
SUBSTITUTE HOUSE BILL 1108

State of Washington

68th Legislature

2023 Regular Session

By House Community Safety, Justice, & Reentry (originally sponsored by Representatives Hackney, Walen, Fitzgibbon, Simmons, and Kloba)

READ FIRST TIME 02/03/23.

1 AN ACT Relating to resentencing of individuals sentenced as a
2 persistent offender, or sentenced to an exceptional sentence pursuant
3 to a plea agreement intended to avoid a persistent offender sentence,
4 due to a robbery in the second degree conviction; and amending RCW
5 9.94A.647.

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

7 **Sec. 1.** RCW 9.94A.647 and 2021 c 141 s 1 are each amended to
8 read as follows:

9 (1) In any criminal case wherein an offender has been sentenced
10 as a persistent offender, or wherein an exceptional sentence was
11 imposed pursuant to a plea agreement intended to avoid a persistent
12 offender sentence, the offender must have a resentencing hearing if a
13 current or past conviction for robbery in the second degree was used
14 as a basis for the finding that the offender was or would have been a
15 persistent offender. The prosecuting attorney for the county in which
16 any offender was sentenced either as a persistent offender, or to an
17 exceptional sentence pursuant to a plea agreement intended to avoid a
18 persistent offender sentence, shall review each sentencing document.
19 If a current or past conviction for robbery in the second degree was
20 used as a basis for a finding that an offender was or would have been
21 a persistent offender, the prosecuting attorney shall, or the

1 offender may, make a motion for relief from sentence to the original
2 sentencing court.

3 (2) The sentencing court shall grant the motion if it finds that
4 a current or past conviction for robbery in the second degree was
5 used as a basis for a finding that the offender was or would have
6 been a persistent offender and shall immediately set an expedited
7 date for resentencing. A guilty plea by an offender seeking
8 resentencing from an exceptional sentence pursuant to this section
9 may not be withdrawn, and the offender must be resentenced as charged
10 prior to entering the plea agreement. At resentencing, the court
11 shall sentence the offender as if robbery in the second degree was
12 not a most serious offense at the time the original sentence was
13 imposed.

14 (3) Notwithstanding the provisions of RCW 9.94A.345, for purposes
15 of resentencing under this section or sentencing any person as a
16 persistent offender after July 25, 2021, robbery in the second degree
17 shall not be considered a most serious offense regardless of whether
18 the offense was committed before, on, or after (~~the effective date~~
19 ~~of chapter 187, Laws of 2019 [July 28, 2019]~~) July 28, 2019.

20 (4) Upon request, the administrative office of the courts and the
21 department of corrections shall provide plea agreement data to the
22 office of public defense, which shall analyze the data for purposes
23 of identifying persons eligible for resentencing under this section.
24 The office of public defense shall notify persons it identifies as
25 eligible for resentencing, and the office shall share this
26 information with county public defenders and county prosecutors.

--- END ---