

SENATE BILL REPORT

SB 6490

As Reported By Senate Committee On:
Judiciary, January 31, 2006

Title: An act relating to mitigating circumstances allowing departures from sentencing guidelines.

Brief Description: Specifying additional mitigating circumstances allowing departures from sentencing guidelines.

Sponsors: Senators Rasmussen and Kline.

Brief History:

Committee Activity: Judiciary: 1/12/2006, 1/31/06 [DPS]

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6490 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: The presumptive standard sentencing range for ranked felonies is determined by the seriousness of the current offense and the offender's specific criminal history (offender score). A court may impose a sentence below the standard range (a "mitigated sentence") if the court finds, by a preponderance of the evidence, one or more mitigating factors. The court is provided with a non-exclusive list of circumstances to consider when determining the appropriateness of a mitigated sentence.

Summary of Substitute Bill: A new circumstance is added to the non-exclusive list of mitigating factors. A sentence below the standard sentencing range may be imposed if the offender score due to other current offenses, as opposed to prior offenses, results in a presumptive sentence that is clearly excessive.

Substitute Bill Compared to Original Bill: The substitute bill eliminates two proposed mitigating factors: (a) the purpose of ensuring that sentences are commensurate with the punishment imposed on others committing similar offenses has been compromised prior to sentencing and (b) the defendant's offender score overrepresents the seriousness of the defendant's criminal history or the likelihood that the defendant will commit future crimes.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: It is appropriate to enumerate mitigating factors, even though the list is non-exclusive, because appellate courts tend to treat the list as somewhat exclusive. Judges welcome the additional guidance provided by the Legislature. This helps judges impose just sentences.

Testimony Against: A more appropriate new mitigating factor would be one that allows a downward departure for offenders who committed multiple offenses during the same event. For some of these offenders, the standard range sentence may be inappropriate.

Who Testified: PRO: Judge Leanard Costello, Kitsap County Superior Court.

CON: Tom McBride, WAPA.