

1 6043-S2 AMS ROAC S5288.1

2 2SSB 6043 - S AMD - 000233

3 By Senator Roach

4

5 On page 44, after line 4, insert the following:

6 "Sec. 15. RCW 9.94A.310 and 1992 c 145 s 9 are each amended to
7 read as follows:

8 (1) TABLE 1

9 Sentencing Grid

10 SERIOUSNESS

11 SCORE

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
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XV	Life Sentence without Parole/Death Penalty									
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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

32

1	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
2		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
3		68	75	82	89	96	102	130	144	171	198
4											
5	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
6		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
7		41	48	54	61	68	75	102	116	144	171
8											
9	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
10		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
11		27	34	41	48	54	61	89	102	116	144
12											
13	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
14		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
15		20	27	34	41	48	54	75	89	102	116
16											
17	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
18		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
19		14	20	27	34	41	48	61	75	89	102
20											
21	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
22		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
23		12	14	17	20	29	43	54	68	82	96
24											
25	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
26		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
27		9	12	14	17	20	29	43	57	70	84
28											
29	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
30		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
31		3	8	12	12	16	22	29	43	57	68
32											
33	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
34		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
35		Days	6	9	12	14	18	22	29	43	57
36											

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	<hr/>										

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

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

15 (3) The following additional times shall be added to the
16 presumptive sentence range for felony crimes committed after the
17 effective date of this section if the offender or an accomplice was
18 armed with a firearm as defined in RCW 9.41.010 and the offender is
19 being sentenced for one of the crimes listed in this subsection. If
20 the offender or an accomplice was armed with a firearm as defined in
21 RCW 9.41.010 and the offender is being sentenced for an anticipatory
22 offense under chapter 9A.28 RCW to commit one of the crimes listed in
23 this subsection, the following additional times shall be added to the
24 presumptive range determined under subsection (2) of this section:

25 (a) Five years for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW
26 9A.56.200), Kidnapping 1 (RCW 9A.40.020), Burglary 1 (RCW 9A.52.020),
27 or any other felony defined under any law as a class A felony and not
28 covered under (e) of this subsection.

29 (b) Three years for Assault 2 (RCW 9A.36.021), Escape 1 (RCW
30 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building
31 other than a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW
32 9A.56.080), any felony drug offense or any class B felony under RCW
33 9A.20.021(1)(b) not specifically listed in this subsection and not
34 covered under (e) of this subsection.

35 (c) Eighteen months for any other class C felony under RCW
36 9A.20.021(1)(c) and not covered under (b) or (e) of this subsection.

37 (d) If the offender is being sentenced under (a), (b), and/or (c)
38 of this subsection and the offender has already been previously
39 sentenced after the effective date of this section under (a), (b),

1 and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of
2 this section, the presumptive sentences under this subsection are
3 automatically doubled.

4 (e) Any and all crimes which by definition required the
5 possession, theft, display, use, or discharge of a firearm are excluded
6 from this subsection.

7 (4) The following additional times shall be added to the
8 presumptive sentence range for felony crimes committed after the
9 effective date of this section if the offender or an accomplice was
10 armed with a deadly weapon as defined in this chapter other than a
11 firearm as defined in RCW 9.41.010 and the offender is being sentenced
12 for one of the crimes listed in this subsection. If the offender or an
13 accomplice was armed with a deadly weapon other than a firearm as
14 defined in RCW 9.41.010 and the offender is being sentenced for an
15 anticipatory offense under chapter 9A.28 RCW to commit one of the
16 crimes listed in this subsection, the following additional times shall
17 be added to the presumptive sentence range determined under subsection
18 (2) of this section:

19 (a) (~~(24 months)~~) Two years for Rape 1 (RCW 9A.44.040), Robbery 1
20 (RCW 9A.56.200), (~~(or)~~) Kidnapping 1 (RCW 9A.40.020), Burglary 1 (RCW
21 9A.52.020), or any other felony defined under any law as a class A
22 felony and not covered under (e) of this subsection;

23 (b) (~~(18 months for Burglary 1 (RCW 9A.52.020))~~) One year for
24 Assault 2 (RCW 9A.36.021), Escape 1 (RCW 9A.76.110), Kidnapping 2 (RCW
25 9A.40.030), Burglary 2 of a building other than a dwelling (RCW
26 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), any felony drug
27 offense, or any class B felony as defined in RCW 9A.20.021(1)(b) not
28 specifically listed in this subsection and not covered under (e) of
29 this subsection;

30 (c) (~~(12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021),~~
31 Assault of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110),
32 Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a
33 dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or
34 any drug offense)) Six months for any other class C felony as defined
35 in RCW 9A.20.021(1)(c) and not covered under (b) or (e) of this
36 subsection.

37 (d) If the offender is being sentenced under (a), (b), and/or (c)
38 of this subsection and the offender has already been previously
39 sentenced after the effective date of this section under (a), (b),

1 and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of
2 this section the presumptive sentences under this subsection are
3 automatically doubled.

4 (e) Any and all crimes which by definition require the possession,
5 theft, display, or use of any deadly weapon other than a firearm as
6 defined in RCW 9.41.010 are excluded from this subsection.

7 ~~((4))~~ (5) The following additional times shall be added to the
8 presumptive sentence range if the offender or an accomplice committed
9 the offense while in a county jail or state correctional facility as
10 that term is defined in this chapter and the offender is being
11 sentenced for one of the crimes listed in this subsection. If the
12 offender or an accomplice committed one of the crimes listed in this
13 subsection while in a county jail or state correctional facility as
14 that term is defined in this chapter, and the offender is being
15 sentenced for an anticipatory offense under chapter 9A.28 RCW to commit
16 one of the crimes listed in this subsection, the following additional
17 times shall be added to the presumptive sentence range determined under
18 subsection (2) of this section:

19 (a) Eighteen months for offenses committed under RCW
20 69.50.401(a)(1)(i) or 69.50.410;

21 (b) Fifteen months for offenses committed under RCW
22 69.50.401(a)(1)(ii), (iii), and (iv);

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

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

27 ~~((5))~~ (6) An additional twenty-four months shall be added to the
28 presumptive sentence for any ranked offense involving a violation of
29 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

30 **Sec. 16.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are
31 each reenacted and amended to read as follows:

32 TABLE 2

33 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

34 XV Aggravated Murder 1 (RCW 10.95.020)

1 XIV Murder 1 (RCW 9A.32.030)
2 Homicide by abuse (RCW 9A.32.055)
3 XIII Murder 2 (RCW 9A.32.050)
4 XII Assault 1 (RCW 9A.36.011)
5 Assault of a Child 1 (RCW 9A.36.120)
6 XI Rape 1 (RCW 9A.44.040)
7 Rape of a Child 1 (RCW 9A.44.073)
8 X Kidnapping 1 (RCW 9A.40.020)
9 Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Child Molestation 1 (RCW 9A.44.083)
12 Damaging building, etc., by explosion with
13 threat to human being (RCW
14 70.74.280(1))
15 Over 18 and deliver heroin or narcotic from
16 Schedule I or II to someone under 18
17 (RCW 69.50.406)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 IX Assault of a Child 2 (RCW 9A.36.130)
21 Robbery 1 (RCW 9A.56.200)
22 Manslaughter 1 (RCW 9A.32.060)
23 Explosive devices prohibited (RCW 70.74.180)
24 Indecent Liberties (with forcible
25 compulsion) (RCW 9A.44.100(1)(a))
26 Endangering life and property by explosives
27 with threat to human being (RCW
28 70.74.270)
29 Over 18 and deliver narcotic from Schedule
30 III, IV, or V or a nonnarcotic from
31 Schedule I-V to someone under 18 and 3
32 years junior (RCW 69.50.406)
33 Controlled Substance Homicide (RCW
34 69.50.415)

1 Sexual Exploitation (RCW 9.68A.040)
2 Inciting Criminal Profiteering (RCW
3 9A.82.060(1)(b))

4 VIII Arson 1 (RCW 9A.48.020)
5 Promoting Prostitution 1 (RCW 9A.88.070)
6 Selling for profit (controlled or
7 counterfeit) any controlled substance
8 (RCW 69.50.410)
9 Manufacture, deliver, or possess with intent
10 to deliver heroin or cocaine (RCW
11 69.50.401(a)(1)(i))
12 Manufacture, deliver, or possess with intent
13 to deliver methamphetamine (RCW
14 69.50.401(a)(1)(ii))
15 Vehicular Homicide, by being under the
16 influence of intoxicating liquor or any
17 drug or by the operation of any vehicle
18 in a reckless manner (RCW 46.61.520)

19 VII Burglary 1 (RCW 9A.52.020)
20 Vehicular Homicide, by disregard for the
21 safety of others (RCW 46.61.520)
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Indecent Liberties (without forcible
24 compulsion) (RCW 9A.44.100(1) (b) and
25 (c))
26 Child Molestation 2 (RCW 9A.44.086)
27 Dealing in depictions of minor engaged in
28 sexually explicit conduct (RCW
29 9.68A.050)
30 Sending, bringing into state depictions of
31 minor engaged in sexually explicit
32 conduct (RCW 9.68A.060)
33 Involving a minor in drug dealing (RCW
34 69.50.401(f))

35 VI Bribery (RCW 9A.68.010)
36 Manslaughter 2 (RCW 9A.32.070)
37 Rape of a Child 3 (RCW 9A.44.079)
38 Intimidating a Juror/Witness (RCW 9A.72.110,

1 9A.72.130)
2 Damaging building, etc., by explosion with
3 no threat to human being (RCW
4 70.74.280(2))
5 Endangering life and property by explosives
6 with no threat to human being (RCW
7 70.74.270)
8 Incest 1 (RCW 9A.64.020(1))
9 Manufacture, deliver, or possess with intent
10 to deliver narcotics from Schedule I or
11 II (except heroin or cocaine) (RCW
12 69.50.401(a)(1)(i))
13 Intimidating a Judge (RCW 9A.72.160)
14 Bail Jumping with Murder 1 (RCW
15 9A.76.170(2)(a))

16 V Criminal Mistreatment 1 (RCW 9A.42.020)
17 Reckless Endangerment 1 (RCW 9A.36.045)
18 Rape 3 (RCW 9A.44.060)
19 Sexual Misconduct with a Minor 1 (RCW
20 9A.44.093)
21 Child Molestation 3 (RCW 9A.44.089)
22 Kidnapping 2 (RCW 9A.40.030)
23 Extortion 1 (RCW 9A.56.120)
24 Incest 2 (RCW 9A.64.020(2))
25 Perjury 1 (RCW 9A.72.020)
26 Extortionate Extension of Credit (RCW
27 9A.82.020)
28 Advancing money or property for extortionate
29 extension of credit (RCW 9A.82.030)
30 Extortionate Means to Collect Extensions of
31 Credit (RCW 9A.82.040)
32 Rendering Criminal Assistance 1 (RCW
33 9A.76.070)
34 Bail Jumping with class A Felony (RCW
35 9A.76.170(2)(b))
36 Delivery of imitation controlled substance
37 by person eighteen or over to person
38 under eighteen (RCW 69.52.030(2))

1 IV Residential Burglary (RCW 9A.52.025)
2 Theft of Livestock 1 (RCW 9A.56.080)
3 Robbery 2 (RCW 9A.56.210)
4 Assault 2 (RCW 9A.36.021)
5 Escape 1 (RCW 9A.76.110)
6 Arson 2 (RCW 9A.48.030)
7 Bribing a Witness/Bribe Received by Witness
8 (RCW 9A.72.090, 9A.72.100)
9 Malicious Harassment (RCW 9A.36.080)
10 Threats to Bomb (RCW 9.61.160)
11 Willful Failure to Return from Furlough (RCW
12 72.66.060)
13 Hit and Run « Injury Accident (RCW
14 46.52.020(4))
15 Vehicular Assault (RCW 46.61.522)
16 Manufacture, deliver, or possess with intent
17 to deliver narcotics from Schedule III,
18 IV, or V or nonnarcotics from Schedule
19 I-V (except marijuana or
20 methamphetamines) (RCW
21 69.50.401(a)(1)(ii) through (iv))
22 Influencing Outcome of Sporting Event (RCW
23 9A.82.070)
24 Use of Proceeds of Criminal Profiteering
25 (RCW 9A.82.080 (1) and (2))
26 Knowingly Trafficking in Stolen Property
27 (RCW 9A.82.050(2))
28 Possession of Stolen Firearm 1 (RCW 9A.56.--
29 (section 24 of this act))
30 Reckless Endangerment 2 (RCW 9A.36.-- (section 19 of this
31 act))
32 Theft of Firearm 1 (RCW 9A.56.-- (section 21
33 of this act))
34 Unlawful Possession of Firearm by Felon (RCW
35 9.41.040)
36 III Criminal mistreatment 2 (RCW 9A.42.030)
37 Extortion 2 (RCW 9A.56.130)
38 Unlawful Imprisonment (RCW 9A.40.040)
39 Assault 3 (RCW 9A.36.031)

1 Assault of a Child 3 (RCW 9A.36.140)
2 Custodial Assault (RCW 9A.36.100)
3 (~~Unlawful possession of firearm or pistol by felon (RCW~~
4 ~~9.41.040))~~)
5 Harassment (RCW 9A.46.020)
6 Promoting Prostitution 2 (RCW 9A.88.080)
7 Willful Failure to Return from Work Release
8 (RCW 72.65.070)
9 Burglary 2 (RCW 9A.52.030)
10 Introducing Contraband 2 (RCW 9A.76.150)
11 Communication with a Minor for Immoral
12 Purposes (RCW 9.68A.090)
13 Patronizing a Juvenile Prostitute (RCW
14 9.68A.100)
15 Escape 2 (RCW 9A.76.120)
16 Perjury 2 (RCW 9A.72.030)
17 Bail Jumping with class B or C Felony (RCW
18 9A.76.170(2)(c))
19 Intimidating a Public Servant (RCW
20 9A.76.180)
21 Tampering with a Witness (RCW 9A.72.120)
22 Manufacture, deliver, or possess with intent
23 to deliver marijuana (RCW
24 69.50.401(a)(1)(ii))
25 Delivery of a material in lieu of a
26 controlled substance (RCW 69.50.401(c))
27 Manufacture, distribute, or possess with
28 intent to distribute an imitation
29 controlled substance (RCW 69.52.030(1))
30 Recklessly Trafficking in Stolen Property
31 (RCW 9A.82.050(1))
32 Theft of livestock 2 (RCW 9A.56.080)
33 Securities Act violation (RCW 21.20.400)
34 Possession of Stolen Firearm 2 (RCW 9A.56.--
35 (section 25 of this act))
36 Theft of Firearm 2 (RCW 9A.56.-- (section 22
37 of this act))

1 II Malicious Mischief 1 (RCW 9A.48.070)
2 Possession of Stolen Property 1 (RCW
3 9A.56.150)
4 Theft 1 (RCW 9A.56.030)
5 Possession of controlled substance that is
6 either heroin or narcotics from
7 Schedule I or II (RCW 69.50.401(d))
8 Possession of phencyclidine (PCP) (RCW
9 69.50.401(d))
10 Create, deliver, or possess a counterfeit
11 controlled substance (RCW 69.50.401(b))
12 Computer Trespass 1 (RCW 9A.52.110)
13 (~~Reckless Endangerment 1 (RCW 9A.36.045)~~)
14 Escape from Community Custody (RCW
15 72.09.310)

16 I Theft 2 (RCW 9A.56.040)
17 Possession of Stolen Property 2 (RCW
18 9A.56.160)
19 Forgery (RCW 9A.60.020)
20 Taking Motor Vehicle Without Permission (RCW
21 9A.56.070)
22 Vehicle Prowl 1 (RCW 9A.52.095)
23 Attempting to Elude a Pursuing Police
24 Vehicle (RCW 46.61.024)
25 Malicious Mischief 2 (RCW 9A.48.080)
26 Reckless Burning 1 (RCW 9A.48.040)
27 Unlawful Issuance of Checks or Drafts (RCW
28 9A.56.060)
29 Unlawful Use of Food Stamps (RCW 9.91.140
30 (2) and (3))
31 False Verification for Welfare (RCW
32 74.08.055)
33 Forged Prescription (RCW 69.41.020)
34 Forged Prescription for a Controlled
35 Substance (RCW 69.50.403)

1 Possess Controlled Substance that is a
2 Narcotic from Schedule III, IV, or V or
3 Non-narcotic from Schedule I-V (except
4 phencyclidine) (RCW 69.50.401(d))

5 NEW SECTION. **Sec. 17.** A new section is added to chapter 9.94A
6 RCW to read as follows:

7 (1) Prosecutors shall enforce the deadly weapon special verdict
8 under RCW 9.94A.125 for any and all eligible offenders if the deadly
9 weapon is a firearm as defined in RCW 9.41.010 unless the offender is
10 considered a first-time offender or evidentiary problems dictate
11 otherwise. Prosecutors shall enforce the deadly weapon special verdict
12 under RCW 9.94A.125 for any and all eligible offenders who display,
13 threaten, or use any deadly weapon other than a firearm as defined in
14 RCW 9.41.010 on anyone other than an accomplice or for any and all
15 eligible offenders who have one or more active prior convictions for a
16 violent or most serious offense on his or her offender score as defined
17 in RCW 9.94A.360 unless evidentiary problems dictate otherwise or
18 unless the offender is a first-time offender.

19 (2) Prosecutors shall enforce the firearm enhancements under RCW
20 9.94A.310(3) for any and all eligible offenders unless the offender is
21 considered a first-time offender or evidentiary problems dictate
22 otherwise. Prosecutors shall enforce the deadly weapon enhancements
23 under RCW 9.94A.310(4) for any and all eligible offenders who display,
24 threaten, or use any deadly weapon other than a firearm as defined in
25 RCW 9.41.010 on anyone other than an accomplice or for any and all
26 offenders who have one or more active prior convictions for a violent
27 or most serious offense on his or her offender score as defined in RCW
28 9.94A.360 unless evidentiary problems dictate otherwise or unless the
29 offender is a first-time offender.

30 (3) Plea agreements involving a reduction in the recommended
31 sentence in exchange for a plea of guilty shall not include decreasing
32 the deadly weapon enhancements under RCW 9.94A.310 (3) or (4) by more
33 than one-half the stated sentence unless the offender is a first-time
34 offende or evidentiary problems dictate otherwise.

35 (4) Prosecutors shall charge any and all eligible offenders for
36 felonies of reckless endangerment in the first or second degree,
37 possession of a stolen firearm in the first or second degree, theft of

1 a firearm in the first or second degree, or unlawful possession of a
2 firearm by a felon unless the offender is considered a first-time
3 offender or evidentiary problems dictate otherwise.

4 (5) All plea agreements involving offenders with any deadly weapon
5 special verdict under RCW 9.94A.125 or deadly weapon enhancements under
6 RCW 9.94A.310 (3) or (4) shall be made a public record.

7 **Sec. 18.** RCW 9A.36.045 and 1989 c 271 s 109 are each amended to
8 read as follows:

9 (1) A person is guilty of reckless endangerment in the first
10 degree when he or she recklessly discharges a firearm in a manner which
11 creates a substantial risk of death or serious physical injury to
12 another person and the discharge is either from a motor vehicle or from
13 the immediate area of a motor vehicle that was used to transport the
14 shooter or the firearm to the scene of the discharge.

15 (2) A person who unlawfully discharges a firearm from a moving
16 motor vehicle may be inferred to have engaged in reckless conduct,
17 unless the discharge is shown by evidence satisfactory to the trier of
18 fact to have been made without such recklessness.

19 (3) Reckless endangerment in the first degree is a class ((E)) B
20 felony.

21 NEW SECTION. **Sec. 19.** A new section is added to chapter 9A.36
22 RCW to read as follows:

23 (1) A person is guilty of reckless endangerment in the second
24 degree when he or she recklessly discharges a firearm or uses any other
25 deadly weapon as defined in RCW 9.94A.125 in conduct not amounting to
26 reckless endangerment in the first degree but which creates a
27 substantial risk of death or serious physical injury to another person.

28 (2) Reckless endangerment in the second degree is a class C
29 felony.

30 **Sec. 20.** RCW 9A.36.050 and 1989 c 271 s 110 are each amended to
31 read as follows:

32 (1) A person is guilty of reckless endangerment in the ((second))
33 third degree when he or she recklessly engages in conduct not amounting
34 to reckless endangerment in the first or second degree but which
35 creates a substantial risk of death or serious physical injury to
36 another person.

1 (2) Reckless endangerment in the (~~second~~) third degree is a
2 gross misdemeanor.

3 NEW SECTION. **Sec. 21.** A new section is added to chapter 9A.56
4 RCW to read as follows:

5 (1) A person is guilty of theft of a firearm in the first degree
6 if he or she commits theft of:

7 (a) A firearm or firearms in excess of one thousand dollars in
8 value; or

9 (b) A total of three or more firearms; or

10 (c) A firearm or firearms of any value taken from the person of
11 another.

12 (2) The definition of theft and the defense allowed against the
13 prosecution of theft under RCW 9A.56.020 shall apply to the theft of a
14 firearm in the first degree.

15 (3) Theft of a firearm in the first degree is a class B felony.

16 NEW SECTION. **Sec. 22.** A new section is added to chapter 9A.56
17 RCW to read as follows:

18 (1) A person is guilty of theft of a firearm in the second degree
19 if he or she commits theft of any firearm or firearms which does not
20 amount to theft of a firearm in the first degree.

21 (2) The definition of theft and the defense allowed against the
22 prosecution of theft under RCW 9A.56.020 shall apply to the theft of a
23 firearm in the second degree.

24 (3) Theft of a firearm in the second degree is a class C felony.

25 **Sec. 23.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to
26 read as follows:

27 (1) A person is guilty of theft in the second degree if he or she
28 commits theft of:

29 (a) Property or services which exceed(s) two hundred and fifty
30 dollars in value, but does not exceed one thousand five hundred dollars
31 in value; or

32 (b) A public record, writing, or instrument kept, filed, or
33 deposited according to law with or in the keeping of any public office
34 or public servant; or

35 (c) An access device; or

36 (d) A motor vehicle, of a value less than one thousand five

1 hundred dollars(~~or~~

2 ~~(e) A firearm, of a value less than one thousand five hundred~~
3 ~~dollars)).~~

4 (2) Theft in the second degree is a class C felony.

5 NEW SECTION. **Sec. 24.** A new section is added to chapter 9A.56
6 RCW to read as follows:

7 (1) A person is guilty of possessing a stolen firearm in the first
8 degree if he or she possesses a stolen firearm or firearms which:

9 (a) Exceed one thousand dollars in value; or

10 (b) Total three or more firearms.

11 (2) The definition of possessing stolen property and the defense
12 allowed against the prosecution of possessing stolen property under RCW
13 9A.56.020 shall apply to possessing a stolen firearm in the first
14 degree.

15 (3) Possessing a stolen firearm in the first degree is a class B
16 felony.

17 NEW SECTION. **Sec. 25.** A new section is added to chapter 9A.56
18 RCW to read as follows:

19 (1) A person is guilty of possessing a stolen firearm in the
20 second degree if he or she possesses a stolen firearm or firearms not
21 amounting to possessing a stolen firearm in the first degree.

22 (2) The definition of possessing stolen property and the defense
23 allowed against the prosecution of possessing stolen property under RCW
24 9A.56.020 shall apply to possessing a stolen firearm in the second
25 degree.

26 (3) Possessing a stolen firearm in the second degree is a class C
27 felony.

28 **Sec. 26.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to
29 read as follows:

30 (1) A person is guilty of possessing stolen property in the second
31 degree if:

32 (a) He or she possesses stolen property which exceeds two hundred
33 fifty dollars in value but does not exceed one thousand five hundred
34 dollars in value; or

35 (b) He or she possesses a stolen public record, writing or
36 instrument kept, filed, or deposited according to law; or

1 (c) He or she possesses a stolen access device; or
2 (d) He or she possesses a stolen motor vehicle of a value less
3 than one thousand five hundred dollars(~~(; or~~
4 ~~(e) He possesses a stolen firearm~~)).
5 (2) Possessing stolen property in the second degree is a class C
6 felony.

7 **Sec. 27.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are
8 each reenacted and amended to read as follows:

9 (1) A person is guilty of the crime of unlawful possession of a
10 (~~short~~) firearm (~~or pistol~~), if, having previously been convicted
11 or, as a juvenile, adjudicated in this state or elsewhere of a crime of
12 violence or of a felony in which a firearm was used or displayed, the
13 person owns or has in his or her possession any (~~short~~) firearm (~~or~~
14 ~~pistol~~)).

15 (2) Unlawful possession of a (~~short~~) firearm (~~or pistol~~) shall
16 be punished as a class C felony under chapter 9A.20 RCW.

17 (3) As used in this section, a person has been "convicted or
18 adjudicated" at such time as a plea of guilty has been accepted or a
19 verdict of guilty has been filed, notwithstanding the pendency of any
20 future proceedings including but not limited to sentencing or
21 disposition, post-trial or post-factfinding motions, and appeals. A
22 person shall not be precluded from possession if the conviction or
23 adjudication has been the subject of a pardon, annulment, certificate
24 of rehabilitation, or other equivalent procedure based on a finding of
25 the rehabilitation of the person convicted or adjudicated or the
26 conviction or disposition has been the subject of a pardon, annulment,
27 or other equivalent procedure based on a finding of innocence.

28 (4) Except as provided in subsection (5) of this section, a person
29 is guilty of the crime of unlawful possession of a (~~short~~) firearm
30 (~~or pistol~~) if, after having been convicted or adjudicated of any
31 felony violation of the uniform controlled substances act, chapter
32 69.50 RCW, or equivalent statutes of another jurisdiction, the person
33 owns or has in his or her possession or under his or her control any
34 (~~short~~) firearm (~~or pistol~~)).

35 (5) Notwithstanding subsection (1) of this section, a person
36 convicted of an offense other than murder, manslaughter, robbery, rape,
37 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
38 violations with respect to controlled substances under RCW 69.50.401(a)

1 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
2 and who received a dismissal of the charge under RCW 9.95.240, shall
3 not be precluded from ownership, possession, or control of a firearm as
4 a result of the conviction.

5 (6)(a) A person who has been committed by court order for
6 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,
7 or equivalent statutes of another jurisdiction, may not possess, in any
8 manner, a firearm as defined in RCW 9.41.010.

9 (b) At the time of commitment, the court shall specifically state
10 to the person under (a) of this subsection and give the person notice
11 in writing that the person is barred from possession of firearms.

12 (c) The secretary of social and health services shall develop
13 appropriate rules to create an approval process under this subsection.
14 The rules must provide for the immediate restoration of the right to
15 possess a firearm upon a showing in a court of competent jurisdiction
16 that a person no longer is required to participate in an inpatient or
17 outpatient treatment program, and is no longer required to take
18 medication to treat any condition related to the commitment. Unlawful
19 possession of a firearm under this subsection shall be punished as a
20 class C felony under chapter 9A.20 RCW.

21 **Sec. 28.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to
22 read as follows:

23 No person serving a sentence imposed pursuant to this chapter and
24 committed to the custody of the department shall leave the confines of
25 the correctional facility or be released prior to the expiration of the
26 sentence except as follows:

27 (1) Except as otherwise provided for in subsection (2) of this
28 section, the term of the sentence of an offender committed to a
29 correctional facility operated by the department, may be reduced by
30 earned early release time in accordance with procedures that shall be
31 developed and promulgated by the correctional agency having
32 jurisdiction in which the offender is confined. The earned early
33 release time shall be for good behavior and good performance, as
34 determined by the correctional agency having jurisdiction. The
35 correctional agency shall not credit the offender with earned early
36 release credits in advance of the offender actually earning the
37 credits. Any program established pursuant to this section shall allow
38 an offender to earn early release credits for presentence

1 incarceration. If an offender is transferred from a county jail to the
2 department of corrections, the county jail facility shall certify to
3 the department the amount of time spent in custody at the facility and
4 the amount of earned early release time. In the case of an offender
5 convicted of a serious violent offense or a sex offense that is a class
6 A felony committed on or after July 1, 1990, the aggregate earned early
7 release time may not exceed fifteen percent of the sentence. An
8 offender who has been convicted of a felony committed after the
9 effective date of this section that involves any deadly weapon
10 enhancements under RCW 9.94A.310 (3) and/or (4) shall not receive any
11 good time credits or earned early release time for that portion of his
12 or her sentence that results from any deadly weapon enhancements. In
13 no other case shall the aggregate earned early release time exceed one-
14 third of the total sentence;

15 (2) A person convicted of a sex offense or an offense categorized
16 as a serious violent offense, assault in the second degree, assault of
17 a child in the second degree, any crime against a person where it is
18 determined in accordance with RCW 9.94A.125 that the defendant or an
19 accomplice was armed with a deadly weapon at the time of commission, or
20 any felony offense under chapter 69.50 or 69.52 RCW may become
21 eligible, in accordance with a program developed by the department, for
22 transfer to community custody status in lieu of earned early release
23 time pursuant to subsection (1) of this section;

24 (3) An offender may leave a correctional facility pursuant to an
25 authorized furlough or leave of absence. In addition, offenders may
26 leave a correctional facility when in the custody of a corrections
27 officer or officers;

28 (4) The governor, upon recommendation from the clemency and
29 pardons board, may grant an extraordinary release for reasons of
30 serious health problems, senility, advanced age, extraordinary
31 meritorious acts, or other extraordinary circumstances;

32 (5) No more than the final six months of the sentence may be
33 served in partial confinement designed to aid the offender in finding
34 work and reestablishing him or herself in the community;

35 (6) The governor may pardon any offender;

36 (7) The department of corrections may release an offender from
37 confinement any time within ten days before a release date calculated
38 under this section; and

39 (8) An offender may leave a correctional facility prior to

1 completion of his sentence if the sentence has been reduced as provided
2 in RCW 9.94A.160.

3 NEW SECTION. **Sec. 29.** Sections 15 through 28 of this act shall
4 be known and may be cited as the hard time for armed crime act.

5 NEW SECTION. **Sec. 30.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected."

9 **2SSB 6043** - S AMD - 000233
10 By Senator Roach

11

12 On page 1, line 3 of the title, after "13.64.060," strike "and
13 72.76.010" and insert "72.76.010, 9.94A.310, 9A.36.045, 9A.36.050,
14 9A.56.040, 9A.56.160, and 9.94A.150"

15 On page 1, line 4 of the title, after "9.94A.030," strike "and
16 9.94A.360" and insert "9.94A.360, 9.94A.320, and 9.41.040"

17 On page 1, line 4 of the title, after "RCW;" insert "adding a new
18 section to chapter 9.94A RCW; adding a new section to chapter 9A.36
19 RCW; adding new sections to chapter 9A.56 RCW; creating a new section;"

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