

SENATE BILL REPORT

SSB 5376

As Passed Senate, March 11, 1999

Title: An act relating to sentencing of offenders.

Brief Description: Making corrections to sentencing laws.

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

Brief History:

Committee Activity: Judiciary: 3/1/99, 3/3/99 [DPS].
Passed Senate, 3/11/99, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5376 be substituted therefor, and the substitute bill do pass.

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

Staff: Harry Steinmetz (786-7421)

Background: The Sentencing Reform Act created the Sentencing Guidelines Commission to evaluate and make recommendations on criminal sentencing policy. As part of the commission's mandate to evaluate, the commission studies the existing criminal code and makes legislative recommendations.

The Legislature amends the criminal code almost every session. Sometimes those amendments have unintended consequences that frustrate the legislature's intent. When these unintended consequences are identified by the Sentencing Guidelines Commission, technical corrections are recommended. The following unintended consequences have been identified for correction.

1. The 1996 Legislature increased the penalty for distributing methamphetamine to persons under the age of 18, but neglected to amend the seriousness level of the crime in a manner consistent with the increased penalty.
2. The 1997 Legislature passed two bills affecting Seriousness Level XIII and the interaction has created an inconsistency. As a result, a Murder 2 offender with no criminal history could be sentenced to a term much less than a similar offender convicted of Malicious Explosion 2.
3. The 1997 Legislature required kidnappers to register under the sex offender statute. Failure to register is considered a "sex offense;" however, not all kidnappings have

sexual motivations. Thus, a kidnapper who fails to register becomes a "sex offender," despite no sexual motive.

4. The 1997 Legislature added Manslaughter in the First Degree to the category of "serious violent" offenses. The Legislature, however, neglected to add the crime to the statute enumerating the eight "serious violent" crimes for which prior convictions count three points on the offender scale, when the current offense is a "serious violent" offense. Consequently, Manslaughter in the First Degree does not score on the offender scale in the same way as the other enumerated "serious violent" crimes.
5. In 1998, the Legislature amended Vehicular Homicide While Under the Influence (UI) adding a two year enhancement for each prior DUI-related offense and excluding DUI-related convictions from the computation of the offender score. The language had the effect of excluding consideration of prior non-DUI-related serious traffic offenses from the offender score when the present offense is a Vehicular Homicide (UI).
6. The Sentencing Reform Act does not refer to the statutory title for sex offenses prior to July 1, 1976. Consequently, convictions for sex offenses prior to July 1, 1976 may not be considered as part of the offender score when sentencing for a present felony conviction.
7. In 1998, the Legislature clarified how sentences for multiple weapon-related offenses were to be served by excluding any current weapon-related offenses from the calculation of the offender score. The language, however, had the unintended effect of excluding from consideration any current offense when calculating the offender score.

Summary of Bill: Seven technical corrections are made to the criminal code.

1. Distributing methamphetamine to a person under the age of 18 is included in Seriousness Level X and removed from Seriousness Level IX.
2. Murder 2 is designated to Seriousness Level XIV and the two highest seriousness levels are redesignated accordingly.
3. Failure to register as a kidnapper is a felony but not a "sex offense," unless the kidnapping was sexually motivated.
4. The enumerated list of crimes is removed and referred to the entire category of "serious violent" crimes counting three points on the offender scale.
5. When the current offense is Vehicular Homicide (UI), the sentencing statute is amended to allow consideration of serious traffic offenses in the offender score unless those offenses are being used for enhancement purposes.
6. The definition of "sex offense" is amended to include sex offense convictions prior to July 1, 1976.

7. The statute for persons convicted of multiple firearm offenses is amended to allow consideration of any current and prior convictions except other current weapons-related convictions, when calculating the offender score.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: This bill identifies the unintended consequences of previous amendments to the criminal code and recommends corrections.

Testimony Against: None.

Testified: PRO: Roger Goodman, Executive Director of the Sentencing Guidelines Commission.