
Public Safety Committee

HB 2632

Brief Description: Concerning false reporting of a crime or emergency.

Sponsors: Representatives Valdez, Griffey, Ryu, Pellicciotti, Pollet, Orwall, Gregerson, Goodman, Irwin, Ramos, Slatter, Entenman, Davis and Macri.

Brief Summary of Bill

- Modifies the crime of False Reporting, and elevates the crime to a new first or second degree felony offense if it involves certain conduct and results in death or bodily harm.
- Creates civil causes of action to recover costs and damages associated with False Reporting.

Hearing Date: 1/28/20

Staff: Emily Williams (786-7291) and Kelly Leonard (786-7147)

Background:

Crime of False Reporting.

False Reporting is a gross misdemeanor. A person is guilty of False Reporting if:

- he or she initiated or circulated a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, or emergency;
- he or she knew that the information was false; and
- he or she knew that the false report was likely to cause an evacuation of a building, place of assembly, or transportation facility, or cause public inconvenience or alarm.

Classification of Crimes and Fines.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

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<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

When a person is convicted of a felony, the Sentencing Reform Act applies and determines a specific range of confinement within the statutory maximum. Ranges are determined by a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the offender's criminal history. Seriousness levels range from I to XVI, and offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

Juvenile Diversion.

When a juvenile commits a crime offense, a prosecutor may seek a diversion agreement in lieu of prosecution. A diversion agreement is a contract between the accused and diversion unit where the accused agrees to certain conditions. These conditions could include, for example, counseling and restitution. If a youth does not complete the diversion agreement, a prosecutor may file a criminal complaint. Prosecutors have broad discretion to enter into diversion agreements, with some exceptions.

Civil Recovery for False Reporting.

Under common law, a government generally cannot recover the costs of responding to an emergency. Generally, a crime victim can seek to recover damages by filing a civil tort claim, depending on the circumstances.

Joint and Several Liability.

In civil cases where multiple parties are at fault, fault is apportioned by percentage by the trier of fact. For most tort cases in Washington, each defendant is only responsible for his or her own share of the damages. In some cases, multiple defendants maybe "jointly and severally" liable for the whole of the defendant's claim. This means that any one defendant may be required to pay all the damages, not just their portion. The defendant may seek contribution from other responsible defendants for their share of the damages. Joint and several liability applies when the tort is intentional.

Summary of Bill:

The crime of False Reporting is modified and made a third degree offense. The crime of False Reporting in the first and second degree are created and apply when the offense involves additional conduct and harm.

Crime of False Reporting.

False Reporting in the third degree is a gross misdemeanor. Except under circumstances not constituting False Reporting in the first or second degree, a person is guilty of false reporting in the third degree if:

- that person initiated or circulated a false report or warning of an alleged occurrence or impending occurrence;
- that person knew that the information that they reported, circulated, or conveyed was false; and
- that person knew that the false report was likely to cause an emergency response.

The offense is elevated to False Reporting in the second degree if the report was made with reckless disregard for the safety of others and substantial bodily harm is sustained by any person as a proximate result of an emergency response. The second degree offense is a class C felony and seriousness level III offense.

The offense is elevated to False Reporting in the first degree if the report was made with reckless disregard for the safety of others and death is sustained by any person as a proximate result of an emergency response. The first degree offense is a class B felony and a seriousness level VII offense.

Emergency response means any action to protect life, health, or property by: a peace officer or law enforcement agency; an agency that provides fire, rescue, or emergency medical services; or a private not-for-profit organization, that provides fire, rescue, or emergency medical services.

The Crime of False reporting may be prosecuted in:

- any jurisdiction where the defendant made the false report;
- the county where the false report was communicated to law enforcement; or
- the county where law enforcement responded to the false report.

Juvenile Diversion.

If a juvenile commits first, second, or third degree False Reporting, and it is his or her first violation, then the prosecutor may divert the case.

Civil Liability for False Reporting.

If a person is convicted of false reporting in any degree, he or she is liable for the reasonable costs of the emergency response incurred by the public agency.

An individual who is a victim of False Reporting may bring a civil action against the person who committed the offense. Victims may also bring a civil action against any person who knowingly benefits, financially or by receiving anything of value, from participation in a venture that the person knew, or should have known, has engaged in an act in violation of this chapter. Joint and several liability applies to all people found civilly liable in a suit brought by the victim under this cause of action.

Appropriation: None.

Fiscal Note: Requested on January 24, 2020.

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