

# HOUSE BILL REPORT

## SB 5938

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**As Passed House**

April 18, 1997

**Title:** An act relating to sentencing.

**Brief Description:** Revising sentencing provisions.

**Sponsors:** Senators Roach, Long, Zarelli, Haugen, Benton, Finkbeiner, Oke, Swecker, Anderson, Stevens, Winsley, Strannigan and Schow.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 4/2/97, 4/16/97 [DP].

**Floor Activity:**

Passed House: 4/18/97, 96-1.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 13 members: Representatives Ballasiotes, Chairman; Benson, Vice Chairman; Koster, Vice Chairman; Quall, Ranking Minority Member; O'Brien, Assistant Ranking Minority Member; Blalock; Cairnes; Delvin; Dickerson; Hickel; Mitchell; Robertson and Sullivan.

**Staff:** Pat Shelledy (786-7149).

**Background:** Manslaughter in the first degree is committed when a person recklessly causes the death of another person or intentionally and unlawfully kills an unborn quick child by assaulting the mother. Manslaughter in the first degree is a class B felony which carries a maximum penalty of 10 years in prison, a \$20,000 fine, or both.

Under the Sentencing Reform Act, manslaughter in the first degree is ranked at seriousness level IX. An offender who does not have any criminal history has a presumptive standard range of 31 to 41 months in prison. The actual sentence a particular offender receives depends on the offender's prior criminal history and other current charges.

Manslaughter in the first degree is not among a list of crimes that are considered to be "serious violent offenses." The serious violent offense category includes murder in

the first and second degree, homicide by abuse, assault in the first degree, kidnaping in the first degree, rape in the first degree, assault of a child in the first degree, or an attempt to commit any of those offenses. Special sentencing rules apply to serious violent offenses which may result in imposition of harsher penalties for offenders who commit them or who have them in their criminal history.

Manslaughter in the second degree is committed when a person causes the death of another person through criminal negligence. Manslaughter in the second degree is a class C felony, which carries a maximum penalty of five years in prison, a \$10,000 fine, or both. Manslaughter in the second degree is ranked at seriousness level VI on the Sentencing Reform Act grid. A first-time offender's presumptive range is one year to 14 months in prison. Again, the actual range is determined by considering the offender's prior criminal history and other current offenses.

Murder in the first degree may be committed in a variety of ways. One way is premeditated intent to commit murder. Murder in the second degree can be committed by intending to commit murder but without premeditation. In some factual cases, the difference between the two mental states can be slight.

Murder in the first degree has a seriousness level XIV on the grid. Murder in the second degree's seriousness level is one below that at level XIII. However, the top end of the standard ranges for murder in the second degree are several months below the bottom end of the standard ranges for murder in the first degree. For example, the standard range for an offender convicted of murder in the second degree who does not have a prior criminal history is 123 to 164 months in prison. In contrast, the range is 240 to 320 months for an offender convicted of murder in the first degree if the offender does not have a prior criminal history.

The Sentencing Reform Act rules require that, when establishing presumptive ranges, the minimum term of confinement must be no less than 75 percent of the maximum term.

**Summary of Bill:** Manslaughter in the first degree is added to the list of "serious violent offenses." The seriousness level is raised from level IX to level XI which means the presumptive sentence ranges are increased. For example, a first time offender's presumptive range is 78 to 102 months in prison. The classification of the crime is increased from class B to class A, which means the statutory maximum penalty that may be imposed is life in prison.

The seriousness level of manslaughter in the second degree is raised from level VI to level VIII. This means the presumptive standard ranges are increased. For example, a first time offender's presumptive range is 21 to 27 months in prison. The classification of the crime is changed from a class C to a class B felony.

The presumptive standard range for murder in the second degree is expanded so that the top end of the range is almost at the bottom of the range for murder in the first degree. For example, for an offender without any prior felony criminal history, the range is 123 to 220 months compared to the range for murder in the first degree which is 240 to 320 months. The ranges change across all the presumptive sentence ranges for offenders with various criminal histories. The rule that requires the minimum term of a presumptive range be no less than 75 percent of the maximum term does not apply to the range for murder in the second degree. Instead, the minimum term must be no less than 50 percent of the maximum term.

Sixteen and 17-year-old juvenile offenders will be automatically prosecuted as adults if charged with manslaughter in the first degree because it is raised to a serious violent offense.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** The penalties for manslaughter are too low and the disparity between penalties for murder in the second degree and murder in the first degree are too great in certain cases.

**Testimony Against:** None.

**Testified:** Joan Guenther, Washington Coalition of Crime Victim Advocates.