
**Public Safety & Emergency
Preparedness Committee**

HB 1030

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

Sponsors: Representatives Takko, Lovick, Simpson, Haler, Blake, Campbell, Ross, Skinner and Newhouse.

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.

Hearing Date: 1/10/07

Staff: Yvonne Walker (786-7841).

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, 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.

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.

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 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 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: Requested on January 9, 2007.

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