

SENATE BILL REPORT

SHB 2703

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 27, 1992

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

SPONSORS: House Committee on Judiciary (originally sponsored by 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)

HOUSE COMMITTEE ON JUDICIARY

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; M. Kreidler, Madsen, Rasmussen, and A. Smith.

Staff: Susan Carlson (786-7418)

Hearing Dates: February 26, 1992; February 27, 1992

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 defendants convicted of murder 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.

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:

Convicted murderers may apply for retroactive application of the mitigating factor to have their sentences reduced. The petitioner must allege that the murder was committed 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 for review by writing a letter to the Indeterminate Sentence Review Board. 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.

Appropriation: none

Revenue: none

Fiscal Note: available

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

SUMMARY OF PROPOSED SENATE AMENDMENT:

Section 6, which requires the Department of Corrections to notify inmates about the review process established by the bill, is deleted.

TESTIMONY FOR:

The bill is a fair and reasonable effort to apply a mitigating factor added to the Sentencing Reform Act in 1989 to a small number of murder convictions which occurred prior to 1989 and which could have resulted in reduced sentences if this mitigating factor had been available.

TESTIMONY AGAINST: None

TESTIFIED: PRO: Representative Betty Sue Morris, prime sponsor; Kit Bail, Chair, Indeterminate Sentence Review Board and Vice Chair, Sentencing Guidelines Commission; Deborah Senn, Northwest Women's Law Center; Mary Carol