

SENATE BILL REPORT

ESSB 5891

As Passed Senate, February 9, 2024

Title: An act relating to protecting the safety and security of students and maintaining order within school buses by designating trespassing on a school bus as a criminal offense.

Brief Description: Protecting the safety and security of students and maintaining order within school buses by designating trespassing on a school bus as a criminal offense.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Boehnke, Lovick, Keiser, Liias, Mullet, Torres, Wagoner, Warnick, Wilson, C. and Wilson, J.).

Brief History:

Committee Activity: Law & Justice: 1/23/24, 1/25/24 [DPS, w/oRec].

Floor Activity: Passed Senate: 2/9/24, 46-3.

<p>Brief Summary of Engrossed First Substitute Bill</p> <ul style="list-style-type: none">• Creates the crime of school bus trespass.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5891 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Padden, Ranking Member; McCune, Pedersen, Torres, Wagoner and Wilson, L..

Minority Report: That it be referred without recommendation.

Signed by Senators Trudeau, Vice Chair; Kuderer, Salomon and Valdez.

Staff: Joe McKittrick (786-7287)

Background: Criminal Trespass. A person commits criminal trespass in the first degree, a gross misdemeanor, when the person knowingly enters or remains unlawfully in a building.

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

A person commits criminal trespass in the second degree, a misdemeanor, when the person knowingly enters or remains unlawfully in or upon the premises of another under circumstance not constituting criminal trespass in the first degree.

Burglary in the First Degree. A person commits burglary in the first degree, a class A felony, if, with the intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a building and if, in entering, while in the building, or while fleeing the building, the person or another participant is either armed with a deadly weapon or assaults any person.

Burglary in the Second Degree. A person commits burglary in the second degree, a class B felony, if, with the intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a building other than a vehicle or a dwelling.

Vehicle Prowling in the Second Degree. A person commits the crime of vehicle prowling in the second degree, a gross misdemeanor, if, with the intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a vehicle that does not have sleeping quarters or cooking facilities. Upon a person's third or subsequent conviction the crime is elevated to a class C felony.

Richard Lenhart. Richard Lenhart was born, raised, and spent most of his life in Pasco, Washington. In 1970, Mr. Lenhart enlisted in the Air Force Reserves and obtained the specialty of Jet and Aircraft Specialist. After being honorably discharged, Mr. Lenhart transitioned to the Army National Guard and worked as a certified dental technician for nearly 40 years. Upon retiring, Mr. Lenhart began working as a school bus driver. Mr. Lenhart was loved by the children who rode his bus and would often read books aloud to them when he had a layover stop on his route. Tragically, on September 24th, 2021, Mr. Lenhart passed away protecting the 35 students riding his bus when a man armed with knife entered the bus. Due to Mr. Lenhart's actions, none of the children were harmed.

Summary of Engrossed First Substitute Bill: The Richard Lenhart act is created.

The crime of school bus trespass is created. A person commits the crime of school bus trespass if the person knowingly and maliciously enters or remains unlawfully in a school bus, does any other act that creates a substantial risk of harm to passengers or the driver, and causes a substantial interruption or impairment to services rendered by the school bus.

School bus means any vehicle owned, leased, or operated by a public school district, a private entity contracted with a school district, or education institution for the purpose of transporting students to and from school or school-related activities.

School bus trespass is classified as a seriousness level III class C felony, meaning a person convicted of this crime, with no relevant criminal history, would face a standard sentencing range of one to three months with a maximum sentence of five years imprisonment.

School bus trespass does not apply to any of the following:

- students enrolled in the school which is being serviced by the school bus who are under the age of 19;
- law enforcement officers or other authorized personnel engaged in the performance of their official duties;
- individuals with written consent from the school district or educational institution allowing them to enter or remain on the public school bus; and
- emergency situations where entering the bus is necessary to protect the safety or well-being of students or others.

School districts and educational institutions must implement educational programs and awareness campaigns to educate students, parents, and the community about the importance of maintaining safety and security on public school buses emphasizing the potential consequences of school bus trespassing. Subject to funding school districts and educational institutions must post signage warning of the consequences of school bus trespass.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute: *The committee recommended a different version of the bill than what was heard.* PRO: This bill strengthens the safety of our public school system. Laws against trespass currently do not extend to public school buses. The employees who drive students are not afforded the same protections as those employees within the schools. Mr. Lenhart was tragically murdered two years ago. His actions saved the lives of the children on his bus, but the events of that day will scar them for life. This bill is too important not to pass into law. School bus drivers are responsible for the safety of the kids on their bus, and people need to be aware of the consequences of unlawfully entering a school bus. This is a long time coming. School buses have suffered issues on school buses for years and this bill will go a long way to address those issues.

CON: This bill covers all school buses whether occupied or not. Trespass on an unoccupied bus is currently a misdemeanor crime, and there is no need to elevate this to a felony. This also creates a disproportionate sentence when compared to other trespass crimes on school grounds and school buildings. This bill criminalizes actions that would already rise to the level of a felony offense under current law. There are already nearly 50 aggregating factors that may increase a perpetrator's sentence. Slicing already criminalized acts into smaller and smaller felony crimes only increases the likelihood that prosecutors will stack charges

resulting in a disproportionate sentence.

Persons Testifying: PRO: Senator Matt Boehnke, Prime Sponsor; Russell Shjerven, Secretary-Treasurer, Teamsters Local Union No. 839; Nancy Lenhart, Widow/Community Member; Tamara Pearson, Bus Driver with Pasco School District & Chief Union Steward, Teamsters Local 839; Carolyn Logue, WA State Student Transportation Coalition.

CON: Ramona Brandes, WACDL/WDA; Karen Pillar, TeamChild; Brian Flaherty, King County Department of Public Defense.

Persons Signed In To Testify But Not Testifying: No one.