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## Public Safety Committee

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### SB 5059

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

**Sponsors:** Senators O'Ban, Fortunato, Rivers, Miloscia, Brown, Warnick, Honeyford and Padden.

#### Brief Summary of Bill

- Adds Malicious Mischief (first and second degree) involving a motor vehicle to the list of offenses that require special scoring of certain prior motor vehicle offenses, and to those offenses that are triple scored for purposes of sentencing for certain motor vehicle-related felonies.
- Increases the seriousness level for certain third and subsequent motor vehicle-related offenses.

**Hearing Date:** 3/9/17

**Staff:** Omeara Harrington (786-7136).

#### Background:

##### Felony Sentencing Under the Sentencing Reform Act.

When a person is convicted of a ranked felony, the Sentencing Reform Act (SRA) applies and determines a specific sentence range within a statutory maximum. Sentences are determined by reference to a sentencing grid, which provides a standard range of months for the sentence. This range is based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history.

The seriousness level of an offense is designated in statute, and ranges from level I to level XVI. The offender score may vary from zero to nine plus points depending on certain factors. The offender score is calculated almost exclusively based on prior felony convictions, which are

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worth between one half and three points each, depending on the nature and circumstances of the present and prior offenses.

*Scoring for Motor Vehicle Crimes.* Special scoring provisions apply when sentencing for a present conviction of Theft of a Motor Vehicle, Possession of a Stolen Vehicle, or Taking a Motor Vehicle without Permission (first or second degree). When calculating an offender score for one of these offenses, each prior conviction for Vehicle Prowling in the second degree counts as one point. In addition, prior convictions for certain motor vehicle-related felonies count as three points. These offenses are: Theft involving a motor vehicle (first and second degree); Theft of a Motor Vehicle; Possession of Stolen Property involving a motor vehicle (first or second degree); Possession of a Stolen Vehicle; and Taking a Motor Vehicle Without Permission (first and second degree).

#### Malicious Mischief.

A person who knowingly and maliciously causes damage to the property of another is guilty of Malicious Mischief. Among other circumstances, a person commits Malicious Mischief in the first degree if he or she knowingly and maliciously damages property with a value of over \$5,000 or causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle, government property, or a mode of public transportation. A person commits a second degree offense by causing property damage in an amount over \$750, but not exceeding \$5,000, or creating substantial risk of interruption or impairment of service rendered to the public through the conduct described with respect to the first degree offense.

Malicious Mischief in the first degree is a class B felony ranked at seriousness level II.  
Malicious Mischief in the second degree is a class C felony ranked at seriousness level I.

#### Theft of a Motor Vehicle.

"Theft" means to wrongfully obtain, exert unauthorized control over, or obtain by color or aid of deception, the property or services of another person, or to appropriate the lost or misdelivered property or services of another person, with intent to deprive the other person of his or her of such property or services. Theft of a Motor Vehicle is a class B felony offense, ranked at seriousness level II.

#### Taking a Motor Vehicle Without Permission.

A person commits the crime of Taking a Motor Vehicle Without Permission if he or she intentionally takes or drives away a motor vehicle without the owner's permission. It is a first degree offense if the defendant takes certain further action with the vehicle, including: altering the vehicle for purposes of changing its appearance or identification; intending to sell the vehicle or its parts; or exporting the vehicle across state lines for profit. A person is guilty of a second degree offense if none of the identified further action is taken, or if the person voluntarily rides in a vehicle with knowledge that it was unlawfully taken.

A first degree offense of Taking a Motor Vehicle Without Permission in the first degree is a class B felony with a seriousness level ranking of V; in the second degree, it is a class C felony offense ranked at seriousness level I.

#### Possession of a Stolen Vehicle.

A person commits the crime of Possession of a Stolen Vehicle if he or she is in possession of a vehicle that is stolen, meaning that it has been obtained by means of theft, robbery, or extortion. Possession of a Stolen Vehicle is a class B felony, ranked at seriousness level II.

Vehicle Prowling.

A person commits the offense 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 a vessel equipped for propulsion that has a cabin with permanent sleeping quarters or cooking facilities. It qualifies as Vehicle Prowling in the second degree when the vehicle is not a motor home or qualifying vessel. Vehicle Prowling in the first degree is a class C felony offense, ranked at seriousness level I. Vehicle Prowling in the second degree is a gross misdemeanor, unless the person has two prior offenses, in which case it is an unranked class C felony.

**Summary of Bill:**

First and second degree Malicious Mischief offenses involving a motor vehicle are added to the list of present motor vehicle-related offenses for which the offender score includes one point for prior offenses of Vehicle Prowl in the second degree and three points for certain other motor vehicle-related prior felony offenses. In addition, prior offenses of first and second degree Malicious Mischief involving a motor vehicle count as three points toward an offender score for purposes of sentencing for a present conviction for listed motor vehicle-related felonies.

The seriousness level ranking for third offenses of certain motor vehicle-related felonies is increased. A third or subsequent offense of:

- Taking a Motor Vehicle Without Permission (first degree) is increased from a level V to a level VI;
- Malicious Mischief involving a motor vehicle (first degree); Possession of a Stolen Vehicle; and Theft of a Motor Vehicle, are increased from a level II to a level III; and
- Malicious Mischief involving a motor vehicle (second degree); Taking a Motor Vehicle Without Permission (second degree); and Vehicle Prowl (first degree) are increased from a level I to a level II.

**Appropriation:** None.

**Fiscal Note:** Available.

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