
Public Safety Committee

HB 2549

Brief Description: Addressing the enhancement for attempting to elude a police vehicle.

Sponsors: Representatives Freeman, Kochmar and Morrell.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Requires that a sentencing enhancement imposed for attempting to elude a police vehicle must be mandatory, served in total confinement, and must run consecutively with all other sentencing provisions.
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Hearing Date: 2/4/14

Staff: Yvonne Walker (786-7841).

Background:

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 that 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 presumptive 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

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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. For example, 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.

A sentencing enhancement penalty may also be imposed if the eluding offense involved the endangerment of other persons. In a prosecution for an eluding offense, if 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 a case 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.

Summary of Bill:

A sentencing enhancement imposed for Attempting to Elude a Police Vehicle, when the eluding offense involves the endangerment of other persons, is made mandatory, must be served in total confinement, and must run consecutively with all other sentencing provisions.

Appropriation: None.

Fiscal Note: Available.

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