

HOUSE BILL REPORT

ESHB 1214

As Passed House

March 11, 1997

Title: An act relating to sentencing.

Brief Description: Revising sentencing provisions.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Costa, Ballasiotes, Radcliff, O'Brien, Sheahan, Cody, Lantz, Dickerson and Conway).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/29/97, 2/5/97 [DPS].

Floor Activity:

Passed House: 3/11/97, 97-0.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Blalock; Delvin; Dickerson; Hickel; Mitchell; Robertson and Sullivan.

Staff: Pat Shelledy (786-7149).

Background: Manslaughter in the first degree is committed when a person recklessly causes the death of another person. Manslaughter in the first degree is a class B felony which carries a maximum penalty of 10 years in prison, a \$20,000 fine, or both.

Under the Sentencing Reform Act, manslaughter in the first degree is ranked at seriousness level IX. An offender who does not have any criminal history has a presumptive standard range of 31- 41 months in prison. The actual sentence a particular offender receives depends on the offender's prior criminal history and other current charges.

Manslaughter in the first degree is not among a list of crimes that are considered to be serious violent offenses.— The serious violent offense category includes murder in the first and second degree, homicide by abuse, assault in the first degree,

kidnaping in the first degree, rape in the first degree, assault of a child in the first degree, or an attempt to commit any of those offenses. Special sentencing and supervision rules apply to serious violent offenses which may result in imposition of harsher penalties for offenders who commit them or who have them in their criminal history.

Manslaughter in the second degree is committed when a person causes the death of another person through criminal negligence. Manslaughter in the second degree is a class C felony, which carries a maximum penalty of five years in prison, a \$10,000 fine, or both. Manslaughter in the second degree is ranked at seriousness level VI on the Sentencing Reform Act grid. A first-time offender's presumptive range is one year to 14 months in prison. Again, the actual range is determined by considering the offender's prior criminal history and other current offenses.

Murder in the first degree may be committed in a variety of ways. One way is premeditated intent to commit murder. Murder in the second degree can be committed by intending to commit murder but without premeditation. In some factual cases, the difference between the two mental states can be slight.

Murder in the first degree has a seriousness level of XIV on the grid. Murder in the second degree's seriousness level is one below that at level XIII. However, the top end of the standard ranges for murder in the second degree are several months below the bottom end of the standard ranges for murder in the first degree. For example, the standard range for an offender convicted of murder in the second degree who does not have a prior criminal history is 123-164 months in prison. In contrast, the range is 240-320 months for an offender convicted of murder in the first degree if the offender does not have a prior criminal history.

The Sentencing Reform Act rules require that when establishing presumptive ranges, the minimum term of confinement must be no less than 75 percent of the maximum term.

Summary of Bill: The Sentencing Reform Act rules require that when establishing presumptive ranges, the minimum term of confinement must be no less than 75 percent of the maximum term.

Manslaughter in the first degree is added to the list of serious violent offenses.— The seriousness level is raised from level IX to level XI which means the presumptive sentence ranges are increased. For example, a first time offender's presumptive range is 78-102 months in prison. The classification of the crime is increased from class B to class A, which means the statutory maximum penalty that may be imposed is life in prison.

The seriousness level of manslaughter in the second degree is raised from level VI to level VIII. This means the presumptive standard ranges are increased. For example, a first time offender's presumptive range is 21-27 months in prison. The classification of the crime is changed from a class C to a class B felony.

The presumptive standard range for murder in the second degree is expanded so that the top end of the range is almost at the bottom of the range for murder in the first degree. For example, for an offender without any prior felony criminal history, the range is 123 to 220 months compared to the range for murder in the first degree which is 240 to 320 months. The ranges change across all the presumptive sentence ranges for offenders with various criminal histories. The rule that requires the minimum term of a presumptive range be no less than 75 percent of the maximum term does not apply to the range for murder in the second degree. Instead, the minimum term must be no less than 50 percent of the maximum term.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Manslaughter is often charged when the state cannot prove the mental state for a more serious crime but can prove all the other elements. The penalty is too low especially when the defendant's conduct that precipitated the death indicates the defendant's willingness to kill the victim. Survivors of victims of manslaughter do not understand the subtle nuances of the differences between murder and manslaughter; they just know that the penalties are very different.

Testimony Against: Manslaughter has a lower penalty because the people that are convicted of it are less culpable under our laws than people who intentionally kill another human being. Raising the penalties will discourage filing accurate charges and will encourage plea bargaining. It also exacerbates the differences in penalties between the different ways of killing someone, such as the different penalties for vehicular homicide versus manslaughter.

Testified: Jenny Wieland, Mothers Against Violence in America and the Washington Coalition of Crime Victim Advocates (pro); Joan Guenther, Washington Coalition of Crime Victim Advocates (pro); Russ Hauge, Washington Association of Prosecuting Attorneys (pro); Lew Cox, Violent Crime Victim Services (pro); and Jeff Ellis, Washington Defender Association and Washington Association of Criminal Defense Lawyers (con).