

HOUSE BILL REPORT

HB 2715

As Reported by House Committee On:
Public Safety & Emergency Preparedness

Title: An act relating to enhancing the penalty for sex offenses committed in a school protection zone.

Brief Description: Enhancing the penalty for sex offenses committed in a school protection zone.

Sponsors: Representatives Barlow, Hurst, Lantz, Upthegrove, Conway, Morrell, Miloscia, Kenney, Williams, Loomis, Haigh, Simpson, VanDeWege and Kelley.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/24/08, 1/30/08 [DPS].

Brief Summary of Substitute Bill

- Creates a sentencing enhancement for sex offenses committed in a school protection zone.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Hurst, Vice Chair; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern, Goodman and Kirby.

Staff: Jim Morishima (786-7191).

Background:

Felony offenders are generally sentenced to a term of confinement within a standard range, which is determined using a grid with the offender's criminal history on the horizontal axis and the seriousness level of the offense on the vertical axis. Under certain circumstances, the court is required to add a period of time to the offender's standard range. For example, a court must add five years to the standard sentence range for a class A felony convicted with a

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firearm. Similarly, the court is required to add two years to the standard range for a felony committed with sexual motivation.

An offender's term of confinement may not exceed the statutory maximum for the offense: life for class A felonies; 10 years for class B felonies; and five years for class C felonies. Similarly, an offender's fine may not exceed \$50,000 for class A felonies; \$20,000 for class B felonies; and \$10,000 for class C felonies.

Summary of Substitute Bill:

A court must add two years to the standard range for a sex offense committed in a school protection zone. The two years is mandatory, must be served in total confinement, and must run consecutively to all other sentencing provisions. The two years may not be reduced by earned release time. If the enhancement causes the standard range to exceed the statutory maximum for the offense, the statutory maximum is the presumptive sentence for the offense; the portion of the sentence representing the enhancement may not be reduced. In addition, the statutory maximum and the maximum allowable fine for a sex offense committed in a school zone is doubled.

A school protection zone is defined as the area:

- inside a public or private school;
- inside a school bus;
- within 1,000 feet of a school bus stop; or
- within 1,000 feet of the grounds of a public or private school.

A process is established for determining whether a sex offense was committed in a school protection zone. In a prosecution for a sex offense, the prosecuting attorney may file a special allegation that the offense was committed in a school zone if the prosecutor feels there is sufficient evidence to support such an allegation. The prosecutor has the burden of proving the special allegation to a jury (or to a judge if a jury is waived). The prosecutor may not withdraw the special allegation without the permission of the court.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the two-year enhancement may not be reduced by earned release.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is necessary to better protect students in schools and in areas related to schools. Sex offenses have a terrible effect on children, not just at the time of the offense, but far into the future as well. Children naturally congregate at schools, which often serve as community hubs. Children are often victimized by sex offenders on their way to and from school. This bill does not seek to punish sex offenders more severely for past mistakes, but punishes offenders more severely for crimes they commit in the future.

(Opposed) Washington currently has school zone enhancements for drug offenses because the fact that a child was the victim is not an element of these crimes. This is not true for sex offenses; the fact that the child is the victim is already figured into the punishment for many sex offenses. There are few areas in urban areas that are not in a school zone. The breadth of the zones created in this bill will lead to arbitrary enforcement because law enforcement will be able to seek a two-year enhancement for almost any sex offense.

Persons Testifying: (In support) Representative Barlow, prime sponsor; and Bethan Tuttle and Kim Brown, Washington Communities Against Predators.

(Opposed) Amy Muth, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

Persons Signed In To Testify But Not Testifying: None.