

---

**Public Safety & Emergency  
Preparedness Committee**

---

**HB 1001**

**Brief Description:** Combating auto theft.

**Sponsors:** Representatives Lovick, Priest, McCoy, Pearson, Kirby, Ross, Hunt, Skinner, Simpson, Newhouse, O'Brien, Armstrong, Ericks, Moeller, Miloscia, Grant, Sells, Green, Eickmeyer, Takko, Kelley, B. Sullivan, Hudgins, Cody, Haigh, Morrell, Chase, Ormsby, Kessler, Blake, Conway, Chandler, P. Sullivan, McDonald, Rodne, Haler, Jarrett, Roach, Walsh, Kristiansen, Wallace, McDermott, Condotta, VanDeWege, Dunshee, McCune, Kenney, Schual-Berke, Hinkle, Bailey, Lantz, Warnick, Upthegrove, Alexander, Campbell and Rolfes.

**Brief Summary of Bill**

- Increases auto theft-related penalties and triple scores prior offenses.
- Counts prior vehicle prowling offenses as prior convictions when calculating an offender's sentence.
- Subjects juvenile offenders to risk assessments, home detention, and increased penalties for the auto theft offenses.
- Creates new crimes to cover the making and possessing of motor vehicle theft tools.
- Establishes the Washington Auto Theft Prevention Authority to review motor vehicle theft in Washington.
- Imposes a 50 cent surcharge per insured automobile to fund the Washington Auto Theft Prevention Authority.

**Hearing Date:** 1/10/07

---

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

**Staff:** Yvonne Walker (786-7841).

**Background:**

***Sentencing Reform Act & Scoring***

Under the Sentencing Reform Act (SRA), an offender convicted of a felony has a standard sentence range that is based on the seriousness of the offense and the offender's felony convictions. The number of points an offender receives for current and prior felonies varies according to certain rules.

***Motor Vehicle Theft***

Theft 1: A person is guilty of theft (of a motor vehicle) in the first degree, if such person commits theft of property or services that exceed \$1,500 in value other than a firearm. Theft in the first degree is ranked as a seriousness level II, class B felony offense under the Sentencing Reform Act (SRA) which, for a first-time adult offender has a standard sentence range of zero to 90 days in jail. Under the Juvenile Justice Act, the offense is a category B offense and a first-time juvenile offender would receive a local sanction consisting of a maximum of 30 days in detention, 12 months of community supervision, 150 hours of community restitution, and \$500 fine.

Theft 2: A person is guilty of theft (of a motor vehicle) in the second degree, if such person commits theft of a motor vehicle valued less than \$1,500. Theft in the second degree is ranked as a seriousness level I, class C felony offense under the SRA which, for a first-time adult offender has a standard sentence range of zero to 60 days in jail. Under the Juvenile Justice Act, the offense is a category C offense and a first-time juvenile offender would receive a local sanction.

***Taking A Motor Vehicle without Permission***

Taking A Motor Vehicle without Permission 1: A person is guilty of taking a motor vehicle without permission in the first degree, if such person intentionally takes a motor vehicle without permission and he or she:

- alters the vehicle to change its appearance or identification numbers;
- removes parts from the vehicle with the intent to sell the parts;
- exports or attempts to export the vehicle out-of-state or out of the country for profit; intends to sell the vehicle; or
- is engaged in a conspiracy, the object of which is the theft of motor vehicles for sale to others for profit.

Taking a motor vehicle without permission in the first degree is ranked as a seriousness level V, class B felony offense under the SRA which, for a first-time adult offender has a standard sentence range of six to 12 months in jail. Under the Juvenile Justice Act, the offense is a category C offense and a first-time juvenile offender would receive a local sanction.

Taking A Motor Vehicle without Permission 2: A person who intentionally takes a motor vehicle without permission or voluntarily rides in a vehicle knowing it was taken without permission, is guilty of a second degree taking a motor vehicle without permission offense. Taking a motor vehicle without permission in the second degree is ranked as a seriousness level I, class C felony offense under the SRA which, for a first-time adult offender has a standard sentence range of zero to 60 days in jail. Under the Juvenile Justice Act, the offense is a category C offense and a first-time juvenile offender would receive a local sanction.

***Possession of a Stolen Vehicle***

Possession of Stolen Property 1: A person is guilty of possession of stolen property in the first degree if he or she possesses stolen property (or a vehicle) which exceeds \$1,500 in value. Possession of a stolen property in the first degree is ranked as a seriousness level II, class B felony offense under the SRA which, for a first-time adult offender has a standard sentence range of zero to 90 days in jail. Under the Juvenile Justice Act, the offense is a category B offense and a first-time juvenile offender would receive a local sanction.

Possession of Stolen Property 2: A person is guilty of possession of stolen property in the second degree if he or she possesses stolen property (or a vehicle) valued less than \$1,500. Possession of a stolen property in the first degree is ranked as a seriousness level I, class C felony offense under the SRA which, for a first-time adult offender has a standard sentence range of zero to 60 days in jail. Under the Juvenile Justice Act, the offense is a category C offense and a first-time juvenile offender would receive a local sanction.

### ***Vehicle Prowling***

Vehicle Prowling 2: A person is guilty of vehicle prowling in the second degree if, with intent to commit a crime against a person or property, he or she enters or remains unlawfully in a vehicle, other than a motor home, or a vessel. Vehicle prowling in the second degree is a gross misdemeanor offense. A gross misdemeanor offense is punishable by imprisonment of not more than one year in jail, or by a fine of not more than \$5,000, or both. Generally gross misdemeanor offenses do not count as part of an offender's score when calculating his or her standard sentence range.

### ***Home Detention***

Home detention is a program of partial confinement available to offenders whereby the offender is confined in a private residence subject to electronic surveillance. Generally it may not be imposed for offenders convicted of such offenses as a violent offense, drug offense, sex offense, or certain assault offenses.

### ***Theft of Rental, Leased, or Loaned Property***

Under the Theft and Robbery statute, a person who, with intent to deprive the owner, wrongfully obtains, exerts or gains unauthorized control over personal property that is rented or leased to the person, is guilty of theft of rental, leased, or lease-purchased property. It is a seriousness level II, class B felony offense if the property is valued at \$1,500 or more. It is a seriousness level I, class C felony offense if the property is valued between \$250 and \$1,500. It is a gross misdemeanor offense if the property is valued at less than \$250.

The statute does not expressly include loaned property.

### **Summary of Bill:**

The act known as the Elizabeth Nowak-Washington Auto Theft Prevention Act provides for increased penalties and triple scoring of prior motor vehicle-related offenses (theft, possession of stolen property, and taking a vehicle without permission). Home detention is established as an option for first-time adult offenders. Juvenile offenders are subject to risk assessments, home detention, and increased penalties for the same offenses. New crimes are created to cover the making and possession of motor vehicle theft tools and lastly, a Statewide Auto Theft Prevention Authority is created to study motor vehicle theft in Washington.

### ***Sentencing Reform Act & Scoring***

In the case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for an offense involving theft in the first degree, possession of a stolen property in the first degree, or taking a motor vehicle without permission in the first or second degree, an offender receives:

- one point for each prior conviction involving vehicle prowling; and
- three points for each prior adult and juvenile conviction involving theft in the first degree, possession of a stolen property in the first degree, or taking a motor vehicle without permission in the first or second degree.

### ***Motor Vehicle Theft***

Theft 1: A person is guilty of theft (of a motor vehicle) in the first degree if such person commits theft of any motor vehicle despite the value amount of the vehicle.

### ***Possession of a Stolen Vehicle***

Possession of Stolen Property 1: A person is guilty of possession of stolen property in the first degree if he or she possesses a stolen vehicle despite the value amount of the vehicle.

### ***Home Detention***

The eligibility for home detention is expanded to include adult offenders convicted of taking a motor vehicle without permission in the second degree, theft of a motor vehicle in the first degree, or possession of a stolen motor vehicle in the first degree, provided the offender has:

- No convictions for taking a motor vehicle without permission, theft of a motor vehicle, or possession of a stolen motor vehicle during the preceding five years;
- No more than two prior motor vehicle-related (theft, possession, or taking without permission) convictions;
- No violent convictions in the preceding two years;
- No more than two prior convictions for a violent offense in total;
- No prior escape charges; and
- Fulfilled any other conditions of the home detention program.

### ***Juvenile Offenders***

A juvenile offender adjudicated of theft of a motor vehicle in the first degree, possession of a stolen motor vehicle in the first degree, or taking a motor vehicle without permission in the first degree, is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior adjudications must be sentenced to a minimum of five days home detention, 45 hours of community service, and a \$200 fine;
- Juveniles with one prior adjudication shall be sentenced to a minimum of 10 days detention, 90 hours of community service, and a \$400 fine; and
- Juveniles with two or more prior adjudications shall be sentenced to no less than 15-36 weeks confinement, seven days home detention, four months supervision, 90 hours of community service, and a \$400 fine.

A juvenile offender adjudicated of an offense involving taking a motor vehicle without permission in the second degree is subject to the following mandatory minimum sentencing terms:

- Juveniles with no prior adjudications shall be sentenced to no less than one day home detention, one month supervision, 15 hours of community service, and a \$50 fine;

- Juveniles with one prior adjudication shall be sentenced to no less than one day detention, two days home detention, two months supervision, 30 hours of community service, and a \$150; and
- Juveniles with two or more prior adjudications shall be sentenced to no less than three days detention, seven days home detention, three months supervision, 45 hours of community service, and a \$150 fine.

***Theft of Rental, Leased, or Loaned Property***

The Theft and Robbery statute is expanded to include loaned property. A person who, with intent to deprive the owner, wrongfully obtains, exerts or gains unauthorized control over personal property that is loaned to the person, is guilty of theft of loaned property.

***Making or Possession of Auto Theft Tools***

A person who makes, mends or possesses tools commonly used for the commission of vehicle theft is guilty of making or having vehicle theft tools, a gross misdemeanor offense. Some of the motor vehicle theft tools include the following: slim jim, false master key, master purpose key, altered or shaved key, trial or jigglers keys, slide hammer, lock puller, picklock, bit, nippers, and any other implement shown by facts and circumstances that is intended to be used in the commission of a burglary or motor vehicle-related theft.

It shall be prima facie evidence of circumstances evincing an intent to use for commission of a burglary or motor vehicle related theft for a person to be in possession of multiple vehicle keys or altered vehicle keys unless such person is a bona fide locksmith, an employee of a motor vehicle dealer licensed, or other position for which the possession of such keys is required in the performance of his or her duties.

***Washington Auto Theft Prevention Authority***

The Washington Auto Theft Prevention Authority (WATPA) is established to review and make recommendations to the Legislature and the Governor regarding motor vehicle theft in Washington. The WATPA consists of the following members, each serving staggered four-year terms:

- The chief of the Washington State Patrol, or the chief's designee;
- Two police chiefs to be selected by the Washington Association of Sheriffs and Police Chiefs;
- Two sheriffs to be selected by the Washington Association of Sheriffs and Police Chiefs;
- one prosecuting attorney to be selected by the Washington Association of Prosecuting Attorneys;
- A representative from the insurance industry who is responsible for writing property and casualty liability insurance in Washington, selected by the Governor;
- A representative from the automobile dealer industry or the industry representing automobile repair facilities, selected by the Governor; and
- One member of the general public, appointed by the Governor.

The WATPA must annually elect a chairperson and other such officers as it deems appropriate from its membership and it may obtain or contract for staff services, including an executive director, and any facilities and equipment as the authority requires to carry out its duties. The WATPA may also solicit and accept gifts, grants, bequests, devises, or other funds from public and private sources to support its activities.

In preparing its recommendations, the WATPA must, at a minimum, review the following issues:

- Determine the scope of the problem of motor vehicle theft, including particular areas of the state where the problem is the greatest;
- Analyze the various methods of combating the problem of motor vehicle theft;
- Develop and implement a plan of operation; and
- Develop and implement a financial plan.

The WATPA must annually report its activities, findings, and recommendations during the preceding year to the Legislature by December 31.

The Governor may remove any member of the WATPA for cause including but not limited to neglect of duty, misconduct, malfeasance or misfeasance in office, or upon written request of two-thirds of the members of the authority. Upon the death, resignation, or removal of a member, the governor shall appoint a replacement to fill the remainder of the unexpired term.

Members of the WATPA who are not public employees must be compensated in accordance with the Salaries and Expenses statute and must be reimbursed for travel expenses incurred in carrying out the duties of the WATPA.

Any member serving in their official capacity on the WATPA, or either their employer or employers, or other entity that selected the members to serve, are immune from a civil action based upon an act performed in good faith.

#### ***Washington Auto Theft Prevention Authority Account***

The Washington Auto Theft Prevention Authority Account is created in the custody of the State Treasurer. All receipts from gifts, grants, bequests, devises, or other funds from public and private sources to support its activities must be deposited into the account. Expenditures from the account may be used only for purposes of the WATPA under statute. The account is subject to allotment procedures under the State Budgeting, Accounting, and Reporting System statute but an appropriation is not required for expenditures. The WATPA must allocate moneys in the account to public agencies for the purpose of establishing, maintaining, and supporting programs that are designed to prevent motor vehicle theft, including providing financial support:

- To prosecution agencies to increase the effectiveness of motor vehicle theft prosecution;
- To a unit of local government or a team consisting of units of local governments to increase the effectiveness of motor vehicle theft enforcement;
- For the procurement of equipment and technologies for use by law enforcement agencies for the purpose of enforcing motor vehicle theft laws; and
- For programs that are designed to educate and assist the public in the prevention of motor vehicle theft.

The costs of administration shall not exceed 10 percent of the moneys in the account in any one year so that the greatest possible portion of the moneys available to the authority is expended on combating motor vehicle theft.

Prior to awarding any moneys from the WATPA account for motor vehicle theft enforcement or prosecution efforts, the WATPA must verify that the financial award includes sufficient funding to cover proposed activities, which include, but are not limited to administration, law enforcement, prosecutor, court, and county offender confinement costs. Moneys expended from the WATPA Account shall be used to supplement, not supplant, other moneys that are available for motor vehicle theft prevention.

***Auto Insurance Policy Surcharge***

Beginning July 1, 2007, a surcharge of 50 cents every six months per insured automobile must be charged by each insurer to each person purchasing automobile insurance, which will be in addition to any other charge authorized by law. The insurance commissioner may retain up to two percent of the funds collected to administer collection. The remaining funds must be transmitted monthly to the state treasurer who will deposit the funds into the Washington Auto Theft Prevention Authority Account to be used to carry out the WATPA program duties and functions.

**Appropriation:** None.

**Fiscal Note:** Draft fiscal note available.

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