

# HOUSE BILL REPORT

## HB 2701

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**As Reported by House Committee On:**  
Criminal Justice & Corrections

**Title:** An act relating to assault of a child in the second degree.

**Brief Description:** Including assault of a child in the second degree in the list of two-strike offenses.

**Sponsors:** Representatives O'Brien, Pearson, Ericks, Rodne, Nixon, Kilmer, Green, Sells, McDonald, McCoy, Simpson, Moeller, Morrell, Lantz, Linville and Hudgins; by request of Attorney General.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 1/26/06, 1/31/06 [DPS].

**Brief Summary of Substitute Bill**

- Adds Assault of a Child in the second degree with sexual motivation to the list of "two-strikes" offenses.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

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

**Staff:** Jim Morishima (786-7191).

**Background:**

I. Assault of a Child in the Second Degree with Sexual Motivation

A person commits Assault of a Child in the second degree with sexual motivation if he or she, with sexual motivation:

- commits assault in the second degree against a child under 13; or
- intentionally assaults a child under 13, causes bodily harm to the child, and has previously engaged in a pattern or practice of abuse of the child.

II. Two-Strikes

In 1996, the Legislature passed SHB 2320, otherwise known as the "two-strikes" law, which imposed a life sentence upon certain repeat sex offenders. Under SHB 2320, an offender convicted of a second "two-strikes" offense must be sentenced to life in prison without the possibility of release.

Offenses that are strikes under the two-strikes law include:

- Child Molestation in the first degree;
- Indecent Liberties (with forcible compulsion);
- Rape in the first degree;
- Rape in the second degree;
- Rape of a Child (statutory rape) in the first degree; and
- Rape of a Child (statutory rape) in the second degree.
- Any of the following crimes if committed with sexual motivation:
  - Assault in the first degree;
  - Assault in the second degree;
  - Assault of a Child in the first degree;
  - Burglary in the first degree;
  - Homicide by abuse;
  - Kidnapping in the first degree;
  - Kidnapping in the second degree;
  - Murder in the first degree; and
  - Murder in the second degree.

## II. Determinate-Plus Sentencing

An offender convicted of a two-strikes offense is subject to "determinate-plus" sentencing. A court must sentence such an offender to a minimum term and a maximum term. The minimum term is generally equal to the standard range sentence. The maximum term, for a "two-strikes" offense is life.

The Indeterminate Sentence Review Board (ISRB) must evaluate the offender prior to the expiration of the minimum term. The ISRB must order the release of the offender upon expiration of the minimum term unless the offender is likelier than not to commit a sex offense if released. If the ISRB does not release the offender, it must re-evaluate the offender at least once every two years up to the offenders maximum term. If the ISRB releases the offender, the offender will be on community custody status for the remainder of his or her maximum term.

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### **Summary of Substitute Bill:**

Assault of a Child in the second degree with sexual motivation is added to the list of "two-strikes" offenses. The crime is also made a class A felony and a "determinate-plus" offense, just like all other two-strikes offenses.

### **Substitute Bill Compared to Original Bill:**

Assault of a Child in the second degree with sexual motivation is made a class A felony and a "determinate-plus" offense, just like all other two-strike offenses.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect on July 1, 2006.

**Testimony For:** This bill closes a loophole. Under the current law, it is a strike to commit Assault in the second degree against an adult, but not against a child. This bill was drafted as a result of input from prosecutors and law enforcement.

**Testimony Against:** None.

**Persons Testifying:** Todd Bowers, Office of the Attorney General.

**Persons Signed In To Testify But Not Testifying:** None.