

SENATE BILL REPORT

SB 5503

As Reported by Senate Committee On:
Law & Justice, February 10, 2015

Title: An act relating to a special allegation for habitual property offenders.

Brief Description: Establishing a special allegation for habitual property offenders.

Sponsors: Senators Padden, Litzow, Baumgartner, Miloscia, Conway, Rivers, Becker, Angel, Schoesler, Warnick, Sheldon, Honeyford, Chase and Pearson.

Brief History:

Committee Activity: Law & Justice: 2/03/15, 2/10/15 [DP-WM, DNP].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass and be referred to Committee on Ways & Means.
Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.
Signed by Senators Pedersen, Ranking Minority Member; Darneille and Kohl-Welles.

Staff: Lindsay Erickson (786-7465)

Background: When a person is convicted of a felony crime, the court must impose a sentence within the standard sentencing range as established by the seriousness level of the crime and the person's offender score. The seriousness level of each felony crime is established by statute and the offender score is based on the person's criminal history. The highest offender score contained on the standard sentencing grid is nine points.

The standard sentencing range established by the sentencing grid is adjusted under certain circumstances. Adjustments that increase the standard sentencing range apply in the following circumstances: crimes involving a firearm or deadly weapon, drug crimes, vehicular homicide, crimes committed while held in county jail or prison, crimes with a sexual motivation, certain sex crimes perpetrated against a child, eluding police, and robbery of a pharmacy. Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to the finder of fact and proved beyond a reasonable doubt. A prosecutor must file the special allegation and prove to the fact finder that the special circumstance exists beyond a reasonable doubt in

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order for the adjustment to be applied to the sentencing standard range. Some adjustments are required by statute to be served in total confinement. Total confinement is a period during which the offender is not eligible for alternatives or good time and must serve the total confinement period inside the physical boundaries of a jail or prison for 24 hours per day.

Current law also permits the court to impose a sentence outside of the standard sentencing range for a felony offense if the court finds that there are substantial and compelling reasons justifying an exceptional sentence. The length of an exceptional sentence is subject to appeal by the defendant because it involves the exercise of judicial discretion.

The statutory maximum sentence for a class B felony is ten years. The statutory maximum for a class C felony is five years.

Summary of Bill: A prosecutor may file a special allegation to increase an offender's standard felony sentencing range if the offender is a habitual property offender. A habitual property offender is defined as a person as follows:

- has an offender score of nine points or higher;
- the present felony for which the offender is being sentenced is residential burglary, burglary in the second degree, theft in the first degree, theft in the second degree, theft of a firearm, unlawful issuance of checks or drafts, organized retail theft, theft with special circumstances, or mail theft;
- at least nine of the points in the person's offender score result from any combination of the property crimes listed above; and
- the person has either received drug treatment related to any felony conviction or has refused drug treatment related to any felony conviction.

If the court finds by a preponderance of the evidence that the offender is a habitual property offender and the offender is being sentenced for a class B felony, 24 months are added to the standard sentencing range. If the court finds by a preponderance of the evidence that the offender is a habitual offender and the offender is being sentenced for a class C felony, 12 months are added to the standard sentencing range. The offender's sentence cannot exceed the statutory maximum for the crime. All habitual property offender enhancements are mandatory and must be served in total confinement.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill allows prosecutors to get career property offenders off the streets. Crime goes down when these offenders are incarcerated. The primary aim is to identify people who have been offered or have refused treatment. Something needs to be done to make sure that people don't maintain careers as property criminals. Victims of property crimes are fearful, and they feel vulnerable and violated. In Washington, property crime occurs every two minutes. Offenders who are released for

property crimes are the most likely to reoffend; 82 percent of those released are arrested for a new crime within five years.

CON: This bill is the wrong response. It does not make the community safer, it will not reduce recidivism, and it is overly expensive. This proposal is an illusion of safety. This would be doing more of the same – as in, more incarceration time. There is nothing new about locking up offenders, particularly when dealing with property crime offenders. This bill does not provide for individualized supervision, which would involve much more than just drug treatment.

Persons Testifying: PRO: Senator Padden, prime sponsor; Larry Haskell, Spokane County Prosecutor; Bryan Jeter, Police Chief, Puyallup Police Dept.; Doug Levy, Cities in Central Puget Sound; Jodie Sinclair, citizen.

CON: Kim Gordon, WA Assn. Criminal Defense Lawyers, WA Defender Assn.