

HOUSE BILL REPORT

HB 2034

As Reported by House Committee On:
State Government & Tribal Affairs

Title: An act relating to the reform and streamlining of the sentencing guidelines commission for the purpose of saving money.

Brief Description: Reforming and streamlining the sentencing guidelines commission for the purpose of saving money.

Sponsors: Representatives Hudgins, Appleton, Dickerson, Hunt, Ryu and Goodman.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 3/31/11, 4/6/11 [DPS].

Brief Summary of Substitute Bill

- Eliminates or redefines the powers, duties, and functions of the Sentencing Guidelines Commission, and transfers such powers, duties, and functions to the Administrative Office of the Courts and the Department of Corrections.
- Reorganizes the structure and functions of the Sentencing Guidelines Commission to make it an advisory body answerable to the Governor and the Legislature.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hunt, Chair; Appleton, Vice Chair; Darneille, Dunshee, Hurst, McCoy and Miloscia.

Minority Report: Do not pass. Signed by 4 members: Representatives Taylor, Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Alexander and Condotta.

Staff: Thamas Osborn (786-7129).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Sentencing Guidelines Commission (SGC) was created by the Legislature in 1981 as part of the Sentencing Reform Act. The SGC serves as an independent body to develop criminal sentencing guidelines and standards for recommendations to the Legislature. The SGC responsibilities include annually evaluating state sentencing policies, with the goal of achieving consistencies between sentencing ranges and standards for the multitude of offenses defined in state law. In 1996 the Legislature directed the SGC to assume the functions of the Juvenile Disposition Standards Commission, serving similar functions with regard to juvenile sentencing.

Additional functions and duties of the SGC include:

- compilation of a yearly, cumulative record of the sentencing practices of judges and prosecutors;
- compilation of juvenile court and juvenile detention records, data, and research;
- appointment of staff for criminal justice related research;
- maintenance of the records of all sentences above or below the standard sentencing ranges;
- serving as the State Council for Interstate Adult Offender Supervision;
- reviewing sentencing standards in the event the Governor declares an emergency regarding overcrowding at state correctional facilities;
- determining the distribution of Criminal Justice Treatment Account funds;
- establishment, staffing, and maintenance of the Sex Offender Policy Board; and
- serving on the advisory panel for the Corrections Mental Health Center at McNeil Island, established by the Department of Corrections (DOC) and the University of Washington.

The SGC consists of 20 voting members, 16 of whom are appointed by the Governor. The appointed members include four superior court judges, two defense attorneys, two prosecutors, four citizens, the chief of a local law enforcement agency, one county elected official, one city elected official, and one administrator of juvenile court services. There are four ex-officio voting members: the Secretary of the DOC, the Director of the Office of Financial Management, the Chair of the Indeterminate Sentence Review Board, and the head of the state agency (or his or her designee) having responsibility for juvenile corrections programs. Four legislators are appointed by the leadership of the House of Representatives and the Senate and serve as nonvoting members. Members of the SGC may receive compensation as well as reimbursement for travel and other expenses.

The SGC is authorized to appoint research staff to accomplish the duties of the SGC. In addition, the SGC may appoint a full-time executive officer whose salary is fixed by the Governor.

Summary of Substitute Bill:

The act redefines or eliminates most of the powers, duties, and functions of the SGC, and transfers these powers, duties, and functions to the Administrative Office of the Courts (AOC) and the DOC. As the result of this reorganization, the SGC becomes an advisory body answerable only to the Governor and the Legislature. The membership of the SGC is

retained as is, but the appointment of voting members is made by the Governor, or his or her designee. The SGC may meet only if a meeting is called by the Governor and the Legislature, and only for such purposes as determined by the Governor and the Legislature.

Members of the SGC may not receive compensation or any reimbursement for travel and other expenses related to such membership.

The AOC is responsible for serving as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information regarding:

- state and local adult sentencing practices; and
- juveniles sentenced as adults.

The AOC must monitor the sentencing practices of judges and prosecutors, and compile detailed records and statistics regarding all sentences that are above or below the standard ranges.

Juvenile court and juvenile detention facility records collected for research and data gathering functions must be released to the AOC, rather than the SGC.

The staff for conducting criminal-justice related research are appointed by the AOC. The AOC may request the DOC and the Department of Social and Health Services (DSHS) to provide administrative support with respect to its data compilation functions.

The DOC serves as the State Council for Interstate Adult Offender Supervision (Council) and is authorized to form a subcommittee to perform the functions of the Council. The DOC is required to provide staffing and support services.

The act repeals statutes pertaining to the following:

- abolishment of the Juvenile Disposition Standards Commission, and the transfer of its powers, duties, and functions to the SGC;
- establishment of the SGC, and the listing of its powers, duties, and functions;
- establishment, staffing, and maintenance of the Sex Offender Policy Board by the SGC; and
- creation of the advisory panel for the Corrections Mental Health Center at McNeil Island, established by the DOC and the University of Washington.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- strikes all references to the Supreme Court and transfers its duties and functions to the AOC, the DOC, and the SGC;
- retains the SGC to serve in an advisory capacity, and authorizes it to continue very limited executive functions;
- authorizes the Governor, or his or her designee, to appoint the voting members of the SGC;
- authorizes the Governor and the Legislature to have control and oversight over the activities of the SGC;

- requires that the AOC serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information regarding adult and juvenile sentencing practices;
 - requires the AOC to monitor the sentencing practices of judges and prosecutors, and to compile detailed records and statistics regarding all sentences that are above or below the standard ranges;
 - requires the DOC to serve as the State Council for Interstate Adult Supervision, or to appoint a subcommittee to serve in this capacity; and
 - requires the AOC to appoint a research staff as necessary to accomplish its duties and functions, and requires that the DOC and the DSHS provide support regarding the compilation of information and data.
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Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on April 7, 2011.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is a cost saving measure that dovetails with the Governor's proposal to eliminate many boards and commissions. In the process of streamlining the SGC, the Supreme Court and the DOC will assume many of the functions that are currently the responsibility of the SGC. The Supreme Court already has some of the administrative resources necessary for it to assume responsibility for compiling criminal justice data and maintaining the database. The bill would create efficiencies and provide the state with cost savings. Many of the functions of the SGC are executive in nature, and this should be changed. It is appropriate for the DOC to assume some of the SGC's functions, including the review of court documents regarding judgments and sentences. Also, the DOC is quite able to obtain, maintain, and disseminate criminal justice data.

(With concerns) A major problem with the bill is that it would have the effect of eliminating the Sex Offender Policy Board. It must be allowed to continue. The bill eliminates two functions of the SGC that should remain with the SGC: (1) the compilation and maintenance of the database; and (2) the continuation and maintenance of the sentencing manual. The elimination of the manual would ultimately cost money and result in litigation over sentencing practices. Under the current bill it is very difficult to determine what the continuing role of the SGC would be, or how reducing its role would affect the functioning of the courts and the criminal justice system in general. The DOC should not be allowed to assume data functions, or be responsible for the manual. Supreme Court justices should not have any executive authority regarding the interstate supervision of adult offenders or prison overcrowding matters.

(Opposed) This bill would eliminate the Sex Offender Policy Board.

Persons Testifying: (In support) Representative Hudgins, prime sponsor.

(With concerns) John Lane, Governor's Policy Office; and Bob Cooper, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

(Opposed) Lonnie Johns-Brown, Washington Coalition of Sexual Assault.

Persons Signed In To Testify But Not Testifying: None.