

# SENATE BILL REPORT

## HB 1967

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As of February 16, 2024

**Title:** An act relating to excluding any person who is convicted of a hit and run resulting in death from being eligible for a first-time offender waiver.

**Brief Description:** Excluding any person who is convicted of a hit and run resulting in death from being eligible for a first-time offender waiver.

**Sponsors:** Representatives Jacobsen, Couture, Graham and Caldier.

**Brief History:** Passed House: 2/8/24, 96-1.

**Committee Activity:** Law & Justice: 2/16/24.

### Brief Summary of Bill

- Disqualifies a person convicted of hit and run resulting in a death from receiving a first-time offender waiver.

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## SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Joe McKittrick (786-7287)

**Background:** Hit and Run. The driver of any vehicle involved in an accident resulting in an injury or death of any person or involving the striking of the body of a deceased person, must immediately stop at the scene and remain there until the driver has provided their name, address, insurance policy number, and vehicle license number to the injured person or any person attending to the scene of the accident. The driver must also show their driver's license and must render reasonable assistance to any injured person. If the driver fails to comply with these requirements, and the accident results in a death, the driver is guilty of a class B felony; if the accident results in injury, the driver is guilty of a class C felony; and if the accident only involved striking a deceased person, the driver is guilty of a gross misdemeanor.

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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 part of the legislation nor does it constitute a statement of legislative intent.*

First-Time Offender Waiver. While the Sentencing Reform Act generally requires a court to sentence a person convicted of a felony within a standard sentencing range, determined by the seriousness of the crime and the person's criminal history, except in specific circumstances if the person has never been previously convicted of a felony and never participated in a deferred prosecution of a felony, the person may seek a first-time offender waiver.

If granted, the court may waive the imposition of a sentence within the standard range and impose a sentence of up to 90 days of confinement, up to six months of community custody, and payment of legal financial obligations. The court may also require the person to perform community service and may extend the community custody to 12 months if treatment is ordered. A court may not grant a first-time offender waiver to any person convicted of the following crimes:

- any crime classified as a violent offense or sex offense;
- manufacturing, delivering, or possessing with the intent to deliver a controlled substance; or
- a felony driving under the influence offense.

**Summary of Bill:** Courts are prohibited from granting a first-time offender waiver to any person convicted of hit and run resulting in death.

**Appropriation:** None.

**Fiscal Note:** Available.

**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:** PRO: First time offender waivers are granted to individuals who have never committed a felony before. However, some crimes are too serious to allow such leniency, and a hit and run that results in a death is too serious. If you want to get away with murder in Washington, hit someone with your car. If someone gets a first-time offender waiver for this crime they would only face a maximum sentence of 90 days in jail. These waivers are usually reserved for property crimes and focus on rehabilitation of the offender. Hit and run that results in death should not be included because it is incredibly dangerous and selfish.

CON: Fault is not an element of the crime of hit and run that results in death. For example, a person could be guilty of this crime if, a jay-walker steps in front of their car at night and the driver fails to stop after the collision. First time offender waivers are rarer in these criminal cases, and a person who pleads guilty to this crime does so fully aware that the judge may not grant the waiver. This means the perpetrator must plead guilty knowing they may be sentenced to years in prison.

OTHER: The crime of hit and run has nothing to do with the cause of the collision. It is a duty bill. Drivers involved in an accident have certain duties not to leave the scene, and the crime of hit and run criminalizes the failure to live up to those duties. Instead, this bill should prevent someone convicted of vehicular homicide with disregard for the safety of others from seeking a first-time offender waiver, because that is a crime where we know the driver is the cause of the death through their disregard.

**Persons Testifying:** PRO: Representative Cyndy Jacobsen, Prime Sponsor; MAGGIE O'GRADY; Elizabeth Dasse, Pierce County Prosecuting Attorney's Office.

CON: Jason Lantz, Washington Association of Criminal Defense Lawyers and Washington Defender Association.

OTHER: Amy Freedheim, Senior Deputy Prosecutor King County - Felony Traffic.

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