

HOUSE BILL REPORT

SSB 6219

As Reported by House Committee On:
Public Safety
General Government & Information Technology

Title: An act relating to sentencing for vehicular homicide.

Brief Description: Concerning vehicular homicide sentencing.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Brown, Angel, Padden, Hewitt, O'Ban, Roach and Pearson).

Brief History:

Committee Activity:

Public Safety: 2/19/16, 2/23/16 [DP];

General Government & Information Technology: 2/26/16, 2/29/16 [DP].

Brief Summary of Substitute Bill

- Increases the seriousness level ranking for the crime of Vehicular Homicide, by operation of a vehicle in a reckless manner, to a seriousness level XI offense (from a seriousness level VIII).
- Creates a new mitigating circumstance to allow for a lesser sentence to be imposed if the person has committed no other previous serious traffic offenses and the current sentence is clearly excessive.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: Do pass. Signed by 9 members: Representatives Goodman, Chair; Orwall, Vice Chair; Klippert, Ranking Minority Member; Hayes, Assistant Ranking Minority Member; Appleton, Griffey, Moscoso, Pettigrew and Wilson.

Staff: Yvonne Walker (786-7841).

Background:

Vehicular Homicide.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A person is guilty of Vehicular Homicide if he or she proximately causes, within three years, the death of another by driving any vehicle: (1) while under the influence of intoxicating liquor or drug (DUI); (2) in a reckless manner; or (3) with disregard for the safety of others.

Vehicular Homicide by:

1. A DUI (intoxicating liquor or drug) is a seriousness level XI, class A felony offense, and it carries a presumptive standard sentence of 78–102 months in prison for a first offense. In addition, the offense carries a two-year sentencing enhancement for each "prior" impaired driving offense.
2. Operation of any vehicle in a reckless manner is a seriousness level VIII, class A felony offense, and it carries a presumptive standard sentence of 21–27 months in prison for a first offense.
3. Disregard for the safety of others is a seriousness level VII, class A felony offense, and it carries a presumptive standard sentence of 15–20 months in prison for a first offense.

Recklessness.

A person is reckless or acts recklessly when he or she knows of and disregards a substantial risk that a wrongful act may occur, and his or her disregard of such substantial risk is a gross deviation from conduct that a reasonable person would exercise in the same situation.

Mitigating Circumstances.

Generally, the standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that, in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance).

An exceptional sentence shorter than the standard range may be imposed if the court finds mitigating circumstances are established by a preponderance of the evidence. The Sentencing Reform Act provides an illustrative, but nonexclusive, list of mitigating circumstances which the court may consider with regard to imposing an exceptional sentence below the standard range which includes but is not limited to:

- the victim's role in the crime;
- the defendant's good faith effort to compensate the victim for any injury sustained;
- whether the defendant's participation was the result of coercion or duress;
- the defendant's capacity to understand the nature of his or her conduct and whether his or her capacity was impaired, except as a result of voluntary alcohol or drug use;
- whether the crime was primarily committed by another person and the defendant manifested extreme caution or sincere concern for the victim; and
- whether the defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

Serious Traffic Offenses.

A serious traffic offense means a nonfelony DUI offense, a nonfelony Physical Control while under the influence of intoxicating liquor or any drug offense, a Reckless Driving offense, or a Hit-and-Run of an attended vehicle offense.

Summary of Bill:

The seriousness level ranking for the crime of Vehicular Homicide, by operation of a vehicle in a reckless manner, is increased to a seriousness level XI (from a seriousness level VIII) offense. The presumptive sentence range for a first-time offender with no previous criminal history is 78–102 months in prison.

A new mitigating circumstance is added to the list of circumstances that may lead to an exceptional sentence below the standard range when sentencing an offender for a Vehicular Homicide, by operation of a vehicle in a reckless manner offense. A lesser sentence may be imposed if the person has committed no other previous serious traffic offenses and the current sentence is clearly excessive.

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) A felony gang member in the City of Pasco was speeding and trying to elude the police at over 100 miles per hour. The chase became so reckless that dispatch had to call off the chase. However, the gang member did not stop and continued speeding through a residential area. The offender ended up crashing into a man who had just dropped off two of his three kids at school, hitting the passenger side of his car and killing his young son. When the prosecutor tried to charge the gang member for the incident he realized there was a disparity in the law.

Manslaughter in the first degree, a seriousness level XI offense, occurs when you behave in a reckless manner and that reckless act causes the death of another. Vehicular Homicide by DUI is treated the same as Manslaughter, however, Vehicular Homicide-Reckless is a seriousness level VIII offense. If that same gang offender had been convicted under the Hit and Run statute, he would have received more time than he would have for a Vehicular Homicide-Reckless conviction. Under current statute, a person can get more incarceration time for a Hit and Run offense than they could get for killing someone.

Lastly, the bill allows mitigating circumstances to be considered in circumstances where a driver has never had any serious traffic offenses committed in his or her past and the sentence imposed is consistent with the Sentencing Reform Act.

(Opposed) None.

Persons Testifying: Senator Brown, prime sponsor; and Shawn Sant, Franklin County Prosecuting Attorney's Office.

Persons Signed In To Testify But Not Testifying: None.

**HOUSE COMMITTEE ON GENERAL GOVERNMENT & INFORMATION
TECHNOLOGY**

Majority Report: Do pass. Signed by 7 members: Representatives Hudgins, Chair; Kuderer, Vice Chair; MacEwen, Ranking Minority Member; Caldier, Assistant Ranking Minority Member; Johnson, Morris and Senn.

Staff: Rachele Harris (786-7137).

Summary of Recommendation of Committee On General Government & Information Technology Compared to Recommendation of Committee On Public Safety:

There are no new changes recommended by the committee.

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) There was a horrible case in Spokane where a high speed chase was called off because it was getting too dangerous. The driver, however, did not stop driving and ultimately killed a young man while going speeds in excess of 100 miles per hour. When the prosecutors pursued the case, they discovered that a person can get charged with vehicular homicide, rather than manslaughter, by being impaired or by displaying reckless disregard for the safety of others. The sentences are stair-stepped down. Driving at 100 miles per hour may be a worse offense than misjudging one's impairment after drinking. It is certainly as bad as manslaughter. The fiscal impact starts two years out and grows into the future. The fiscal impact will likely be less than what's in the fiscal note because the Senate Ways and Means Committee amendment allows for a mitigated sentence in instances where someone doesn't have a history of bad or drunk driving, which will lower the fiscal impact somewhat. The jump from a seriousness level VIII felony to a seriousness level XI is a large jump, and that large increase was chosen so prosecutors could look at what other crimes constitute comparable behavior. This brings the crime of Vehicular Homicide by operation of a vehicle in a reckless manner to parity with similar crimes and behavior.

(Opposed) None.

Persons Testifying: Tom McBride, Washington Association of Prosecuting Attorneys.

Persons Signed In To Testify But Not Testifying: None.