

SENATE BILL REPORT

SB 5133

As Reported by Senate Committee On:
Law & Justice, January 23, 2025

Title: An act relating to departures from the guidelines for caregiver status.

Brief Description: Concerning departures from the guidelines for caregiver status.

Sponsors: Senators Wilson, C., Trudeau, Hasegawa, Nobles and Saldaña; by request of Administrative Office of the Courts.

Brief History:

Committee Activity: Law & Justice: 1/16/25, 1/23/25 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Adds a mitigating circumstance upon which a court may rely upon in departing from the standard felony sentencing range related to the defendant's status as a parent or caregiver.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5133 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Holy, Ranking Member; Lovick, Salomon, Valdez and Wagoner.

Minority Report: Do not pass.

Signed by Senator Fortunato.

Minority Report: That it be referred without recommendation.

Signed by Senator Torres.

Staff: Joe McKittrick (786-7287)

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

Background: The Sentencing Reform Act (SRA) is used to determine sentences for persons convicted of felony crimes. The SRA assigns a determinate sentence range, taking into consideration the seriousness level of the offense and the particular defendant's offender score. The seriousness level is a statutory severity designation of the offense. The offender score is calculated based on the convicted person's criminal history.

While typically the standard sentence range calculated under the SRA is presumed to be appropriate, the SRA permits the court to impose a determinate sentence outside the standard range if there are substantial and compelling reasons to do so. An exceptional sentence may be below the standard range if there are mitigating circumstances and may be above the standard range if there are aggravating circumstances.

To impose an exceptional sentence below the standard range, the court must find that the mitigating circumstances are established by a preponderance of the evidence. The SRA provides a nonexhaustive list of circumstances which a court may rely upon in imposing an exceptional sentence below the standard range.

Summary of Bill (First Substitute): The defendant's status as a primary parent, legal guardian, or custodian with physical custody of a minor child, or status as a primary caregiver for other family members is added to the nonexhaustive list of circumstances upon which the court may rely in imposing an exceptional sentence below the standard range but only if the defendant is not subject to certain child welfare cases or certain restraining orders, and has not previously been convicted of certain crimes .

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

Prohibits courts from considering a defendant's caregiver status related to an exceptional sentence below the standard range if the defendant is subject to certain child welfare cases or restraining orders or has previously been convicted of certain crimes.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: This bill simply adds a mitigating circumstance that courts may rely upon in departing from a standard felony sentencing range. A strong family structure can reduce recidivism and is a mitigating factor. Long prison sentences affect both the person being sentenced and their families. Female offenders

are more likely to be single parents and incarcerated mothers are more likely to be primary care givers. Gender and income can affect the availability of justice. This will help incarcerated people maintain strong family support and reduce both recidivism and costs of incarceration. This will not mean any person who is a caregiver will get an exceptional sentence because it is still within the discretion of the court to apply this exception to individual cases. This is not an entitlement. People deserve both a just sentence and a sentence that is imposed in a just manner. Courts should have discretion to consider the personal factors of the people who appear in front of the courts for sentencing. This will promote the wellbeing of children and families.

CON: Currently the law provides a sentencing alternative for parents and a parent sentencing program through the Department of Corrections. The language of this bill is broad and may allow a person to seek an exceptional sentence even if the person abused their child.

Persons Testifying: PRO: Senator Claire Wilson, Prime Sponsor; Brittany Gregory, Administrative Office of the Courts; Victoria Blumhorst, Washington Gender and Justice Commission; Cindy Arends, Washington Defender Assn, WA Assn Criminal Defense Attorneys.

CON: Russell Brown, WA Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: No one.