

SENATE BILL REPORT

SB 5333

As of February 17, 2025

Title: An act relating to penalties related to eluding police vehicles and resisting arrest.

Brief Description: Concerning penalties related to eluding police vehicles and resisting arrest.

Sponsors: Senators Lovick, Torres, Chapman, Dozier, Gildon and Holy.

Brief History:

Committee Activity: Law & Justice: 2/17/25.

Brief Summary of Bill

- Establishes procedures for the seizure, impoundment, redemption, and forfeiture of vehicles used in the crime of attempting to elude a police vehicle.
- Requires one year of community custody for a person convicted of attempting to elude.
- Requires 18 months parole for juveniles adjudicated guilty of attempting to elude.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Joe McKittrick (786-7287)

Background: Attempting to Elude a Police Vehicle. A driver commits the crime of attempting to elude a police vehicle when the driver willfully fails or refuses to immediately stop their car and drives in a reckless manner after being given a visual or audible signal to stop by a police officer. The signal to stop may be given by hand, voice, emergency light, or siren. The police officer giving the signal must be in uniform and driving a vehicle equipped with lights and a siren. Attempting to elude a police vehicle is a class C felony. A person convicted of attempting to elude a police vehicle may have their driver's license revoked for

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one year.

Vehicle Impounds. When a driver of a vehicle is arrested and taken into custody, the officer has the authority to take custody of the vehicle and provide for its prompt removal to a safe place, which may include impoundment. An impounded vehicle may be redeemed only by certain people and entities, including the legal owner, the registered owner, or a person authorized in writing by the registered owner. To redeem a vehicle, an eligible person must pay the cost of towing, storage, or other services provided during the course of impoundment. A vehicle that was impounded for racing, when the driver was the registered owner, may not be redeemed for 72 hours, unless there are two or more registered owners or there is another legal owner.

Forfeiture. When authorized by statute, a law enforcement agency may seize possession of property for the purpose of forfeiting a person's right to own or possess that property. Civil asset forfeiture is permitted when the property itself is illegal, was used to facilitate a crime, is an actual proceed of a crime, or was purchased from proceeds traceable to criminal activity.

Electronic Monitoring. "Electronic monitoring" means tracking the location of a person through the use of technology that can determine the monitored person's presence or absence at a particular location. Electronic monitoring may be imposed in various circumstances, including:

- as a condition of community custody when the offender was convicted of a sex offense;
- in connection with a conviction for an impaired driving offense;
- as a condition of pretrial release;
- at the time of entering a sexual assault protection order, stalking protection order, domestic violence no contact order, or domestic violence protection order; and
- as a penalty for violation of certain domestic violence protection orders, restraining orders, and no contact orders.

Juvenile Parole. The Department of Children, Youth, and Families may require persons to comply with a period of parole following the person's release from a juvenile rehabilitation facility. Parole is mandatory for persons who receive a juvenile sentence for theft of a motor vehicle, possession of a stolen vehicle, or taking a vehicle without permission.

Summary of Bill: Impoundment. A vehicle used in the crime of attempting to elude a police vehicle is subject to impoundment when the driver is arrested, or the officer has probable cause to believe the vehicle was used to commit the crime of attempting to elude a police vehicle.

A vehicle impounded after the driver was arrested for attempting to elude a police officer may not be redeemed for 72 hours if the driver is the registered owner unless there are two or more registered owners of the vehicle or there is another legal owner of the vehicle. Such

other person, if any, may redeem the vehicle after it arrives at the storage facility. A police officer must notify the arrested driver of the above stipulations regarding redemption, and the tow truck operator must notify the agency that ordered the impoundment when the 72-hour hold begins.

Forfeiture. If a person previously had a vehicle impounded related to attempting to elude, regardless of whether criminal charges or a conviction followed, and the person is subsequently convicted of attempting to elude or a comparable municipal ordinance, the vehicle operated by the person is subject to forfeiture. No property may be forfeited until after the person is convicted of the crime of attempting to elude and a finding is made that the person used the vehicle to commit the crime. A vehicle subject to forfeiture may be seized by any law enforcement officer upon process issued by any court having jurisdiction over the property.

Seizure of a vehicle may be made without process if:

- the seizure is incident to an arrest or search warrant;
- the vehicle has been the subject of a prior judgement in favor of the seizing agency in a forfeiture proceeding related to attempting to elude; or
- a law enforcement officer has probable cause to believe that the vehicle was used or intended to be used in a felony.

Within 15 days after seizure, the law enforcement agency must serve notice of the seizure on all known holders of interest in the property. The notice of seizure may be served by any method authorized by law or court rule. Specific notice requirements apply to secured parties with perfected security interests.

Any person responding to the notice within 60 days is entitled to an opportunity to be heard either before the chief law enforcement officer or removed to a court of competent jurisdiction. If no person responds within 60 days of the seizure, the vehicle must be deemed forfeited if the arrested driver is convicted, or returned to the owner of record if the arrested driver is not convicted. Specific procedures, including notice requirements, are provided for the removal of a case to a court.

The law enforcement agency that seizes the property and causes the forfeiture may retain the property or sell it. If the law enforcement agency sells the property, the proceeds must be used to fund personnel, programs, services, and equipment related to attempts to elude violations, or to address and improve general traffic safety within the seizing agency's jurisdiction.

A forfeiture of property encumbered by a security interest is subject to the interest of a secured party who neither had knowledge of nor consented to the commission of the felony at the time the security interest was created.

Exemption from Liability. Registered tow truck operators are not liable for injuries or

damages sustained by the driver or third parties that resulted from the driver's conduct relating to attempting to elude. If an impound is found to be improper, the police officer directing the impound and the government employing the police officer are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe the driver of the vehicle was attempting to elude or a comparable municipal ordinance.

Community Custody. A person convicted of attempting to elude must, as part of the person's sentence, be sentenced to one year of community custody which must include electronic monitoring for the duration of the term of community custody.

Electronic Monitoring. When a person charged with attempting to elude or resisting arrest is released from custody at arraignment or trial, the court must require the person to be placed on electronic monitoring. Proof of installation of the monitoring device must be filed with the court within five business days of the date of release from custody, or by a date determined by the court on availability within the jurisdiction.

The court must require electronic monitoring as a condition of community custody for a person convicted of attempting to elude.

Juvenile Charges and Sentences. When a juvenile charged with attempting to elude or resisting arrest is released from custody at arraignment or trial, the court must require the juvenile to submit to electronic monitoring pending disposition of the charge. Parole of 18 months is required for juveniles adjudicated guilty of attempting to elude which must include electronic monitoring for the duration of the term of parole.

Appropriation: None.

Fiscal Note: Requested on February 14, 2025.

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: PRO: This bill will help deter the crime of eluding a police vehicle and incidences where an innocent by-stander or law enforcement officer are placed in danger. This sends a clear message that Washington takes eluding a police officer very seriously. This bill reduces the need for vehicular pursuits. This is measured policy, good for public safety and makes our roads safer.

CON: The fundamental idea of increasing punishment as a solution for crime is false. Furthermore, this creates an extraordinarily complex legal procedure for citizens to follow. It also places an almost insurmountable financial burden on those whose property has been seized by the government. While the bill provides for personal service to banks, it only requires service to the last known address of actual property owners. The time periods in the

bill are too short, those in custody will not be able to meaningfully participate, and the 5th Amendment right against self-incrimination may prevent them from responding at all.

Persons Testifying: PRO: Senator John Lovick, Prime Sponsor; James McMahan, WA Assoc Sheriffs & Police Chiefs.

CON: David Trieweiler, Washington Association of Criminal Defense Lawyers/Washington Defender Association.

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