
Criminal Justice & Corrections Committee

HB 2711

Brief Description: Changing provisions relating to sentencing of offenders.

Sponsors: Representative Sommers; by request of Department of Corrections.

Brief Summary of Bill

- Reduces the seriousness level for the crimes involving the manufacture, delivery, or possession of heroin or cocaine from a level VIII to a level VII.
- Eliminates the triple and double scoring for certain offenders.
- Increases the earned early release time from 33 percent to 50 percent for a number of offenses.

Hearing Date: 2/13/02

Staff: Yvonne Walker (786-7841).

Background:

Heroin and Cocaine Offenses: Generally, under the Uniform Controlled Substance Act, it is illegal for any person to possess, sell, manufacture, or deliver controlled drugs. The crime of manufacturing, delivering, or possessing with intent to deliver heroin or cocaine is a seriousness VIII, class B felony offense. A first time offender convicted of this particular crime generally receives a presumptive range of 21 to 27 months in prison.

Scoring: A person convicted of an offense receives a sentence within the standard range for the offense which, under the Sentencing Reform Act, is calculated using the seriousness level of the current offense and the extent of the offender's criminal history. The number of points an offender receives for current and prior felonies varies according to certain rules.

For example, if the offender is convicted for:

- Any drug offense, three points are added for each adult prior felony drug offense conviction and two points are added for each prior juvenile drug offense; or
- Second degree burglary or residential burglary, an offender receives two points for each

adult prior second degree burglary or residential burglary conviction, and one point for each juvenile prior second burglary or residential burglary conviction.

The effect of receiving an additional point means that the standard sentence range is longer.

Earned Early Release: Under the Sentencing Reform Act, felony offenders receive determinate sentences. A determinate sentence is one where the length of confinement is determined at the time of sentencing; the sentence length generally is not subject to alteration based on events occurring after the sentence is imposed.

The primary exception to this system of determinate sentencing involves the operation of earned early release programs. These programs allow inmates to shorten their sentence length if they display good behavior by participating in work, education, or treatment programs and by not violating prison or jail rules during confinement.

There are limitations on how much a sentence can be reduced through earned early release both within local jails and state prisons. The maximum amount that a sentence can be reduced varies depending on the inmate's offense:

- No more than 15 percent of the sentence may be reduced for any serious violent offenses;
- No more than 15 percent of the sentence may be reduced for class A sex offenses; and
- No more than 33 percent of the sentence may be reduced for all other felonies.

Generally, no more than 33 percent of a sentence may be reduced for a drug offense, an unranked drug offense, or a serious traffic offense.

In the case of a defendant being sentenced for an unranked drug offense (meaning that a sentence range has not been established for the crime), the court must impose a determinate sentence which may include not more than one year of confinement and may also include community service, legal financial obligations, a term or community supervision, and a fine.

Serious traffic offenses include: driving while under the influence of intoxicating liquor or drug, physical control while under the influence of intoxicating liquor or drug, reckless driving, or hit-and-run an attended vehicle.

Summary of Bill:

The scoring process is revised, good time benefits are increased, and incarceration sentences are reduced for certain offenders and applies to sentences imposed on or after July 1, 2002.

Heroin and Cocaine Offenses: Effective July 1, 2002, the seriousness level for an offender convicted of the crime of manufacturing, delivering, or possessing with intent to deliver heroin or cocaine is reduced from a seriousness level VIII to a seriousness level VII felony offense. A first time offender convicted of this particular crime would generally receive a presumptive sentencing range of 15 to 20 months in prison.

Scoring: Triple and double scoring is eliminated for purposes of calculating an offender's

score for a drug offense with the exception of, cases involving the manufacturing of methamphetamine.

Furthermore, in a case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for:

- A manufacturing of methamphetamine offense, an offender receives three points for each adult prior conviction involving "manufacturing of methamphetamine," and two points for each juvenile prior convictions involving a "manufacturing of methamphetamine" offense; or
- Any other drug offense, second degree burglary offense, or residential burglary offense, an offender receives one point for each adult prior felony conviction, one point for each juvenile prior violent felony conviction, and .5 point for each juvenile prior nonviolent felony.

Earned Early Release: The limitations on how much a sentence can be reduced through earned early release credits are increased for jail and prison sentences. The maximum amount that a sentence can be reduced is as follows:

- No more than 50 percent of the sentence may be reduced for an uncategorized offenses;
- No more than 50 percent of the sentence may be reduced for an unranked drug offense or a drug offense that is ranked below a seriousness level X offenses; and
- No more than 50 percent of the sentence may be reduced for any serious traffic offense.

An uncategorized offense is defined as an offense that is not: (1) a drug offense, felony traffic offense, most serious offense, serious traffic offense, sex offense, or violent offense; or (2) a crime against persons. Crimes against persons include such crimes as: aggravated murder, murder, manslaughter, kidnapping, assault, rape, robbery, arson, burglary, extortion, indecent liberties, incest, vehicular homicide, vehicular assault, child molestation, promoting prostitution, intimidating a juror, and communication with a minor.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: The bill takes effect on July 1, 2002.