

# FINAL BILL REPORT

## ESHB 1030

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Synopsis as Enacted

**Brief Description:** Enhancing the penalty for eluding a police vehicle.

**Sponsors:** By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Takko, Lovick, Simpson, Haler, Blake, Campbell, Ross, Skinner, Newhouse, Conway, Morrell, Chandler, McDonald, Rodne, Kristiansen, Wallace, Moeller, VanDeWege, McCune, Williams, Bailey, Warnick, Upthegrove, Alexander and Pearson).

**House Committee on Public Safety & Emergency Preparedness**

**House Committee on Appropriations**

**Senate Committee on Judiciary**

### **Background:**

#### Crime of Attempting to Elude a Police Vehicle.

A driver commits the crime of attempting to elude a police vehicle by willfully failing or refusing, on a public highway, to immediately stop his or her vehicle after receiving a visual or audible signal to stop, and by driving recklessly while attempting to elude the pursuing vehicle. The signal may be given by hand, voice, emergency light, or siren, but the officer must be in uniform and the vehicle must have lights and sirens.

Even if the prosecution shows that the defendant failed to stop after being given a signal to do so, the defendant may avoid conviction if he or she establishes, by a preponderance of the evidence, that either: (1) a reasonable person would not have believed that a police officer gave the signal; or (2) driving after receiving the signal was reasonable under the circumstances.

Under the Sentencing Reform Act (SRA), attempting to elude a police vehicle is ranked as a seriousness level of I, class C felony offense. A first-time offender would receive a presumptive sentence of zero to 60 days in jail. The statutory maximum sentence is five years in prison and a \$10,000 fine. Additionally, the Department of Licensing must revoke the defendant's license for one year upon conviction.

#### Sentencing Enhancements.

Under the SRA, the court must impose imprisonment in addition to the standard sentencing range if specific conditions for sentencing enhancements are met. Sentencing enhancements may apply if any of the following apply: (1) the offender was armed with a firearm while committing certain felonies; (2) the offender was armed with a deadly weapon while committing certain felonies; (3) the offender committed certain felonies while incarcerated; (4) the offender committed certain drug offenses; (5) the offender committed vehicular

homicide while under the influence of alcohol or drugs; or (6) the offender committed a felony crime that was committed with sexual motivation.

The U.S. Supreme Court, in *Blakely v. Washington*, ruled that any factor that increases a defendant's sentence above the standard range, other than the fact of a prior conviction, must be proven to a jury beyond a reasonable doubt. To do otherwise would violate the defendant's right to a jury trial under the Sixth Amendment.

**Summary:**

A procedure is established for determining whether an eluding offense involved the endangerment of other persons, and a new sentencing enhancement penalty is created for the conviction of such eluding offenses.

In a prosecution for an eluding offense, if sufficient evidence exists to support the allegation that the eluding offense involved one or more persons (other than the defendant or pursuing law enforcement officer) who were threatened with physical injury or harm, then the prosecuting attorney may file a special allegation. In a case where a special allegation has been made, if a court makes a finding of fact, or in a jury trial if the jury finds a special verdict, that: (1) an offender committed the crime of attempting to elude a pursuing police vehicle, and (2) the underlying offense involved the endangerment of one or more persons (other than the defendant or pursuing law enforcement officer), then the court must impose a sentence enhancement. The sentence enhancement must include a sentence of 12 months and one day of imprisonment that is added to the offender's presumptive sentence.

This act is known as the Guillermo "Bobby" Aguilar and Edgar F. Trevino-Mendoza Public Safety Act of 2008.

**Votes on Final Passage:**

House	98	0	
House	97	0	
Senate	48	1	(Senate amended)
House	93	0	(House concurred)

**Effective:** June 12, 2008