

# HOUSE BILL REPORT

## SB 6350

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to motor vehicle property offenses.

**Brief Description:** Addressing motor vehicle property offenses.

**Sponsors:** Senators O'Ban, Padden, Miloscia, Roach, Hewitt, Schoesler and Dammeier.

**Brief History:**

**Committee Activity:**

Public Safety: 2/23/16, 2/24/16 [DPA].

**Brief Summary of Bill**  
**(As Amended by Committee)**

- Increases the seriousness level for several motor vehicle-related offenses on the person's third and subsequent offense.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

**Staff:** Yvonne Walker (786-7841).

**Background:**

In 2007 the Legislature enacted the Elizabeth Nowak–Washington Auto Theft Prevention Act that provided for increased penalties and triple scoring of prior motor vehicle-related offenses.

Motor Vehicle Theft.

A person is guilty of Theft of a Motor Vehicle if the person commits Theft of any motor vehicle. Theft of a Motor Vehicle is a seriousness level II, class B felony offense and it carries a presumptive standard sentence of zero to 90 days in jail for a first offense.

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*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.*

### Possession of a Stolen Vehicle.

A person is guilty of Possession of a Stolen Motor Vehicle if he or she possesses a stolen vehicle. Possession of a Stolen Motor Vehicle is a seriousness level II, class B felony offense and it carries a presumptive standard sentence of zero to 90 days in jail for a first offense.

### Taking a Motor Vehicle Without Permission.

A person is guilty of Taking a Motor Vehicle Without Permission in the first degree if he or she, without the permission of the owner or person entitled to possession, intentionally takes or drives away an automobile or motor vehicle that is the property of another, and he or she: (a) alters the motor vehicle for the purpose of changing its appearance or primary identification, including obscuring, removing, or changing the manufacturer's serial number or the vehicle identification number plates; (b) removes or participates in the removal of parts from the motor vehicle with the intent to sell the parts; (c) exports or attempts to export, the motor vehicle across state lines or out of the United States for profit; (d) intends to sell the motor vehicle; or (e) is engaged in a conspiracy and the central object of the conspiratorial agreement is the theft of motor vehicles for sale to others for profit or is engaged in a conspiracy and has solicited a juvenile to participate in the theft of a motor vehicle. Taking a Motor Vehicle Without Permission in the first degree is a seriousness level V, class B felony and it carries a presumptive standard sentence of six to 12 months in jail for a first offense.

A person is guilty of Taking a Motor Vehicle Without Permission in the second degree if he or she, without the permission of the owner or person entitled to possession, intentionally takes or drives away any automobile or motor vehicle that is the property of another, or he or she voluntarily rides in or upon the automobile or motor vehicle with knowledge of the fact that the automobile or motor vehicle was unlawfully taken. Taking a Motor Vehicle Without Permission in the second degree is a seriousness level I, class C felony and it carries a presumptive standard sentence of zero to 60 days in jail for a first offense.

### Malicious Mischief.

A person is generally guilty of the crime of Malicious Mischief in the first degree if he or she knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$5,000. Malicious Mischief in the first degree is a seriousness level II, class B felony offense and it carries a presumptive standard sentence of zero to 90 days in jail for a first offense.

A person is generally guilty of the crime of Malicious Mischief in the second degree if he or she knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$750. Malicious Mischief in the second degree is a seriousness level I, class C felony offense and it carries a presumptive standard sentence of zero to 60 days in jail for a first offense.

### Vehicle Prowling.

A person is guilty of Vehicle Prowling in the first degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a motor home or in a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities. Vehicle

Prowling in the first degree is a seriousness level I, class C felony and it carries a presumptive standard sentence of zero to 60 days in jail for a first offense.

Sentencing Reform Act and Scoring.

Under the Sentencing Reform Act (SRA), an offender convicted of a felony receives a standard sentence range that is based on the seriousness of the offense and the offender's prior criminal history. The number of points an offender receives for current and prior felonies varies according to certain rules.

In the case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for an offense involving Motor Vehicle Theft, Possession of a Stolen Vehicle, or Taking a Motor Vehicle Without Permission in the first or second degree, an offender receives: (1) one point for each prior conviction involving Vehicle Prowling; and (2) three points for each prior adult and juvenile conviction involving Theft of a Motor Vehicle, Possession of a Stolen Vehicle, or Taking a Motor Vehicle Without Permission in the first or second degree.

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**Summary of Amended Bill:**

The act increases the seriousness level for third and subsequent motor vehicle-related offenses.

If it is the person's third or subsequent offense for a motor vehicle-related offense, the seriousness level is increased by one for each of the following crimes:

- Motor Vehicle Theft is increased from a seriousness level II (zero to 90 days in jail) to a seriousness level III (one to three months in jail);
- Possession of a Stolen Vehicle is increased from a seriousness level II (zero to 90 days in jail) to a seriousness level III (one to three months in jail);
- Taking a Motor Vehicle Without Permission in the first degree is increased from a seriousness level V (six to 12 months in jail) to a seriousness level VI (12 months and a day to 14 months in prison);
- Taking a Motor Vehicle Without Permission in the second degree is increased from a seriousness level I (zero to 60 days in jail) to a seriousness level II (zero to 90 days in jail);
- Malicious Mischief (motor vehicle) in the first degree is increased from a seriousness level II (zero to 90 days in jail) to a seriousness level III (one to three months in jail);
- Malicious Mischief (motor vehicle) in the second degree is increased from a seriousness level I (zero to 60 days in jail) to a seriousness level II (zero to 90 days in jail); and
- Vehicle Prowling is increased from a seriousness level I (zero to 60 days in jail) to a seriousness level II (zero to 90 days in jail).

**Amended Bill Compared to Original Bill:**

The triple scoring is eliminated, for purposes of sentencing, for the crimes of Malicious Mischief (motor vehicle) in the first and second degree.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) Property crimes, particularly vehicle-related property crimes, are a significant issue in this state. Twenty percent of these crimes are committed by the same individuals. The goal of this bill is to get at the chronic offenders.

(Opposed) The SRA is supposed to be a comprehensive and balanced approach to the way crimes are sentenced. This bill throws the grid out of whack. By increasing the crime of Taking a Motor Vehicle in the first degree up to a seriousness level VI offense essentially puts it in the same category as Rape of a Child in the third degree and Bail Jumping on a Murder charge. Motor vehicle-related offenses should not be penalized at the same level as those crimes that cause actual harm to people. People crimes are supposed to be of a higher nature than property crimes. This bill creates an imbalance. This bill should be sent to the Sentencing Guidelines Commission to review and make a recommendation as to the appropriate level for such crimes.

**Persons Testifying:** (In support) Senator O'Ban, prime sponsor.

(Opposed) Bob Cooper, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

**Persons Signed In To Testify But Not Testifying:** None.