
Public Safety Committee

ESB 5164

Brief Description: Resentencing of individuals sentenced as a persistent offender due to a robbery in the second degree conviction.

Sponsors: Senators Darneille, Das, Kuderer, Hasegawa, Lias, Saldaña, Salomon and Wilson, C..

Brief Summary of Engrossed Bill
<ul style="list-style-type: none">Requires a court to resentence a person serving a sentence of life imprisonment without the possibility of release under the "three strikes law" where the basis for the sentence is a conviction of Robbery in the second degree.

Hearing Date: 3/19/21

Staff: Kelly Leonard (786-7147).

Background:

Initiative No. 593, approved by the voters in 1994 (also referred to as the "three strikes law"), requires a sentencing court to impose a sentence of imprisonment without the possibility of release if a person is deemed to be a "persistent offender." A person is a "persistent offender" if he or she is convicted of a "most serious offense" and has at least two prior convictions for "most serious offenses" within a certain period of time. Alternatively, a person may be considered a "persistent offender" if he or she is convicted of certain serious sex offenses on at least two separate occasions.

A "most serious offense," also referred to as "strike offense," includes any class A felony, various class B felonies—which are primarily assault, sex, or kidnapping-related offenses—as

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well as any felony with a deadly weapon verdict, and any equivalent federal or out-of-state offense.

In 2019 the state passed legislation removing Robbery in the second degree as a "most serious offense," meaning the offense is no longer a strike offense. This change was prospective and did not affect persons serving sentences of life imprisonment under the "three strikes law" predicated on a Robbery in the second degree offense committed before July 28, 2019.

Robbery is the unlawful taking of personal property from the person of another or in the presence of another against his or her will, through the use or threat of immediate force, violence, or infliction of fear of physical injury or injury to property of the victim or another person. In order to commit the offense, the force or fear must be used to obtain or retain the property or to prevent or overcome resistance to its taking. A person commits the crime of Robbery in the first degree, a class A felony, when the robbery involves the use of a deadly weapon or the infliction of bodily injury, or if the robbery is against a financial institution. A person commits the crime of Robbery in the second degree, a class B felony, if the person commits robbery in a manner that does not constitute Robbery in the first degree.

Summary of Engrossed Bill:

Any person sentenced to life imprisonment without the possibility of release under the "three strikes law" based on a current or past conviction of Robbery in the second degree is entitled to a resentencing hearing. The county prosecuting attorney must review each sentencing document. If Robbery in the second degree was used as a basis for the sentence, the prosecuting attorney must make a motion for relief from the sentence to the sentencing court. At resentencing, the court must resentence the person as if Robbery in the second degree was not a most serious offense (a "strike offense") at the time the original sentence was imposed.

Appropriation: None.

Fiscal Note: Available.

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