

HOUSE BILL REPORT

ESHB 1030

As Passed Legislature

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: By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Takko, Lovick, Simpson, Haler, Blake, Campbell, Ross, Skinner, Newhouse, Conway, Morrell, Chandler, McDonald, Rodne, Kristiansen, Wallace, Moeller, VanDeWege, McCune, Williams, Bailey, Warnick, Upthegrove, Alexander and Pearson).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/10/07, 2/1/07 [DPS];
Appropriations: 3/3/07 [DPS(PSEP)].

Floor Activity:

Passed House: 3/8/07, 98-0.

Floor Activity:

Passed House: 1/23/08, 97-0.
Senate Amended.
Passed Senate: 3/6/08, 48-1.
House Concurred.
Passed House: 3/8/08, 93-0.
Passed Legislature.

Brief Summary of Engrossed Substitute Bill

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

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Hurst, Vice Chair; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern, Goodman and Lovick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Yvonne Walker (786-7841).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Public Safety & Emergency Preparedness be substituted therefor and the substitute bill do pass. Signed by 34 members: Representatives Sommers, Chair; Dunshee, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Haler, Assistant Ranking Minority Member; Anderson, Buri, Chandler, Cody, Conway, Darneille, Dunn, Ericks, Fromhold, Grant, Haigh, Hinkle, Hunt, Hunter, Kagi, Kenney, Kessler, Kretz, Linville, McDermott, McDonald, McIntire, Morrell, Pettigrew, Priest, Schual-Berke, Seaquist, P. Sullivan and Walsh.

Staff: Elisabeth Donner (786-7137).

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.

Under the Sentencing Reform Act (SRA), attempting to elude a police vehicle is ranked as a seriousness level of I, class C felony offense. A first-time offender would receive a sentence of 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 SRA, the court must impose imprisonment in addition to the standard sentencing range if specific conditions for sentencing enhancements are met. Sentencing enhancements may apply if any of the following apply: (1) the offender was armed with a firearm while committing certain felonies; (2) the offender was armed with a deadly weapon while committing certain felonies; (3) the offender committed certain felonies while incarcerated; (4) the offender committed certain drug offenses; (5) the offender committed vehicular homicide while under the influence of alcohol or drugs; or (6) the offender committed a felony crime that was committed with sexual motivation.

The U.S. Supreme Court, in *Blakely v. Washington*, ruled that any factor that increases a defendant's sentence above the standard range, other than the fact of a prior conviction, must be proven to a jury beyond a reasonable doubt. To do otherwise would violate the defendant's right to a jury trial under the Sixth Amendment.

Summary of Engrossed Substitute Bill:

A procedure is established for determining whether an eluding offense involved the endangerment of other persons and a new sentencing enhancement is created for such eluding offenses.

In a prosecution for an eluding offense, if the prosecutor feels sufficient evidence exists to support the allegation that the eluding offense involved one or more persons (other than the defendant or pursuing law enforcement officer) who were threatened with physical injury or harm, then the prosecuting attorney may file a special allegation. In cases where a special allegation has been made, if a court makes a finding of fact or in a jury trial if the jury finds a special verdict that: (1) an offender committed the crime of attempting to elude a pursuing police vehicle, and (2) the underlying offense involved the endangerment of one or more persons (other than the defendant or pursuing law enforcement officer), then the court must impose a sentence enhancement. The sentence enhancement must include a sentence of 12 months and one day of imprisonment that is added to the offender's presumptive sentence.

This act is known as the Guillermo "Bobby" Aguilar and Edgar F. Trevino-Mendoza Public Safety Act of 2008.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 2, 2007.

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

Staff Summary of Public Testimony: (Public Safety & Emergency Preparedness)

(In support) This bill is essentially redrafted from last year and is a priority item for the Washington Association of Sheriffs and Police Chiefs (WASPC) this year. This bill is an attempt to address an ongoing issue of offenders attempting to elude the police. However, some law enforcement officers do not believe that the penalties in the bill are harsh enough.

When these offenders decide to run away from police they are endangering society as a whole. This includes children on their way to school, people out shopping, pedestrians, etc. Currently the penalty for a first time offender is 30 days in jail. This bill is not about money. Offenders need to know that there is going to be consequences for their actions of endangering others.

Law enforcement around the state has done its part in regulating and following the model policy through the WASPC in regards to the types of pursuits that they allow officers to engage in. Now it is time for these offenders to go to prison.

(Opposed) None.

Staff Summary of Public Testimony: (Appropriations)

(In support) This is priority legislation for the Washington Association of County Officials and the County Sheriffs Association. Currently, first time offenders only spend 30 days in jail. It needs to be clear that the consequences will be serious. In Washington, we have a lot of traffic and pedestrians. Recent deaths have been attributed to this very behavior, which warrants actions by citizens and policy officers.

(Opposed) None.

Persons Testifying: (Public Safety & Emergency Preparedness) Mayor Dave Elder, City of Yakima; Ana Lucas Garcia; Ruby Aguilar; Maria Barajas; Juan Mendoza; Juan Hernandez; Sheriff Mike Whelan, Grays Harbor County; Sheriff John Didion, Pacific County; Chief Scott Smith, Mount Lake Terrace Police Department; and John H. Tierney, Tierney & Associates.

Persons Testifying: (Appropriations) Christina Bridston, Washington Association of County Officials and Washington Association of County Sheriffs.

Persons Signed In To Testify But Not Testifying: (Public Safety & Emergency Preparedness) None.

Persons Signed In To Testify But Not Testifying: (Appropriations) None.