H-1034.1

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**SUBSTITUTE HOUSE BILL 1108**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Community Safety, Justice, & Reentry (originally sponsored by Representatives Hackney, Walen, Fitzgibbon, Simmons, and Kloba)

AN ACT Relating to resentencing of individuals sentenced as a persistent offender, or sentenced to an exceptional sentence pursuant to a plea agreement intended to avoid a persistent offender sentence, due to a robbery in the second degree conviction; and amending RCW 9.94A.647.

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

**Sec.**  RCW 9.94A.647 and 2021 c 141 s 1 are each amended to read as follows:

(1) In any criminal case wherein an offender has been sentenced as a persistent offender, or wherein an exceptional sentence was imposed pursuant to a plea agreement intended to avoid a persistent offender sentence, the offender must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for the finding that the offender was or would have been a persistent offender. The prosecuting attorney for the county in which any offender was sentenced either as a persistent offender, or to an exceptional sentence pursuant to a plea agreement intended to avoid a persistent offender sentence, shall review each sentencing document. If a current or past conviction for robbery in the second degree was used as a basis for a finding that an offender was or would have been a persistent offender, the prosecuting attorney shall, or the offender may, make a motion for relief from sentence to the original sentencing court.

(2) The sentencing court shall grant the motion if it finds that a current or past conviction for robbery in the second degree was used as a basis for a finding that the offender was or would have been a persistent offender and shall immediately set an expedited date for resentencing. A guilty plea by an offender seeking resentencing from an exceptional sentence pursuant to this section may not be withdrawn, and the offender must be resentenced as charged prior to entering the plea agreement. At resentencing, the court shall sentence the offender as if robbery in the second degree was not a most serious offense at the time the original sentence was imposed.

(3) Notwithstanding the provisions of RCW 9.94A.345, for purposes of resentencing under this section or sentencing any person as a persistent offender after July 25, 2021, robbery in the second degree shall not be considered a most serious offense regardless of whether the offense was committed before, on, or after ((~~the effective date of chapter 187, Laws of 2019 [July 28, 2019]~~)) July 28, 2019.

(4) Upon request, the administrative office of the courts and the department of corrections shall provide plea agreement data to the office of public defense, which shall analyze the data for purposes of identifying persons eligible for resentencing under this section. The office of public defense shall notify persons it identifies as eligible for resentencing, and the office shall share this information with county public defenders and county prosecutors.

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