

SENATE BILL REPORT

ESHB 1030

As Reported By Senate Committee On:
Judiciary, February 27, 2008

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: 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: Passed House: 1/23/08, 97-0.

Committee Activity: Judiciary: 2/22/08, 2/27/08 [DPA, DNP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, Hargrove, Roach and Weinstein.

Minority Report: Do not pass.

Signed by Senator McDermott.

Staff: Lidia Mori (786-7755)

Background: 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. A defendant may avoid conviction of the crime of attempting to elude a police vehicle if the defendant establishes, by a preponderance of the evidence, that a reasonable person would not have believed that a police officer gave the signal or 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

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\$10,000 fine. Additionally, the Department of Licensing must revoke the defendant's license for one year upon conviction.

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.

Summary of Bill (Recommended Amendments): A new sentencing enhancement is created. The court must impose a sentence of 12 months and one day of imprisonment, in addition to the standard sentencing range, for any offender convicted of attempting to elude a police vehicle if it enters a finding that one or more persons, other than the defendant or pursuing law enforcement officer, were 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 one or more persons, other than the defendant or pursuing law enforcement officer, were 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.

This act is known as the Guillermo "Bobby" Aguilar and Edgar F. Trevino-Mendoza Public Safety Act of 2007.

EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments): The court must impose a sentence of 12 months and one day of imprisonment, in addition to the standard sentencing range, for any offender convicted of attempting to elude a police vehicle if the conviction included a finding by special allegation of endangering one or more persons, other than the defendant or the pursuing law enforcement officer. The original bill required a finding of endangering a person other than the defendant.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Substitute Bill: PRO: A person can elude ten times before serious time is imposed in jail. Our community has made it clear that it would rather have the officer stop than endanger people. This isn't something that happens every day but when it does, it's bad enough that it should be treated with special consideration.

CON: Prosecutors already have the tools to address this. This bill runs counter to the Sentencing Reform Act. Other charges are available to address this behavior.

Persons Testifying: PRO: Representative Takko, prime sponsor; Representative Ross; James McMahan, WA Assn. of Sheriffs and Police Chiefs.

CON: Bob Cooper, WA Assn. of Criminal Defense Lawyers, WA Defender Assn.