
Public Safety Committee

HB 2812

Brief Description: Providing for aggravated sentencing for certain theft or burglary offenses.

Sponsors: Representatives Goodman and Hawkins.

Brief Summary of Bill

- Expands the list of aggravating circumstances that a court may consider when imposing an exceptional sentence above the standard sentencing range to include Theft and Burglary offenses that occur during a state of emergency declared by the Governor in an area that had been ordered evacuated.

Hearing Date: 1/26/16

Staff: Yvonne Walker (786-7841).

Background:

A Governor may proclaim a state of emergency in any event, when a public disorder, disaster, energy emergency, or riot exists within the state that affects life, health, property, or public peace. The state of emergency is proclaimed for, and only effective within, the affected area which may be part or all of the state. An emergency proclamation enables the Governor to prohibit specific activities, such as public gatherings, transfer of combustible materials, public possession of firearms, and the use of public streets at any time during the state of emergency.

The Governor may also prohibit other activities as he or she reasonably believes is necessary to help preserve and maintain life, health, property, or the public peace. The Governor has authority to waive or suspend statutory obligations or limitations for certain, limited executive functions, such as purchasing rules, during and in the areas affected by an emergency proclamation.

Theft. Washington's Theft statute punishes a person based upon the value of the property stolen. A person commits Theft if he or she:

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- wrongfully obtains or exerts unauthorized control over the property or services of another with intent to deprive him or her of the property or services;
- by deception, obtains control over the property or services of another with the intent to deprive him or her of the property or services; or
- appropriates lost or misdelivered property or services of another with intent to deprive him or her of the property or services.

Theft in the first degree, a seriousness level II, class B felony offense, occurs when a person commits Theft of property or services valued in excess of \$5,000. Theft in the second degree, a seriousness level I, class C felony offense, occurs when a person commits Theft of property or services valued in excess of \$750, but not exceeding \$5,000. Theft in the third degree, a gross misdemeanor offense, occurs when a person commits Theft of property or services valued less than \$750.

Burglary. A person is guilty of Burglary in the first degree if he or she enters or remains unlawfully in a building with intent to commit a crime and either the defendant or another participant in the crime is armed with a deadly weapon or assaults a person. Burglary in the first degree is a seriousness level VII, class A felony offense. A person commits Burglary in the second degree if he or she enters or remains unlawfully in a building with intent to commit a crime. Burglary in the second degree is a seriousness level III, class B felony offense.

A person is guilty of Residential Burglary if he or she enters or remains unlawfully in a dwelling with intent to commit a crime. Residential Burglary is a seriousness level IV, class B felony offense.

Aggravating Circumstance. Generally, the standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that, in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act provides an exclusive list of aggravating circumstances which the court may consider an aggravating circumstance or which a jury may consider in imposing an exceptional sentence above the standard range.

Summary of Bill:

The exclusive list of factors provided in statute for the court to consider in determining whether to impose an exceptional sentence above the standard range is expanded to include Theft and Burglary offenses that occur during a state of emergency declared by the Governor. The crime must occur in the evacuated area described in the proclamation and where the person with a right to the control of the real or personal property had evacuated because he or she had been ordered or requested to do so as a result of the state of emergency proclamation.

Appropriation: None.

Fiscal Note: Requested on January 21, 2016.

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