

Jeffrey Nitschke
Testimony Regarding HB 2299

Good afternoon Chair Williamson, Vice Chairs Gorsek and Sprenger, and Members of the Committee,

My name is Jeffrey Nitschke. I am testifying on behalf of ODAA regarding the benefit of HB 2299. HB 2299 adds some small, highly needed, sentencing enhancements to the crime of Fleeing or Attempting to Elude. This crime is one of the most dangerous driving offenses committed on the roadways, but its designation within the sentencing laws allow for very little accountability at sentencing or room to leverage alternative programs such as drug courts or justice re-investment programs. During these offenses, Defendants often drive at high rates of speed (many times up to and over 100mph), into oncoming lanes of travel, weaving within their lanes of travel, driving on shoulders, taking turns at high speeds, running stop signs and stop lights, and speeding through pedestrian zones (parking lots). Unfortunately, many eludes occur in medium or heavy traffic and many defendants crash into other vehicles or lose control of their car, sometimes causing significant injury. Also different than many other traffic offenses, defendant's conduct in eluding is intentional.

This crime endangers the defendant, the civilians around them, and officers. Officers often must resort to PIT maneuvers, spike strips, or road blocks to stop defendants, placing themselves at risk. Furthermore, due to the level of danger present in these cases, many agencies terminate pursuits, allowing defendants to successfully elude. Typically, Eludes also entail a host of other crimes, which may or may not be charged. Defendants may flee because of drugs or stolen items in their vehicle, firearms which are not lawfully possessed, warrants are out for their arrest, or because the vehicle being driven is stolen. Practically, because Eludes have little sentencing effect, they are subsumed within the sentences of other crimes involved.

There are several important considerations I would ask you to consider when evaluating this bill:

- Eludes are a relatively frequent crime. Between 2014 and 2019, 667 elude cases were prosecuted in Clackamas County.
- The crime number and rate has increased since 2014
 - 90 in 2014 (4%), 108 in 2015 (4.7%), 116 in 2016 (4.3%), 152 in 2017 (6.9%), 171 in 2018 (undetermined), and 30 to date in 2019.
- Fleeing or Attempting to Elude is a low category crime.
 - Fleeing or Attempting to Elude is a level '2' on the felony guidelines.
 - In the majority of cases this means that the maximum jail sentence is 10 days. In order to impose more (up to a maximum of 30 days), the judge has to find "that local jail space provided by the county is available for a longer-term."
 - In most Elude cases, there will be tracking misdemeanor charges. Each misdemeanor carries up to 364 days in custody, far exceeding any sanctions possible on the felonies.
 - Prosecutors can depart upward to 6 months of Prison, but this will be served locally and is rarely done.

- This bill is limited in scope
 - The way the statute reads, a prosecutor will need to allege the enhancement in the charging instrument to secure a 30 day sentence. A ‘second’ or ‘third’ conviction would only apply when the defendant’s prior elude conviction contains this language.
 - Generally, it will take time to educate prosecutors about the change, and to start adding that language. Even then, prosecutors will not always add the enhancement language, or check other convictions to see if the additional language is present.
 - As a result, almost all convictions falling within the statute will only qualify as a defendant’s ‘first’ conviction, requiring 30 days.

- Case Examples

Shawn Mitchell 17CR10631	Defendant sped through parking lot and between lanes of travel during heavy traffic. Officers terminated pursuit after 2 miles
Andreas Boinay 17CR68175	Defendant drove up to 70 mph in residential area. Crashes into victim & then into a light post. Flees scene.
Robert Young 18CR02821	Defendant drove into oncoming traffic, 90 mph, and struck another vehicle. Pursuit was terminated and vehicle was later determined stolen.
Jason Anderson 18CR05108	Defendant drove over 100mph and officers had to use spike strips & a PIT maneuver. Defendant fled on foot and said he ran because of a warrant
Trevor Schmid 18CR52710	Defendant fled on I-5 up to 125 mph, in between lanes, around cars, and ran red light. Spike strips deployed & defendant ran on foot.
Joshua Blackwood 17CR68643	Defendant strikes officer on hip while accelerating away. Defendant drives over 100mph, crashes into a vehicle in Marion County, and flees scene.
Philip Dalton 17CR75770	Defendant fled for 1.6 miles over 90 mph. eventually hits a parked vehicle and fire hydrant and runs from scene.
Nicolas Connolly 17CR35773	Defendant flees at 95 mph, into oncoming lanes of travel, residential areas, and runs stop signs.
Ryan Vanhorn 17CR83414	Defendant speeds up to 100 mph, in and out of traffic, into oncoming traffic, causes 2 patrol cars to crash, hits a number of civilian vehicles, and then crashes.
Brent Wood 18CR43500	Defendant speeds up to 80 mph, into oncoming traffics, through red lights, in between lanes, and crashes into another vehicle when running a red light.