

FINAL BILL REPORT

ESSB 5288

C 187 L 19
Synopsis as Enacted

Brief Description: Removing robbery in the second degree from the list of offenses that qualify an individual as a persistent offender.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senator Darneille).

Senate Committee on Law & Justice
House Committee on Public Safety

Background: In Washington, a persistent offender must be sentenced to life in prison without parole when the person is convicted of a most serious offense on three separate occasions, or when the person is convicted of certain sex offenses on at least two separate occasions. These offenses are generally referred to as three-strike or two-strike offenses.

Three-strike offenses—most serious offenses—include:

- any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;
- assault in the second degree;
- assault of a child in the second degree;
- child molestation in the second degree;
- controlled substance homicide;
- extortion in the first degree;
- incest when committed against a child under age fourteen;
- indecent liberties;
- kidnapping in the second degree;
- leading organized crime;
- manslaughter in the first degree;
- manslaughter in the second degree;
- promoting prostitution in the first degree;
- rape in the third degree;
- robbery in the second degree;
- sexual exploitation;
- vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

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- vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug, or by the operation of any vehicle in a reckless manner;
- any other class B felony offense with a finding of sexual motivation; and
- any other felony with a deadly weapon verdict.

Two-strike offenses include:

- rape in the first degree;
- rape of a child in the first degree;
- child molestation in the first degree;
- rape in the second degree;
- rape of a child in the second degree;
- indecent liberties by forcible compulsion;
- any of the following when committed with sexual motivation: murder in the first or second degree, homicide by abuse, kidnapping in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, or burglary in the second degree; and
- an attempt to commit any of the above crimes.

Assault in the second degree is a class B felony and includes circumstances not amounting to assault in the first degree—intent to inflict great bodily harm—and where the person intentionally assaults another and recklessly inflicts substantial bodily harm.

Robbery in the second degree is a Class B felony. A person commits robbery in the second degree when the person unlawfully takes personal property from another by the use or threatened use of force in circumstances not amounting to robbery in the first degree. A person is guilty of robbery in the first degree when the person is armed with a deadly weapon or what appears to be a deadly weapon, the person inflicts bodily injury, or when the person commits robbery against a financial institution.

Summary: Robbery in the second degree is deleted from the definition of a most serious offense, thereby removing the offense as a three strike offense.

Votes on Final Passage:

Senate	29	20
House	53	45

Effective: July 28, 2019