

SENATE BILL REPORT

SB 5056

As of February 7, 2023

Title: An act relating to a special allegation for habitual property offenders.

Brief Description: Establishing a special allegation for habitual property offenders.

Sponsors: Senators Padden, Fortunato, Gildon and Wilson, L..

Brief History:

Committee Activity: Law & Justice: 2/07/23.

Brief Summary of Bill

- Creates a special allegation for a habitual property offender.
- Requires a person found beyond a reasonable doubt to be a habitual property offender to be sentenced to an additional 24 months in total confinement for a Class B felony, and an additional 12 months for a Class C felony.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Ryan Giannini (786-7285)

Background: When a person is convicted of a felony crime, the court must impose a sentence within the standard sentencing range as established by the seriousness level of the crime and the person's offender score. The seriousness level of each felony crime is established by statute, and the offender score is based on the person's criminal history. The highest offender score contained on the standard sentencing grid is nine points.

The standard sentencing range established by the sentencing grid is adjusted under certain circumstances. Enhancements that increase the standard sentencing range apply generally in the following circumstances:

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- crimes involving a firearm or deadly weapon;
- crimes committed while held in county jail or prison;
- drug offenses;
- vehicular offenses while under the influence;
- crimes with a sexual motivation;
- certain sex crimes perpetrated against a minor;
- criminal street gang-related felony offenses soliciting the involvement of a minor;
- eluding a police vehicle; and
- robbery of a pharmacy.

Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed sentencing range must be submitted to the fact finder and proved beyond a reasonable doubt. A prosecutor must file the special allegation, and prove to the fact finder the special circumstance exists beyond a reasonable doubt for the enhancement to be applied to the standard sentencing range. Generally, a standard sentence range may not exceed the statutory maximum sentence for an offense.

Some enhancements are required by statute to be served in total confinement, and are required to run consecutively to all other sentencing provisions. Total confinement is a period during which the offender must serve the confinement period inside the physical boundaries of a jail or prison for 24 hours per day.

A court has full discretion to depart from mandatory sentencing enhancements, and to consider the circumstances surrounding the youth of a person being sentenced in adult court for a crime committed under the age of 18.

Current law also permits the court to impose a sentence outside of the standard sentencing range for a felony offense if the court finds there are aggravating or mitigating circumstances justifying a departure from the sentencing range.

The statutory maximum sentence for a Class B felony is ten years. The statutory maximum for a Class C felony is five years.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): A prosecutor may file a special allegation to increase an offender's standard felony sentencing range if the offender is a habitual property offender. A habitual property offender is defined as follows:

- the present felony for which the offender is being sentenced is residential burglary, burglary in the second degree, theft in the first degree, theft in the second degree, theft of a firearm, unlawful issuance of checks or drafts, organized retail theft, theft with special circumstances, or mail theft;
- has an offender score of nine points or higher;
- at least five of the points in the person's offender score results from any combination

- of the property crimes listed above; and
- the person has committed three or more property crime offenses within 180 days.

If the court finds beyond a reasonable doubt from the evidence that the offender is a habitual property offender, and the offender is being sentenced for a Class B felony, 24 months are added to the standard sentencing range.

If the court finds beyond a reasonable doubt from the evidence that the offender is a habitual offender, and the offender is being sentenced for a Class C felony, 12 months are added to the standard sentencing range.

The offender's sentence cannot exceed the statutory maximum for the crime. All habitual property offender enhancements are mandatory and must be served in total confinement. If eligible, an offender serving a habitual property offender enhancement may be granted an extraordinary medical placement.

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.