



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

Jefferson Building, PO Box 43124 • Olympia, Washington 98504-3124 • (360) 688-8511

SPECIAL MEETING MINUTES February 3, 2023 12:00pm – 1:00pm Zoom

Members Present:

Hon. J. Wesley Saint Clair, Chair
Kimberly Gordon
Hon. Sharonda Amamilo
Secretary Cheryl Strange
Greg Link (proxy: Kimberly Gordon)
Kecia Rongen
Hon. Stanley Rumbaugh
Norrie Gregoire
Jon Tunheim
Jennifer Albright
Marc Baldwin
Kathleen Harvey

Staff:

Keri-Anne Jetzer

Members Absent:

Senator Mike Padden
Tony Golik
Chief Ken Thomas
Gina Cardenas
Rep. Tarra Simmons
Senator Claire Wilson
Tim Wettack
Hon. William Houser
Hon. Josephine Wiggs
Rep. Gina Mosbrucker

Guest:

Commissioner Tye Menser, Thurston
County

I. CALL TO ORDER

Chair Judge Saint Clair called the meeting to order. He asked Kimberly Gordon to lead the meeting.

II. DRAFT LEGISLATION

SB 5053 – Concerning Possession of Controlled Substance

SB 5536 – Concerning controlled substances, counterfeit substances, and legend drug possession and treatment

SB 5467 – Encouraging treatment for possession of certain counterfeit drugs or controlled substances

SB 5624 – Implementing the recommendations of the SURSAC

Keri-Anne reported on the first four bills as they were all related to drug offenses and are likely related to the Blake fix.

Kimberly Gordon recalled that in the past the SGC has supported treating drugs as a public health issue instead of a criminal issue, recommends the Legislature to make treatment available statewide, and discussed the connection between systemic disparity in the enforcement or prior drug laws. Keri-Anne replied that in 2021, the SGC voted to support a bill that provided behavioral health responses to persons with substance use disorders with a note stating the support was conditional upon adequate funding and adequate structural support for the behavioral health system that responds to individuals with substance use disorders. Judge Rumbaugh didn't see why the SGC would change its position.

MOTION #23-07: OTHER ON SB 5035 NOTING THAT THE SGC SUPPORTS DIVERSION OUT OF THE CRIMINAL JUSTICE PARADIGM BUT OPPOSES THE INCREASE PENALTY FOR POSSESSION

SUPPORT SB 5036, SB 5467, AND SB 5624 AS THE SGC BELIEVES DIVERSION INTO TREATMENT REDUCES RECIDIVISM AND SUSTAINS SOBRIETY. NEEDS TO BE FUNDED.

MOVED: Judge Rumbaugh
SECONDED: Judge Saint Clair
PASSED: Passed
ABSTAINED: Jon Tunheim

SB 5543 – Creating a developmentally appropriate response to youth who commit sexual offenses

Keri-Anne reported that the companion House bill has already had a public hearing. The Sex Offender Policy Board testified at the hearing as this bill includes many of the recommendations from its 2021 report with a few minor exceptions.

Kimberly Gordon reminded members that the SOPB recently presented on their recommendation in their 2022 report. The discussion then was that the SGC relies on the SOPB to inform the SGC on matters related to sex offenses. Jon Tunheim agreed with Kimberly and suggested the SGC stand back on this bill since the SOPB has weighed in on it.

MOTION #23-08: SGC DECIDED TO TAKE NO POSITION

MOVED: Judge Rumbaugh
SECONDED: Jon Tunheim
PASSED: Passed

SB 5056 – Establishing a special allegation for habitual property offenders

Judge Rumbaugh remarked that small business owners have been repeatedly subjected to property crimes, such as smash and grab, breaking windows, dragging out cash

machines, etc. He felt this bill addresses a specific and persistent problem and considering that before a person gets to that point they have been screened for drug-related alternatives, he leans toward favoring this bill.

Jon Tunheim agreed that there is a lot of attention on this right now, particularly around organized retail theft. He added that the attorney general started a statewide task force to address the issue. He didn't think this bill necessarily precludes a treatment response. Looking through a drug court lens, he said enhanced penalties such as this sometimes create more incentive for people to take advantage of an option like a drug court.

Judge Amamilo said her concern is that she cannot tell from the bill that it does actually afford an off-ramp to address some of the underlying contributors to the behavior. She wondered if the AGO's task force is addressing something that may be important to consider prior to the passing of this bill.

Kimberly Gordon suggested, as an option, that the SGC could wait to take a position and gather more information from the public hearing.

MOTION #23-09: TABLED UNTIL THE FEBRUARY 10, 2023, SGC MEETING

MOVED: Jon Tunheim
SECONDED: Judge Amamilo
PASSED: Passed

SB 5644 – Concerning juvenile records

Kimberly Gordon expressed concern that this bill would make it more difficult for her as a defense attorney to gain access to records of her clients. Jon Tunheim noted it is a delicate balance between not requiring juveniles to carry these records for the rest of their life and with providing transparency in the juvenile justice system for public confidence. Jon was open to the SGC suggesting this be a study bill. Keri-Anne remarked that, from a research perspective, once these records are sealed, it would impact access to records that could be studied.

MOTION #23-10: TABLED UNTIL THE FEBRUARY 10, 2023, SGC MEETING

MOVED: Kimberly Gordon
SECONDED: Jon Tunheim
PASSED: Passed
ABSTAINED: Kathleen Harvey

HB 1696 – Concerning stalking-related offenses

Kimberly Gordon wondered if this bill is related to the constitutionality of the cyberstalking statute. She wasn't sure if the SGC should take a position on this because it relates to defining what is criminal behavior.

Judge Saint Clair suggested it could be an opportunity to congratulate the legislative on simplifying statutes.

Jon Tunheim observed that it fixes some issues with the cyberstalking statute and simplifies it and that WAPA will be in support of the bill.

MOTION #23-11: SGC VOTED OTHER BUT APPLAUDES THE LEGISLATURE ON THE SIMPLIFICATION

MOVED: Judge Saint Clair

SECONDED: Jon Tunheim

PASSED: Passed

III. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



2/10/23

Judge J. Wesley Saint Clair (Ret), Chair

Date