

# HOUSE BILL REPORT

## HB 1423

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to increasing penalties for manufacturing methamphetamine.

**Brief Description:** Increasing penalties for manufacturing methamphetamine.

**Sponsors:** Representatives Ahern, Pearson, Kristiansen, Sump, Cairnes, McCoy, Mielke, McMahan, Sehlin, Benson, Crouse, Roach, Cox, Schoesler, Anderson, Lovick, Priest, Berkey, Kirby, Hunt, Shabro, Schindler, Boldt, Bush, Alexander, Newhouse, Chandler, Woods, Sullivan, Rockefeller, Conway, Condotta, Hudgins and Campbell.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/5/03, 2/11/03 [DP].

#### Brief Summary of Bill

- Increases the maximum term of imprisonment for the crime of manufacturing methamphetamine to 20 years.
- Increases the portion of criminal fines that are to be earmarked for cleanup of methamphetamine sites.
- Makes the crime of manufacturing methamphetamine a strike under the "three strikes and you're out" statute.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 5 members: Representatives O'Brien, Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Lovick and Pearson.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Darneille, Vice Chair; and Kagi.

**Staff:** Yvonne Walker (786-7841).

### Background:

For the purposes of the Sentencing Reform Act (SRA), an offense that carries a maximum term of imprisonment of 20 years or more is treated as a class A felony; an offense that carries a maximum term of imprisonment of at least eight years but less than 20 years is a class B felony; and an offense that carries a maximum term of imprisonment of less than eight years is treated as a class C felony.

An offender who commits three "most serious offenses" or "strikes" is considered a persistent offender and is subject to a sentence of life imprisonment. The term "most serious offense" is defined to include all class A felonies and several other enumerated offenses.

The crime of manufacturing, delivering, or possessing with the intent to deliver, methamphetamine is punishable by a prison term of not more than 10 years, thus it is a class B felony for the purposes of the SRA. The manufacture of methamphetamine is currently ranked as a seriousness level X on the SRA sentencing grid for crimes committed prior to July 1, 2004. The standard sentence range for a level X offense for an adult offender with no prior criminal history is 51 to 68 months. It is ranked as a seriousness level III on the drug grid for crimes committed on or after July 1, 2004. The standard sentence range for a level III drug offense for an adult offender with no prior criminal history is also 51 to 68 months.

Depending on the circumstances of the crime, there are also enhancements that may apply, such as an additional 24 months if the crime is committed when a child is present. Delivering, or possessing with the intent to deliver, methamphetamine is a level VIII offense, which carries a standard sentence range of 21 to 27 months for a first-time offender for crimes committed prior to July 1, 2004. For crimes committed on or after July 1, 2004, then it is ranked as a seriousness level II on the drug grid which carries a standard sentence range of 12 + to 20 months. With respect to juveniles, these crimes are all B+ offenses, meaning that the standard sentence for a first-time offender is 15-36 weeks confinement.

An offender who commits one of these methamphetamine-related crimes is also subject to fines as follows: (1) up to \$25,000 if the crime involved is less than two kilograms of the drug; or (2) up to \$100,000 for the first two kilograms and \$50 for each gram in excess of two kilograms, if the crime involved is more than two kilograms. The first \$3,000 of the fine may not be suspended, and must be given to law enforcement for cleanup of the lab or site.

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### **Summary of Bill:**

The maximum prison term for the crime of manufacturing methamphetamine is increased to 20 years, thus making it a class A felony and a "strike" under the persistent offender statute. No change is made to the seriousness level ranking of the crime for adults or

juveniles. The amount of the potential fine that may be assessed against an offender convicted of manufacturing methamphetamine is unchanged, but the portion that cannot be suspended and must be earmarked for cleanup is increased to \$5,000.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect ninety days after adjournment of session in which bill is passed, except Sections 5 and 7, which takes effect July 1, 2004.

**Testimony For:** Many counties, such as Snohomish County, are suffering from the increasing methamphetamine problems in our community. This bill will not only immediately increase the jail time for methamphetamine users, but will also make it a strike under the persistent offender statute. Along with increasing the maximum term of imprisonment for methamphetamine abusers the bill will also increase the portion of criminal fines that are to be earmarked for cleanup of methamphetamine sites.

The passage of this bill will lessen the costs associated with protective services who must step up and take care of the children when their guardians are arrested for methamphetamine crimes. It will also alleviate some of the medical costs associated with caring for the children who may be suffering from liver, kidney, and brain damage due to being exposed to methamphetamine drugs.

Many of our state violent crimes are committed due to the results of methamphetamine users. This bill will have a deterrence effect on those methamphetamine abusers and will help to protect our society. This bill will more effectively deal with repeat offenders and will help save our kids.

**Testimony Against:** Last year the Legislature kept the ranking of the crime of manufacturing of methamphetamine pretty high and very similar to its current seriousness level X status on the sentencing grid. The offense is also triple scored which moves an offender along the grid resulting in a longer sentence each time he or she is convicted. Strike offenses have usually been reserved for violent crimes.

This bill will also cost an additional \$250,000 in incarceration costs. That money should be reserved to provide offenders with treatment instead of incarceration.

**Testified:** (In support) Representative Ahern, prime sponsor; Representative Lovick, sponsor; Bill deWeber, Washington Apartment Association; Bill Butler, Building Owner and Manager's Association; Representative Pearson, co-sponsor; Michele Whitt-Smith, Granite Falls Community Coalition and Granite Falls Education Foundation; Mary Londerville, Granite Falls Community Coalition and Snohomish County Youth Meth

Action Team; Jim Romack, Pastor, Granite Falls Community Coalition and The Father's House Foursquare Church; Representative Kristiansen, sponsor; Joe James, husband of victim; and Leigh Harkum-Sefton, self.

(Opposed) Tom McBride, Washington Association of Prosecuting Attorneys; and Amanda Lee, Washington Association of Criminal Defense Lawyers and Washington Defenders Association.