

# HOUSE BILL REPORT

## HB 1976

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

**Title:** An act relating to creating a pilot program for the supervision of offenders who commit motor vehicle-related and property offenses.

**Brief Description:** Creating a pilot program for the supervision of offenders who commit motor vehicle-related and property offenses.

**Sponsors:** Representatives Pellicciotti, Hayes, Riccelli, Irwin, Ortiz-Self, Holy and Ormsby.

#### **Brief History:**

##### **Committee Activity:**

Public Safety: 2/13/17, 2/16/17 [DPS].

#### **Brief Summary of Substitute Bill**

- Authorizes Spokane County Superior Court and Federal Way Municipal Court to participate in a pilot program for sentencing certain property offenders to community custody for a term of up to one year.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Pellicciotti, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Chapman, Griffey, Holy, Orwall, Pettigrew and Van Werven.

**Staff:** Kelly Leonard (786-7147).

#### **Background:**

*Community Custody.* Community custody is the portion of an offender's sentence served in the community under the supervision of the Department of Corrections (DOC). The length of a community custody term for an offense is established in statute. While on community custody, offenders are subject to a variety of conditions imposed by the court and DOC. The DOC must assess the offender's risk to reoffend and may establish and modify the offender's

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conditions of community custody based on the offender's risk to community safety and conditions imposed by the court. If an offender violates those conditions, he or she may be required to serve up to the remaining portion of his or her sentence in confinement.

Courts are mandated to order community custody for offenders convicted of certain crimes, including sex offenses, serious violent offenses, violent offenses, and certain domestic violence and high risk offenders.

*Motor Vehicle Offenses.* Theft of a Motor Vehicle is committed when a person commits theft of a motor vehicle, and it is a class B felony. Possession of a Stolen Vehicle is committed when a person possesses a stolen motor vehicle, and it is a class B felony.

Taking a Motor Vehicle Without Permission in the first degree is committed when a person, 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:

- 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;
- removes, or participates in the removal of, parts from the motor vehicle with the intent to sell the parts;
- exports, or attempts to export, the motor vehicle across state lines or out of the United States for profit;
- intends to sell the motor vehicle; or
- 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 second degree is committed when a person, 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 first degree is a class B felony, and Taking a Motor Vehicle Without Permission in the second degree is a class C felony.

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### **Summary of Substitute Bill:**

Subject to the availability of amounts appropriated for this purpose, a pilot program is established for the supervision of certain offenders. Until June 30, 2021, Spokane County Superior Court or Federal Way Municipal Court may sentence an offender to community custody for up to one year for one or more of the offenses:

- Theft of a Motor Vehicle;
- Possession of a Stolen Vehicle;
- Taking a Motor Vehicle Without Permission in the first degree;
- Taking a Motor Vehicle Without Permission in the second degree; or

- a specified property offense, including, for example, a theft or robbery offense, with a prior conviction of one of the above offenses.

The DOC must supervise an offender sentenced to community custody by a participating court in accordance with the conditions established by the court.

By November 1, 2022, the DOC must submit a report to the Governor and the appropriate committees of the Legislature analyzing the effectiveness of supervision in reducing recidivism among offenders committing felonies relating to the theft or taking of a motor vehicle. The DOC must consult with the Washington State Institute for Public Policy in guiding its data tracking efforts and preparing the report.

### **Substitute Bill Compared to Original Bill:**

The allowable term of community custody is modified to be a term of up to one year (rather than one year). Participating courts are authorized to sentence offenders to community custody circumstances where they are not serving a prison term (in addition to those serving prison terms).

A participating court may sentence an offender to community custody under the pilot program when he or she is convicted of a theft or robbery offense under chapter 9A.56 RCW if he or she has a prior conviction of a motor vehicle-related offense listed in the bill (rather than when he or she is convicted of any "crime against property" if he or she has a prior conviction of a motor vehicle related offense listed in the bill).

The DOC must supervise an offender sentenced to community custody by a municipal court participating in the pilot program in accordance with the conditions established by the municipal court.

The definition of "offender" in the Sentencing Reform Act is modified to include misdemeanants and gross misdemeanants sentenced to community custody in the pilot program, which authorizes the DOC to impose sanctions for an offender's violations of the conditions of community custody imposed through the pilot program.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 17, 2017.

**Effective Date of Substitute 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) The bill creates a pilot project to add probation to certain property offenders' sentences. It does not reduce the terms of confinement. The pilot project, which is

authorized on both sides of the mountains, will provide the state with data on whether or not community custody for economic crimes reduces recidivism.

In the City of Spokane, property crimes rates are at an unprecedented rate, particularly for motor vehicle-related offenses. Motor vehicle thefts have increased 20 percent in the last year. These offenders also commit other property crimes and drug crimes. Repeat property offenders are in and out of jail over and over again, without any supervision or enforceable conditions. There is some data to suggest that around 5 percent of offenders are responsible for half of all reported property offenses. Law enforcement do not want to continually arrest these offenders, instead, they would like these offenders to be on supervision and to stop committing crimes.

In 2007 the state eliminated supervision for property crime offenders, mostly for cost saving reasons. There has been a considerable increase in the crime rate since the change, and it is not a coincidence. Short-term jail sentences without rehabilitative efforts or supervision create a revolving door situation for repeat offenders. On the other hand, the connection between supervision and reducing recidivism is strong. The state should create this pilot project in order to study the effects of community custody.

(Opposed) This bill violates the Equal Protection Clause of the Constitution by creating a situation where convicted persons in one jurisdiction will receive a harsher punishment than those in another jurisdiction. Further, some say this legislation is tied to the Justice Reinvestment Initiative; however, the initiative recommended reducing incarceration and increasing community custody and treatment. This bill does not reduce incarceration and it does not have anything about treatment. It will not achieve the reduction in recidivism without those additional components.

(Other) The DOC supervises offenders placed in community custody when given the authority and requirement to do so.

**Persons Testifying:** (In support) Representative Pellicciotti, prime sponsor; Craig Meidl, City of Spokane; and Tony Hazel, Spokane County Prosecuting Attorney's Office.

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

(Other) Mac Pevey, Department of Corrections.

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