
SENATE BILL 5406

State of Washington

57th Legislature

2001 Regular Session

By Senators Long, Hargrove and Costa

Read first time 01/22/2001. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to amending the definition of sexually violent
2 offense for purposes of civil commitment and making technical and
3 clarifying amendments; amending RCW 71.09.020; creating a new section;
4 and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 71.09.020 and 1995 c 216 s 1 are each amended to read
7 as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Sexually violent predator" means any person who has been
11 convicted of or charged with a (~~crime of sexual violence~~) sexually
12 violent offense and who suffers from a mental abnormality or
13 personality disorder which makes the person likely to engage in
14 predatory acts of sexual violence if not confined in a secure facility.

15 (2) "Mental abnormality" means a congenital or acquired condition
16 affecting the emotional or volitional capacity which predisposes the
17 person to the commission of criminal sexual acts in a degree
18 constituting such person a menace to the health and safety of others.

1 (3) "Likely to engage in predatory acts of sexual violence" means
2 that the person more probably than not will engage in such acts. Such
3 likelihood must be evidenced by a recent overt act if the person is not
4 totally confined at the time the petition is filed under RCW 71.09.030.

5 (4) "Predatory" means acts directed towards strangers or
6 individuals with whom a relationship has been established or promoted
7 for the primary purpose of victimization.

8 (5) "Recent overt act" means any act that has either caused harm of
9 a sexually violent nature or creates a reasonable apprehension of such
10 harm.

11 (6) "Sexually violent offense" means an act committed on, before,
12 or after July 1, 1990, that is:

13 (a)(i) An act defined in Title 9A RCW as rape in the first degree,
14 rape in the second degree by forcible compulsion, rape of a child in
15 the first or second degree, statutory rape in the first or second
16 degree, indecent liberties by forcible compulsion, indecent liberties
17 against a child under age fourteen, incest against a child under age
18 fourteen, or child molestation in the first or second degree;

19 (ii) An act of murder in the first or second degree, assault in the
20 first or second degree, homicide by abuse, manslaughter in the first or
21 second degree, assault of a child in the first or second degree,
22 kidnapping in the first or second degree, burglary in the first degree,
23 residential burglary, or unlawful imprisonment, which act, either at
24 the time of sentencing for the offense or subsequently during civil
25 commitment proceedings pursuant to this chapter, has been determined
26 beyond a reasonable doubt to have been sexually motivated, as that term
27 is defined in RCW 9.94A.030;

28 (b) Any sex offense, as defined in RCW 9.94A.030, not listed in (a)
29 of this subsection, which act, either at the time of sentencing for the
30 offense or subsequently during civil commitment proceedings pursuant to
31 this chapter, has been determined beyond a reasonable doubt to have
32 included:

33 (i) Forcible compulsion;

34 (ii) Torture;

35 (iii) Substantial bodily harm or great bodily harm, as defined in
36 RCW 9A.04.110; or

37 (iv) The use of a deadly weapon;

38 (c) A felony offense in effect at any time prior to July 1, 1990,
39 that is comparable to a sexually violent offense as defined in (a) of

1 this subsection, or any federal or out-of-state conviction for a felony
2 offense that under the laws of this state would be a sexually violent
3 offense as defined in (a) of this subsection; (~~(c) an act of murder in~~
4 ~~the first or second degree, assault in the first or second degree,~~
5 ~~assault of a child in the first or second degree, kidnapping in the~~
6 ~~first or second degree, burglary in the first degree, residential~~
7 ~~burglary, or unlawful imprisonment, which act, either at the time of~~
8 ~~sentencing for the offense or subsequently during civil commitment~~
9 ~~proceedings pursuant to chapter 71.09 RCW, has been determined beyond~~
10 ~~a reasonable doubt to have been sexually motivated, as that term is~~
11 ~~defined in RCW 9.94A.030;~~) or

12 (d) An act as described in chapter 9A.28 RCW, that is an attempt,
13 criminal solicitation, or criminal conspiracy to commit one of the
14 felonies designated in (a)(~~(b)~~) or (c) of this subsection.

15 (7) "Less restrictive alternative" means court-ordered treatment in
16 a setting less restrictive than total confinement.

17 (8) "Secretary" means the secretary of social and health services
18 or his or her designee.

19 (9) "Forcible compulsion" has the meaning defined in RCW 9A.44.010.

20 NEW SECTION. Sec. 2. The code reviser shall alphabetize and
21 renumber the definitions in section 1 of this act and correct any
22 cross-references.

23 NEW SECTION. Sec. 3. This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 immediately.

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