

SENATE BILL REPORT

SHB 1343

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, MARCH 30, 1993

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

SPONSORS: House Committee on Corrections (originally sponsored by Representatives Morris, Ballasiotes, Brough, Leonard, Heavey, Scott, G. Cole, R. Fisher, Kremen, Long, Rust, Carlson, Veloria, Dellwo, Karahalios, Wang, Grant, Jones, Wolfe, Franklin, Forner, Jacobsen, Appelwick, Campbell, H. Myers, Kessler, Springer, Miller, Locke, Roland, Valle, Basich, Wood, Quall, King, Johanson, Hansen, L. Johnson, Ogden, J. Kohl, Wineberry and Anderson)

HOUSE COMMITTEE ON CORRECTIONS

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Roach, and Spanel.

Staff: Susan Carlson (786-7418)

Hearing Dates: March 29, 1993; March 30, 1993

BACKGROUND:

The Sentencing Reform Act (SRA) requires judges to sentence within the standard range for the offense unless the court finds mitigating or aggravating factors which justify a sentence outside the range. Effective July 23, 1989, a mitigating factor was added to the SRA which provided that the court could sentence below the 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 the abuse.

Some defendants convicted of murder prior to July 23, 1989, may have been able to seek a mitigated sentence if that mitigating factor had been in effect when they committed their crimes.

SUMMARY:

Convicted murderers may apply for retroactive application of the mitigating factor to have their sentences reduced. Petitioners must allege that the murder was committed in response to the victim's continuing pattern of physical or sexual abuse toward the petitioner or the petitioner's children. The petitioner must also allege that the sentencing

court did not consider the mitigating evidence for purposes of establishing the original sentence.

Petitions for reduction of sentences are made to the Indeterminate Sentence Review Board. If the offender is under the board's jurisdiction, the board may reduce the offender's minimum term and set an earlier parole eligibility date. If the offender was sentenced under the Sentencing Reform Act for a murder committed prior to July 23, 1989, the board will review the case and, if appropriate, make a recommendation to the sentencing court for a reduction in the offender's sentence.

In its review, the board must find that the offender would have been eligible for a reduced sentence if the mitigating factor had been available for consideration by the court when the crime was committed.

The board review of petitions submitted by inmates not under their jurisdiction must be completed and recommendations submitted to the sentencing courts by October 1, 1994. The court shall render its decision regarding reducing the inmate's sentence no later than six months after receiving the board's recommendation to reduce the sentence imposed.

The board shall solicit recommendations from the prosecuting attorneys of the counties where the petitioners were convicted, and shall accept input from other interested parties. The court may consider any other recommendations and evidence concerning the issue of whether the defendant committed the crime in response to abuse.

The Department of Corrections is required by July 1, 1993, to advise all inmates convicted of a murder committed prior to July 23, 1989 about the provisions of the act. Inmates may petition the board by letter and must do so by October 1, 1993.

Appropriation: none

Revenue: none

Fiscal Note: available

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

TESTIMONY FOR:

The bill allows consideration of the mitigating factor of abuse of the defendant or the defendant's children in those cases decided prior to July 23, 1989, when this mitigating factor was added to state law.

TESTIMONY AGAINST: None

TESTIFIED: Mike Redman, Washington Assn. of Prosecuting Attorneys;
PRO: Rep. Morris, prime sponsor; Dennis March, Indeterminate

Sentence Review Board; Joleen Kobe, citizen; Barbara Schnell,
American Association of Retired Persons; Mary Carroll, citizen