

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Corrections and Juvenile Justice** recommends **HB 2048** be amended on page 3, in line 19, after the period by inserting:

"(A)";

Also on page 3, also in line 19, by striking "crime" and inserting "misdemeanor"; in line 22, after "comparable" by inserting "person"; following line 24, by inserting:

"(B) (i) In designating a felony crime as person or nonperson, an out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a person felony if one or more of the following circumstances is present as defined by the convicting jurisdiction in the elements of the out-of-state offense:

(a) Death or killing of any human being;

(b) threatening or causing fear of bodily or physical harm or violence, causing terror, physically intimidating or harassing any person;

(c) bodily harm or injury, physical neglect or abuse, restraint, confinement or touching of any person, without regard to degree;

(d) the presence of a person, other than the defendant, a charged accomplice or another person with whom the defendant is engaged in the sale, distribution or transfer of a controlled substance or non-controlled substance;

(e) possessing, viewing, depicting, distributing, recording or transmitting an image of any person;

(f) lewd fondling or touching, sexual intercourse or sodomy with or by any person or an unlawful sexual act involving a child under the age of consent;

(g) being armed with, using, displaying or brandishing a firearm or other weapon, excluding crimes of mere unlawful possession; or

(h) entering or remaining within any residence, dwelling or habitation.

(ii) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as a person felony if the elements of the out-of-state felony conviction or adjudication necessarily prove that a person was present during the commission of the offense that resulted in the out-of-state conviction. For purposes of this clause, the person present must be someone other than the defendant, a charged accomplice or another person with whom the defendant is engaged in the sale, distribution or transfer of a controlled substance or non-controlled substance. The presence of a person includes physical presence and presence by electronic or telephonic communication.

(iii) An out-of-state conviction or adjudication for the commission of a felony offense, or an attempt, conspiracy or criminal solicitation to commit a felony offense, shall be classified as nonperson if the elements of the offense that resulted in the out-of-state conviction or adjudication do not require proof of any of the circumstances in subparagraph (B)(i) or (ii).";

On page 4, in line 10, by striking all after "(j)"; by striking all in lines 11 through 20; in line 21, by striking "(k)"; following line 23, by inserting:

"(k) The amendments made to this section by this act are procedural in nature and shall be construed and applied retroactively."; and the bill be passed as amended.