

SENATE BILL REPORT

SB 5867

As Reported by Senate Committee On:
Law & Justice, February 6, 2020

Title: An act relating to the resentencing of persons convicted of drug offenses.

Brief Description: Resentencing of persons convicted of drug offenses.

Sponsors: Senators Zeiger, Pedersen, Nguyen, Darneille, Ericksen, Walsh and Kuderer.

Brief History:

Committee Activity: Law & Justice: 1/30/20, 2/06/20 [DPS].

Brief Summary of First Substitute Bill

- Requires resentencing of an offender serving a term of incarceration for a drug offense committed prior to the date the Legislature adopted the drug offense sentencing grid, July 1, 2004.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5867 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

Staff: Shani Bauer (786-7468)

Background: In 1981, the Legislature passed the Sentencing Reform Act (SRA), which established determinate sentencing for felony offenders. The SRA eliminated indeterminate sentences and parole in Washington, with some exceptions. Instead, the SRA determines a specific sentence within the statutory maximum. Judges select an offender's sentence within a standard sentence range provided in statute, which is calculated based on the statutorily designated seriousness level for the offense and the offender's criminal history score based on the offender's past convictions.

In 2002, the Legislature made several changes to how drug offenses were sentenced, including the adoption of a separate sentencing grid with broader judicial discretion, reduced

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seriousness levels for certain drug offenses, and the elimination of double and triple scoring for certain drug offenses. The new drug offense sentencing grid took effect July 1, 2004.

The Uniform Controlled Substances Act is contained in chapter 69.50 RCW and the Imitation Controlled Substances Act is contained in chapter 69.52 RCW.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (First Substitute): An offender sentenced for a drug offense prior to July 1, 2004, and who is currently serving a term of incarceration for that offense, is entitled to a resentencing hearing. The prosecuting attorney for the county in which the offender was sentenced must review the sentencing documents. If the offender qualifies for resentencing, the prosecutor must make a motion for relief to the sentencing court.

The sentencing court must resentence the offender as if the offender had not previously been sentenced, provided the new sentence is no greater than the initial sentence.

An offender is not entitled to resentencing under this section if they have been convicted of a most serious offense or violent offense.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on First Substitute: PRO: There are a small number of offenders who are still serving sentences based on a drug offense sentenced prior to July 1, 2004. Drug offense sentencing has evolved over time, so this seems like a fair thing to do. The substitute addresses the concern that offenders convicted of other more serious crimes might qualify for resentencing.

Persons Testifying: PRO: Senator Hans Zeiger, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.