

SB 5476 - DIGEST

(SEE ALSO PROPOSED 1ST SUB)

Declares an intent to restore the ability to impose an aggravated sentence lost by the superior court as a result of the decision of the United States supreme court in *Blakely v. State of Washington*, 542 U.S. ... (2004).

Finds that as the seriousness level of the crime and the criminal history of the offender increase, the need for an individualized and informed assessment of the circumstances of the crime, the offender, and the victim, by the judiciary, is necessary for justice to be obtained.

Finds that the exercise of the judiciary's sentencing discretion over a broader range based upon the assessment of these circumstances is consistent with the policies supporting Washington's sentencing reform act.

Provides that, for offenders convicted of an aggravated offense or for aggravated offenders, the standard sentencing range shall be advisory only. Notwithstanding any other provision of law, the maximum sentence that a court may impose for an aggravated offense or upon an aggravated offender is the maximum sentence for the current offense under chapter 9A.20 RCW, unless it is imposed on any offender sentenced under RCW 9.94A.712.

Provides that, in making its determination of the sentence length to be imposed, the court shall consider the risk assessment prepared by the department of corrections, the presentence report and other materials provided by the offender, and any information provided by the victim or victims of the crime.

Provides that the trial court may impose an aggravated exceptional sentence without a finding of fact by a jury under the following circumstances: (1) The defendant and the state both stipulate that justice is best served by the imposition of an exceptional sentence outside the standard range, and the court finds the exceptional sentence to be consistent with and in furtherance of the interests of justice and the purposes of the sentencing reform act.

(2) The defendant's prior unscored misdemeanor or prior unscored foreign criminal history results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(3) The defendant has committed multiple current offenses and the defendant's high offender score results in some of the current offenses going unpunished.

(4) The failure to consider the defendant's prior criminal history which was omitted from the offender score calculation pursuant to RCW 9.94A.525 results in a presumptive sentence that is clearly too lenient.

Provides that, at any time prior to trial or entry of the guilty plea if substantial rights of the defendant are not prejudiced, the state may give notice that it is seeking a sentence above the standard sentencing range. The notice shall state aggravating circumstances upon which the requested sentence will be based.

Requires the facts supporting aggravating circumstances to be proved to a jury beyond a reasonable doubt. The jury's verdict on the aggravating factor must be unanimous, and by special interrogatory. If a jury is waived, proof shall be to the court beyond a reasonable doubt, unless the defendant stipulates to the aggravating facts.