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HOUSE BILL 2790

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State of Washington

59th Legislature

2006 Regular Session

By Representatives Rodne, O'Brien, Woods, Ericks, Hinkle, Kessler, Simpson and Darneille

Read first time 01/13/2006. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to advisory sentencing guidelines; amending RCW  
2 9.94A.480; adding a new section to chapter 9.94A RCW; and declaring an  
3 emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW  
6 to read as follows:

7 (1) For offenders convicted of a violent offense, the upper limit  
8 of the standard sentencing range shall be advisory only. However,  
9 without limiting the sentencing discretion of the judge, in cases in  
10 which the prosecutor seeks an aggravated sentence, the prosecutor must  
11 assert a statutory aggravating factor. Notwithstanding any other law,  
12 the maximum sentence that a court may impose for a violent offense  
13 where the lower limit of the standard sentencing range is more than  
14 twelve months is the maximum sentence for the current offense under  
15 chapter 9A.20 RCW, or twice the upper limit of the standard sentencing  
16 range, whichever is less; the maximum sentence that a court may impose  
17 for all other violent offenses is twice the upper limit of the standard  
18 range or twelve months, whichever is less. This provision shall not  
19 apply to any offender sentenced under RCW 9.94A.712.

1 (2) In making its determination of the sentence length to be  
2 imposed, the court shall consider the risk assessment prepared by the  
3 department of corrections, the presentence report, and other materials  
4 provided by the offender, and any information provided by the victim or  
5 victims of the crime.

6 (3) A sentence imposed under this section shall be a determinate  
7 sentence unless it is imposed on an offender sentenced under RCW  
8 9.94A.712. The sentence may be appealed by the offender or the state  
9 as set forth in RCW 9.94A.585 (2) through (6).

10 **Sec. 2.** RCW 9.94A.480 and 2002 c 290 s 16 are each amended to read  
11 as follows:

12 (1) A current, newly created or reworked judgment and sentence  
13 document for each felony sentencing shall record any and all  
14 recommended sentencing agreements or plea agreements and the sentences  
15 for any and all felony crimes kept as public records under RCW  
16 9.94A.475 shall contain the clearly printed name and legal signature of  
17 the sentencing judge. The judgment and sentence document as defined in  
18 this section shall also provide additional space for the sentencing  
19 judge's reasons, if any, for going either above or below the  
20 presumptive or advisory sentence range for any and all felony crimes  
21 covered as public records under RCW 9.94A.475. Both the sentencing  
22 judge and the prosecuting attorney's office shall each retain or  
23 receive a completed copy of each sentencing document as defined in this  
24 section for their own records.

25 (2) The sentencing guidelines commission shall be sent a completed  
26 copy of the judgment and sentence document upon conviction for each  
27 felony sentencing under subsection (1) of this section and shall  
28 compile a yearly and cumulative judicial record of each sentencing  
29 judge in regards to his or her sentencing practices for any and all  
30 felony crimes involving:

31 (a) Any violent offense as defined in this chapter;

32 (b) Any most serious offense as defined in this chapter;

33 (c) Any felony with any deadly weapon special verdict under RCW  
34 9.94A.602;

35 (d) Any felony with any deadly weapon enhancements under RCW  
36 9.94A.533 (3) or (4), or both; and/or

1 (e) The felony crimes of possession of a machine gun, possessing a  
2 stolen firearm, drive-by shooting, theft of a firearm, unlawful  
3 possession of a firearm in the first or second degree, and/or use of a  
4 machine gun in a felony.

5 (3) The sentencing guidelines commission shall compare each  
6 individual judge's sentencing practices to the standard ~~(( $\theta$ ))~~,  
7 presumptive, or advisory sentence range for any and all felony crimes  
8 listed in subsection (2) of this section for the appropriate offense  
9 level as defined in RCW 9.94A.515 or 9.94A.518, offender score as  
10 defined in RCW 9.94A.525, and any applicable deadly weapon enhancements  
11 as defined in RCW 9.94A.533 (3) or (4), or both. These comparative  
12 records shall be retained and made available to the public for review  
13 in a current, newly created or reworked official published document by  
14 the sentencing guidelines commission.

15 (4) Any and all felony sentences which are either above or below  
16 the standard ~~(( $\theta$ ))~~, presumptive, or advisory sentence range in  
17 subsection (3) of this section shall also mark whether the prosecuting  
18 attorney in the case also recommended a similar sentence, if any, which  
19 was either above or below the standard, presumptive, or advisory  
20 sentence range and shall also indicate if the sentence was in  
21 conjunction with an approved alternative sentencing option including a  
22 first-time offender waiver, sex offender sentencing alternative, or  
23 other prescribed sentencing option.

24 (5) If any completed judgment and sentence document as defined in  
25 subsection (1) of this section is not sent to the sentencing guidelines  
26 commission as required in subsection (2) of this section, the  
27 sentencing guidelines commission shall have the authority and shall  
28 undertake reasonable and necessary steps to assure that all past,  
29 current, and future sentencing documents as defined in subsection (1)  
30 of this section are received by the sentencing guidelines commission.

31 NEW SECTION. **Sec. 3.** If any provision of this act or its  
32 application to any person or circumstance is held invalid, the  
33 remainder of the act or the application of the provision to other  
34 persons or circumstances is not affected.

35 NEW SECTION. **Sec. 4.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the  
2 state government and its existing public institutions, and takes effect  
3 immediately.

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