

SSB 6274 - H AMD TO H COMM AMD (6274-S AMH APP H5354.1) **410 ADOPTED**
3-1-96

By Representatives Sterk and Robertson

On page 35, line 7, after "offenses." insert the following material:

"Sec. 14. RCW 9.95.062 and 1989 c 276 s 1 are each amended to read as follows:

(1) Notwithstanding CrR 3.2 or RAP 7.2, an appeal by a defendant in a criminal action shall not stay the execution of the judgment of conviction, if the court determines by a preponderance of the evidence that:

(a) The defendant is likely to flee or to pose a danger to the safety of any other person or the community if the judgment is stayed; or

(b) The delay resulting from the stay will unduly diminish the deterrent effect of the punishment; or

(c) A stay of the judgment will cause unreasonable trauma to the victims of the crime or their families; or

(d) The defendant has not undertaken to the extent of the defendant's financial ability to pay the financial obligations under the judgment or has not posted an adequate performance bond to assure payment.

(2) An appeal by a defendant convicted of one of the following offenses shall not stay execution of the judgment of conviction: Rape in the first or second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the first, second, or third degree (RCW 9A.44.073, 9A.44.076, and 9A.44.079); child molestation in the first, second, or third degree (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a minor in the first or second degree (RCW 9A.44.093 and 9A.44.096); indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW 9A.40.090); any class A or B felony that is a sexually motivated

1 offense as defined in RCW 9.94A.030; a felony violation of RCW
2 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
3 attempt, solicitation, or conspiracy to commit one of those offenses.

4 (3) In case the defendant has been convicted of a felony, and has
5 been unable to obtain release pending the appeal by posting an appeal
6 bond, cash, adequate security, release on personal recognizance, or any
7 other conditions imposed by the court, the time the defendant has been
8 imprisoned pending the appeal shall be deducted from the term for which
9 the defendant was sentenced, if the judgment is affirmed.

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11 **Sec. 15.** RCW 10.64.025 and 1989 c 276 s 2 are each amended to read
12 as follows:

13 (1) A defendant who has been found guilty of a felony and is
14 awaiting sentencing shall be detained unless the court finds by clear
15 and convincing evidence that the defendant is not likely to flee or to
16 pose a danger to the safety of any other person or the community if
17 released. Any bail bond that was posted on behalf of a defendant
18 shall, upon the defendant's conviction, be exonerated.

19 (2) A defendant who has been found guilty of one of the following
20 offenses shall be detained pending sentencing: Rape in the first or
21 second degree (RCW 9A.44.040 and 9A.44.050); rape of a child in the
22 first, second, or third degree (RCW 9A.44.073, 9A.44.076, and
23 9A.44.079); child molestation in the first, second, or third degree
24 (RCW 9A.44.083, 9A.44.086, and 9A.44.089); sexual misconduct with a
25 minor in the first or second degree (RCW 9A.44.093 and 9A.44.096);
26 indecent liberties (RCW 9A.44.100); incest (RCW 9A.64.020); luring (RCW
27 9A.40.090); any class A or B felony that is a sexually motivated
28 offense as defined in RCW 9.94A.030; a felony violation of RCW
29 9.68A.090; or any offense that is, under chapter 9A.28 RCW, a criminal
30 attempt, solicitation, or conspiracy to commit one of those offenses."
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32 Renumber remaining sections, correct internal references, and
33 correct the title accordingly.

34
35 **EFFECT:** Provides that defendant convicted of certain
36 offenses must be detained following conviction while pending
37 sentencing.
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