

HOUSE BILL REPORT

SSB 5168

As Passed House:
April 5, 2011

Title: An act relating to reducing maximum sentences for gross misdemeanors by one day.

Brief Description: Reducing maximum sentences for gross misdemeanors by one day.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Prentice, Kline, Regala, Chase and Kohl-Welles).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 3/9/11, 3/15/11 [DP].

Floor Activity:

Passed House: 4/5/11, 93-2.

<p>Brief Summary of Substitute Bill</p> <ul style="list-style-type: none">• Lowers the maximum imprisonment for a gross misdemeanor to 364 days.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: Do pass. Signed by 11 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Alexa Silver (786-7190).

Background:

Deportable Offenses: A noncitizen is deportable if he or she is convicted of a state or federal offense that is classified by immigration law as: (1) an "aggravated felony;" or (2) a "crime involving moral turpitude" if a sentence of one year or longer may be imposed. Noncitizens include lawful permanent residents and refugees. Federal law defines the term "aggravated felony" to mean certain categories of offenses for which the term of imprisonment is at least one year, including crimes of violence, theft offenses, forgery offenses, and obstruction of justice. A "crime involving moral turpitude" is undefined in statute but includes crimes

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involving fraud. For immigration purposes, the noncitizen's criminal sentence includes any period of confinement ordered by the court, regardless of whether the sentence is suspended.

Sentencing: A defendant convicted of a gross misdemeanor is punishable by imprisonment for a maximum term fixed by the court of not more than one year, or by a fine of not more than \$5,000, or both. A court may suspend or defer all or a portion of the sentence and place the defendant on probation. If the defendant violates a condition of the suspension, the court may revoke the suspension and impose any unexecuted portion of the sentence.

The standard sentence range for a defendant convicted of a felony is based on the seriousness level of the offense and the offender score. Under the sentencing grid, the standard sentence for a felony may be less than one year if the seriousness level of the offense is V or lower.

Summary of Bill:

The Legislature finds that under federal law, a maximum sentence for a gross misdemeanor may result in automatic deportation of a person who has lawfully immigrated to the United States, who is a victim of domestic violence, or who is a refugee, even when the sentence is suspended. The Legislature finds this is a disproportionate outcome compared to a person convicted of a felony that must be sentenced to less than one year.

Gross misdemeanors are punishable by imprisonment of up to 364 days.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Federal law defines an aggravated felony as a sentence of 365 days. Sentences for gross misdemeanors vary across the county from six months to five years. A person convicted of a gross misdemeanor is generally sentenced to the maximum sentence, with most of the sentence suspended. In Seattle, less than 1 percent of defendants are sentenced to serve the full 365 days. A less serious crime creates a more serious result under Washington law. This bill only affects legal immigrants and will not change standards for deporting illegal immigrants. This bill gives victims the right to explain to an immigration judge whether the abuser should be allowed to stay or be deported. Deportation has a fiscal impact on the community, and motions to reopen sentences have a fiscal impact on the court system.

(Opposed) None.

Persons Testifying: Bob Cooper, Washington Association of Criminal Defense Lawyers and Washington Defender Association; John Schochet, Seattle City Attorney's Office; and Grace Huang, Washington State Coalition Against Domestic Violence.

Persons Signed In To Testify But Not Testifying: None.