

# SENATE BILL REPORT

## SB 6898

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As Reported By Senate Committee On:  
Judiciary, February 04, 2008

**Title:** An act relating to felony sentencing.

**Brief Description:** Modifying criminal sentencing requirements.

**Sponsors:** Senators Kline and Hargrove.

**Brief History:**

**Committee Activity:** Judiciary: 1/15/08, 2/04/08 [DPS].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6898 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, McDermott, Roach and Weinstein.

**Staff:** Lidia Mori (786-7755)

**Background:** The presumptive standard sentencing range for ranked felonies is determined by the seriousness of the offense and the offender's specific criminal history (offender score). The standard ranges for ranked felonies have a minimum term of incarceration that must be within 75 percent of the maximum term. A court may impose a sentence above or below the standard range based upon aggravating or mitigating factors. A sentence longer than the standard range is called an "aggravated sentence." *Blakely v. State of Washington (2004)* eliminated the ability of sentencing judges to independently impose aggravated sentences. The 2005 Legislature modified the procedure in response. Aggravating factors posing questions of fact must be submitted to a jury and proved beyond a reasonable doubt. A joint legislative workgroup discussed the broader issue of judicial discretion in sentencing. Their consensus showed the issue deserved further discussion. The Legislature directed the sentencing guidelines commission to study and draft appropriate legislation addressing judicial discretion issues under the sentencing reform act.

**Summary of Bill (Recommended Substitute):** The standard ranges for ranked felonies have a minimum term of incarceration that must be within 60 percent of the maximum term. The range within each cell of the sentencing grid is expanded both upward and downward. Sentencing judges have a greater range within which to sentence offenders without having to make additional findings of fact.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

A new column is created for offenders with offender scores of ten or more. In these new cells, the minimum terms are the same as the minimum terms for those in the cells for offenders with scores of nine, but the maximum terms are longer, giving judges more discretion when sentencing offenders with significant criminal histories.

A new factor is added to the list of circumstances justifying a sentence shorter than the standard range. A judge may impose a sentence below the standard range if the offender score, due to other current offenses, as opposed to prior offenses, results in a standard range sentence that is clearly excessive.

Three factors that can be used to justify a sentence longer than the standard sentencing range are moved to the list of factors that must be found by a jury beyond a reasonable doubt.

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Substitute):** The standard ranges for ranked felonies have a minimum term of incarceration that must be within 60 percent of the maximum term. The range within each cell of the sentencing grid is expanded both upward and downward. Sentencing judges have a greater range within which to sentence offenders without having to make additional findings of fact.

A new column is created for offenders with offender scores of ten or more. In these new cells, the minimum terms are the same as the minimum terms for those in the cells for offenders with scores of nine. The maximum terms are longer giving judges more discretion when sentencing offenders with significant criminal histories.

A new factor is added to the list of circumstances justifying a sentence shorter than the standard range. A judge may impose a sentence below the standard range if the offender score, due to other current offenses, as opposed to prior offenses, results in a standard range sentence that is clearly excessive.

Two factors that can be used to justify a sentence longer than the standard sentencing range are moved to the list of factors that must be found by a jury beyond a reasonable doubt.

**Appropriation:** None.

**Fiscal Note:** Requested on January 10, 2008.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on Original Bill:** PRO: The Sentencing Guidelines Commission has worked hard on the issue addressed in this bill. The bill expands judicial discretion in felonies and makes some changes to the statute relating to aggravating and mitigating circumstances. This bill comports with the purposes of the sentencing reform act. It allows imposition of longer sentences for offenders with significant criminal histories.

**Persons Testifying:** PRO: Jean Soliz Conklin, Sentencing Guidelines Commission; Tom McBride, Washington Association of Prosecuting Attorneys.