
Public Safety Committee

SB 6164

Brief Description: Concerning prosecutorial discretion to seek resentencing.

Sponsors: Senators Dhingra, Wilson, C., McCoy, Das, Darneille, Kuderer and Randall.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Authorizes a prosecuting attorney to petition the sentencing court to resentence an offender if the original sentence no longer advances the interests of justice.
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Hearing Date: 2/25/20

Staff: Kelly Leonard (786-7147).

Background:

Sentencing Laws. The Sentencing Reform Act (SRA) generally controls the term of confinement for adults convicted of felony offenses. The SRA is a determinate sentencing system in which a judge selects a particular sentence from a standard range. The standard range is determined by reference to a statutory grid, which is based on the defendant's criminal history (converted into an offender score) and the severity of the offense (according to designated seriousness levels). While the standard range is presumed to be appropriate, additional sentencing policies can increase or decrease a sentence. This includes, for example, exceptional sentences and enhancements.

The Legislature regularly makes changes to the SRA, effectively modifying sentences for certain offenses and classes of offenders. These changes are typically prospective.

Sentencing and Appeals. When a defendant is convicted of a criminal offense, the sentencing laws in place at the time of an offense apply to the sentencing proceedings. There are some exceptions, including when changes to sentencing laws are based in constitutional requirements or were expressly remedial and favorable to defendants. Before imposing a sentence, the court

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must conduct a sentencing hearing where it considers presentence reports, criminal history, arguments from the prosecuting attorney and defense attorney, and any victim statements.

A sentence within the standard range is generally not appealable, though a defendant may appeal other legal errors. Direct appeals must be filed within 30 days. Collateral attacks to convictions, including writs of habeas corpus and personal restraint petitions, must be filed within one year, with some exceptions. These exceptions include, for example, circumstances involving newly discovered evidence or new constitutional rulings. If an appellate court finds an error in a conviction or sentence, the court may overturn a conviction or otherwise remand the case to the trial court for additional proceedings. A defendant may be released, retried, and/or resentenced at the direction of the appellate court. In some cases, statute may direct resentencing of certain classes of defendants.

Summary of Bill:

A county prosecuting attorney may petition the sentencing court to resentence an offender if the original sentence no longer advances the interests of justice. When a prosecuting attorney files a petition for resentencing, the court must resentence the defendant in the same manner as if the offender had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence.

The court may consider postconviction factors including, but not limited to: the inmate's disciplinary record and record of rehabilitation while incarcerated; evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate's risk for future violence; and evidence that reflects changed circumstances since the inmate's original sentencing such that the inmate's continued incarceration no longer serves the interests of justice. Further, the court must provide an opportunity for victims and survivors of victims of any crimes for which the offender has been convicted to present a statement personally or by representation.

Credit must be given for time served. Resentencing does not reopen the defendant's conviction to challenges that would otherwise be barred.

Appropriation: None.

Fiscal Note: Not requested.

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