

# HOUSE BILL REPORT

## SB 6025

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**As Reported by House Committee On:**  
Public Safety

**Title:** An act relating to body armor.

**Brief Description:** Creating a sentence enhancement for body armor.

**Sponsors:** Senators O'Ban and Roach.

**Brief History:**

**Committee Activity:**

Public Safety: 2/21/14, 2/25/14 [DP].

**Brief Summary of Bill**

- Requires that all firearm and deadly weapon sentencing enhancements are to be doubled if an offender was wearing body armor at the time of the offense.

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### HOUSE COMMITTEE ON PUBLIC SAFETY

**Majority Report:** Do pass. Signed by 11 members: Representatives Goodman, Chair; Roberts, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Holy, Hope, Moscoso, Pettigrew, Ross and Takko.

**Staff:** Yvonne Walker (786-7841).

**Background:**

The Sentencing Reform Act provides for adjustments of sentences based on certain factors. For instance, a sentence will be enhanced if the offender or accomplice was armed with a firearm or with another deadly weapon while committing certain felonies.

If an offender or an accomplice was armed with a firearm and the offender is being sentenced for a felony other than: Possession of a Machine Gun, Possession of a Stolen Firearm, Drive-By Shooting, Theft of a Firearm, Unlawful Possession of a Firearm in the first and second degree, or Use of a Machine Gun in a felony, the offender is eligible for a firearm

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enhancement. The following additional times are added to the standard sentence range if the offender or an accomplice was armed with a firearm during the offense:

- five years for any felony defined under any law as a class A felony, or with a statutory maximum sentence of at least 20 years, or both;
- three years for any felony defined under any law as a class B felony, or with a statutory maximum sentence of 10 years, or both; or
- 18 months for any felony defined under any law as a class C felony, or with a statutory maximum sentence of five years, or both.

An offender is eligible for a deadly weapon enhancement if the offender or an accomplice was armed with a deadly weapon other than a firearm and the offender is being sentenced for any felony except: Possession of a Machine Gun, Possession of a Stolen Firearm, Drive-By Shooting, Theft of a Firearm, Unlawful Possession of a Firearm in the first and second degree, or Use of a Machine Gun in a felony. The following additional times must be added to the standard sentence range if the offender or an accomplice was armed with a deadly weapon:

- two years for any felony defined under any law as a class A felony, or with a statutory maximum sentence of at least 20 years, or both;
- one year for any felony defined under any law as a class B felony, or with a statutory maximum sentence of 10 years, or both; or
- six months for any felony defined under any law as a class C felony, or with a statutory maximum sentence of five years, or both.

If the offender is being sentenced for any firearm or deadly weapon enhancements and the offender was previously sentenced for any deadly weapon enhancements, all firearm or deadly weapon enhancements are double the listed length. All firearm and deadly weapon enhancements are mandatory, served in total confinement, and run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements. If the standard sentence range exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

The portion of a sentence represented by a weapons enhancement is not eligible for earned release reduction (good time credit).

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### **Summary of Bill:**

A procedure is established for determining whether the accused or accomplice was armed with a firearm or deadly weapon at the time of the offense while wearing body armor. In a criminal case where a special allegation has been made, a court must make a finding of fact, or in a jury trial, the jury must find a special verdict, that: (1) an offender was armed with a firearm or deadly weapon at the time of the offense; and (2) the underlying offense was committed while the offender was wearing body armor.

Firearm and deadly weapon sentence enhancements are doubled if an offender or an accomplice was wearing body armor at the time of the offense. An offender is not eligible

for good-time credits or earned release time for the portion of his or her sentence resulting from body armor enhancements.

"Body armor" is defined as any clothing or devices designed primarily to prevent penetration by a projectile fired from a firearm or by a knife, sword, or other cutting or stabbing instrument, which is worn by an individual for that specific purpose in the commission of a crime.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on August 1, 2014.

**Staff Summary of Public Testimony:**

(In support) A criminal who plans to engage in violent behavior wears body armor to protect him or herself from police. This type of premeditated act on behalf of the offender should be punished just like the statutory enhancements imposed for firearms used in a crime.

The use of body armor by criminals is on the rise throughout our nation. The two most publicized instances include the 1997 Bank of America robbery in north Hollywood and the mass shooting in the movie theater in Colorado. The State of Washington has also had a history of such crimes such as the park ranger who was killed in 2012 by an offender wearing body armor. There has been a federal Body Armor Act since 2002 and many states currently have some form of a body armor law.

The criminals who wear body armor during the commission of a crime clearly show the attempt and premeditation to engage in criminal acts. Current sentencing guidelines are not serving as a deterrent. This bill will be an added tool to Washington's criminal justice system by punishing those that choose to do harm to our police officers.

(Neutral) The penalty for body armor should be an aggravating circumstance instead of a sentencing enhancement. As an aggravating circumstance this would give judges discretion when an offender wears body armor in conjunction with using a firearm as part of his or her criminal activity. An aggravator will give the judge discretion but an enhancement is a mandatory block of time that is not discretionary.

(Opposed) None.

**Persons Testifying:** (In support) Senator O'Ban, prime sponsor; and Victoria Shilley.

(Neutral) Larry Jefferson, Washington Association of Criminal Defense Lawyers.

**Persons Signed In To Testify But Not Testifying:** None.