

1.16.030 Repeat Offender Sentence Enhancement.

A. A person who is convicted of the crime of theft in the third degree, under RCW 9A.56.050 as adopted by the Bellevue City Code, and who has two or more prior offenses for theft within two years, shall be punished by imprisonment for not less than 30 days nor more than 364 days, and a fine of not more than \$5,000.

B. The minimum 30 days of imprisonment under this section may not be suspended or converted unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the defendant's physical or mental well-being. If the defendant shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the defendant's physical or mental well-being, in lieu of the mandatory term of imprisonment, the court may order a minimum of 30 days of electronic home monitoring. Whenever the mandatory minimum sentence is converted, the court shall state in writing the reason for granting the conversion and the facts upon which the suspension or conversion is based.

C. Definitions. For the purposes of this section:

1. A “prior offense for theft” means a conviction for any of the following crimes:
 - a. Theft in the third degree, as defined in RCW 9A.56.050 or equivalent local ordinance, as now or hereafter amended;
 - b. Theft in the second degree, as defined in RCW 9A.56.040 or equivalent local ordinance, as now or hereafter amended;
 - c. Theft in the first degree, as defined in RCW 9A.56.030 or equivalent local ordinance, as now or hereafter amended;
 - d. Organized retail theft, as defined in RCW 9A.56.350 or equivalent local ordinance, as now or hereafter amended;
2. “Within two years” means that the incident date of the prior offense occurred within two years before the incident date for the current offense.

D. Nothing in this section precludes a defendant from participating in diversion programs for which the defendant might otherwise be eligible, even if the result of such diversion program is a dismissal of the case. If a defendant fails to satisfy the conditions of a diversion program and is convicted of theft in the third degree, then the defendant is subject to the sentencing provisions of this section.