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**ENGROSSED SENATE BILL 5164**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Darneille, Das, Kuderer, Hasegawa, Liias, Saldaña, Salomon, and Wilson, C.

AN ACT Relating to resentencing of individuals sentenced as a persistent offender due to a robbery in the second degree conviction; amending RCW 9.94A.345; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) In any criminal case wherein an offender has been sentenced as a persistent offender, the offender must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for the finding that the offender was a persistent offender. The prosecuting attorney for the county in which any offender was sentenced as a persistent offender shall review each sentencing document. If a current or past conviction for robbery in the second degree was used as a basis for a finding that an offender was a persistent offender, the prosecuting attorney shall, or the offender may, make a motion for relief from sentence to the original sentencing court.

(2) The sentencing court shall grant the motion if it finds that a current or past conviction for robbery in the second degree was used as a basis for a finding that the offender was a persistent offender and shall immediately set an expedited date for resentencing. At resentencing, the court shall sentence the offender as if robbery in the second degree was not a most serious offense at the time the original sentence was imposed.

(3) Notwithstanding the provisions of RCW 9.94A.345, for purposes of resentencing under this section or sentencing any person as a persistent offender after the effective date of this section, robbery in the second degree shall not be considered a most serious offense regardless of whether the offense was committed before, on, or after the effective date of chapter 187, Laws of 2019.

**Sec.**  RCW 9.94A.345 and 2000 c 26 s 2 are each amended to read as follows:

((~~Any~~)) Except as otherwise provided in this chapter, any sentence imposed under this chapter shall be determined in accordance with the law in effect when the current offense was committed.

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