



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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

SPECIAL MEETING MINUTES

January 26, 2024 12:00pm – 1:00pm

1500 Jefferson Building

Olympia, WA 98516

And Zoom

Members Present:

Hon. J. Wesley Saint Clair, Chair
Hon. Jeffrey Swan
Greg Link
Secretary Cheryl Strange (proxy: Dianne Ashlock)
Kimberly Gordon (proxy: Ramona Brandes)
Hon. Josephine Wiggs
Judge Veronica Galván
Tim Wettack (proxy: Greg Link)
Vasiliki Georgoulas-Sherry
Chief Brian Smith
Jennifer Redman
Hon. Sharonda Amamilo
Norrie Gregoire

Members Absent:

Tony Golik
Rep. Tarra Simmons
Rep. Gina Mosbrucker
Commissioner Tye Menser
Judge Karen Donohue
Senator Claire Wilson
Jennifer Albright
Kecia Rongen
Jon Tunheim

Staff:

Keri-Anne Jetzer
Dr. Lauren Knoth-Peterson, PSPRC

I. CALL TO ORDER

Chair Judge Saint Clair called the meeting to order.

II. DRAFT LEGISLATION BILLS

SSB 5056 - Establishing a special allegation for habitual property offenders.

Keri-Anne explained that she brought this bill from last year back before the members is because the original reason for the SGC's position is no longer viable based on the amended bill.

Dr. Lauren Knoth-Peterson presented a draft racial impact analysis she conducted on this bill. She couldn't say with certainty what the likely impact would be on racial disproportionality, but the findings did suggest that the enhancement would more

likely increase disparity than decrease disparity in sentencing outcomes, particularly between white and Black populations.

Greg Link commented that the population this bill focuses on, those with a score of 9+, are the easiest ones in which to impose an exceptional sentence. And with a score of 9+ for many of these listed offenses, the judge may be limited because of the statutory maximum and not able to impose the entire enhancement length.

Further discussion highlighted additional confusion caused by language in the bill. Greg Link pointed out another concern around the 180-day requirement that is supposed to be a judicial determination. He said there is currently a case before the US Supreme Court, *Ehrlinger vs US*, where the US government has conceded that the Armed Career Criminal Act violates the 6th Amendment because it requires a judicial finding of the time between prior offenses.

Judge Galván believed the bill contravenes one of the goals of the work of the CSTF, which was simplicity. She thought there were more reasons to be against the bill now than compared to last year.

MOTION #24-25: MOTION TO OPPOSE SSB 5056 AS THE BILL DOES NOT SIMPLIFY THE CURRENT SENTENCING GRID AND IS UNNECESSARY IN LIGHT OF THE DISCRETION JUDGES CAN ALREADY EXERCISE IN THESE CASES. IN ADDITION, IT APPEARS TO HAVE RACIALLY DISPROPORTIONATE IMPACT AND CONCERNS ABOUT POTENTIAL VIOLATIONS OF THE 6TH AMENDMENT.

MOVED: Judge Galván
SECONDED: Greg Link
PASSED: Passed (Y – 10; N – 1)
ABSTAIN: Secretary Strange, Vasiliki Georgoulas-Sherry

SB 6133 - Deterring robberies from cannabis retail establishments.
Members did not wish to take a position on this bill.

SB 6261 - Concerning penalties for the theft and possession of stolen property, including theft from first responders.

Keri-Anne noted that in the re-ranking proposals provided by the SGC to Representative Goodman in December, there was consensus that theft offenses with extenuating circumstances should be placed one seriousness level higher than Theft 1. This bill would put Theft 1 on par with theft offenses with special circumstances as they are current at SL 3.

Keri-Anne also observed that the bill does not require the person to meet the monetary threshold of Theft 1, but just possess the specific equipment. Ramona Brandes remarked that someone in an emergency room who took some bandages would fall under this definition of Theft 1. Judge Swan agreed that the language was over broad.

Greg reminded members that only a handful of offenses have mandatory minimums, and those are very serious offenses. Other than Murder, the mandatory minimum rarely has a sentencing impact because of the way the sentence ranges are set up. This one would have an impact, however, plus it adds complexity and restricts judicial discretion.

MOTION #24-26: MOTION TO OPPOSE SB 6261 BECAUSE IT REMOVES JUDICIAL DISCRETION, ADDS COMPLICATION TO THE SRA CONTRADICTORY TO THE PRIOR WORK OF THE SGC, AND IS CONTRARY TO THE RECOMMENDATIONS THAT THE SGC MADE TO THE LEGISLATURE REGARDING SERIOUSNESS LEVEL OF THESE TYPES OF OFFENSES AND THE EXPANSION OF MANDATORY MINIMUMS.

MOVED: Greg Link
SECONDED: Judge Swan
PASSED: Passed (Y – 9; N – 0)
ABSTAIN: Secretary Strange, Vasiliki Georgoulas-Sherry

SB 5841 - Requiring individuals convicted of offenses related to driving under the influence to pay financial support to minor children and dependents when the offense results in the death or disability of a parent.

Ramona Brandes noted that this is far outside of the current restitution statute. Child support obligations are based on the duty to support your own biological children and involve complex calculations. She felt this was better handled in a civil context and lawsuit rather than in the criminal justice system. Judge Swan was in agreement and believed this would start blending family law and criminal law and it would complicate sentencing. Greg Link was unsure how this would be completed within the 180 days timeframe to get a restitution order in after sentencing. Additionally, he noted the current restitution bill states restitution is limited to easily ascertained damages, and there is nothing easily ascertainable about this.

MOTION #24-27: MOTION TO OPPOSE SB 5841

MOVED: Judge Galván
SECONDED: Judge Swan
PASSED: Passed (Y – 7; N – 0)
ABSTAIN: Secretary Strange, Vasiliki Georgoulas-Sherry

HB 1967 - Excluding any person who is convicted of a hit and run resulting in death from being eligible for a first-time offender waiver.

Judge Swan suggested that just because the FTOW is eligible does not mean the person would get it, plus he felt this limits courts' discretion.

Ramona reported that, on the grid, a person at a CHS 0 for Hit and Run – Death has a range of 31-41 months. The crime is the actual leaving of the scene, not the causing of

the death; that is a different matter. She agreed with Judge Swan about limiting the judges' discretion.

MOTION #24-28: MOTION TO OPPOSE HB 1967

MOVED: Judge Swan
SECONDED: Ramona Brandes
PASSED: Passed (Y – 8; N – 0)
ABSTAIN: Secretary Strange, Vasiliki Georgoulas-Sherry

HB 2203 - Creating a pilot project to assist incarcerated veterans.

MOTION #24-29: MOTION TO SUPPORT HB 2203

MOVED: Ramona Brandes
SECONDED: Greg Link
PASSED: Passed (Y – 8; N – 0)
ABSTAIN: Secretary Strange, Vasiliki Georgoulas-Sherry

HB 2079 - Improving school safety by extending and increasing penalties for interference by, or intimidation by threat of, force or violence at schools and athletic activities.

Members did not wish to take a position on this bill.

HB 2153 - Deterring the theft of catalytic converters.

Norrie Gregoire commented that this bill does add complexity but noted it is also a big issue. Keri-Anne shared that during testimony about this bill that she listened that someone stated the issue is more about buyers purchasing from people who steal them rather than people stealing them.

Ramona shared that she thought this bill really goes after the sellers, not the buyers, while it is the buyers who are driving the sellers. Judge Wiggs thought this felt like a niche offense, and wondered if there was another way to get at this.

MOTION #24-30: MOTION TO OPPOSE HB 2153 BECAUSE OF THE INCREASED COMPLEXITY AND THE FACT THAT IT DOES NOT ADDRESS THE PURCHASER'S CULPABILITY

MOVED: Ramona Brandes
SECONDED: Judge Wiggs
PASSED: Passed (Y – 7; N – 0)
ABSTAIN: Secretary Strange

III. PUBLIC COMMENT

There were no members of the public in attendance.

IV. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



2/9/24

Judge J. Wesley Saint Clair (Ret), Chair

Date