

***Criminal Justice & Corrections  
Committee***

***HB 1863***

***Brief Description:*** *Revising penalties for drug offenses.*

***Sponsors:*** *Representatives Kagi, Ballasiotes, O'Brien, Dickerson, Darneille and Wood.*

***Brief Summary of Bill***

- *Reduces the seriousness level for the crimes involving the manufacture, delivery, or possession of heroin, cocaine or amphetamine drug from a level VIII to a level VII.*
- *Reduces the seriousness level for the crime of selling a controlled substance for a profit from a level VIII to a level VII.*
- *Eliminates the triple scoring for drug offenders with the exception of methamphetamine offenders.*
- *Sets up a dedicated account with the savings resulting from the reduced sentences to be used to fund treatment for nonviolent drug possession offenders and drug courts.*

***Hearing Date:*** *2/19/01*

***Staff:*** *Yvonne Walker (786-7841).*

***Background:***

*It is illegal for any person to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance. A person convicted of a controlled substance offense receives a sentence based upon his or her prior criminal history and the seriousness of the offense. However, in the case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for a drug offense, an offender receives three points for each adult prior felony drug conviction and two points for each juvenile drug conviction.*

*It is a seriousness level VIII, class B felony to commit one of the following crimes:*

- Manufacturing, delivering, or possessing with intent to deliver heroin or cocaine;*
- Manufacturing, delivering, or possessing with intent to deliver amphetamine.*

*A first time adult offender would generally receive a presumptive sentence range of 21 to 27 months in prison. An offender who commits one of these crimes is also subject to fines as follows: (1) up to \$25,000 if the crime involved less than two kilograms of the drug; or (2) up to \$100,000 for the first two kilograms and \$50 for each gram in excess of two kilograms.*

*In addition, an offender who commits the crime of selling a controlled or counterfeit controlled substance for profit is guilty of a seriousness level VIII, class C felony. A first time adult offender would generally receive a presumptive range of 21 to 27 months in prison. Any person convicted on a second or subsequent offense, the sale having transpired after prosecution and conviction on the first cause, must receive a mandatory sentence of five years in a correctional facility.*

*A person convicted of selling heroin must receive a mandatory sentence of two years in a correctional facility. Any person convicted on a second or subsequent sale of heroin, the sale having transpired after prosecution and conviction on the first cause of the sale of heroin must receive a mandatory sentence of 10 years in a correctional facility.*

*Furthermore, an offender found guilty of selling a controlled or counterfeit controlled substance may also be fined in an amount calculated to at least eliminate any and all proceeds or profits directly or indirectly gained as a result of the drug sale, up to an amount of \$500,000 on each count.*

#### ***Summary of Bill:***

*A person convicted of a controlled substance offense receives a sentence based upon his or her prior criminal history and the seriousness of the offense. However, in the case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for a drug offense that involves: 1) the manufacture, delivery, or possession with intent to manufacture methamphetamine; 2) the delivery of methamphetamine to a child under the age of 18 years old; or 3) the possession of ephedrine, pseudoephedrine, or anhydrous ammonia with intent to manufacture methamphetamine; an offender receives three points for each adult prior conviction involving methamphetamine,– and two points for each juvenile drug offense involving methamphetamine.–*

*It is a seriousness level VII felony offense to commit one of the following crimes:*

- Manufacturing, delivering, or possessing with intent to deliver heroin or cocaine;*
- Manufacturing, delivering, or possessing with intent to deliver amphetamine; or*
- Selling a controlled or counterfeit controlled substance for profit.*

*A first time adult offender would generally receive a presumptive sentence range of 15 to 20 months in prison with the exception of those convicted of selling heroin.*

*In addition, any savings realized under this act must be allocated, on an ongoing basis, to the Division of Alcohol and Substance Abuse (DASA) to be used solely for the treatment of*

*nonviolent drug possession offenders at the state and local levels. The Department of Social and Health Services (DSHS) must enter into an interagency agreement with the Department of Corrections (DOC) to accomplish the intent of this act. The DOC and the DSHS must adopt rules to deal with the savings under this act.*

*The DASA must establish a method to ensure that a portion of the savings is to be distributed back to counties through a fair and equitable distribution formula that includes, but is not limited to, per capita convictions for controlled substance possession violations and substance abuse treatment caseload, as determined by the DASA and the DOC. In addition, the DSHS may reserve a portion of the savings to pay for direct contracts with drug treatment service providers in counties or areas where the department director has determined that the demand for drug treatment services is not adequately met by existing programs.*

*Furthermore, the DSHS must reserve a portion of the savings to pay for drug courts. The funds must be used to contract with counties operating drug courts and counties in the process of implementing new drug courts for the provision of drug and alcohol treatment services for nonviolent offenders.*

*The DSHS must annually audit the expenditures made by any county that receive funds. Any county found not to have used the funds appropriately must repay such amounts.*

***Appropriation:*** *None.*

***Fiscal Note:*** *Requested on February 18, 2001.*

***Effective Date:*** *The bill takes effect on July 1, 2001.*