

FINAL BILL REPORT

SHB 1383

C 52 L 97

Synopsis as Enacted

Brief Description: Establishing restitution for rape of a child.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Sheahan, Dickerson, Ballasiotes, Constantine, Costa, Radcliff, McDonald, Mason, Schoesler, Mitchell, Blalock, L. Thomas, Sheldon, Wensman, Kenney and Kessler).

House Committee on Criminal Justice & Corrections
Senate Committee on Law & Justice

Background: Restitution. When an offender is convicted of a felony, the court must impose restitution as part of the sentence when the offense results in injury to any person or damage to any property. Restitution is part of the penalty for purposes of meeting the goals of sentencing and does not replace or limit civil redress. Restitution must be based on easily ascertainable damages, actual expenses incurred for treatment, and lost wages. Restitution may not include reimbursement for mental anguish, pain and suffering, or other intangible losses, but it may include costs of counseling. For purposes of collecting restitution, an offender remains under the court's jurisdiction for a maximum of 10 years following release from confinement. The court must set a minimum monthly payment after considering a variety of factors, such as the total amount due, the offender's assets, and the offender's ability to pay. The payment schedule may be modified if warranted by a change in the offender's financial circumstances. The Department of Corrections supervises collection of restitution.

Statutory provisions governing restitution do not explicitly require the court to impose the costs of medical expenses associated with a pregnancy resulting from raping a child or any child support ordered for the child born from that rape.

Exceptional sentences. An offender convicted of a felony may be sentenced to a sentence above the presumptive standard range for his or her offense established under the Sentencing Reform Act if the court finds that substantial and compelling reasons exist to justify an exceptional sentence. The court may consider a variety of aggravating factors when deciding whether to impose an exceptional sentence above the standard range. Some of those factors are enumerated in statute. Other factors have been developed by the courts.

The list of aggravating factors does not include a specific provision authorizing imposition of an exceptional sentence if the offense resulted in the pregnancy of a child victim of rape.

Summary: Restitution. If the offender is convicted of rape of a child and the child becomes pregnant, the court must include in its restitution order 1) all of the victim's medical expenses associated with the rape and the pregnancy, and 2) child support, if support is ordered pursuant to a separate civil superior court or administrative order. The offender must remain under the court's jurisdiction for purposes of satisfying this portion of the restitution obligation until the offender has satisfied the support obligation or 25 years following release from confinement.

Exceptional Sentences. The court may impose an exceptional sentence above the standard range if a child victim of rape becomes pregnant as a result of the rape.

Votes on Final Passage:

House 95 0

Senate 45 0

Effective: July 27, 1997