

SENATE BILL REPORT

SB 5538

As Passed Senate, March 16, 1999

Title: An act relating to sentencing for certain criminal acts.

Brief Description: Clarifying sentencing requirements for certain crimes.

Sponsors: Senators Costa, McCaslin, Heavey, Goings and Rasmussen.

Brief History:

Committee Activity: Judiciary: 2/12/99, 2/22/99 [DP-WM].

Ways & Means: 3/1/99, 3/2/99 [DP].

Passed Senate, 3/16/99, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Heavey, Chair; Kline, Vice Chair; Costa, Goings, Haugen, Long, McCaslin and Thibaudeau.

Staff: Harry Steinmetz (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Loveland, Chair; Fraser, Honeyford, Kline, Kohl-Welles, Long, McDonald, Rasmussen, Rossi, B. Sheldon, Snyder, Spanel, Thibaudeau, West, Winsley, Wojahn and Zarelli.

Staff: Bryon Moore (786-7726)

Background: In 1997 the Legislature directed the Sentencing Guidelines Commission to review conviction data for the previous ten years and to submit a proposed bill that appropriately ranks unranked felony offenses for which there had been convictions during the period studied.

"Unranked" felonies are those offenses that are not listed in the table of crimes included within each seriousness level in RCW 9.94A.320 and are not considered within the felony sentencing grid. The standard range for an unranked felony is 0-12 months, irrespective of the offender's criminal history.

The seriousness level is one axis of the sentencing grid; the other axis is the offender score. The sentence is determined by finding the intersection of the seriousness level of the crime and the offender score. There are 15 levels of seriousness for felonies.

Summary of Bill: The seriousness levels are amended to include the following crimes:

Level VII « Use of a Machine Gun in Commission of a Felony

Level V « Stalking

No-Contact Order Violation: Domestic Violence Pretrial Condition

No-Contact Order Violation: Domestic Violence Sentence Condition

Protection Order Violation: Domestic Violence Civil Action

Level IV « Indecent Exposure to Person Under Age 14 (subsequent sex offense)

Level III « Maintaining a Dwelling or Place for Controlled Substances

Malicious Injury to Railroad Property

Possession of an Incendiary Device

Possession of Machine Gun or Short-Barreled Shotgun or Rifle

Telephone Harassment

Unlawful Use of Building for Drug Purposes

Two theft crimes have their designations modified to make them easier to find.

Malicious Injury to Railroad Property and Possession of an Incendiary Device are modified to reduce the maximum sentence from 25 to 10 years. This makes the crimes a class B felony and removes them from the "most serious offense" definition. These crimes are no longer a "strike."

The Code Reviser is required to alphabetize the offenses in the seriousness levels to make them easier to locate. An emergency clause is included to assure the legislation takes effect by July 1, 1999.

Appropriation: None.

Fiscal Note: Available.

Effective Date: July 1, 1999.

Testimony For: This bill would rank in the sentencing grid on the seriousness scale felonies that are currently unranked. An unranked felony has a standard range of 0 to 12 months. Sentencing a person convicted of an unranked felony to prison requires an exceptional sentence with a written explanation. Additionally, the unranked felonies do not mandate any DOC supervision. This bill passed the House in 1998, but did not make it out of the Senate committee. This bill is the product of a 1997 legislative directive. This is an important and appropriate change in dealing with these crimes.

Testimony Against: None.

Testified: Judge Brian Gain, Sentencing Guidelines Commission; Judge Tom Felnagle, Sentencing Guidelines Commission; Russ Haugen, WPA; Roy Carson, Washington State Coalition Against Domestic Violence.