

HOUSE BILL REPORT

HB 2443

As Reported By House Committee On:
Criminal Justice & Corrections

Title: An act relating to sentencing for certain criminal acts.

Brief Description: Clarifying sentencing requirements for certain crimes.

Sponsors: Representatives Ballasiotes, Costa, Zellinsky and Mitchell; by request of Sentencing Guidelines Commission.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/30/98, 2/5/98 [DP].

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 10 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Cairnes; Dickerson; McCune; Mitchell and Sullivan.

Staff: Mark Hamilton (786-7310).

Background:

Sentencing Guidelines. The state's sentencing guidelines provide a classification of crimes by their seriousness level,— from level I, punishable by zero days to 29 months imprisonment, to level XV, punishable by life imprisonment without parole or by death. Within each seriousness level, determined by the crime for which a defendant is convicted, a defendant being sentenced is assigned an offender score,— based on a number of factors, including prior convictions. The offender score determines what punishment the defendant will receive within the range of punishments in the seriousness level of his or her crime. In addition, sentencing courts may take into account other mitigating or aggravating factors to reduce or increase a sentence beyond the ranges specified by the guidelines.

Malicious Injury to Railroad Property. The crime of malicious injury to railroad property occurs when a person endangers the safety of any railroad property or person thereon, and is currently punishable by up to 25 years imprisonment.

Incendiary Devices « Penalty. An incendiary device is a device or material which is capable of supplying ignition and/or fuel for a fire and is designed to be used as an instrument of willful destruction. To dispose of— an incendiary device means to give, give away, loan, offer, offer for sale, sell, or transfer such a device. Currently, anyone who knowingly possesses, manufactures, or disposes of an incendiary device is guilty of a felony punishable by up to 25 years imprisonment.

Alphabetization. Currently, the crimes within each seriousness level in the sentencing guidelines are not printed in alphabetical order but are placed in the order in which they appear in approved legislation.

Summary of Bill:

Section 1. *Sentencing Guidelines.* Amends Table 2 of the Sentencing Guidelines, specifying the crimes within each seriousness level, as follows:

New Level VII Crime. The following crime has been added to the list of offenses of seriousness level VII which are punishable by between 15 and 116 months imprisonment:

- Use of a Machine Gun in the Commission of a Felony.

New Level V Crimes. The following crimes have been added to the list of offenses of seriousness level V, which are punishable by between six and 96 months imprisonment:

- No-Contact Order Violation: Domestic Violence Pretrial Condition;
- No-Contact Order Violation: Domestic Violence Sentence Condition;
- Protection Order Violation: Domestic Violence Civil Action; and
- Stalking.

New Level IV Crime. The following crime has been added to the list of offenses of seriousness level IV, which are punishable by between three and 84 months imprisonment:

- Indecent Exposure to Person Under Age 14 (subsequent sex offense).

New Level III Crimes. The following crimes have been added to the list of offenses of seriousness level III, which are punishable by between one and 68 months imprisonment:

- Maintaining a Dwelling or Place for Controlled Substances;
- Malicious Injury to Railroad Property;
- Possession of Incendiary Device;
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle;

- Telephone Harassment (subsequent conviction or threat of death); and
- Unlawful Use of Building for Drug Purposes.

Amended Level II Crime. The following crime has been technically amended. It is in the list of offenses of seriousness level II, which are punishable by between zero days and 57 months imprisonment:

- Theft of Rental, Leased, or Lease-Purchased Property (valued at \$1,500 or more).

Amended Level I Crime. The following crime has been technically amended. It is in the list of offenses of seriousness level I, which are punishable by between zero days and 57 months imprisonment:

- Theft of Rental, Leased, or Lease-Purchased Property (valued at \$250 or more but less than \$1,500).

Section 2. *Malicious Injury to Railroad Property.* Reduces the penalty for malicious injury to railroad property from a maximum of 25 years to a maximum of 10 years imprisonment.

Section 3. *Incendiary Devices « Penalty.* Reduces the penalty for the felony of possessing, manufacturing, or disposing of an incendiary device from a maximum of 25 years to a maximum of 10 years imprisonment.

Section 4. *Alphabetization.* Requires the Code Reviser to alphabetize the offenses within each seriousness level.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: The bill classifies for sentencing purposes felonies which are currently unranked under the sentencing guidelines seriousness levels. These were placed near similar crimes in the ranking levels whenever possible. Alphabetization of the crimes listed within each seriousness level will make that part of the sentencing guidelines easier to use than the current *ad hoc* listings.

Testimony Against: None.

Testified: Jim Thatcher, Acting Executive Officer, Sentencing Guidelines Commission (pro).