

HOUSE BILL REPORT

ESHB 1630

As Passed House
January 26, 1994

Title: An act relating to creating the crime of carjacking.

Brief Description: Creating the crime of carjacking.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Tate, Riley, Scott, Campbell, Padden, R. Meyers, Long, Forner, Johanson, Schmidt, Chappell, Chandler, Mielke, Reams, R. Johnson, Brough, Ballasiotes, Vance, Foreman, Sheahan, Schoesler, Miller, Jacobsen, Sheldon, Kremen, Silver, Cothorn, Morton, Wineberry and Wood.)

Brief History:

Reported by House Committee on:
Judiciary, March 2, 1993, DPS;
Passed House, March 12, 1993, 90-8;
Passed House, January 26, 1994, 84-8.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Locke; Long; Mastin; H. Myers; Schmidt; Scott; Tate; and Wineberry.

Minority Report: Do not pass. Signed by 1 member: Representative Riley.

Staff: Patricia Shelledy (786-7149).

Background: A person commits the crime of robbery if the person unlawfully takes personal property from a victim against the victim's will, by force or the threat of force. The force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking. The degree of force used is immaterial.

Robbery in the first degree is committed if, in the commission of the robbery or in immediate flight from the

robbery, the person is: (1) armed with a deadly weapon; (2) displays what appears to be a firearm or other deadly weapon; or (3) inflicts bodily injury. Robbery in the first degree is a class A felony. Under the sentencing reform act, robbery in the first degree has a seriousness level of IX. A first-time offender convicted of robbery in the first degree could be sentenced to prison for 31-41 months. The actual sentence a person would receive depends upon the offender's criminal history, and whether any mitigating or aggravating circumstances exist to warrant imposition of a sentence outside the standard range.

Robbery in the second degree is committed if a person commits robbery under circumstances not amounting to robbery in the first degree. Robbery in the second degree is a class B felony. Under the Sentencing Reform Act, robbery in the second degree has a seriousness level of IV. A first-time offender convicted of robbery in the second degree could be sentenced to a jail term of 3-9 months in jail. Again, the actual sentence a person would receive depends upon the offender's criminal history and whether any mitigating or aggravating circumstances exist to warrant imposition of a sentence outside the standard range.

Both robbery in the first degree and second degree are considered "violent offenses" under the Sentencing Reform Act. The term "violent offense" has a technical meaning for purposes of sentencing. A person convicted of a violent offense, or who has prior convictions for a violent offense, may have more "offender points." The more offender points, the longer the sentence the offender will receive.

A subcategory of violent offenses are "serious violent offenses." Those offenses are first- or second-degree murder, homicide by abuse, first-degree assault, first-degree kidnapping, or first-degree rape, or any attempt to commit one of these crimes. Serious violent offenders receive the most offender points.

Under current law, a person may be charged with robbery if the personal property taken is a motor vehicle.

Summary of Bill: Instead of charging robbery when the personal property taken is a motor vehicle, the person will be charged with the new crime of "carjacking." The elements of carjacking in the first degree and second degree are identical to the elements of robbery in the first or second degree, except that a motor vehicle is the specified item of personal property that is unlawfully taken.

First degree carjacking is a class A felony and second degree carjacking is a class B felony. Carjacking in the

first degree is characterized as a serious violent offense. First-degree carjacking has a seriousness level of X (one seriousness level higher than the seriousness level for other first-degree robberies). Other crimes in that seriousness level are first-degree kidnapping, second-degree rape, second-degree rape of a child, first-degree child molestation, damaging a building by using an explosive under circumstances that pose a threat to a human being, delivery of narcotics to a person under age 18, and leading organized crime. Under the Sentencing Reform Act, a first-time offender who is convicted of carjacking in the first degree would be sentenced to prison for 51-68 months. If the offender has prior serious violent offenses, the range would be much higher.

Carjacking in the second degree is a violent offense which has a seriousness level of V (one seriousness level higher than other second-degree robberies). The standard range for a first time offender with a seriousness level of V is 6-12 months in jail. A number of other offenses have a seriousness level of V, including third-degree rape, kidnapping in the second degree, first-degree extortion, rendering criminal assistance, and bail jumping on a class A felony.

Fiscal Note: Available.

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

Testimony For: Carjacking is a very serious and frightening crime. Carjacking is on the rise in the United States. Washington should be proactive and send a clear message that carjacking will not be tolerated in this state.

Testimony Against: None.

Witnesses: Representative Randy Tate, prime sponsor (pro); John Sobel, crime victim (pro); Mike Redman, Washington Association of Prosecuting Attorneys (pro); and Tim Schellberg, Washington Association of Sheriffs and Police Chiefs (pro).