

HOUSE BILL ANALYSIS

SSB 5191

Title: An act relating to crimes involving methamphetamine.

Brief Description: Increasing penalties for methamphetamine crimes.

Sponsors: Senators Goings, Roach, Haugen, Schow, Oke, Winsley and Rasmussen.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Staff: Pat Shelledy (786-7149)

Background: In 1993, the voters approved Initiative 593 which provided that persistent— offenders must be sentenced to life imprisonment. A persistent offender is an offender who has been convicted of three consecutive most serious offenses,— each of which must have been committed after conviction for a previous one. In 1996, the Legislature expanded the law to include certain sex offenders who had committed two, rather than three, consecutive sex offenses.

A most serious offense— means any of the following felonies:

- þ Any class A felony or criminal conspiracy to commit a class A felony;
- þ Assault in the second degree;
- þ Assault of a child in the second degree;
- þ Child molestation in the second degree;
- þ Controlled Substance Homicide;
- þ Extortion in the first degree;
- þ Incest when the child is under age 14;
- þ Indecent liberties;
- þ Kidnaping in the second degree;
- þ Leading Organized crime;
- þ Manslaughter in the first and second degree;
- þ Promoting prostitution in the first degree;
- þ Rape in the third degree;
- þ Robbery in the second degree;
- þ Sexual exploitation;
- þ Vehicular assault;
- þ Vehicular homicide when caused by a person driving under the influence of alcohol or by driving recklessly;
- þ Any other class B felony with a finding of sexual motivation;
- þ Any other felony with a deadly weapon verdict.

Methamphetamine is a controlled substance, and ephedrine and pseudoephedrine are precursors that are used to make methamphetamine. It is unlawful to manufacture, deliver, or possess with intent to manufacture or deliver methamphetamine. The penalty for violating this law is a maximum of 10 years in prison, a fine of not more than \$25,000, or both, if the crime involved less than two kilograms of the drug. If the crime involved two kilograms or more, the penalty is 10 years in prison, a fine of not more than \$100,000 for the first two kilograms and not more than an additional \$50 for each gram in excess of two kilograms, or both imprisonment and the fine. Under the Sentencing Reform Act, this drug crime is ranked at level VIII which means that a first time offender would have a presumptive prison term of 21-27 months in prison. The actual sentence an offender would receive depends on the offender's prior criminal history and other current charges.

It is also unlawful to possess ephedrine or pseudoephedrine with intent to manufacture methamphetamine. The penalty for violating this law is not more than 10 years in prison, a \$25,000 fine, or both. Under the Sentencing Reform Act, this crime is also ranked at seriousness level VIII.

Neither of these drug crimes is a most serious offense— unless the perpetrator was also convicted of being armed with a deadly weapon during the commission of the offense.

Collected fines are deposited into the public safety and education account which is a source of funds for a variety of programs.

Summary: The list of crimes that constitute most serious offenses— for purposes of sentencing persistent offenders— to life imprisonment is expanded to include the manufacture, delivery, or possession with intent to deliver methamphetamine. It is also expanded to include possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine.

When a person is convicted of either of these crimes and the court imposes a fine, \$3,000 of the fine may not be suspended. The first \$3,000 must be given to the law enforcement entity that had to clean up the methamphetamine laboratory or site. The law enforcement agency must use the money for cleanup costs.

Require the Exercise of Rule- Making Powers: No.

Fiscal Note: Received on March 21, 1997.

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