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**Criminal Justice & Corrections  
Committee**

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**HB 2358**

**Brief Description:** Eliminating duplicative sentencing enhancements for drug offenses with a deadly weapon special verdict.

**Sponsors:** Representatives Kagi, O'Brien, Upthegrove, Sullivan, Dickerson, Sommers and Darneille.

**Brief Summary of Bill**

- Eliminates provisions elevating the seriousness level for certain drug crimes committed with a deadly weapon special verdict.
- Retroactively re-sentences currently incarcerated offenders accordingly.

**Hearing Date:** 1/20/04

**Staff:** Jim Morishima (786-7191).

**Background:**

Deadly Weapon Enhancements

Since 1995, most offenders, including offenders who commit crimes under the Uniform Controlled Substances Act, have had a term of years added to their sentences if their crimes were committed with a deadly weapon. The number of years added to such a sentence varies depending on the type of crime committed and the type of weapon involved. For example, five years is added to the sentence of an offender who commits a class A felony with a firearm. Two years is added to the sentence of an offender who commits a class A felony with a deadly weapon other than a firearm.

Deadly weapon enhancements may not be reduced by earned release time and do not apply to the following crimes: possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm, and use of a machine gun in a felony.

Drug Sentencing

The new drug sentencing methodology, which went into effect on July 1, 2003, contains provisions elevating the punishment for a crime committed under the Uniform Controlled Substances Act when there is a deadly weapon special verdict. Such crimes are automatically

ranked at seriousness level III (the highest seriousness level). For example, delivering marijuana normally has a seriousness level of I. However, if there is a special verdict that the offender was armed with a deadly weapon at the time of the crime, the offense has a seriousness level of III.

It is therefore possible, under the new drug sentencing methodology, for an offender to have the seriousness level of his or her crime elevated to III because of a deadly weapon special verdict and to have a term of years added to his or her sentence via a deadly weapon enhancement.

**Summary of Bill:**

The provisions automatically elevating the seriousness level of crimes committed under the Uniform Controlled Substances Act with a deadly weapon special verdict are eliminated. These changes do not have an effect on the other deadly weapon enhancements.

Offenders who are currently incarcerated for offenses that have seriousness levels of III solely because of deadly weapon special verdicts must be re-sentenced. Such offenders will have their sentences re-calculated using the same relative point within the new standard range that the old sentence occupied in the old standard range. The Department of Corrections and county jails must notify each offender eligible for re-sentencing as well as the sentencing court. If an offender in a Department of Corrections facility is re-sentenced to a term of 12 months or less, he or she will remain in the custody of the Department of Corrections.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed, except section 2, relating to eliminating the provisions that automatically elevate the seriousness level of crimes committed with deadly weapons, which takes effect immediately, and section 3, relating to technical changes, which takes effect on July 1, 2004.