

SENATE BILL REPORT

ESSB 6104

AS PASSED SENATE, FEBRUARY 10, 1992

Brief Description: Creating the crime of assault on a child.

SPONSORS: Senate Committee on Law & Justice (originally sponsored by Senators Nelson, Rasmussen, Thorsness, Hayner, Sellar, A. Smith and Erwin)

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6104 be substituted therefor, and the substitute bill do pass.

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

Staff: Jon Carlson (786-7459)

Hearing Dates: January 28, 1992; January 29, 1992

HOUSE COMMITTEE ON JUDICIARY

BACKGROUND:

Under current sentencing guidelines provisions, a person convicted of second degree assault is subject to a jail sentence of three to nine months (assuming that the person does not have any prior convictions). Although present law draws distinctions between children and adults with respect to the crimes of rape and homicide, the statutes do not differentiate between assault of an adult and assault of a child. Given the particular vulnerability of young victims, it has been suggested that a child assault statute be created which enhances penalties and addresses concerns arising from a perpetrator's ongoing abuse of a child.

SUMMARY:

A new crime of assault of a child is created. This crime applies to assaults when the victim is under 13 years of age and the perpetrator is 18 years of age or older.

A person is guilty of assault of a child in the first degree if he or she intentionally assaults the child and either: 1) recklessly inflicts great bodily harm; or 2) causes substantial bodily harm after a) previously engaging in a pattern or practice of assaulting the child, or b) previously physically inflicting, on a regular basis, extreme pain on the child. A violation of this provision is a class A felony.

A person is guilty of assault of a child in the second degree if he or she intentionally assaults a child causing bodily harm that is greater than transient pain or minor temporary

marks, after 1) previously engaging in the pattern or practice of assaulting the child, or 2) previously physically inflicting, on a regular basis, extreme pain on the child. A violation of this provision is a class B felony.

A person is guilty of assault of a child in the third degree if he or she 1) with criminal negligence, causes bodily harm that is greater than transient pain or minor temporary marks; or 2) intentionally assaults the child and causes bodily harm that is greater than transient pain or minor temporary marks. A violation of this provision is a class C felony.

The Sentencing Grid is amended to reflect the seriousness levels for the crime of assault of a child. Assault of a child in the first degree is a level XII, assault of a child in the second degree is level IX, and assault of a child in the third degree is level IV.

The crime of assault of a child also allows the prosecutor the discretion to charge for child assault under the existing assault statutes.

Other criminal statutes are amended to include assault of a child where appropriate.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The imposition of stiff sentences for assault of a child is needed given the particular vulnerability of young victims.

TESTIMONY AGAINST: None

TESTIFIED: Seth Dawson, Snohomish County Prosecuting Attorney (pro); Terri Amrhein, Tennis Shoe Brigade (pro); Stephanie Carter, Washington Association of Prosecuting Attorneys (pro)

HOUSE AMENDMENT(S):

Assault of a child in the first and second degrees is amended to provide that the previously inflicted assaults must result in bodily harm that is more than transient pain or minor temporary marks, and the "pain" inflicted must be physical. Assault of a child in the first and second degrees includes situations when the adult has previously engaged in a pattern or practice of causing the child physical pain or agony equivalent to that produced by torture.

Assault of a child in the third degree is committed if the adult commits third degree assault under current law.