
Criminal Justice & Corrections

HB 1412

Brief Description: *Increasing penalties for certain sexually motivated crimes.*

Sponsors: *Representatives Ahern, Gombosky, Dunn, Mielke, Cairnes, Lovick, Mulliken, Roach, Woods, Morell, Esser, Armstrong, Schoesler, Barlean, Benson, Schindler, Crouse, B. Chandler, Bush, O'Brien, Pflug, Cox, Pearson, Anderson, McMorris, G. Chandler, Lisk, Clements, Alexander and Conway.*

Brief Summary of Bill

- *Increases rape of a child or an adult in the first degree from a seriousness level XII to a level XIII.*
- *Increases rape of a child or an adult in the second degree from a seriousness level XI to a level XII.*
- *Increases first degree child molestation and indecent liberties (with forcible compulsion) from a seriousness level X to a level XI.*
- *Adds a two year sentencing enhancement for murder, kidnaping, assault, and burglary when the crimes are committed with sexual motivation.*

Hearing Date: *2/7/01*

Staff: *Yvonne Walker (786-7841).*

Background:

The Sentencing Reform Act (SRA) 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.

Sex Offenses Involving Adults

First degree rape. *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) kidnaping the victim; (3) inflicting serious physical injury; or (4) feloniously entering a building or vehicle. First degree rape is a class A felony and is ranked at seriousness level XII. A first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).

Second degree rape. *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; (5) the victim is a frail elder or vulnerable adult; or (6) 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 is a class A felony and is ranked at seriousness level XI. A first-time offender yields a standard range of 78 to 102 months (a midpoint of seven years six months).*

Sex Offenses Involving Children

The crime of rape of a child involves sexual intercourse with a child. The crime of child molestation involves sexual contact with a child. There are several degrees of the crimes of rape of a child and child molestation, based on the age of the victim and the age of the perpetrator.

First degree rape of a child. *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. Rape of a child in the first degree is a class A felony and is ranked at seriousness level XII under the SRA. A first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).*

Second degree rape of a child. *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. Rape of a child in the second degree is a class A felony and is ranked at seriousness level XI. A first-time offender yields a standard range of 78 to 102 months (a midpoint of seven years six months).*

First degree child molestation. *A person is guilty of child molestation in the first degree when the person has, or knowingly causes another person under the age of 18 years to have, sexual contact with another who is less than 12 years old and is not married to the perpetrator and the perpetrator is at least three years older than the victim. Child molestation in the first degree is a class A felony and is ranked at seriousness level X. A first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).*

Indecent liberties. *The crime of indecent liberties is committed when a person knowingly causes another person (other than his or her spouse) to have sexual contact with him or*

her, but only if anyone of the special circumstances applying to second degree rape are also present (e.g., the presence of forcible compulsion, the victim being developmentally disabled, etc.). The crime of indecent liberties, when committed with forcible compulsion, is a class B felony and is ranked at seriousness level X. A first-time offender yields a standard range of 51 to 68 months (a midpoint of five years).

Sentence Enhancements

The Washington statute provides for sentencing enhancements under certain circumstances such as when controlled substances are sold or possessed in or near public areas (e.g., schools or playgrounds) or when felony crimes are committed with a firearm or a deadly weapon. A sentence enhancement adds an additional incarceration period onto the standard sentence range that an offender found guilty would receive.

Generally, crimes committed with a finding of sexual motivation such as murder in the first and second degree, kidnaping in the first and second degree, assault in the first and second degree, or burglary in the first degree do not receive a sentencing enhancement.

Summary of Bill:

This act is known as the Sex Offender Safety Act.

Sex Offenses Involving Adults

First degree rape. First degree rape is ranked at seriousness level XIII. A first-time offender yields a standard range of 123 to 164 months (a midpoint of 12 years).

Second degree rape. Second degree rape is ranked at seriousness level XII. A first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).

Indecent liberties, when committed with forcible compulsion. The crime of indecent liberties, when committed with forcible compulsion, is ranked at seriousness level of XI. A first-time offender yields a standard range of 78 to 102 months (a midpoint of seven years six months).

Sex Offenses Involving Children

First degree rape of a child. First degree rape of a child is ranked at seriousness level XIII. A first-time offender yields a standard range of 123 to 164 months (a midpoint of 12 years).

Second degree rape of a child. Second degree rape of a child is ranked at seriousness level XII. A first-time offender yields a standard range of 93 to 123 months (a midpoint of nine years).

First degree child molestation. Child molestation in the first degree is ranked at seriousness level XI. A first-time offender yields a standard range of 78 to 102 months (a midpoint of seven years six months).

Sentence Enhancements

Any offender found guilty of committing first or second degree murder, first or second degree kidnaping, first or second degree assault, or first degree burglary, with a finding of sexual motivation, will have a two year sentencing enhancement added on to his or her standard sentencing range.

Appropriation: None.

Fiscal Note: Requested on February 2, 2001.

Effective Date: This bill contains an emergency clause and takes effect on July 1, 2001.