

HOUSE BILL REPORT

HB 1495

As Reported by House Committee On: Public Safety

Title: An act relating to establishing the joint legislative task force on criminal sentencing.

Brief Description: Establishing the joint legislative task force on criminal sentencing.

Sponsors: Representatives Goodman, Klippert, Appleton, Ormsby and Jinkins.

Brief History:

Committee Activity:

Public Safety: 1/29/19, 2/7/19 [DPS].

Brief Summary of Substitute Bill

- Establishes the Joint Legislative Task Force on Criminal Sentencing for the purpose of reviewing sentencing laws and making recommendations to the Governor and the Legislature.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Kelly Leonard (786-7147).

Background:

The Sentencing Guidelines Commission (SGC) was established when the state enacted the Sentencing Reform Act (SRA) in 1982. The SGC is required to evaluate and monitor adult and juvenile sentencing policies and practices. There are 20 voting commissioner positions, representing the interests of adult corrections, juvenile rehabilitation, prosecuting attorneys, defense attorneys, judges, law enforcement, victims' advocates, and local governments. In addition, two Senators and two House members are appointed as nonvoting members.

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.

In the 2018 Supplemental Operating Budget, the SGC was appropriated funds to conduct a comprehensive review of the SRA and make recommendations to accomplish the following goals:

- assess the degree to which the SRA, as applied, has achieved each of its stated purposes;
- ensure Washington's sentencing policies and practices are evidence-based, aligned with best practices, and consistent with federal and state case law;
- ensure Washington's sentencing laws and practices promote public safety by holding offenders accountable for their actions while also facilitating their successful reintegration into the community;
- simplify Washington's sentencing laws to make them easier to understand and apply; and
- eliminate inconsistencies that may have developed through various amendatory changes.

To achieve these goals, the SGC must:

- review the current sentencing grid and recommend changes to simplify the grid and increase judicial discretion, including a review of specified provisions;
- review and revise seriousness levels to ensure offenses have appropriately designated seriousness levels;
- review the drug sentencing grid to determine whether drug offenses can be incorporated into a new or revised sentencing grid;
- review minimum term requirements to avoid inconsistencies with proposed changes to the grid and other sentencing policies;
- review mitigating and aggravating factors and sentencing enhancements, and recommend changes to reflect current sentencing purposes and policies and case law;
- review fines, fees, and other legal financial obligations associated with criminal convictions;
- review community supervision and community custody conditions and related requirements; and
- review available alternatives to full confinement.

The SGC must report its findings and recommendations to the Governor and appropriate committees of the Legislature in 2019.

Summary of Substitute Bill:

The Joint Legislative Task Force on Criminal Sentencing (Task Force) is established, with 18 members representing the following:

- two House members (one from each caucus);
- two Senators (one from each caucus);
- Caseload Forecast Council;
- Department of Corrections;
- Sentencing Guidelines Commission;
- Statewide Family Council;
- Statewide Reentry Council;

- Superior Court Judges Association;
- Washington Association of Criminal Defense Attorneys or the Washington Defender Association;
- Washington Association of Prosecuting Attorneys;
- Washington Association of Sheriffs and Police Chiefs;
- Washington State Association of Counties;
- Washington State Minority and Justice Commission;
- a labor organization representing active law enforcement officers in Washington; and
- two different community organizations representing the interests of incarcerated persons.

The legislative membership must select the co-chairs, which must include one House member and one Senator. Staff support is provided by the Office of Program Research and Senate Committee Services.

The Task Force must conduct a review of state sentencing laws, including a consideration of the report of the SGC required by the 2018 Supplemental Operating Budget. The Task Force must develop recommendations to: reduce sentencing implementation complexities and errors; improve the effectiveness of the sentencing system; and promote and improve public safety.

An initial report with findings and recommendations is due by December 31, 2019, and the final report is due by December 31, 2020.

Substitute Bill Compared to Original Bill:

A representative of a labor organization representing active law enforcement officers in Washington is added to the membership of the Task Force.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) It is time to revisit the SRA. It has been more than 40 years since the state has completed a comprehensive review of sentencing laws.

The SGC has been conducting a review of sentencing laws, as required by the 2018 Supplemental Operating Budget. It has examined the entire sentencing system, and it is in the process of bringing a series of recommendations to the Legislature to address concerns raised by the Department of Corrections (DOC), practitioners, and other citizens. There are two proposals in development. The first is an incremental approach, which would include a

sentencing grid with other provisions similar to current law, and the second is similar to the federal system, which gives judges broader discretion to impose sentences based on ranges with aggravating and mitigating circumstances. Generally, judges will need more information at sentencing to make these changes effective.

Much of the current sentencing structure is based on old ways of thinking. In the 1970s and 1980s, practitioners believed that people could not change. However, this is not true—people can change. Most people who go to prison will get out. Changes to sentencing laws should include a focus on reentry.

The establishment of a joint legislative task force is the next step following the SGC report. This is a large undertaking, and the Legislature must be deliberate and thoughtful in evaluating proposals and moving forward with changes. It will be a collaborative process that builds upon the work of the SGC. The formation of this task force is critical in moving forward to an improved sentence structure.

The DOC is very supportive of the effort to reduce sentencing complexities and errors. There are numerous changes to sentencing laws every year, contributing to growing complexities and implementation challenges. The information technology system used to calculate release dates requires extensive reprogramming and updating. It is important to address these practical challenges.

A representative of the Fraternal Order of Police should be added to the membership.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; Michael Transue, Washington State Fraternal Order of Police; Alex MacBain, Department of Corrections; and Russell Hauge, Sentencing Guidelines Commission.

Persons Signed In To Testify But Not Testifying: None.