
Public Safety Committee

ESSB 5288

Brief Description: Removing robbery in the second degree from the list of offenses that qualify an individual as a persistent offender.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senator Darneille).

Brief Summary of Engrossed Substitute Bill

- Removes the crime of Robbery in the second degree from the definition of "most serious offense," which is used in establishing persistent (or "three strike") offender status requiring a life sentence without the possibility of release, and in imposing other restrictions and requirements.

Hearing Date: 3/26/19

Staff: Omeara Harrington (786-7136).

Background:

Most Serious Offenses.

The Sentencing Reform Act defines "most serious offense" as including any class A felony, various class B felonies—which are primarily assault, sex, or kidnapping-related offenses—as well as any felony with a deadly weapon verdict, and federal or out-of-state offenses that are equivalent to any most serious offense.

Voters approved Initiative 593, the "three strikes" law, in 1993. The law established the penalty of life in prison without the possibility of release for offenders deemed to be "persistent offenders." A persistent offender is an offender who is convicted of a most serious offense and who has at least two prior convictions for most serious offenses that would be included in the offender score for purposes of sentence calculation. In order to establish persistent offender status, at least one of the two or more previous convictions must have occurred before the

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commission of any of the other most serious offenses for which the offender was previously convicted.

The definition of most serious offense is used in other contexts as well. Among other applications, the conviction of a most serious offense carries a monetary penalty assessment and restricts record sealing in juvenile cases, and places certain public records requirements on plea agreements and sentences.

Robbery.

Robbery is the unlawful taking of personal property from the person of another or in the presence of another against his or her will, through the use or threat of immediate force, violence, or infliction of fear of physical injury or injury to property of the victim or another person. In order to commit the offense, the force or fear must be used to obtain or retain the property or to prevent or overcome resistance to its taking.

A person commits the crime of Robbery in the first degree, a class A felony, when the robbery involves the use of a deadly weapon or the infliction of bodily injury, or if the robbery is against a financial institution. A person commits the crime of Robbery in the second degree, a class B felony, if the person commits robbery in a manner that does not constitute Robbery in the first degree.

Summary of Bill:

The crime of Robbery in the second degree is removed from the list of most serious offenses. As a result, the crime does not qualify as a strike offense, nor is it subject to other restrictions and requirements that apply to most serious offenses.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on March 20, 2019.

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