

---

## Community Safety Committee

---

### HB 1229

**Brief Description:** Resentencing of individuals sentenced as a persistent offender.

**Sponsors:** Representatives Hackney, Goodman, Simmons, Ormsby and Hill.

#### Brief Summary of Bill

- Modifies certain requirements related to resentencing persons in cases where a Robbery in the second degree conviction was used as a basis for a persistent offender finding, including by requiring the resentencing of specified persons who entered into a plea agreement to avoid a persistent offender sentence, and providing that the Office of Public Defense (OPD), rather than the county prosecuting attorney, is responsible for reviewing sentencing documents and making motions for relief in eligible cases.
- Requires the Administrative Office of the Courts and the Department of Corrections to provide related plea agreement data to the OPD.
- Requires the OPD to analyze plea agreement data to identify persons eligible for resentencing, notify persons it identifies as eligible, and share this information with county public defenders and prosecutors.

**Hearing Date:** 1/28/25

**Staff:** Corey Patton (786-7388).

#### **Background:**

##### Robbery.

Robbery is the unlawful taking of personal property from another person against that person's will, through the use or threat of use of immediate force, violence, or fear of physical injury or

---

*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.*

property injury, to the person or a third party. The person must use force or fear to obtain or retain the property, or to prevent or overcome resistance to its taking. A person commits Robbery in the first degree if the offense involves the use of a deadly weapon or the infliction of bodily injury, or is committed against a financial institution. A robbery committed under any other circumstances is Robbery in the second degree. Robbery in the first degree is a class A felony, while Robbery in the second degree is a class B felony.

#### Felony Sentencing.

For most felony offenses, state law provides a standard sentence range according to a sentencing grid, which is based on the seriousness level of the offense and the convicted person's offender score. However, under certain circumstances, the court may impose an exceptional sentence outside the standard range. The court must make written findings that a substantial and compelling reason justifies an exceptional sentence. The exceptional sentence may be below the standard range if mitigating circumstances are established by a preponderance of the evidence, or above the standard range in specified situations.

Additionally, certain felonies are designated as most serious offenses (sometimes referred to as "strike offenses"), including all class A felonies, specified class B felonies, any felonies with a deadly weapon verdict, and any equivalent federal or out-of-state offenses. If a person is convicted of a most serious offense and has at least two prior and separate convictions for most serious offenses, the person is considered a persistent offender and must be sentenced to life in prison without the possibility of release.

Prior to 2019, Robbery in the second degree was included in the statutory list of most serious offenses. However, in 2019 the state enacted legislation removing Robbery in the second degree from that list. In 2021 the state enacted further legislation requiring:

- the county prosecuting attorney to review each sentencing document for cases where a person was sentenced as a persistent offender, and make a motion for relief from sentence if Robbery in the second degree was used as a basis for the persistent offender finding; and
- the court to set an expedited resentencing date and resentence the person as if Robbery in the second degree was not a most serious offense at the time the original sentence was imposed.

#### Plea Agreements.

A plea agreement occurs when the prosecutor and the defendant's attorney agree to resolution of the charges. The agreement may include, but is not limited to, dismissal of other charges or counts, recommendation of a particular sentence, a guilty plea for an offense, or limitation on filing of additional charges or counts.

#### **Summary of Bill:**

Requirements related to resentencing persons in cases where a Robbery in the second degree conviction was used as a basis for a persistent offender finding are modified. In cases where a person has been sentenced as a persistent offender, or an exceptional sentence was imposed

pursuant to a plea agreement which avoided a possible persistent offender sentence, the person must be resentenced if a current or past charge or conviction for Robbery in the second degree was used as a basis for the finding that the offender was or would have been a persistent offender. The Office of Public Defense (OPD) must review each person's sentencing document and make a motion for relief from the exceptional sentence in eligible cases. To be eligible for resentencing, the person must either:

- have been sentenced as a persistent offender when a current or past conviction for Robbery in the second degree was used as the basis for the finding that the person was a persistent offender; or
- be serving an exceptional sentence pursuant to a plea agreement which avoided a possible persistent offender sentence, provided that the person had two prior convictions for most serious offenses at the time of sentencing and the person was arrested, charged, or had at least one prior conviction for Robbery in the second degree.

The court must grant the motion and immediately set a date for resentencing if it finds that the person is eligible, and resentence the person as if Robbery in the second degree was not a most serious offense. A guilty plea by a person seeking resentencing may not be withdrawn.

Upon request, the Administrative Office of the Courts and the Department of Corrections must provide plea agreement data to the OPD. The OPD must analyze the data to identify persons eligible for resentencing, notify persons it identifies as eligible, and share this information with county public defenders and prosecutors.

**Appropriation:** None.

**Fiscal Note:** Requested on January 21, 2025.

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