
ENGROSSED SENATE BILL 5164

State of Washington

67th Legislature

2021 Regular Session

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

Read first time 01/12/21. Referred to Committee on Law & Justice.

1 AN ACT Relating to resentencing of individuals sentenced as a
2 persistent offender due to a robbery in the second degree conviction;
3 amending RCW 9.94A.345; and creating a new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) In any criminal case wherein an
6 offender has been sentenced as a persistent offender, the offender
7 must have a resentencing hearing if a current or past conviction for
8 robbery in the second degree was used as a basis for the finding that
9 the offender was a persistent offender. The prosecuting attorney for
10 the county in which any offender was sentenced as a persistent
11 offender shall review each sentencing document. If a current or past
12 conviction for robbery in the second degree was used as a basis for a
13 finding that an offender was a persistent offender, the prosecuting
14 attorney shall, or the offender may, make a motion for relief from
15 sentence to the original sentencing court.

16 (2) The sentencing court shall grant the motion if it finds that
17 a current or past conviction for robbery in the second degree was
18 used as a basis for a finding that the offender was a persistent
19 offender and shall immediately set an expedited date for
20 resentencing. At resentencing, the court shall sentence the offender

1 as if robbery in the second degree was not a most serious offense at
2 the time the original sentence was imposed.

3 (3) Notwithstanding the provisions of RCW 9.94A.345, for purposes
4 of resentencing under this section or sentencing any person as a
5 persistent offender after the effective date of this section, robbery
6 in the second degree shall not be considered a most serious offense
7 regardless of whether the offense was committed before, on, or after
8 the effective date of chapter 187, Laws of 2019.

9 **Sec. 2.** RCW 9.94A.345 and 2000 c 26 s 2 are each amended to read
10 as follows:

11 (~~Any~~) Except as otherwise provided in this chapter, any
12 sentence imposed under this chapter shall be determined in accordance
13 with the law in effect when the current offense was committed.

--- END ---