

FINAL BILL REPORT

SB 6164

C 203 L 20
Synopsis as Enacted

Brief Description: Concerning prosecutorial discretion to seek resentencing.

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

Senate Committee on Law & Justice
House Committee on Public Safety

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 addition to the standard range, other factors may affect the sentence, including sentencing enhancements, exceptional sentences, consecutive/concurrent sentences, whether the offender qualifies as a persistent offender under the three-strikes or two-strikes laws, and alternative sentences. Further, there are some instances where the law has been changed that may reduce sentences for certain offenses. For example, robbery in the second degree is no longer a third strike offense requiring a sentence of life without parole. A separate drug grid was adopted in 2002, requiring a separate sentencing scheme for drug offenses.

Summary: The prosecutor of a county in which an offender was sentenced for a felony offense may petition the sentencing court or the sentencing court's successor to resentence an offender if the original sentence no longer advances the interests of justice. Upon receipt of a petition, the court may grant or deny the petition for resentencing. If the court grants the petition, the court must resentence the individual in the same manner as if the offender had not previously been sentenced. The new sentence may not be greater than the original sentence.

In making its sentencing determination, the court may consider postconviction factors, including:

- the inmate's disciplinary record and record of rehabilitation while incarcerated;
- evidence that reflects whether the age, time served, and diminished physical condition have reduced the inmate's risk for future violence; and

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.

- 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.

The prosecuting attorney must make reasonable efforts to notify victims and survivors of victims of the petition and any hearing for resentencing and must provide the victim or survivor with access to victim services. At a resentencing hearing, 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.

A resentencing does not reopen the defendant's conviction to challenges that would otherwise be barred.

Votes on Final Passage:

| | | | |
|--------|----|----|--------------------|
| Senate | 28 | 20 | |
| House | 96 | 0 | (House amended) |
| Senate | 48 | 0 | (Senate concurred) |

Effective: June 11, 2020