
Public Safety Committee

SSB 6219

Brief Description: Concerning vehicular homicide sentencing.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Brown, Angel, Padden, Hewitt, O'Ban, Roach and Pearson).

Brief Summary of Substitute Bill

- Increases the seriousness level ranking for the crime of Vehicular Homicide, by operation of a vehicle in a reckless manner, to a seriousness level XI offense (from a seriousness level VIII).
- Creates a new mitigating circumstance to allow for a lesser sentence to be imposed if the person has committed no other previous serious traffic offenses and the current sentence is clearly excessive.

Hearing Date: 2/19/16

Staff: Yvonne Walker (786-7841).

Background:

Vehicular Homicide.

A person is guilty of Vehicular Homicide if he or she proximately causes, within three years, the death of another by driving any vehicle: (1) while under the influence of intoxicating liquor or drug (DUI); (2) in a reckless manner; or (3) with disregard for the safety of others.

Vehicular Homicide by:

- DUI (intoxicating liquor or drug) is a seriousness level XI, class A felony offense, and it carries a presumptive standard sentence of 78–102 months in prison for a first offense. In addition, the offense carries a two-year sentencing enhancement for each "prior" impaired driving offense.

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.

- Operation of any vehicle in a reckless manner is a seriousness level VIII, class A felony offense, and it carries a presumptive standard sentence of 21–27 months in prison for a first offense.
- Disregard for the safety of others is a seriousness level VII, class A felony offense, and it carries a presumptive standard sentence of 15–20 months in prison for a first offense.

Recklessness.

A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur, and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

Mitigating Circumstances.

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).

An exceptional sentence shorter than the standard range may be imposed if the court finds mitigating circumstances are established by a preponderance of the evidence. The Sentencing Reform Act provides an illustrative, but nonexclusive, list of mitigating circumstances which the court may consider with regard to imposing an exceptional sentence below the standard range which includes but is not limited to:

- the victim's role in the crime;
- the defendant's good faith effort to compensate the victim for any injury sustained;
- whether the defendant's participation was the result of coercion or duress;
- the defendant's capacity to understand the nature of his or her conduct and whether his or her capacity was impaired, except as a result of voluntary alcohol or drug use;
- whether the crime was primarily committed by another person and the defendant manifested extreme caution or sincere concern for the victim; and
- whether the defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

Serious Traffic Offenses.

A serious traffic offense means a nonfelony DUI offense, a nonfelony Physical Control while under the influence of intoxicating liquor or any drug offense, a Reckless Driving offense, or a Hit-and-Run of an attended vehicle offense.

Summary of Bill:

The seriousness level ranking for the crime of Vehicular Homicide, by operation of a vehicle in a reckless manner, is increased to a seriousness level XI (from a seriousness level VIII) offense. The presumptive sentence range for a first-time offender with no previous criminal history is 78–102 months in prison.

A new mitigating circumstance is added to the list of circumstances that may lead to an exceptional sentence below the standard range when sentencing an offender for a Vehicular

Homicide, by operation of a vehicle in a reckless manner offense. A lesser sentence may be imposed if the person has committed no other previous serious traffic offenses and the current sentence is clearly excessive.

Appropriation: None.

Fiscal Note: Requested on February 15, 2016.

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