

HOUSE BILL ANALYSIS

HB 1859

Title: An act relating to first-time offender status under the sentencing reform act.

Brief Description: Amending the definition of "first-time offender" under the sentencing reform act.

Sponsors: Representatives Constantine, Koster, Hatfield, Cairnes, Dickerson, Quall, Lantz, Veloria and Dunn.

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS

Staff: Yvonne Walker (786-7841).

Background:

First Time Offender. An offender is considered a "First Time Offender" if he or she:

- Has not been convicted of a violent offense;
- Has not been convicted of manufacture, delivery, or possession with intent to manufacture or deliver a schedule I (heroin) or II narcotic drug, flunitrazepam classified in schedule IV or methamphetamine;
- Has not been convicted of selling for profit any controlled substance or counterfeit substance;
- Has not been convicted of a sex offense;
- Has not previously been convicted of a felony in this state, federal court, or another state or foreign county;
- Has never participated in a program of deferred prosecution for a felony offense; and
- Has no juvenile adjudication for any felony offense.

Offenders that are considered First Time Offenders are eligible for the "First Time Offender Waiver". The First Time Offender Waiver– is an alternative sentencing option to the standard range for certain first-time offenders. The court is given discretion in setting the sentence for an offender that is eligible for the First Time Offender Waiver. Choices available to the court include:

- Imposing up to 90 days of confinement in a facility operated or utilized under contract by the county;

- Requiring that the offender refrain from committing new offenses;
- Requiring up to two years of community supervision which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of a number of affirmative conditions. These conditions include: (1) Devoting time to a specific employment or occupation; (2) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense; (3) Pursue a prescribed, secular course of study or vocational training; (4) Remain with prescribed geographical boundaries and notify the court or a community corrections officer prior to any change in the offender's address or employment; (5) Report as directed to the court and a community corrections officer; or (6) Pay all court-ordered financial obligations or perform some community service work.

A court's decision to impose or not to impose the First Time Offender Waiver cannot be appealed by the prosecutor or defendant.

Summary:

First Time Offender. The definition of a "First Time Offender" is expanded to include first time offenders convicted of drug offenses. These offenders will now be eligible to participate in the "First Time Waiver" sentencing program. Those first offenders, who were otherwise excluded before, include those convicted of the offenses of manufacture, delivery, or possession with intent to manufacture or deliver a schedule I or II narcotic drug, flunitrazepam classified in schedule IV or methamphetamine; and those convicted of selling for profit any controlled substance or counterfeit substance classified in schedule I.

Fiscal Note: Requested on February 17, 1999.

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

Office of Program Research