

# SENATE BILL REPORT

## SB 5499

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As Passed Senate, March 3, 2015

**Title:** An act relating to a special allegation of a nefarious drone enterprise.

**Brief Description:** Allowing the filing of a special allegation of a nefarious drone enterprise.

**Sponsors:** Senators Roach, Hasegawa, Rivers, Rolfes, Warnick, Dandel, Padden, Angel and Chase.

**Brief History:**

**Committee Activity:** Law & Justice: 2/10/15, 2/18/15 [DP, DNP].

Passed Senate: 3/03/15, 34-15.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Darneille, Pearson and Roach.

**Minority Report:** Do not pass.

Signed by Senators Pedersen, Ranking Minority Member; Kohl-Welles.

**Staff:** Tim Ford (786-7423)

**Background:** Courts use a sentencing grid to determine a standard sentence range upon conviction of a crime beyond a reasonable doubt. A judge need only apply the offender score and the offense seriousness score into the grid in order to calculate the sentence range that may be imposed. The court may impose any sentence within the range that it deems appropriate. When a prosecutor seeks an exceptional sentence beyond the standard range, the prosecutor has to prove certain aggravating factors which made the crime worse than usual. Aggravating circumstances are not separate crimes but are substantial and compelling reasons justifying an exceptional sentence.

Facts supporting aggravating circumstances must be proved to a jury beyond a reasonable doubt. Upon a conviction of the underlying crime and also a unanimous finding of aggravating circumstances, the court may impose an exceptional sentence in addition to the standard sentence for the underlying crime. The court has discretion in imposing an exceptional sentence on the criminal defendant. The exceptional sentence may be up to but not exceeding the maximum sentence allowed for the underlying crime.

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*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.*

A separate way to seek an exceptional sentence beyond the standard range is for the prosecutor to plead a special allegation. A special allegation is not a separate crime, but is pled in addition to the underlying crime. Upon a conviction of the underlying crime and also proving the special allegation beyond a reasonable doubt, the court must impose the exceptional sentence and has no discretion to reduce it.

For aggravating circumstances, a court has discretion to impose a sentence up to the maximum allowable for the class of felony. For special allegations, the court lacks discretion and the sentence is in addition to the sentence for the underlying crime.

**Summary of Bill:** The prosecuting attorney may file a special allegation of a nefarious drone enterprise where a drone is used by the accused or an accomplice to commit or facilitate the commission of any crime. Twelve months are added to the standard sentence range for the underlying offense where the special allegation is pled and proved beyond a reasonable doubt.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: New technology such as drones are being used for surveillance. They can be used to case a location to see if the owners are home. Drones have damaged livestock and they have been used to smuggle drugs. Drones are ubiquitous and a tool for almost anything. When drones are used by criminals, the criminal sentence should be enhanced.

**Persons Testifying:** PRO: Senator Roach, prime sponsor.