

SENATE BILL REPORT

SB 5790

As Reported by Senate Committee On:
Human Services & Corrections, February 17, 2011

Title: An act relating to crime-related boards and commissions.

Brief Description: Concerning crime-related boards and commissions.

Sponsors: Senators Hargrove, Stevens, Regala and Shin.

Brief History:

Committee Activity: Human Services & Corrections: 2/15/11, 2/17/11 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5790 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Baxter, Carrell, Harper and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: The Legislature established the Sentencing Guidelines Commission (SGC) in 1981 and directed it to recommend a determinate sentencing system for adult felonies. The principal goal of the new sentencing guidelines system was to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences. Sentences were to be determined by the seriousness of the offense and by the criminal record of the offender. The SGC completed the original adult felony sentencing grid in 1982, which was subsequently enacted into law and applied to crimes committed after July 1, 1984. In 1996 the Legislature directed the SGC to assume the functions of the Juvenile Disposition Standards Commission, serving similar functions with regard to juvenile sentencing.

The SGC is organized as a separate entity with membership appointed by the Governor. The continuing duties of the SGC include evaluating and monitoring adult and juvenile sentencing policies and practices and recommending modifications to the Governor and the Legislature and serving as a clearinghouse and information center on adult and juvenile sentencing.

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.

Prior to 1984 sentences imposed for adult felonies in Washington were indeterminate. Courts had wide discretion over whether or not to impose a prison sentence and the length of any sentence. The Board of Prison Terms and Paroles then decided when or whether to release an offender within the statutory maximum sentence period. Indeterminate sentencing is still in effect for a small number of prison inmates who committed crimes before July 1, 1984. The Board of Prison Terms and Paroles was re-designated as the Indeterminate Sentence Review Board (ISRB) which has continuing responsibility to set the release dates for those offenders.

In addition to pre-1984 offenders, the ISRB also determines whether to release sex offenders who committed their crimes after September 1, 2001, and who were sentenced to a determinate plus sentence including a minimum and maximum term of incarceration. The ISRB exists as an independent entity in current law, consisting of a chair and four other members, each of whom is appointed by the Governor.

In 2008 the Legislature created the Sex Offender Policy Board (SOPB) to promote a coordinated and integrated response to sex offender management. The SOPB is organized as an independent entity, staffed and maintained by the SGC. The SOPB responds to requests from legislators and conducts case reviews of sex offense incidents that occur within the state.

The Office of Crime Victims Advocacy (OCVA) is created within the Department of Commerce. OCVA is tasked with assisting communities in planning and implementing services for crime victims, advocating on behalf of crime victims in obtaining needed services and resources, and advising local and state governments on practices, policies, and priorities that impact crime victims. The OCVA also administers grant programs for sexual assault treatment and prevention services. OCVA serves as a member of the SOPB.

Summary of Bill (Recommended Substitute): The SGC is eliminated as a standalone agency. The structure of the SGC remains in the code as a dormant commission within the Office of Financial Management that may be convened by the Governor or the Legislature and within amounts appropriated. The Department of Corrections (DOC) serves as the clearinghouse and information center on adult and juvenile sentencing, and assumes full responsibility for administering the interstate compact for adult offender supervision in the state.

The SOPB is established in the OCVA. The SOPB meets at least quarterly and is tasked with responding to requests from the Governor and the Legislature on issues relating to sex offender policy, conducting case reviews of sex offense incidents as requested by the Governor and the Legislature, and responding to legislative mandates. The SOPB must report annually with a staff review of new research and evidence-based practices relating to sex offender management, policy options discussed, and any recommendations for policy changes.

The ISRB is created within DOC. DOC must provide administrative and staffing support to the ISRB. DOC may employ a senior administrative officer and other personnel as necessary to assist the ISRB in carrying out its duties. The property and employees of the ISRB are transferred to DOC.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): The Association of WA Counties is added as a member of the SOPB. Language is added to ensure the transfer of ISRB property and employees to DOC. The SGC is restored as a dormant commission within the Office of Financial Management that may be convened by the Governor or the Legislature and within amounts appropriated. The SGC data functions are transferred to DOC rather than the Office of Financial Management. The effective date is changed to July 1, 2011.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.

Staff Summary of Public Testimony on Original Bill: CON: Eliminating the SGC and moving the ISRB and the SOPB is the opposite way in which we want to go. It would seem to make more sense to consolidate all of these functions, perhaps within OFM. There may be an appearance of a lack of independence by placing the SOPB in the OCVA. The Sentencing Guidelines Manual is an indispensable resource that the SGC puts out, and we are hopeful it can land somewhere.

OTHER: We are concerned with what happens with the data that is gathered and stored by the SGC. Our juvenile system is the model across the country. This has been possible in large part due to the accessibility of the data. The Center for Court Research has been pivotal in this regard. If the SGC goes away, we believe that the Center for Court Research is the proper body to house this data in the future. We fully understand the necessity of cutting the budget, but have a suggestion for preserving the decision-making function of the SGC. The SGC could continue to exist in statute but be de-funded in the budget so that it could be brought back to life at some point in the future when there is a need for its policy assistance. The SGC was instrumental in changing the drug grid in recent years that put the emphasis on providing treatment and reducing incarceration for low-level offenders. This resulted in a large savings for the state. The SGC is currently working on formulating recommendations around evidence based community custody. Although we do not yet have recommendations, we believe that we will have solid recommendations for the Legislature at some point in the future. A couple of technical amendments are needed to address the transfer of employees for the ISRB and to ensure the ISRB's continued independent decision-making.

Persons Testifying: CON: Lonnie Johns-Brown, WA Coalition of Sexual Assault Programs; Travis Stearns, WA Defenders Assn., WA Assn. of Criminal Defense Lawyers.

OTHER: Judge Stephen Warning, Superior Courts Judges Association; Lynne DeLano, Indeterminate Sentence Review Board; Dave Boerner, SGC.