

# SENATE BILL REPORT

## SB 5059

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As of January 22, 2017

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

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

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

**Brief History:**

**Committee Activity:** Law & Justice: 1/18/17.

**Brief Summary of Bill**

- Adds malicious mischief involving motor vehicle offenses to the list of motor vehicle crimes that are triple scored.
- Increases the seriousness level for third and subsequent motor vehicle-related offenses.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Shani Bauer (786-7468)

**Background:** An adult convicted of a felony is sentenced under the provisions of the Sentencing Reform Act (SRA). The SRA specifies a standard sentence range based on the seriousness of the offense and the offender's prior criminal history score. The sentencing judge will sentence the offender to a period of confinement within that standard range, unless there is a finding supporting an exceptional sentence.

Offender Scores for Motor Vehicle Crimes. When an offender is convicted of certain motor vehicle property crimes and has prior convictions for motor vehicle property crimes, the prior convictions are triple scored in calculating the offender's criminal history score. Specifically, 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:

- one point for each prior conviction involving vehicle prowling; and

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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.*

- 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.

Malicious Mischief. A person is guilty of malicious mischief in the first degree if the person knowingly and maliciously:

- causes physical damage to the property of another in an amount exceeding \$5,000;
- causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication; or
- causes an impairment of the safety, efficiency, or operation of an aircraft by physically damaging or tampering with the aircraft or aircraft equipment, fuel, lubricant, or parts.

Malicious mischief in the first degree is a Class B felony with a seriousness level of II.

A person is guilty of malicious mischief in the second degree if the person knowingly and maliciously:

- causes physical damage to the property of another in an amount exceeding \$750; or
- creates a substantial risk of interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication.

Malicious mischief in the second degree is a Class C felony with a seriousness level of I.

**Summary of Bill:** Malicious mischief in the first and second degree involving a motor vehicle are added to the list of motor vehicle offenses that are triple scored in calculating an offender's criminal history score.

The seriousness level is increased by one for the following seven vehicle property crime convictions, if the offender is being sentenced for a third or subsequent offense:

- taking a motor vehicle without permission 1;
- malicious mischief 1 - motor vehicle;
- possession of a stolen vehicle;
- theft of a motor vehicle;
- malicious mischief 2 - motor vehicle;
- taking a motor vehicle without permission 2; and
- vehicle prowl 1.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: Vehicle crime is a huge problem in Pierce County and elsewhere around the state. This bill would specifically address repeat offenders who continue to churn through the system.

CON: The sentencing grid is already overly complicated. This bill adds to the confusion. The additional expense of incarceration is not justified by the type of offense. More than anything, a crime victim generally wants restitution for the property theft or damage. Time in prison delays the ability of an offender to work toward that restitution. The Governor's task force found that WA is a leader in sending people to prison for property crimes.

**Persons Testifying:** PRO: Senator Steve O'Ban, Prime Sponsor.

CON: Larry Jefferson, Washington Association of Criminal Defense Lawyers and Washington Defenders' Association.

**Persons Signed In To Testify But Not Testifying:** No one.