

HOUSE BILL REPORT

HB 2549

As Reported by House Committee On:
Public Safety

Appropriations Subcommittee on General Government & Information Technology

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

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

Sponsors: Representatives Freeman, Kochmar and Morrell.

Brief History:

Committee Activity:

Public Safety: 2/4/14, 2/5/14 [DP];

Appropriations Subcommittee on General Government & Information Technology:
2/7/14 [DPS].

Brief Summary of Substitute Bill

- 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.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 10 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

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

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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 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.

Staff Summary of Public Testimony:

(In support) There is no provision in statute that states that an eluding enhancement has to be added onto a person's sentence. This bill states the enhancement is going to be added on top of every other sentence penalty and the penalty must be ran consecutively instead of concurrently to a person's sentence.

In order for an eluding crime to become a felony offense, the offender has to already have reckless conduct. In order to specifically get an eluding sentencing enhancement, it requires that someone else be in danger, such as a victim in cases where a collision takes place. However, there is a defect in the current law relating to the eluding crime that allows for the enhancement to be served concurrently instead of consecutively. The only way for this enhancement to work is that it has to be served without goodtime, otherwise it is really not an enhancement.

(Opposed) None.

Persons Testifying: Representative Freeman, prime sponsor; Jim Ferrell, City of Federal Way; and Amy Freedheim, King County Prosecuting Attorney's Office.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT & INFORMATION TECHNOLOGY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Hudgins, Chair; Parker, Ranking Minority Member; Buys, Christian, S. Hunt, Springer and Taylor.

Minority Report: Do not pass. Signed by 2 members: Representatives Dunshee and Jinkins.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On Appropriations Subcommittee on General Government & Information Technology Compared to Recommendation of Committee On Public Safety:

The Appropriations General Government and Information Technology Subcommittee recommended adding a null and void clause, making the bill null and void unless funded in the Omnibus Appropriations Act.

Appropriation: None.

Fiscal Note: Requested on January 23, 2014.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: Ehren Flygare.