

# SENATE BILL REPORT

## SB 5492

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As Reported by Senate Committee On:  
Law & Justice, February 14, 2019

**Title:** An act relating to sentencing of motor vehicle-related felonies.

**Brief Description:** Sentencing of motor vehicle-related felonies.

**Sponsors:** Senators Billig, Padden, Pedersen, Holy and Dhingra.

**Brief History:**

**Committee Activity:** Law & Justice: 2/07/19, 2/14/19 [DPS].

### Brief Summary of First Substitute Bill

- Authorizes the court to sentence an offender to a term of community custody in connection with a felony related to the theft or taking of a motor vehicle and credit the offender's term of incarceration with one-third of the ordered term of community custody.
- Requires the Department of Corrections to make programming and services available to the offender to the extent possible.
- Expires June 1, 2026.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 5492 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Holy, Kuderer, Salomon and Wilson, L..

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

**Background:** Prior to the adopting sentencing guidelines in 1984, every person convicted of a felony was eligible for community supervision. When the state enacted determinate sentencing guidelines, however, it eliminated parole and probation supervision. Over the years, Washington reinstated the use of community supervision and adopted various changes to supervision policy.

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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.*

In 1999, Washington enacted the Offender Accountability Act, which directed the Department of Corrections (DOC) to conduct risk assessments of individuals convicted of felony offenses and to direct more resources to supervising high-risk individuals. The state reinstated post-release supervision for individuals sentenced to prison for drug, violent, and crimes-against-persons offenses, but not for property offenses.

In 2003, Washington eliminated post-release supervision for individuals who were only on supervision for outstanding legal financial obligations, as well as for certain low-risk individuals, reducing the state's supervision population from approximately 65,000 to 30,000.

In 2009, Washington eliminated post-release supervision for low- and moderate-risk people sentenced to jail or prison for a drug, violent, or crime-against-persons offenses, further reducing the number of people on supervision to below 20,000.

Today, only the following people are eligible for supervision: individuals released after serving a sentence for either a sex offense or a serious violent offense; high-risk individuals released after serving a sentence for a drug, violent, or crime-against-persons offense; individuals who receive a sentencing alternative; and certain domestic violence offenders.

In 2014, Washington was selected to participate in a Justice Reinvestment Initiative (Initiative) through the assistance of the Council of State Governments Justice Center (Justice Center). The Initiative proposed conducting a comprehensive study of Washington's criminal justice system to identify ways to address growing pressures on the prison system and increase public safety.

In January 2015, a report was presented focusing almost exclusively on the high property crime rate in the state. Washington has consistently had one of the highest reported property crime rates in the country, yet is the only state where supervision is not available as a sentence for most people convicted of property offenses. Analysis from the Justice Center found that Washington's prison population is growing, in part, due to an increasing number of repeat property offenders being sentenced to prison for long lengths of stay. In fiscal year 2013, nearly one-third of total prison admissions were for property offenses. In comparison, other states with sentencing guidelines have much lower prison sentences for repeat offenders, but incorporate mandatory periods of supervision. The Initiative recommended modifying the sentencing grid to decrease standard sentence ranges for repeat property offenders while increasing supervision to hold property offenders accountable in the community and provide treatment, where needed.

**Summary of Bill (First Substitute):** A court may sentence an offender to community custody for six to twelve months when the midpoint of the standard sentence range is greater than one year and the person is being sentenced for one of the following crimes:

- theft or attempted theft of a motor vehicle;
- possession or attempted possession of a stolen vehicle; or
- taking a motor vehicle without permission in the first or second degree.

The offender's sentence of incarceration may not exceed the mid-point of the standard sentence range reduced by one-third of the ordered term of community custody. An offender receiving a sentence under this section is prohibited from receiving earned release time under RCW 9.94A.729 in excess of one-third of the total sentence.

DOC must conduct an assessment of the offender and identify programming and services that would be appropriate to meet the offender's needs. To the extent possible, DOC must make the identified programming available to the offender while on community custody.

No later than November 1, 2025, DOC must submit a report to the Governor and the Legislature analyzing the effectiveness of supervision in reducing recidivism among motor vehicle offenders. DOC must consult with the Washington State Institute for Public Policy in guiding its data tracking efforts and preparing the report.

The provision authorizing the court to order community custody for motor vehicle related felonies expires June 30, 2026.

**EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):** A motor vehicle offender receiving a sentence under this section is prohibited from receiving earned release time under RCW 9.94A.729 in excess of one-third of the total sentence.

**Appropriation:** None.

**Fiscal Note:** Requested on January 30, 2019.

**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 on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Washington is one of the only states that does not have supervision for property offenders. A small number of repeat offenders are committing a disproportionate amount of property crime. Two issues have held up this bill in the past, both of which have been addressed. First, instead of a regional pilot, the bill now applies statewide. Second, there is a commensurate reduction in incarceration to help address the cost of supervision.

A small group of offenders are responsible for the vast majority of crime, particularly when it comes to property crime. Communities do not understand why offenders continue to repeat their crimes with little repercussion. We need to come together and reimagine criminal justice in a way to make it work better. This bill will allow us to see if providing supervision and interventions in the community works to reduce crime and allow these offenders to become productive members of society.

A large portion of repeat offenders are people with addiction issues or co-occurring disorders. Research tells us that assessing these issues and addressing them through services can work.

We would prefer a one to one ratio for reduction of incarceration rather than a one to three. Please consider increasing that ratio if the fiscal resources are not sufficient.

Washington leads the nation in property crime and is also number one for property crime recidivism. For every property crime arrest, the person has committed almost 100 other offenses. Supervision allows prolific offenders to be monitored after release. Many times after release, these offenders go right back to their old lifestyle. Supervision will give them the parameters to be successful, while providing services such as education, housing, drug counseling, and health care.

Many communities across the state struggle with property crime. Reducing incarceration time is not the preferred method of financing supervision, but law enforcement is willing to go along and see if this makes a difference. We are confident that DOC will follow through with the type of effective supervision that will make a positive difference.

CON: We would like to encourage further communication regarding the amount of credit to incarceration. A one to three ratio does not sufficiently incentivize participation in this program. The bill encourages DOC to provide programming. It would be better if this were a requirement.

**Persons Testifying:** PRO: Senator Andy Billig, Prime Sponsor; Breean Beggs, Spokane City Council Member; David Condon, Mayor of Spokane; James McMahan, Washington Association Sheriffs and Police Chiefs; Craig Meidl, Police Chief, City of Spokane; Tom Parker, Superior Court Judge Association; Dave Lucas, Rockwood Neighborhood Council.

CON: Alex Hur, Washington Defender Association and Washington Association of Criminal Defense Lawyers.

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