

HOUSE BILL 1070 - CORRECT COPY

State of Washington

53rd Legislature

1993 Regular Session

By Representatives Ludwig, Mastin, Orr, Chandler, Basich, R. Johnson, Foreman, Grant, Kremen, Lisk, Edmondson, Riley, Chappell, Campbell, Scott, Wineberry, Van Luven, Talcott, Rayburn, Padden, Dyer, Sheahan, Ballasiotes, Flemming, Long, Springer, Holm, Brumsickle, Horn, Forner, Miller, R. Meyers, Lemmon, Schoesler, Morton, Johanson, Tate, Vance, Thomas, Karahalios, Mielke, Wood, Cooke, Roland and Silver

Read first time 01/13/93. Referred to Committee on Judiciary. Rereferred to Committee on Corrections 1/25/93.

1 AN ACT Relating to sentencing persons for crimes committed while
2 armed with a firearm; amending RCW 9.94A.310, 9A.36.041, 9A.36.070,
3 9A.52.100, 9A.56.050, 9A.76.020, 9A.76.130, and 9.94A.370; and
4 prescribing penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read
7 as follows:

8 (1)

TABLE 1

Sentencing Grid

10 SERIOUSNESS

11 SCORE

OFFENDER SCORE

										9 or
	0	1	2	3	4	5	6	7	8	more

14 _____

15 XV Life Sentence without Parole/Death Penalty

16 _____

1	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
2		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
3		320	333	347	361	374	388	416	450	493	548
4											
5	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
6		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
7		164	178	192	205	219	233	260	288	342	397
8											
9	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
10		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
11		123	136	147	160	171	184	216	236	277	318
12											
13	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
14		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
15		102	114	125	136	147	158	194	211	245	280
16											
17	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
18		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
19		68	75	82	89	96	102	130	144	171	198
20											
21	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
22		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
23		41	48	54	61	68	75	102	116	144	171
24											
25	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
26		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
27		27	34	41	48	54	61	89	102	116	144
28											
29	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
30		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
31		20	27	34	41	48	54	75	89	102	116
32											
33	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
34		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
35		14	20	27	34	41	48	61	75	89	102
36											
37	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
38		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
39		12	14	17	20	29	43	54	68	82	96

1	<hr/>											
2	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m	
3		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-	
4		9	12	14	17	20	29	43	57	70	84	
5	<hr/>											
6	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y	
7		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-	
8		3	8	12	12	16	22	29	43	57	68	
9	<hr/>											
10	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m	
11		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-	
12		Days	6	9	12	14	18	22	29	43	57	
13	<hr/>											
14	I			3m	4m	5m	8m	13m	16m	20m	2y2m	
15		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-	
16		Days	Days	5	6	8	12	14	18	22	29	
17	<hr/>											

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

22 (2) For persons convicted of the anticipatory offenses of criminal
23 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
24 presumptive sentence is determined by locating the sentencing grid
25 sentence range defined by the appropriate offender score and the
26 seriousness level of the completed crime, and multiplying the range by
27 75 percent.

28 (3) The following additional times shall be added to the
29 presumptive sentence if the offender or an accomplice was armed with a
30 deadly weapon, other than a firearm, as defined in this chapter and the
31 offender is being sentenced for one of the crimes listed in this
32 subsection. If the offender or an accomplice was armed with a deadly
33 weapon, other than a firearm, and the offender is being sentenced for
34 an anticipatory offense under chapter 9A.28 RCW to commit one of the
35 crimes listed in this subsection, the following times shall be added to
36 the presumptive range determined under subsection (2) of this section:

37 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.-
38 200), or Kidnapping 1 (RCW 9A.40.020)

1 (b) 18 months for Burglary 1 (RCW 9A.52.020)

2 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault
3 of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110), Kidnapping 2
4 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW
5 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug
6 offense.

7 (4) If an offender or an accomplice was armed with a firearm
8 during the commission of a felony, including but not limited to a
9 felony that includes an element requiring the offender or an accomplice
10 to be armed with a firearm, the following additional times may be added
11 to the presumptive sentence for the felony. If the offender or an
12 accomplice was armed with a firearm and the offender is being sentenced
13 for an anticipatory offense under chapter 9A.28 RCW, the following
14 times may be added to the presumptive range determined under subsection
15 (2) of this section:

16 (a) For a first conviction for an offense committed while armed
17 with a firearm, 60 months;

18 (b) For a second conviction for an offense committed while armed
19 with a firearm, 90 months;

20 (c) For a third or subsequent conviction for an offense committed
21 while armed with a firearm, 120 months.

22 (5) If an offender or an accomplice was armed with a firearm and
23 fired upon a law enforcement officer while resisting arrest under RCW
24 9A.76.040, 120 months may be added to the presumptive sentence.

25 (6) The following additional times shall be added to the
26 presumptive sentence if the offender or an accomplice committed the
27 offense while in a county jail or state correctional facility as that
28 term is defined in this chapter and the offender is being sentenced for
29 one of the crimes listed in this subsection. If the offender or an
30 accomplice committed one of the crimes listed in this subsection while
31 in a county jail or state correctional facility as that term is defined
32 in this chapter, and the offender is being sentenced for an anticipa-
33 tory offense under chapter 9A.28 RCW to commit one of the crimes listed
34 in this subsection, the following times shall be added to the
35 presumptive sentence range determined under subsection (2) of this
36 section:

37 (a) Eighteen months for offenses committed under RCW 69.50.401(a)-
38 (1)(i) or 69.50.410;

1 (b) Fifteen months for offenses committed under RCW
2 69.50.401(a)(1)(ii), (iii), and (iv);

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

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

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

10 **Sec. 2.** RCW 9A.36.041 and 1987 c 188 s 2 are each amended to read
11 as follows:

12 (1) A person is guilty of assault in the fourth degree if, under
13 circumstances not amounting to assault in the first, second, or third
14 degree, or custodial assault, he or she assaults another.

15 (2) Assault in the fourth degree, if committed while armed with a
16 firearm is a class C felony, otherwise it is a gross misdemeanor.

17 **Sec. 3.** RCW 9A.36.070 and 1975 1st ex.s. c 260 s 9A.36.070 are
18 each amended to read as follows:

19 (1) A person is guilty of coercion if by use of a threat he or she
20 compels or induces a person to engage in conduct which the latter has
21 a legal right to abstain from, or to abstain from conduct which he or
22 she has a legal right to engage in.

23 (2) "Threat" as used in this section means:

24 (a) To communicate, directly or indirectly, the intent immediately
25 to use force against any person who is present at the time; or

26 (b) Threats as defined in RCW 9A.04.110(25)(a), (b), or (c).

27 (3) Coercion, if committed while armed with a firearm, is a class
28 C felony, otherwise it is a gross misdemeanor.

29 **Sec. 4.** RCW 9A.52.100 and 1982 1st ex.s. c 47 s 14 are each
30 amended to read as follows:

31 (1) A person is guilty of vehicle prowling in the second degree
32 if, with intent to commit a crime against a person or property therein,
33 he or she enters or remains unlawfully in a vehicle other than a motor
34 home, as defined in RCW 46.04.305, or a vessel equipped for propulsion
35 by mechanical means or by sail which has a cabin equipped with
36 permanently installed sleeping quarters or cooking facilities.

1 (2) Vehicle prowling in the second degree, if committed while
2 armed with a firearm, is a class C felony, otherwise it is a gross
3 misdemeanor.

4 **Sec. 5.** RCW 9A.56.050 and 1975 1st ex.s. c 260 s 9A.56.050 are
5 each amended to read as follows:

6 (1) A person is guilty of theft in the third degree if he or she
7 commits theft of property or services which does not exceed two hundred
8 and fifty dollars in value.

9 (2) Theft in the third degree, if committed while armed with a
10 firearm, is a class C felony, otherwise it is a gross misdemeanor.

11 **Sec. 6.** RCW 9A.76.020 and 1975 1st ex.s. c 260 s 9A.76.020 are
12 each amended to read as follows:

13 (~~Every~~) (1) A person who, (~~(+1)~~) (a) without lawful excuse
14 (~~shall~~) refuses or knowingly fails to make or furnish (~~(any)~~) a
15 statement, report, or information lawfully required of (~~(him)~~) the
16 person by a public servant, or (~~(+2)~~) (b) in any such statement or
17 report (~~shall~~) makes (~~(any)~~) a knowingly untrue statement to a public
18 servant, or (~~(+3) shall~~) (c) knowingly hinders, delays, or obstructs
19 (~~(any)~~) a public servant in the discharge of his or her official powers
20 or duties; (~~shall be~~) is guilty of a misdemeanor.

21 (2) A person armed with a firearm who knowingly hinders, delays,
22 or obstructs a public servant in the discharge of his or her official
23 powers or duties is guilty of a class C felony.

24 **Sec. 7.** RCW 9A.76.130 and 1975 1st ex.s. c 260 s 9A.76.130 are
25 each amended to read as follows:

26 (1) A person is guilty of escape in the third degree if he or she
27 escapes from custody.

28 (2) Escape in the third degree, if committed while armed with a
29 firearm, is a class C felony, otherwise it is a gross misdemeanor.

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

32 (1) The intersection of the column defined by the offender score
33 and the row defined by the offense seriousness score determines the
34 presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The
35 additional time for deadly weapon findings or for (~~those offenses~~)

1 other circumstances enumerated in RCW 9.94A.310(~~((4) that were~~
2 ~~committed in a state correctional facility or county jail))~~ (3) through
3 (7) shall be added to the entire presumptive sentence range. The court
4 may impose any sentence within the range that it deems appropriate.
5 All presumptive sentence ranges are expressed in terms of total
6 confinement.

7 (2) In determining any sentence, the trial court may rely on no
8 more information than is admitted by the plea agreement, or admitted,
9 acknowledged, or proved in a trial or at the time of sentencing.
10 Acknowledgement includes not objecting to information stated in the
11 presentence reports. Where the defendant disputes material facts, the
12 court must either not consider the fact or grant an evidentiary hearing
13 on the point. The facts shall be deemed proved at the hearing by a
14 preponderance of the evidence. Facts that establish the elements of a
15 more serious crime or additional crimes may not be used to go outside
16 the presumptive sentence range except upon stipulation or when
17 specifically provided for in RCW 9.94A.390(2) (c), (d), and (e).

--- END ---