



STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

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

MEETING MINUTES

February 9, 2024 9:00am – 12:00pm

1500 Jefferson Building

Olympia, WA 98516

And Zoom

Members Present:

Hon. J. Wesley Saint Clair
Hon. Sharonda Amamilo
Greg Link
Secretary Cheryl Strange
Ramona Brandes
Hon. Josephine Wiggs
Vasiliki Georgoulas-Sherry
Judge Karen Donohue
Commissioner Tye Menser
Tim Wettack (proxy: Greg Link)
Hon. Jeffery Swan (proxy: Judge Saint Clair)
Jennifer Albright
Jon Tunheim
Norrie Gregoire

Members Absent:

Tony Golik
Rep. Tarra Simmons
Senator Claire Wilson
Rep. Gina Mosbrucker
Kecia Rongen
Judge Veronica Galván
Chief Brian Smith
Jennifer Redman

Staff:

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

I. CALL TO ORDER

Chair Judge Saint Clair called the meeting to order.

II. APPROVAL OF MINUTES

MOTION #24-31: APPROVE DECEMBER 8, 2023, MEETING MINUTES

MOVED: Judge Donohue
SECONDED: Secretary Strange
PASSED: Passed
ABSTAIN: Jon Tunheim

MOTION #24-32: APPROVE JANUARY 5, 2024 SPECIAL MEETING MINUTES

MOVED: Judge Donohue
SECONDED: Ramona Brandes
PASSED: Passed
ABSTAIN: Secretary Strange

MOTION #24-33: APPROVE JANUARY 12, 2024, MEETING MINUTES

MOVED: Judge Donohue
SECONDED: Secretary Strange
PASSED: Passed
ABSTAIN: Jon Tunheim

MOTION #24-34: APPROVE JANUARY 19, 2024 SPECIAL MEETING MINUTES

MOVED: Vasiliki Georgoulas-Sherry
SECONDED: Ramona Brandes
PASSED: Passed
ABSTAIN: Greg Link, Secretary Strange

MOTION #24-35: APPROVE JANUARY 26, 2024 SPECIAL MEETING MINUTES

MOVED: Judge Saint Clair
SECONDED: Vasiliki Georgoulas-Sherry
PASSED: Passed
ABSTAIN: Jon Tunheim, Secretary Strange, Judge Donohue

III. 2024 LEGISLATIVE BILL PROPOSALS

Members discussed the status of the legislative session. Keri-Anne commented that of the 17 bills on the list for the SGC to discuss, only 3 bills were moving. She said she added a few bills that the SGC had already discussed to the list where amendments may have changed the SGC's current position or addressed its concerns. She asked the SGC to consider them again.

SHB 1999 - Concerning fabricated intimate or sexually explicit images and depictions.
Keri-Anne provided an update on the substitute bill. Members felt that the concerns still existed, so no change was made to the SGC's position.

SHB 2048 - Concerning supervision of domestic violence in criminal sentencing.
Keri-Anne remarked that the concern related to a specific statute in the original bill had been removed in the substitute. Members noted that the removal of the plead and proven language in RCW 9.94A.501 and the fact that the plead and proven language is not included in the definition of domestic violence offense and repetitive domestic violence offenses in RCW 9.94A.030 suggests the 6th Amendment issue still exists.

MOTION #24-36: MOTION TO CONTINUE TO OPPOSE SHB 2048 BUT TO ADD LANGUAGE REGARDING THE LACK OF CLARIFICATION IN REPETITIVE DOMESTIC VIOLENCE THAT IT MUST BE PLED AND PROVEN AND THAT THE ELIMINATION FROM RCW 9.94A.501 MAY IMPACT HOW THE STATUTE IS CONSTRUED MOVING FORWARD IF THE REQUIREMENT FOR PLED AND PROVEN IS NOT ADDED TO THE DEFINITIONS IN RCW 9.94A.030.

MOVED: Ramona Brandes
SECONDED: Greg Link
PASSED: Passed (Y- 9; N – 0)
ABSTAIN: Secretary Strange, Jon Tunheim, Commissioner Menser, Vasiliki Georgoulas-Sherry

SHB 1798 - Concerning allowed earned release time for certain offenses and enhancements.

Keri-Anne reminded members that the SGC voted on this bill during the 2023 Legislative Session. The bill has started to move again this session and current amendments to the bill removed the retroactive nature of the bill. Members believed the bill was still better than doing nothing but wanted to identify to the Legislature the impacts of the removal of retroactivity.

MOTION #24-37: MOTION TO CONTINUE TO SUPPORT SHB 1798 WITH COMMENTS THAT THE ELIMINATION OF RETROACTIVITY WILL ELIMINATE SOME OF THE FISCAL SAVINGS (THOUGH THERE WILL STILL BE SOME) AND WE LOSE THE ABILITY TO CORRECT PAST RACIAL DISPARITY (THOUGH IT ADDRESSES IT MOVING FORWARD) BY ESSENTIALLY ESTABLISHING A TWO-TIER MODEL THAT SUBSTANTIALLY INCREASES COMPLEXITY.

MOVED: Ramona Brandes
SECONDED: Greg Link
PASSED: Passed (Y- 10; N – 0)
ABSTAIN: Secretary Strange, Jon Tunheim, Vasiliki Georgoulas-Sherry

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

Keri-Anne briefed members that a few of the concerns previously held by the SGC have been removed from the bill. She asked members if the position has changed or if she should just modify the enumerated concerns noted in the written testimony. Members agreed to just remove the concern related to mandatory minimums and that no change to the vote was needed.

SB 5938 - Modifying the community parenting alternative for eligible participants in the residential parenting program at the department of corrections.

Keri-Anne briefed members on the bill. Chair Judge Saint Clair reminded members that, traditionally, the SGC has been supportive of DOC creating reentry models that increase the likelihood of long-term success and establishing those family relationships, in his opinion, does that.

MOTION #24-38: MOTION TO SUPPORT SB 5938

MOVED: Ramona Brandes
SECONDED: Judge Donohue
PASSED: Passed (Y- 10; N – 0)
ABSTAIN: Secretary Strange, Jon Tunheim, Vasiliki Georgoulas-Sherry

HB 2303 - Modifying conditions of community custody.

Greg Link noted that there is a statute (RCW 9.94A.345) that states the sentence should be determined based on the date of offense and increasing the range of punishment creates an ex-post facto problem. This is why retroactivity cannot apply to make a sentence more onerous. He thought this bill was in response to a Supreme Court case from last summer (*In re Pers. Restraint of Ansel, 2023*) in which the court told the ISRB that it could not impose conditions on people if those conditions weren't authorized at the time they were sentenced.

MOTION #24-39: MOTION TO OPPOSE THE LANGUAGE IN HB 2303 THAT ALLOWS THE ISRB THE ABILITY TO ADD ADDITIONAL CONDITIONS REGARDLESS OF THE INDIVIDUALS DATE OF SENTENCING BASED ON EX-POST FACTO CONCERNS.

MOVED: Greg Link
SECONDED: Ramona Brandes
PASSED: Passed (Y- 9; N – 1)
ABSTAIN: Secretary Strange, Vasiliki Georgoulas-Sherry

Members decided to not discuss the remaining bills that have not moved. Chair Judge Saint Clair thanked the members for their work during this legislative session, particularly the work of the Thursday Legislative Committee and during the Special Meetings on Friday afternoons.

IV. OTHER BUSINESS

Dr. Lauren Knoth-Peterson talked about the racial ethnic impact statement (REIS) work of the Public Safety Policy and Research Center (PSPRC) and the intent of the PSPRC to produce more of these impact statements in the next legislative session.

She also announced to members the PSPRC's publication of the supplement report to the SGC's re-ranking report.

V. PUBLIC COMMENT

No members of the public wished to address the members.

VI. ADJOURNMENT

APPROVED AND ADOPTED BY THE SENTENCING GUIDELINES COMMISSION



3/8/2024

Judge J. Wesley Saint Clair (Ret), Chair

Date