

HOUSE BILL REPORT

HB 1393

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to robbery within a financial institution.

Brief Description: Making any robbery within a financial institution a first degree robbery.

Sponsors: Representatives Hurst, Ballasiotes, O'Brien, Lovick and Sheahan.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/23/99, 3/2/99 [DPS].

Brief Summary of Substitute Bill

- Classifies robbery of a financial institution as robbery in the first degree, a class A felony.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Yvonne Walker (786-7841).

Background:

The state does not have a specific criminal statute relating to financial institution robberies with a "note-only." However, most cases of this nature are prosecuted as second-degree robbery, whereby an offender unlawfully takes property by use or threat of force or fear of injury. Robbery in the second degree is a seriousness level IV, class B felony. A person with no criminal history would receive a presumptive sentencing range of three to nine months in jail.

Robbery in the first degree is when someone unlawfully takes property by use or threat of force or fear of injury using a deadly weapon or bodily injury. First-degree robbery is a seriousness level IX, class A felony. A person with no criminal history would receive a presumptive range of 31 to 41 months in prison.

Most crimes involving financial institutions are federal crimes. Under the federal sentencing guidelines, a crime such as bank robbery would carry a maximum penalty of 20 years of incarceration or a fine ranging up to a maximum of \$60,000 (excluding any exceptional circumstances or criminal offense enhancements). However, given limited resources, the federal authorities cannot prosecute all violations of these statutes, and, as a result, unless the violation has a significant impact, the offender will be subject to little or no criminal penalties or the case may be turned over to a local county prosecutor.

Summary of Substitute Bill:

Robbery of a financial institution (with a note-only or a deadly weapon) is classified as robbery in the first degree, a class A felony. A person with no criminal history would receive a presumptive range of 31 to 41 months in prison.

A financial institution is defined as meaning any bank, trust company, mutual savings bank, savings and loan association, or credit union authorized by federal or state law to accept deposits in the state.

Substitute Bill Compared to Original Bill: The original definition of financial institution did not include credit unions; as a result, the definition of financial institution was expanded to include credit unions as well as other banks in the state.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: (Original bill) Washington is the fourth highest state for having robberies and it is about time that the state increases the penalties for these types of crimes. This bank robbery bill is the third part of a three-part package of bills dealing with robberies (the other two bills include mail theft and auto theft).

In addition, this bill will force the entire state to penalize bank robberies alike. Currently, most of these crimes are prosecuted in eastern Washington since they have

more resources to prosecute these types of cases. Western Washington does not have the resources to prosecute these cases and, as a result, are often left up to federal prosecutors to handle these cases.

Bank robberies with a "note-only" are usually prosecuted as second-degree robbery, whereby a first-time offender would only receive a sentence of three to four months in jail. This bill will increase the crime to first-degree robbery, a class A felony, and now offenders will receive a sentence of approximately three years in prison, similar to the federal sentencing guidelines.

Testimony Against: (Original bill) In a perverse way, this legislation could encourage more armed robberies rather than discourage them, since the penalties for both crimes will now be the same.

If a robber knows there is no difference in the types of punishment and he goes into a bank unarmed versus armed, some robbers will reach the conclusion that they might as well go in armed. Although those robbers that are armed are more dangerous, since the punishment will now be the same, those robbers may just choose to go in armed which may encourage hostage taking or gun fights.

The state should stick with the historical way of dealing with robbers. Those offenders who commit their crime with a weapon, use a weapon, or inflict injury on a person, should get a stiffer penalty than those who commit their crime unarmed.

Testified: (In support) Representative Hurst, prime sponsor; Norm Maleng, King County Prosecutor; Robbi Burroughs, FBI Special Agent; Gene Schlatter, Washington Bankers Association; and Gary Gardner, Boeing Employees Credit Union.

(Opposed) Russell Leonard, Washington Association of Criminal Defense Lawyers.