
Public Safety Committee

SSB 5492

Brief Description: Sentencing of motor vehicle-related felonies.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Billig, Padden, Pedersen, Holy and Dhingra).

Brief Summary of Substitute Bill

- Authorizes, until June 30, 2026, a court entering a sentence for certain motor vehicle-related felonies to impose six to 12 months of community custody when the midpoint of the standard sentence range is greater than one year.
- Provides that the sentence of incarceration for affected offenders may not exceed the midpoint of the standard sentence range reduced by one-third of the ordered term of community custody.
- Requires the Department of Corrections to supervise offenders sentenced to community custody for motor vehicle felonies, and, to the extent possible, make appropriate programming available during the term of community custody.

Hearing Date: 3/18/19

Staff: Omeara Harrington (786-7136).

Background:

Community Custody.

Community custody is a portion of an offender's sentence served in the community, subject to conditions imposed by the court and the Department of Corrections (DOC). When an offender is sentenced to a period of community custody, the DOC must assess the offender's risk of reoffending and may establish and modify the offender's conditions of community custody based on risk to community safety and conditions imposed by the court. If an offender violates the conditions of community custody, he or she may be subject to confinement or nonconfinement sanctions.

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.

Community custody may only be ordered for persons convicted of certain offenses. Courts are required to order community custody in addition to the base sentence for offenders convicted of sex offenses, serious violent offenses, violent offenses, and certain other offenses specified in statute. In addition, offenders sentenced under a sentencing alternative program may be placed on community custody as part of the program. The DOC must supervise every offender sentenced to community custody whose risk assessment classifies the offender as one who is at high risk of reoffending, as well as certain other offenders identified in statute regardless of risk classification.

Motor Vehicle Offenses.

A number of criminal offenses address the unauthorized taking or use of motor vehicles.

A person who commits Theft of a Motor Vehicle is guilty of a class B felony. Possession of a Stolen Vehicle is also a class B felony.

Taking a Motor Vehicle Without Permission in the first degree is a class B felony that 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: (1) the central object of the conspiratorial agreement is the theft of motor vehicles for sale to others for profit; or (2) has solicited a juvenile to participate in the theft of a motor vehicle.

Taking a Motor Vehicle Without Permission in the second degree is a class C felony 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.

Felony Sentences.

Sentence length for felony offenses is determined by reference to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which ranges from zero to nine or more points based on the offender's criminal history. Sentences of up to one year are served in local jails, and sentences in excess of one year are served in a DOC prison facility.

Persons committing Theft of a Motor Vehicle or Possession of a Stolen Vehicle with an offender score of four or higher serve their sentences within DOC facilities. Taking a Motor Vehicle

Without Permission in the first degree carries a DOC sentence with an offender score of one; in the second degree, with an offender score of six.

Summary of Bill:

A court may sentence an offender to community custody for a period of six to 12 months in addition to the term of incarceration if the person is being sentenced for attempted or completed Theft of a Motor Vehicle, attempted or completed Possession of a Stolen Motor Vehicle, or Taking a Motor Vehicle Without Permission in the first or second degree, and the midpoint of the standard sentence range is greater than one year. The offender's sentence of incarceration must not exceed the midpoint of the standard sentence range reduced by one-third of the ordered term of community custody. Offenders receiving community custody under these terms are not eligible for earned release time in excess of one-third the total sentence.

The DOC must supervise offenders sentenced to community custody for qualifying motor vehicle offenses. The DOC must also assess affected offenders and identify programming and services that would be appropriate to address each offender's needs. To the extent possible, the DOC must make programming identified by the assessment available while the offender is on community custody.

No later than November 1, 2025, the DOC must report to the Governor and the Legislature with an analysis of 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.

The authorization to impose community custody for persons sentenced for qualifying motor-vehicle related felonies expires June 30, 2026.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 13, 2019.

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