

HOUSE BILL REPORT

SB 6415

As Reported by House Committee On: Public Safety

Title: An act relating to consecutive sentences for driving under the influence or physical control of a vehicle under the influence of intoxicating liquor, marijuana, or any drug.

Brief Description: Concerning consecutive sentences for driving under the influence or physical control of a vehicle under the influence of intoxicating liquor, marijuana, or any drug.

Sponsors: Senators Fain, Angel, Tom, Dammeier, Hill, Becker, Eide, Hobbs, King, Brown, Bailey, Litzow, Schoesler, Braun and Rolfes.

Brief History:

Committee Activity:

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

Brief Summary of Bill

- Requires that any sentence for a felony Driving Under the Influence or being in Physical Control of a motor vehicle under the influence of intoxicating liquor or any drug offense be served consecutively to any sentence imposed for Circumventing an Ignition Interlock Device (IID) or Operating a Motor Vehicle without a required IID.

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 court has discretion when sentencing offenders in misdemeanor and gross misdemeanor cases. Generally, sentences for multiple felony offenses set at one sentencing

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hearing are served concurrently unless there are two or more separate serious violent offenses or weapon offenses. In those cases, the sentences are served consecutively, unless an exceptional sentence is entered.

The exceptions to this general rule are as follows:

1. If the court enters a finding that some or all of the current offenses required the same criminal intent, were committed at the same time and place, and involved the same victim, the offenses are treated as one offense.
2. In the case of two or more serious violent offenses arising from separate and distinct criminal conduct, the sentences for these serious violent offenses are served consecutively to each other and concurrently with any other sentences imposed for current offenses.
3. In the case of an offender convicted of Unlawful Possession of a Firearm in the first or second degree and for one or both of the crimes of Theft of a Firearm or Possession of a Stolen Firearm, the sentences for these crimes are served consecutively for each conviction of the felony.
4. In the case of an offender receiving a deadly weapon enhancement, the deadly weapon enhancement portion of the standard range is served consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements.
5. Whenever a current offense is committed while the offender is under sentence for a previous felony and the offender was also sentenced for another term of imprisonment, the latter term may not begin until expiration of all prior terms. Whenever a person is sentenced under a felony that was committed while the person was not under sentence for a felony, the sentence runs concurrently with felony sentences previously imposed by any court unless the court pronouncing the subsequent sentence expressly orders that they be served consecutively.

In addition to serving mandatory incarceration, an offender convicted of a Driving Under the Influence (DUI) offense or being in Physical Control (PC) of a motor vehicle under the influence of intoxicating liquor or any drug is often subject to many other sanctions. These include: fines, loss of driving privileges, alcohol assessments, probation, community custody, and the mandatory use of an ignition interlock device (IID) on any vehicle the offender drives. If a person is restricted to driving only with an IID, it is a gross misdemeanor offense for that person to drive without a required functioning IID installed or to tamper with or circumvent the device.

Summary of Bill:

Sentences for a felony DUI or PC offense must be served consecutively with any sentences imposed for Circumventing an IID or Operating a Motor Vehicle without a required IID. Sentences for Circumventing an IID or Operating a Motor Vehicle without a required IID are also served consecutively.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill relates to individuals that have reached the status of a felony DUI offender. This means that they have had a prior vehicular homicide conviction or they have reached their fifth DUI conviction in 10 years. Such an individual is going to be ordered by the court to have an IID installed in addition to not be driving impaired. This bill gives the sentencing judge discretion. It does not set a mandatory minimum sentence for IID requirements.

In superior court for felony sentencing, judges do not have discretion to set sentencing terms consecutively and, as a result, sentences for felonies are served concurrently unless they fall into a specific category. This bill will create a new category for individuals who have reached their sixth or seventh DUI offense and have also violated IID requirements. The judge will be able to sentence the person for a felony DUI offense and then also impose a consecutive sentence for the IID violation. Otherwise, there is no punishment for a person that has committed both a felony DUI offense and violated IID requirements.

(Neutral) It is suggested that this bill should be reviewed by the Sentencing Guidelines Commission. Also many local jails are often overcrowded and as a result many of these offenders are being required to serve a portion of their sentence in a local jail in a different locality outside of the jurisdiction where they were sentenced. These costs often impact budgets and legal representation for the offender.

(Opposed) None.

Persons Testifying: (In support) Ian Goodhew, Washington Association of Prosecuting Attorneys.

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

Persons Signed In To Testify But Not Testifying: None.