

HOUSE BILL REPORT

HB 2571

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

Title: An act relating to the definition of predatory.

Brief Description: Changing the definition of predatory.

Sponsors: Representative Appleton.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/20/10, 1/22/10 [DPS].

Brief Summary of Substitute Bill

- Modifies the definition of "predatory" for the purposes of sex offender sentencing to include perpetrators in home-based instruction.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman, Kirby and Ross.

Staff: Alexa Silver (786-7190).

Background:

The term "predatory" is defined in the Sentencing Reform Act to mean any of the following:

1. the perpetrator was a stranger to the victim;
2. the perpetrator established a relationship with the victim, and a significant reason for doing so was the victimization of the victim; or
3. the perpetrator was a:
 - a. teacher, counselor, volunteer, or other person of authority in a public or private school where the victim was a student under the perpetrator's authority;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- b. coach, trainer, volunteer, or other person of authority in a recreational activity in which the victim participated and was under the perpetrator's authority; or
- c. pastor, elder, volunteer, or other person of authority in a church or religious organization where the victim was a participant under the perpetrator's authority.

For purposes of perpetrators in schools, home-based instruction is excluded.

In a prosecution for rape of a child in the first degree, rape of a child in the second degree, or child molestation in the first degree, when there is sufficient admissible evidence that the offense was predatory, the prosecutor must file a special allegation. The prosecutor has the burden to prove beyond a reasonable doubt that the offense was predatory. If the offense is found to be predatory, the court must impose a higher minimum sentence on the offender. The minimum term imposed for a predatory offense is the greater of 25 years or the maximum term in the standard sentence range.

Summary of Substitute Bill:

For purposes of perpetrators in schools, the definition of "predatory" includes home-based instruction.

Substitute Bill Compared to Original Bill:

The original bill excluded from the definition of "predatory" a perpetrator who was a: coach, trainer, volunteer, or other person of authority in a recreational activity in which the victim participated and was under the perpetrator's authority; or pastor, elder, volunteer, or other person of authority in a church or religious organization where the victim was a participant under the perpetrator's authority. The substitute bill includes those classes of perpetrators in the definition of "predatory."

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(With concerns on original bill, in support of substitute bill) Excluding coaches and the clergy was a drafting mistake that should be corrected. Based on this clarification, the substitute bill is supported.

(Opposed) None.

Persons Testifying: Representative Appleton, prime sponsor; Lonnie Johns-Brown, Washington Coalition of Sexual Assault Programs; and Maureen Fitzgerald, Children's Advocacy Centers of Washington.

Persons Signed In To Testify But Not Testifying: None.