikes and You're Out– law, which classifies a person as a persistent offender– when the person is twice convicted, on two separate occasions, of any of the sex offenses listed.

Fiscal Note: Not requested.

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

Office of Program Research