

HOUSE BILL REPORT

HB 2703

*As Reported By House Committee on:
Judiciary*

Title: An act relating to reducing the sentence of a person convicted of murder who alleges that the murder was in response to the victim's continuing pattern of physical or sexual abuse of the person or the person's children.

Brief Description: Allowing the reduction in sentences of battered women convicted of murder prior to July 23, 1989.

Sponsor(s): Representatives Morris, Winsley, Leonard, Prentice, Ebersole, Schmidt, Miller, Belcher, G. Cole, Rust, Inslee, Ogden, Wang, Pruitt, Appelwick, Spanel, Wineberry, J. Kohl, Brough, Basich, Valle, Paris, Van Luven, Bowman, Jones, Fraser, Mitchell, Brekke, Roland, Orr and Anderson.

Brief History:

Reported by House Committee on:
Judiciary, February 6, 1992, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 17 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Inslee; R. Meyers; Mielke; H. Myers; Riley; Scott; D. Sommers; Tate; and Vance.

Staff: Pat Shelledy (786-7149).

Background:

The Sentencing Reform Act requires judges to sentence a convicted defendant to the standard range for the offense unless the court finds that mitigating or aggravating factors justify a sentence outside the standard range. During the 1989 session, the Legislature enacted a statute that allows a convicted defendant to receive a mitigated exceptional sentence below the standard range if the victim subjected the defendant or the defendant's children to a continuing pattern of physical or sexual abuse and the defendant committed the offense in response to that abuse.

The Legislature did not apply the law retroactively to offenses committed before the act's effective date. Unless the Legislature specifies otherwise, changes in sentencing apply prospectively to crimes committed on or after an act's effective date.

Some women who murdered their husbands or partners prior to the act's effective date may have been able to seek a mitigated sentence under the act if the act had been in effect when they committed their crimes. In addition, some men may also have been able to seek a mitigated sentence under the act's terms.

Some of the offenders are under the jurisdiction of the Indeterminate Sentence Review Board. Most of the offenders were sentenced under the Sentencing Reform Act. The Indeterminate Sentence Review Board makes parole decisions about the parole eligibility of offenders under the board's jurisdiction.

Summary of Substitute Bill:

Convicted murderers may apply for retroactive application of the mitigating factor to have their sentences reduced. The petitioner must allege that the petitioner committed the murder in response to the victim's continuing pattern of sexual or physical abuse of the defendant or of the defendant's children. The petitioner must also allege that the sentencing court did not consider that evidence for purposes of sentencing the defendant.

The Indeterminate Sentence Review Board will review the petitions for reduction in the sentences. The board may reduce the offender's minimum term and set an earlier parole eligibility date if the offender is under the board's jurisdiction. If the person was sentenced under the Sentencing Reform Act, the board will review the case and make a recommendation to the sentencing court for a reduction in the person's sentence.

The board must find that the offender would have been eligible for a mitigated sentence below the sentence imposed if the provision had been in effect when the offender committed the crime.

The inmates may petition the court by writing a letter. The petitions are due October 1, 1992. The Department of Corrections must notify the inmates of the availability of the petitioning process. The board must complete its reviews by October 1, 1993. The judges must complete their reviews within six months of receiving the board's recommendation. The board must solicit input from the

prosecuting attorneys of the counties where the inmates were convicted and may accept input from other interested parties. The court must consider any other recommendations and evidence pertinent to the issue.

Substitute Bill Compared to Original Bill: The substitute makes technical corrections.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill contains an emergency clause and takes effect immediately.

Testimony For: The bill is fair and just, and will give offenders the opportunity to seek review of their sentences under a provision that applies to offenders convicted under current law.

Testimony Against: None.

Witnesses: Representative Betty Sue Morris, prime sponsor; Representative June Leonard, sponsor; Kit Bail, Indeterminate Sentence Review Board and Sentencing Guidelines Commission; Merril Cousin, Washington State Coalition Against Domestic Violence; Deborah Senn, Northwest Women's Law Center; Mary Carroll, citizen; Mary Smith, citizen, Diana Nelson, citizen; Robert Jones, Washington Defenders Association and Washington Association of Criminal Defense Lawyers; Delia Alaniz, citizen; Rebecca Voelker, Delia Alaniz Defense Committee; Jean and Larry Sutton, citizens; Virginia Faller, attorney; and Lonnie Johns-Brown, National Organization for Women (all in favor).