

# SENATE BILL REPORT

## ESHB 2400

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As of March 9, 2004

**Title:** An act relating to sentence enhancement for sex crimes against minors.

**Brief Description:** Strengthening sentences for sex offenders.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives McMahan, Carrell, Mielke, Talcott, Crouse, Bush, Ahern, Newhouse, G. Simpson, Woods and Orcutt).

**Brief History:**

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**Staff:** Fara Daun (786-7459)

**Background:** Under current law, sex offenders convicted of rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion or one of several of class A felonies with sexual motivation and who are not persistent offenders are subject to a life sentence under a determinate plus sentencing structure. Determinate plus sentencing uses both a minimum and a maximum sentence. The minimum sentence is the sentence the offender would receive either on the sentencing grid or based on an exceptional sentence, if those conditions apply. The maximum sentence is the statutory maximum sentence. For class A felonies, including all the offenses listed in this paragraph, the statutory maximum sentence is life. If, at the end of the minimum sentence the offender is found more likely than not to commit new sex offenses, the offender is not released from prison. If the offender is released, he or she is subject to lifetime supervision with release conditions and his or her release may be revoked upon a serious violation.

The Special Sex Offender Sentencing Alternative (SSOSA) is a sentencing alternative available to first time sex offenders other than those convicted of rape in the first or second degree. If an offender is both eligible, and evaluated to be amenable to treatment, the court may, but is not required to impose a SSOSA sentence. Under the sentencing alternative, the normal sentence is suspended and the court imposes both a term of confinement up to six months and a treatment requirement of up to three years. There is a review prior to the end of the treatment period and the court may order an evaluation of the offender, at the offender's expense. The court may revoke the SSOSA sentence and impose the suspended sentence, including determinate plus sentences with a maximum of life.

**Summary of Bill:** The intent of the Legislature that the most serious sex offenses, including, but not limited to, rape and rape of a child in the first and second degree, child molestation in the first degree, and indecent liberties with forcible compulsion be subject to life sentences is reiterated and the statutory sections that create determinate-plus sentencing and seriousness levels are reenacted without amendment.

The special sex offender sentencing alternative (SSOSA) is amended. The following additional offenders are not eligible for SSOSA: offenders who have an adult conviction for a violent offense in the last five years; offenders who cause substantial bodily harm to the victim; and offenders who do not have an established relationship with the victim before the crime. The evaluator must recommend and the court must impose crime related prohibitions and affirmative conditions on the offender that relate to the offender's cycle of offense. The court must consider whether the alternative is too lenient for the crime, whether there are additional victims, whether the offender is amenable to treatment, and the risk to the community, victim or similar victims. An admission to the offense, by itself, does not constitute amenability to treatment.

The court must give great weight to victim's opinions whether SSOSA should be imposed and enter written findings stating reasons if SSOSA is imposed over the victim's objections. The court must impose a term of confinement of up to 12 months which is not subject to earned release, but may be served in partial confinement. The court may impose longer than 12 months if there is an aggravating factor. The court may impose up to five years of treatment which may be extended in two-year increments. The court must conduct an annual hearing on the offender's progress in treatment. The victim must have notice and the opportunity to be heard regarding the offender's supervision and treatment. Conditions of the sentence may be changed or the SSOSA may be revoked. Upon a second violation of a condition related to the offender's treatment cycle, the Department of Corrections must refer the offender to the court for a revocation hearing.

Unless the court finds, in writing, that it is in the best interest of the victim and that successful treatment is otherwise impractical, the treatment provider and evaluators may not be the same person or persons connected by employment or profit sharing.

The Washington State Institute for Public Policy must conduct a comprehensive analysis and evaluation of sex offender sentencing policies in Washington, including SSOSA, risk levels, and the prison treatment. The study will also include a victim results component. The institute must report to the appropriate standing committees of the Legislature by December 31, 2004.

The Sentencing Guidelines Commission must review sentencing policy for sex offenders, including SSOSA policy, to determine whether modifications need to be made and report to the appropriate standing committees of the Legislature by December 31, 2004.

**Appropriation:** None.

**Fiscal Note:** Requested on March 5, 2004.

**Effective Date:** The bill takes effect on July 1, 2005.