S-4946.2

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**SENATE BILL 6164**

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**State of Washington 66th Legislature 2020 Regular Session**

**By** Senators Dhingra, Wilson, C., McCoy, Das, Darneille, Kuderer, and Randall

AN ACT Relating to prosecutorial discretion to seek resentencing; adding a new section to chapter 36.27 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  It is the intent of the legislature to give prosecutors the discretion to petition the court to resentence an individual if the person's sentence no longer advances the interests of justice. The purpose of sentencing is to advance public safety through punishment, rehabilitation, and restorative justice. When a sentence includes incarceration, this purpose is best served by terms that are proportionate to the seriousness of the offense and provide uniformity with the sentences of offenders committing the same offense under similar circumstances. By providing a means to reevaluate a sentence after some time has passed, the legislature intends to provide the prosecutor and the court with another tool to ensure that these purposes are achieved.

NEW SECTION. **Sec.**  A new section is added to chapter 36.27 RCW to read as follows:

(1) The prosecutor of a county in which an offender was sentenced may petition the sentencing court or the sentencing court's successor to resentence the offender if the original sentence no longer advances the interests of justice.

(2) Upon receipt of a petition for resentencing, the court shall resentence the defendant in the same manner as if the offender had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence.

(3) The court may consider postconviction factors including, but not limited to, the inmate's disciplinary record and record of rehabilitation while incarcerated; evidence that reflects whether age, time served, and diminished physical condition, if any, have reduced the inmate's risk for future violence; and evidence that reflects changed circumstances since the inmate's original sentencing such that the inmate's continued incarceration no longer serves the interests of justice. Credit shall be given for time served.

(4) The court shall provide an opportunity for victims and survivors of victims of any crimes for which the offender has been convicted to present a statement personally or by representation.

(5) A resentencing under this section shall not reopen the defendant's conviction to challenges that would otherwise be barred.

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