

2ESSB 5451 - H AMD TO H AMD H-2670.1

By Representative Vance

On page 28, after line 11, insert the following:

"**Sec. 7.** RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read as follows:

(1)

TABLE 1

Sentencing Grid

SERIOUSNESS

SCORE

OFFENDER SCORE

9 or

0 1 2 3 4 5 6 7 8 more

XV Life Sentence without Parole/Death Penalty

XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y
 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-
 320 333 347 361 374 388 416 450 493 548

XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y
 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-
 164 178 192 205 219 233 260 288 342 397

XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m
 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-
 123 136 147 160 171 184 216 236 277 318

XI 7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m
 78- 86- 95- 102- 111- 120- 146- 159- 185- 210-
 102 114 125 136 147 158 194 211 245 280

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1	I		3m	4m	5m	8m	13m	16m	20m	2y2m	
2		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
3		Days	Days	5	6	8	12	14	18	22	29

4

5 NOTE: Numbers in the first horizontal row of each seriousness
6 category represent sentencing midpoints in years(y) and months(m).
7 Numbers in the second and third rows represent presumptive
8 sentencing ranges in months, or in days if so designated. 12+
9 equals one year and one day.

10 (2) For persons convicted of the anticipatory offenses of
11 criminal attempt, solicitation, or conspiracy under chapter 9A.28
12 RCW, the presumptive sentence is determined by locating the
13 sentencing grid sentence range defined by the appropriate offender
14 score and the seriousness level of the completed crime, and
15 multiplying the range by 75 percent.

16 (3) The following additional times shall be added to the
17 presumptive sentence if the offender or an accomplice was armed
18 with a deadly weapon as defined in this chapter and the offender is
19 being sentenced for one of the crimes listed in this subsection.
20 If the offender or an accomplice was armed with a deadly weapon and
21 the offender is being sentenced for an anticipatory offense under
22 chapter 9A.28 RCW to commit one of the crimes listed in this
23 subsection, the following times shall be added to the presumptive
24 range determined under subsection (2) of this section:

25 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW
26 9A.56.200), or Kidnapping 1 (RCW 9A.40.020), but if the offense was
27 committed with a firearm, the 24-month time period may be increased
28 up to 36 months;

29 (b) 18 months for Burglary 1 (RCW 9A.52.020), but if the
30 offense was committed with a firearm, the 18-month time period may
31 be increased up to 30 months;

32 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021),
33 Assault of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110),
34 Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than
35 a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW

1 9A.56.080), or any drug offense, but if the offense was committed
2 with a firearm, the 12-month time period may be increased up to 18
3 months.

4 (4) If the offender committed an offense listed in subsection
5 (3)(a) through (c) of this section while the offender or an
6 accomplice was armed with a firearm, and the offender had a prior
7 conviction for an offense committed with a firearm, then the
8 following times may be added to the presumptive range determined
9 under subsection (2) of this section:

10 (a) For a second conviction for an offense committed while
11 armed with a firearm, up to 60 months;

12 (b) For a third or subsequent conviction for an offense
13 committed while armed with a firearm, up to 84 months.

14 (5) If an offender or an accomplice was armed with a firearm
15 and fired upon a law enforcement officer while resisting arrest
16 under RCW 9A.76.040, up to 60 months may be added to the
17 presumptive sentence.

18 (6) The following additional times shall be added to the
19 presumptive sentence if the offender or an accomplice committed the
20 offense while in a county jail or state correctional facility as
21 that term is defined in this chapter and the offender is being
22 sentenced for one of the crimes listed in this subsection. If the
23 offender or an accomplice committed one of the crimes listed in
24 this subsection while in a county jail or state correctional
25 facility as that term is defined in this chapter, and the offender
26 is being sentenced for an anticipatory offense under chapter 9A.28
27 RCW to commit one of the crimes listed in this subsection, the
28 following times shall be added to the presumptive sentence range
29 determined under subsection (2) of this section:

30 (a) Eighteen months for offenses committed under RCW
31 69.50.401(a)(1)(i) or 69.50.410;

32 (b) Fifteen months for offenses committed under RCW
33 69.50.401(a)(1)(ii), (iii), and (iv);

34 (c) Twelve months for offenses committed under RCW
35 69.50.401(d).

1 For the purposes of this subsection, all of the real property
2 of a state correctional facility or county jail shall be deemed to
3 be part of that facility or county jail.

4 ~~((5))~~ (7) An additional twenty-four months shall be added to
5 the presumptive sentence for any ranked offense involving a
6 violation of chapter 69.50 RCW if the offense was also a violation
7 of RCW 69.50.435.

8 **Sec. 8.** RCW 9.94A.370 and 1989 c 124 s 2 are each amended to
9 read as follows:

10 (1) The intersection of the column defined by the offender
11 score and the row defined by the offense seriousness score
12 determines the presumptive sentencing range (see RCW 9.94A.310,
13 (Table 1)). The additional time for deadly weapon findings or for
14 ~~((those offenses))~~ other circumstances enumerated in RCW
15 9.94A.310~~((4) that were committed in a state correctional facility
16 or county jail))~~ (3) through (7) shall be added to the entire
17 presumptive sentence range. The court may impose any sentence
18 within the range that it deems appropriate. All presumptive
19 sentence ranges are expressed in terms of total confinement.

20 (2) In determining any sentence, the trial court may rely on
21 no more information than is admitted by the plea agreement, or
22 admitted, acknowledged, or proved in a trial or at the time of
23 sentencing. Acknowledgement includes not objecting to information
24 stated in the presentence reports. Where the defendant disputes
25 material facts, the court must either not consider the fact or
26 grant an evidentiary hearing on the point. The facts shall be
27 deemed proved at the hearing by a preponderance of the evidence.
28 Facts that establish the elements of a more serious crime or
29 additional crimes may not be used to go outside the presumptive
30 sentence range except upon stipulation or when specifically
31 provided for in RCW 9.94A.390(2) (c), (d), and (e)."

32 Renumber the remaining sections consecutively and correct
33 internal references accordingly.

EFFECT: Increases penalties for offenses committed with a
firearm.

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