

---

HOUSE BILL 1108

---

State of Washington

68th Legislature

2023 Regular Session

By Representatives Hackney, Walen, Fitzgibbon, Simmons, and Kloba

Prefiled 01/03/23. Read first time 01/09/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to resentencing of individuals sentenced as a  
2 persistent offender, or sentenced to an exceptional sentence pursuant  
3 to a plea agreement intended to avoid a persistent offender sentence,  
4 due to a robbery in the second degree conviction; and amending RCW  
5 9.94A.647.

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

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

9 (1) In any criminal case wherein an offender has been sentenced  
10 as a persistent offender, or wherein an exceptional sentence was  
11 imposed pursuant to a plea agreement intended to avoid a persistent  
12 offender sentence, the offender must have a resentencing hearing if a  
13 current or past conviction for robbery in the second degree was used  
14 as a basis for the finding that the offender was or would have been a  
15 persistent offender. The prosecuting attorney for the county in which  
16 any offender was sentenced either as a persistent offender, or to an  
17 exceptional sentence pursuant to a plea agreement intended to avoid a  
18 persistent offender sentence, shall review each sentencing document.  
19 If a current or past conviction for robbery in the second degree was  
20 used as a basis for a finding that an offender was or would have been  
21 a persistent offender, the prosecuting attorney shall, or the

1 offender may, make a motion for relief from sentence to the original  
2 sentencing court.

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9 may not be withdrawn, and the offender must be resentedenced as charged  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

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

--- END ---