

HOUSE BILL REPORT

HB 2222

As Reported by House Committee On:
Criminal Justice & Corrections

Title: An act relating to the penalty for attempting to elude a police vehicle.

Brief Description: Enhancing the penalty for eluding a police vehicle.

Sponsors: Representatives Takko, Lovick, Cox, Simpson and Campbell.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 3/1/05 [DP].

Brief Summary of Bill

- Creates a one year sentencing enhancement if a person convicted of attempting to elude a police vehicle endangered another while committing that crime.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

Staff: Christopher Abbott (786-7119).

Background:

Crime of Attempting to Elude a Police Vehicle

A driver commits the crime of attempting to elude a police vehicle by willfully failing or refusing, on a public highway, to immediately stop his or her vehicle after receiving a visual or audible signal to stop and by driving recklessly while attempting to elude the pursuing vehicle. The signal may be given by hand, voice, emergency light or siren, but the officer must be in uniform and the vehicle must have lights and sirens.

Even if the prosecution shows the defendant failed to stop after being given a signal to do so, the defendant may avoid conviction if he or she establishes, by a preponderance of the evidence, that either (1) a reasonable person would not have believed that a police officer gave the signal or (2) driving after receiving the signal was reasonable under the circumstances.

Attempting to elude a police vehicle is a class C felony with a seriousness level of I, which means the standard sentencing range for a first time offender is zero to 60 days in jail. The statutory maximum sentence is five years in prison and a \$10,000 fine. Additionally, the Department of Licensing must revoke the defendant's license for one year upon conviction.

Sentencing Enhancements

Under the Sentencing Reform Act, the court must impose imprisonment in addition to the standard sentencing range if the conditions for these sentencing enhancements are met. Sentencing enhancements may apply if any of the following apply: (1) the defendant or an accomplice was armed with a firearm while committing certain felonies; (2) the defendant or an accomplice was armed with a deadly weapon other than a firearm while committing certain felonies; (3) the defendant or an accomplice committed certain felonies while incarcerated; (4) the defendant committed certain drug offenses; or (5) the defendant committed vehicular homicide while under the influence of alcohol or drugs.

The United States Supreme Court's 2004 *Blakely v. Washington* decision, created a Sixth Amendment limit on sentencing enhancements. Courts may only enhance a sentence based on additional or special facts if the prosecutor proves those facts beyond a reasonable doubt to the jury (unless the parties stipulate to those facts or agree to a bench trial).

Summary of Bill:

A new sentencing enhancement is created. The court must impose 12 months of imprisonment in addition to the standard sentencing range on a defendant convicted of attempting to elude a police vehicle if it enters a finding that another person was threatened with physical injury or harm by the fleeing defendant.

A procedure for entering the endangerment finding is established. In criminal cases involving a charge of eluding a police vehicle, the prosecutor must file a special allegation against the defendant and there must be sufficient admissible evidence that another person was endangered by the pursuit. The state must prove endangerment beyond a reasonable doubt and the jury (or judge in a bench trial) must reach a special verdict on endangerment.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Not all felony attempts to elude the police are alike, but many can seriously endanger the lives of others due to reckless driving and high speeds. The current penalties provide little or no deterrent to escape the police when being apprehended on another charge. The punishment is disproportionately light given the potential for harm. Internal police

regulations are not enough to limit the danger of police pursuits without more serious sanctions on fleeing suspects.

Testimony Against: None.

Persons Testifying: (In support) Representative Takko, prime sponsor; Mike Whelan, Grays Harbor Sheriff; John Didion, Pacific County Sheriff; Lieutenant Jerry Ross, Snohomish County Sheriff's Office; and Fred Fakkema, Washington State Patrol.

(Comments) Steve Whybark, Mason County Sheriff.

Persons Signed In To Testify But Not Testifying: None.