

HOUSE BILL REPORT

HB 1070

As Reported By House Committee On:
Corrections

Title: An act relating to sentencing persons for crimes committed while armed with a firearm.

Brief Description: Increasing sentences for persons who commit certain crimes while armed with a firearm.

Sponsors: Representatives Ludwig, Mastin, Orr, Chandler, Basich, R. Johnson, Foreman, Grant, Kremen, Lisk, Edmondson, Riley, Chappell, Campbell, Scott, Wineberry, Van Luven, Talcott, Rayburn, Padden, Dyer, Sheahan, Ballasiotes, Flemming, Long, Springer, Holm, Brumsickle, Horn, Forner, Miller, R. Meyers, Lemmon, Schoesler, Morton, Johanson, Tate, Vance, Thomas, Karahalios, Mielke, Wood, Cooke, Roland and Silver.

Brief History:

Reported by House Committee on:
Corrections, February 25, 1993, DPS.

HOUSE COMMITTEE ON CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Morris, Chair; Mastin, Vice Chair; Long, Ranking Minority Member; Edmondson, Assistant Ranking Minority Member; G. Cole; L. Johnson; Ogden; Riley; and Padden.

Staff: Bill Lynch (786-7092).

Background: Under current law, additional time is added to the presumptive sentence for certain crimes if the offender or an accomplice was armed with a deadly weapon while committing the crime. A special finding or verdict that the offender or an accomplice was armed with a deadly weapon is necessary before the deadly weapon increase can be added to the sentence.

If the deadly weapon enhancement applies, the following times are added to the presumptive sentences for the following crimes:

- 24 months, Rape 1, Robbery 1, Kidnapping 1;

- 18 months, Burglary 1; and,
- 12 months, Assault 2, Assault of a Child 2, Escape 1, Kidnapping 2, Burglary 2 of a building other than a dwelling, Theft of Livestock 1 or 2, and any drug offense.

It has been suggested that there should be some discretion to increase the deadly weapon enhancement if the offense was committed with a firearm, or if the offender has multiple convictions while being armed with a firearm.

Summary of Substitute Bill: If an offender or an accomplice was armed with a firearm while committing certain felonies, then the judge may increase the amount of time that is added to the presumptive sentence pursuant to the deadly weapon enhancement as follows:

- For Rape 1, Robbery 1, or Kidnapping 1, the 24-month enhancement may be increased up to 36 months;
- For Burglary 1, the 18-month enhancement may be increased up to 30 months; and,
- For Assault 2, Assault of a Child 2, Escape 1, Kidnapping 2, Burglary 2 of a building other than a dwelling, Theft of Livestock 1 or 2, and any drug offense, the 12-month enhancement may be increased up to 18 months.

If the offender committed an offense for which the deadly weapon enhancement applies while the offender or an accomplice was armed with a firearm, and the offender had a prior conviction for an offense committed with a firearm, then the following times may be added to the presumptive sentence:

- For a second conviction while armed with a firearm, up to 60 months; and,
- For a third or subsequent conviction while armed with a firearm, 120 months.

If an offender or an accomplice was armed with a firearm and fired upon a law enforcement officer while resisting arrest, up to 120 months may be added to the presumptive sentence.

Substitute Bill Compared to Original Bill: The original bill created an enhancement for firearms separate from other deadly weapons. The firearm enhancement would have applied to all felonies and several misdemeanors. The judge would have had the discretion to add up to 60 months for the first conviction while the offender or accomplice was armed with a firearm, up to 90 months for a second such conviction, and up to 120 months for a third or subsequent conviction while the offender or accomplice was armed with a firearm.

Fiscal Note: Requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The increased use of firearms by criminals is a great concern to law enforcement officers. The judge should have some additional discretion to enhance the presumptive sentence if a firearm is involved, particularly if the offender was previously convicted of a crime while armed with a firearm.

Testimony Against: None.

Witnesses: Representative Curt Ludwig, prime sponsor (pro); and Matt Thomas, Washington Association of Prosecuting Attorneys (pro).