

HOUSE BILL REPORT

HB 1178

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to sentencing requirements for nonviolent offenders who violate drug laws.

Brief Description: Creating sentencing guidelines for the sale of various amounts of controlled substances.

Sponsors: Representatives Quall and Wolfe; by request of Governor Lowry.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/31/97, 2/14/97, 2/26/97 [DPS].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Ballasiotes, Chairman; Koster, Vice Chairman; O'Brien, Assistant Ranking Minority Member; Blalock; Cairnes; Delvin; Dickerson; Hickel and Sullivan.

Minority Report: Do not pass. Signed by 3 members: Representatives Benson, Vice Chairman; Mitchell and Robertson.

Staff: Yvonne Walker (786-7841).

Background: Crime Seriousness Level. Under the Sentencing Reform Act an offender convicted of a felony has a standard sentence range based on considering the offender's prior convictions and seriousness of the offense.

Every crime is put into one of 15 levels depending on the seriousness of the offense. Manufacturing or delivery or possession with intent to deliver certain narcotics, with the exception of heroin or cocaine, is a level VI offense. Heroin and cocaine fall into the level VIII offense category.

Drug Offender Sentencing Alternative. The Drug Offender Sentencing Alternative (DOSA) allows a judge to waive imposition of an offender's sentence within the standard range and impose a sentence that must include confinement in a state facility for one-half

of the midpoint of the standard range. While in confinement the offender must complete a substance abuse assessment and receive substance abuse treatment and counseling. The court must also impose one year of community supervision, which must include appropriate outpatient substance treatment and crime-related prohibitions.

A first-time offender convicted of a drug offense may be eligible for the DOSA if the current offense only involved a small quantity of drugs as determined by the court. An offender is prohibited to participate in this program if the offender has any prior convictions for a felony.

Work Ethic Camp. The work ethic camp is an alternative sentencing program that consists of at least 120 days and no more than 180 days of confinement, including a two-week period of transition training. This program allows a successful offender completing the program to convert the period of work ethic camp confinement at the rate of one day of work ethic camp confinement to three days of total standard confinement.

Although some drug offenders, after special review of their circumstances, are eligible for the work ethic camp, an offender with prior convictions for any sex offenses or violent offenses is not eligible to participate in this particular program. An offender participating in a work ethic camp must be referred by the court and have received a sentencing term of total confinement ranging from a minimum of 16 months to a maximum of 36 months.

Summary of Substitute Bill: Joint Review Committee. A joint legislative committee is created to review adult criminal justice sentencing options available for drug offenders who possess or sell controlled substances and offenders who may be chemically dependent.

In conducting the review, the committee must meet with representatives from local law enforcement agencies, judges, defense attorneys, prosecutors, representatives from the Department of Corrections, representatives from the Juvenile Rehabilitation Administration, and representatives from the state and county drug and alcohol substance abuse and treatment programs, and the committee must solicit the views and technical assistance of substance abuse experts in corrections disciplines.

Membership. The committee will consist of 12 members. The Speaker of the House and the President of the Senate will each appoint six members to the committee. There must be three members from each of the caucuses of the House of Representatives, of whom three members must be from the House Law and Justice Committee and the House Criminal Justice and Corrections Committee. In addition, there must be three members from each of the caucuses of the Senate, of whom three members must be from the Senate Law and Justice Committee and the Senate Human Services and Corrections Committee.

Final Report. The committee's final report and recommendations for legislation must be submitted to the Legislature by December 31, 1997.

Substitute Bill Compared to Original Bill: The substitute bill eliminates the three drug offenses which were established in the underlying bill, as well as the provisions relating to eligibility participation in the special DOSA and the work ethic camp.

The substitute bill creates a 12 member legislative committee to review adult criminal justice sentencing options available for drug offenders who possess or sell controlled substances and offenders who may be chemically dependent.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: None.

Testimony Against: This bill will prosecute drug dealers based upon the quantity of drugs they have in their possession. Experienced and intelligent drug dealers who read or hear about this bill will begin carrying only the minimum amount of drugs because they know their sentence will be leaner. Those adult dealers, in turn, will have under-aged youth carry or deliver the larger amounts of narcotics for them.

Testified: Eldon Vail, Department of Corrections; John Ladenburg, Washington Association of Prosecuting Attorneys (con); and Tom McBride, Washington Association of Prosecuting Attorneys (con).