

SENATE BILL REPORT

SI 159

As Passed Senate, April 20, 1995

Brief Description: Increasing penalties for armed crimes.

Sponsors: People of the State of Washington.

Brief History:

Committee Activity: Law & Justice: 1/10/95, 2/1/95 [DP-WM].

Ways & Means: 3/22/95, 4/6/95 [DP].

Passed Senate, 4/20/95, 39-5.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Ways & Means.

Signed by Senators Smith, Chair; Hargrove, Haugen, Johnson, Long, McCaslin, Quigley, Roach and Schow.

Staff: Susan Carlson (786-7418)

Background: In recent few years, the public has become increasingly concerned about violent crime, and especially about crimes involving firearms. Current laws provide for enhanced penalties for certain crimes committed with a deadly weapon, which includes a firearm. However, it is felt that penalties for crimes involving firearms should be increased, and that the deadly weapon sentence enhancements should apply to more crimes. There is also concern that judges be held accountable for their sentencing practices.

Washington Citizens for Justice has sponsored and obtained signatures for an initiative to the legislature addressing these and other concerns. The initiative is entitled the "Hard Time for Armed Crime Act."

Summary of Bill: Sentence enhancements for crimes committed with a firearm or other deadly weapon are lengthened. The enhancements apply to all felony convictions, with the exception of a few crimes that necessarily involve a firearm. The sentence for a crime committed while armed with a firearm is enhanced by an additional five years for class A felonies, three years for class B felonies, and 18 months for class C felonies. The sentence for a crime committed while armed with a deadly weapon is enhanced by an additional two years for class A felonies, one year for class B felonies, and six months for class C felonies. No earned early release is allowed on the enhanced portion of the sentence, and the enhancement cannot be served concurrently with any other sentence. The enhancements are doubled for repeat offenders.

The Sentencing Guidelines Commission is required to track sentencing information by judge, and provide a comparison of each judge's sentencing practices with the standard sentence range.

Two degrees of unlawful possession of a firearm are created. First degree possession, a class B felony, is committed if a person possesses a firearm after conviction for any serious offense, residential burglary, first degree reckless endangerment, or a class A or B felony level drug offense. Second degree unlawful possession, a class C felony, is committed if a person possesses a firearm after a conviction for any other felony drug offense, or other felony involving a firearm, conviction for any domestic violence or harassment offense, three convictions within five years for driving a motor vehicle while intoxicated, involuntary commitment for mental health treatment, or unlawful possession by a person under 18 years of age.

The crime of possession of a stolen firearm is removed from the theft of a firearm statute and made a separate class B felony crime. The seriousness level for the crime of reckless endangerment in the first degree is increased from level 5 to level 7.

The death penalty may be imposed upon conviction of aggravated first degree murder if the murder was gang-related, involved a drive-by shooting, or was committed to avoid prosecution as a persistent offender.

Appropriation: None.

Fiscal Note: Available.

Effective Date: If passed by the Legislature, 90 days after session; if submitted to the people at the next general election and passed, 30 days after the election.

Testimony For: The initiative responds to the public's concerns about crimes involving firearms by increasing penalties for those crimes. By providing for the tracking of sentencing information, judges will be held accountable for their decisions. The death penalty should be a potential penalty for gang-related murders, drive-by murders, and murders to avoid prosecution as a persistent offender.

Testimony Against: the initiative inappropriately increases the number of offenders who would be classified as persistent offenders. Mandatory minimum sentences do not reduce violent crime but do result in increased prison costs. The circumstances allowing imposition of the death penalty should not be expanded.

Testified: PRO: John Carlson, Dave La Course, Washington Citizens for Justice; Mike Patrick, Washington State Council of Police Officers; Brian Judy, National Rifle Assn.; Norm Maleng, John Ladenburg, Jim Krider, Bernadean Brodous, Washington Assn. of Prosecuting Attorneys; Cheryl Terry, Sheryl Kinard, citizens; CON: Dan Fessler, Washington Defenders Assn.; David Zuckerman, Washington Assn. of Criminal Defense Lawyers; Elizabeth Ambrose, Washington Protection and Advocacy System; Ned Dolejsi, Washington State Catholic Conference; Harriet Walden, citizen; Susan Moss, Knoll Lowney, Roger Swayze, Families Against Mandatory Minimums; K. L. Shannon, Mothers Against Police Harassment; NEUTRAL: Chase Riveland, Steve Westman, Dept. of Corrections; PRO & CON: Larry Fehr, Washington Council on Crime and Delinquency.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass.

Signed by Senators Loveland, Vice Chair; Bauer, Cantu, Finkbeiner, Gaspard, Hochstatter, Johnson, Long, McDonald, Roach, Sheldon, Strannigan, Sutherland and West.

Staff: Linda Brownell (786-7913)

Testimony For: There is no need to delay implementation of the initiative. Victims need more protection and violent criminals need more punishment. This will help to put a stop to violent crime. There are many ways to pay for the initiative including opening work ethic camps and the drug offender sentence option. I 159 is a continuation of the tough laws passed by the Legislature last year. Judges must be held accountable for their sentencing practices.

Testimony Against: There are concerns about the fiscal impacts and the expanding corrections budget. Also, this initiative will impact local courts, increasing their workloads as more people are brought to trial. The initiative adversely affects inmate management by not allowing earned early release for a portion of their sentence. The expansion of the death penalty to the drive-by shooting section may be unconstitutional. There is concern that the offender sentence is increased not due to the amount of violence committed, but just by the presence and type of weapon.

Testified: PRO: Laurie Willman; Dave LaCourse, Washington Citizens for Justice; CON: Senator Kohl; Tom Wales, Washington State Bar Assn.; Kay Frank, King County Bar Assn.