

HOUSE BILL REPORT

SSB 6182

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to the effect of changes in law on sentencing provisions.

Brief Description: Specifying the effect that changes in law will have on sentencing provisions.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators McCaslin and Costa).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/23/00 [DP].

Brief Summary of Substitute Bill

- Requires that a sentence imposed under the Sentencing Reform Act (SRA) be calculated according to the law in effect at the time the offense is committed.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Jean Ann Quinn (786-7310).

Background:

Under the SRA, an offender's sentence is determined according to the seriousness level of the crime and the offender's criminal history or prior conviction. In 1990, the Legislature amended the rules for counting prior convictions by providing that prior felony sex convictions are always to be included in the offender score. In other words, these convictions do not "wash out" after a specified amount of time spent crime-free in the community as do other class B and C felony convictions.

In *State v. Cruz*, 139 Wash. 2d 186 (1999), the Washington Supreme Court held that the 1990 change applies prospectively only. Thus, previously washed out convictions were not revived by the 1990 amendment and cannot be counted in the offender score.

Summary of Bill:

Any sentence imposed under the SRA must be determined using the law in effect at the time the offense for which the offender is being sentenced was committed.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The purpose of the Community Protection Act was to increase public protection against sex offenders. One of the provisions of the act required that prior sex offenses would always count for the purpose of calculating the offender's sentence. However, the Supreme Court's decision limits this. By interpreting the law prospectively only, the court washed out the crime that would have made the offender eligible for sentencing under the "three strikes" law. Other washout rules are also impacted, for example, rules for juvenile offenses, and new sentencing provisions such as the Drug Offender Sentencing Alternative. The bill would establish a single clear date so that it will be unnecessary to go back through an offender's criminal history to figure out what law will apply.

Testimony Against: None.

Testified: Senator Bob McClaslin, prime sponsor; and Seth Fine, Washington Association of Prosecuting Attorneys.