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HOUSE BILL 2437

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State of Washington

53rd Legislature

1994 Regular Session

By Representatives Zellinsky, Flemming, Long, Karahalios, Brough, Talcott, Van Luven, Johanson, Sheahan, Campbell, Brumsickle, Schoesler, Silver, Kessler, Kremen, Dyer, Chappell, Quall, Jones, Sheldon, Orr, Eide, Rayburn, Springer and Roland

Read first time 01/14/94. Referred to Committee on Corrections.

1 AN ACT Relating to increasing sentences for sex offenses against  
2 children; amending RCW 9.94A.310 and 9.94A.370; reenacting and amending  
3 RCW 9.94A.120; creating a new section; prescribing penalties; and  
4 declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that sex offenses  
7 against children are extremely hazardous to the welfare of the children  
8 and society, that these crimes appear to be occurring at an increasing  
9 rate, that offenders typically have multiple victims, and that persons  
10 in positions of authority or trust are among the most notorious  
11 offenders. The legislature intends to increase significantly the  
12 punishment for sex offenses against children.

13 **Sec. 2.** RCW 9.94A.120 and 1994 c 1 s 2 (Initiative Measure No.  
14 593) and 1993 c 31 s 3 are each reenacted and amended to read as  
15 follows:

16 When a person is convicted of a felony, the court shall impose  
17 punishment as provided in this section.

1 (1) Except as authorized in subsections (2), (4), (5), and (7) of  
2 this section, the court shall impose a sentence within the sentence  
3 range for the offense.

4 (2) The court may impose a sentence outside the standard sentence  
5 range for that offense if it finds, considering the purpose of this  
6 chapter, that there are substantial and compelling reasons justifying  
7 an exceptional sentence.

8 (3) Whenever a sentence outside the standard range is imposed, the  
9 court shall set forth the reasons for its decision in written findings  
10 of fact and conclusions of law. A sentence outside the standard range  
11 shall be a determinate sentence.

12 (4) A persistent offender shall be sentenced to a term of total  
13 confinement for life without the possibility of parole or, when  
14 authorized by RCW 10.95.030 for the crime of aggravated murder in the  
15 first degree, sentenced to death, notwithstanding the maximum sentence  
16 under any other law. An offender convicted of the crime of murder in  
17 the first degree shall be sentenced to a term of total confinement not  
18 less than twenty years. An offender convicted of the crime of assault  
19 in the first degree or assault of a child in the first degree where the  
20 offender used force or means likely to result in death or intended to  
21 kill the victim shall be sentenced to a term of total confinement not  
22 less than five years. An offender convicted of the crime of rape in  
23 the first degree shall be sentenced to a term of total confinement not  
24 less than five years. An offender convicted of rape of a child in the  
25 first or second degree shall be sentenced to a term of total  
26 confinement not less than ten years. An offender convicted of child  
27 molestation in the first degree shall be sentenced to a term of total  
28 confinement not less than ten years. An offender convicted of child  
29 molestation in the second degree or sexual exploitation shall be  
30 sentenced to a term of total confinement not less than five years. An  
31 offender convicted of rape of a child in the third degree or child  
32 molestation in the third degree shall be sentenced to a term of total  
33 confinement not less than two years six months. The foregoing minimum  
34 terms of total confinement are mandatory and shall not be varied or  
35 modified as provided in subsection (2) of this section. In addition,  
36 all offenders subject to the provisions of this subsection shall not be  
37 eligible for community custody, earned early release time, furlough,  
38 home detention, partial confinement, work crew, work release, or any  
39 other form of early release as defined under RCW 9.94A.150 (1), (2),

1 (3), (5), (7), or (8), or any other form of authorized leave of absence  
2 from the correctional facility while not in the direct custody of a  
3 corrections officer or officers during such minimum terms of total  
4 confinement except in the case of an offender in need of emergency  
5 medical treatment or for the purpose of commitment to an inpatient  
6 treatment facility in the case of an offender convicted of the crime of  
7 rape in the first degree.

8 (5) In sentencing a first-time offender the court may waive the  
9 imposition of a sentence within the sentence range and impose a  
10 sentence which may include up to ninety days of confinement in a  
11 facility operated or utilized under contract by the county and a  
12 requirement that the offender refrain from committing new offenses.  
13 The sentence may also include up to two years of community supervision,  
14 which, in addition to crime-related prohibitions, may include  
15 requirements that the offender perform any one or more of the  
16 following:

17 (a) Devote time to a specific employment or occupation;

18 (b) Undergo available outpatient treatment for up to two years, or  
19 inpatient treatment not to exceed the standard range of confinement for  
20 that offense;

21 (c) Pursue a prescribed, secular course of study or vocational  
22 training;

23 (d) Remain within prescribed geographical boundaries and notify the  
24 court or the community corrections officer prior to any change in the  
25 offender's address or employment;

26 (e) Report as directed to the court and a community corrections  
27 officer; or

28 (f) Pay all court-ordered legal financial obligations as provided  
29 in RCW 9.94A.030 and/or perform community service work.

30 (6) If a sentence range has not been established for the  
31 defendant's crime, the court shall impose a determinate sentence which  
32 may include not more than one year of confinement, community service  
33 work, a term of community supervision not to exceed one year, and/or  
34 other legal financial obligations. The court may impose a sentence  
35 which provides more than one year of confinement if the court finds,  
36 considering the purpose of this chapter, that there are substantial and  
37 compelling reasons justifying an exceptional sentence.

38 (7)(a)(i) When an offender is convicted of a sex offense other than  
39 a violation of RCW 9A.44.050 or a sex offense that is also a serious

1 violent offense and has no prior convictions for a sex offense or any  
2 other felony sex offenses in this or any other state, the sentencing  
3 court, on its own motion or the motion of the state or the defendant,  
4 may order an examination to determine whether the defendant is amenable  
5 to treatment.

6 The report of the examination shall include at a minimum the  
7 following: The defendant's version of the facts and the official  
8 version of the facts, the defendant's offense history, an assessment of  
9 problems in addition to alleged deviant behaviors, the offender's  
10 social and employment situation, and other evaluation measures used.  
11 The report shall set forth the sources of the evaluator's information.

12 The examiner shall assess and report regarding the defendant's  
13 amenability to treatment and relative risk to the community. A  
14 proposed treatment plan shall be provided and shall include, at a  
15 minimum:

16 (A) Frequency and type of contact between offender and therapist;

17 (B) Specific issues to be addressed in the treatment and  
18 description of planned treatment modalities;

19 (C) Monitoring plans, including any requirements regarding living  
20 conditions, lifestyle requirements, and monitoring by family members  
21 and others;

22 (D) Anticipated length of treatment; and

23 (E) Recommended crime-related prohibitions.

24 The court on its own motion may order, or on a motion by the state  
25 shall order, a second examination regarding the offender's amenability  
26 to treatment. The evaluator shall be selected by the party making the  
27 motion. The defendant shall pay the cost of any second examination  
28 ordered unless the court finds the defendant to be indigent in which  
29 case the state shall pay the cost.

30 (ii) After receipt of the reports, the court shall consider whether  
31 the offender and the community will benefit from use of this special  
32 sexual offender sentencing alternative and consider the victim's  
33 opinion whether the offender should receive a treatment disposition  
34 under this subsection. If the court determines that this special sex  
35 offender sentencing alternative is appropriate, the court shall then  
36 impose a sentence within the sentence range. If this sentence is less  
37 than eight years of confinement, the court may suspend the execution of  
38 the sentence and impose the following conditions of suspension:

1 (A) The court shall place the defendant on community supervision  
2 for the length of the suspended sentence or three years, whichever is  
3 greater; and

4 (B) The court shall order treatment for any period up to three  
5 years in duration. The court in its discretion shall order outpatient  
6 sex offender treatment or inpatient sex offender treatment, if  
7 available. A community mental health center may not be used for such  
8 treatment unless it has an appropriate program designed for sex  
9 offender treatment. The offender shall not change sex offender  
10 treatment providers or treatment conditions without first notifying the  
11 prosecutor, the community corrections officer, and the court, and shall  
12 not change providers without court approval after a hearing if the  
13 prosecutor or community corrections officer object to the change. In  
14 addition, as conditions of the suspended sentence, the court may impose  
15 other sentence conditions including up to six months of confinement,  
16 not to exceed the sentence range of confinement for that offense,  
17 crime-related prohibitions, and requirements that the offender perform  
18 any one or more of the following:

19 (I) Devote time to a specific employment or occupation;

20 (II) Remain within prescribed geographical boundaries and notify  
21 the court or the community corrections officer prior to any change in  
22 the offender's address or employment;

23 (III) Report as directed to the court and a community corrections  
24 officer;

25 (IV) Pay all court-ordered legal financial obligations as provided  
26 in RCW 9.94A.030, perform community service work, or any combination  
27 thereof; or

28 (V) Make recoupment to the victim for the cost of any counseling  
29 required as a result of the offender's crime.

30 (iii) The sex offender therapist shall submit quarterly reports on  
31 the defendant's progress in treatment to the court and the parties.  
32 The report shall reference the treatment plan and include at a minimum  
33 the following: Dates of attendance, defendant's compliance with  
34 requirements, treatment activities, the defendant's relative progress  
35 in treatment, and any other material as specified by the court at  
36 sentencing.

37 (iv) At the time of sentencing, the court shall set a treatment  
38 termination hearing for three months prior to the anticipated date for  
39 completion of treatment. Prior to the treatment termination hearing,

1 the treatment professional and community corrections officer shall  
2 submit written reports to the court and parties regarding the  
3 defendant's compliance with treatment and monitoring requirements, and  
4 recommendations regarding termination from treatment, including  
5 proposed community supervision conditions. Either party may request  
6 and the court may order another evaluation regarding the advisability  
7 of termination from treatment. The defendant shall pay the cost of any  
8 additional evaluation ordered unless the court finds the defendant to  
9 be indigent in which case the state shall pay the cost. At the  
10 treatment termination hearing the court may: (A) Modify conditions of  
11 community supervision, and either (B) terminate treatment, or (C)  
12 extend treatment for up to the remaining period of community  
13 supervision.

14 (v) The court may revoke the suspended sentence at any time during  
15 the period of community supervision and order execution of the sentence  
16 if: (A) The defendant violates the conditions of the suspended  
17 sentence, or (B) the court finds that the defendant is failing to make  
18 satisfactory progress in treatment. All confinement time served during  
19 the period of community supervision shall be credited to the offender  
20 if the suspended sentence is revoked.

21 (vi) Except as provided in (a)(vii) of this subsection, after July  
22 1, 1991, examinations and treatment ordered pursuant to this subsection  
23 shall only be conducted by sex offender treatment providers certified  
24 by the department of health pursuant to chapter 18.155 RCW.

25 (vii) A sex offender therapist who examines or treats a sex  
26 offender pursuant to this subsection (7) does not have to be certified  
27 by the department of health pursuant to chapter 18.155 RCW if the court  
28 finds that: (A) The offender has already moved to another state or  
29 plans to move to another state for reasons other than circumventing the  
30 certification requirements; (B) no certified providers are available  
31 for treatment within a reasonable geographical distance of the  
32 offender's home; and (C) the evaluation and treatment plan comply with  
33 this subsection (7) and the rules adopted by the department of health.

34 For purposes of this subsection, "victim" means any person who has  
35 sustained emotional, psychological, physical, or financial injury to  
36 person or property as a result of the crime charged. "Victim" also  
37 means a parent or guardian of a victim who is a minor child unless the  
38 parent or guardian is the perpetrator of the offense.

1 (b) When an offender is convicted of any felony sex offense  
2 committed before July 1, 1987, and is sentenced to a term of  
3 confinement of more than one year but less than six years, the  
4 sentencing court may, on its own motion or on the motion of the  
5 offender or the state, order the offender committed for up to thirty  
6 days to the custody of the secretary of social and health services for  
7 evaluation and report to the court on the offender's amenability to  
8 treatment at these facilities. If the secretary of social and health  
9 services cannot begin the evaluation within thirty days of the court's  
10 order of commitment, the offender shall be transferred to the state for  
11 confinement pending an opportunity to be evaluated at the appropriate  
12 facility. The court shall review the reports and may order that the  
13 term of confinement imposed be served in the sexual offender treatment  
14 program at the location determined by the secretary of social and  
15 health services or the secretary's designee, only if the report  
16 indicates that the offender is amenable to the treatment program  
17 provided at these facilities. The offender shall be transferred to the  
18 state pending placement in the treatment program. Any offender who has  
19 escaped from the treatment program shall be referred back to the  
20 sentencing court.

21 If the offender does not comply with the conditions of the  
22 treatment program, the secretary of social and health services may  
23 refer the matter to the sentencing court. The sentencing court shall  
24 commit the offender to the department of corrections to serve the  
25 balance of the term of confinement.

26 If the offender successfully completes the treatment program before  
27 the expiration of the term of confinement, the court may convert the  
28 balance of confinement to community supervision and may place  
29 conditions on the offender including crime-related prohibitions and  
30 requirements that the offender perform any one or more of the  
31 following:

- 32 (i) Devote time to a specific employment or occupation;
- 33 (ii) Remain within prescribed geographical boundaries and notify  
34 the court or the community corrections officer prior to any change in  
35 the offender's address or employment;
- 36 (iii) Report as directed to the court and a community corrections  
37 officer;
- 38 (iv) Undergo available outpatient treatment.

1 If the offender violates any of the terms of community supervision,  
2 the court may order the offender to serve out the balance of the  
3 community supervision term in confinement in the custody of the  
4 department of corrections.

5 After June 30, 1993, this subsection (b) shall cease to have  
6 effect.

7 (c) When an offender commits any felony sex offense on or after  
8 July 1, 1987, and is sentenced to a term of confinement of more than  
9 one year but less than six years, the sentencing court may, on its own  
10 motion or on the motion of the offender or the state, request the  
11 department of corrections to evaluate whether the offender is amenable  
12 to treatment and the department may place the offender in a treatment  
13 program within a correctional facility operated by the department.

14 Except for an offender who has been convicted of a violation of RCW  
15 9A.44.040 or 9A.44.050, if the offender completes the treatment program  
16 before the expiration of his or her term of confinement, the department  
17 of corrections may request the court to convert the balance of  
18 confinement to community supervision and to place conditions on the  
19 offender including crime-related prohibitions and requirements that the  
20 offender perform any one or more of the following:

21 (i) Devote time to a specific employment or occupation;

22 (ii) Remain within prescribed geographical boundaries and notify  
23 the court or the community corrections officer prior to any change in  
24 the offender's address or employment;

25 (iii) Report as directed to the court and a community corrections  
26 officer;

27 (iv) Undergo available outpatient treatment.

28 If the offender violates any of the terms of his or her community  
29 supervision, the court may order the offender to serve out the balance  
30 of his or her community supervision term in confinement in the custody  
31 of the department of corrections.

32 Nothing in (c) of this subsection shall confer eligibility for such  
33 programs for offenders convicted and sentenced for a sex offense  
34 committed prior to July 1, 1987. This subsection (c) does not apply to  
35 any crime committed after July 1, 1990.

36 (d) Offenders convicted and sentenced for a sex offense committed  
37 prior to July 1, 1987, may, subject to available funds, request an  
38 evaluation by the department of corrections to determine whether they  
39 are amenable to treatment. If the offender is determined to be



1 amenable to treatment, the offender may request placement in a  
2 treatment program within a correctional facility operated by the  
3 department. Placement in such treatment program is subject to  
4 available funds.

5 (8)(a) When a court sentences a person to a term of total  
6 confinement to the custody of the department of corrections for an  
7 offense categorized as a sex offense or a serious violent offense  
8 committed after July 1, 1988, but before July 1, 1990, assault in the  
9 second degree, assault of a child in the second degree, any crime  
10 against a person where it is determined in accordance with RCW  
11 9.94A.125 that the defendant or an accomplice was armed with a deadly  
12 weapon at the time of commission, or any felony offense under chapter  
13 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall  
14 in addition to the other terms of the sentence, sentence the offender  
15 to a one-year term of community placement beginning either upon  
16 completion of the term of confinement or at such time as the offender  
17 is transferred to community custody in lieu of earned early release in  
18 accordance with RCW 9.94A.150 (1) and (2). When the court sentences an  
19 offender under this subsection to the statutory maximum period of  
20 confinement then the community placement portion of the sentence shall  
21 consist entirely of such community custody to which the offender may  
22 become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any  
23 period of community custody actually served shall be credited against  
24 the community placement portion of the sentence.

25 (b) When a court sentences a person to a term of total confinement  
26 to the custody of the department of corrections for an offense  
27 categorized as a sex offense or serious violent offense committed on or  
28 after July 1, 1990, the court shall in addition to other terms of the  
29 sentence, sentence the offender to community placement for two years or  
30 up to the period of earned early release awarded pursuant to RCW  
31 9.94A.150 (1) and (2), whichever is longer. The community placement  
32 shall begin either upon completion of the term of confinement or at  
33 such time as the offender is transferred to community custody in lieu  
34 of earned early release in accordance with RCW 9.94A.150 (1) and (2).  
35 When the court sentences an offender under this subsection to the  
36 statutory maximum period of confinement then the community placement  
37 portion of the sentence shall consist entirely of the community custody  
38 to which the offender may become eligible, in accordance with RCW  
39 9.94A.150 (1) and (2). Any period of community custody actually served

1 shall be credited against the community placement portion of the  
2 sentence. Unless a condition is waived by the court, the terms of  
3 community placement for offenders sentenced pursuant to this section  
4 shall include the following conditions:

5 (i) The offender shall report to and be available for contact with  
6 the assigned community corrections officer as directed;

7 (ii) The offender shall work at department of corrections-approved  
8 education, employment, and/or community service;

9 (iii) The offender shall not consume controlled substances except  
10 pursuant to lawfully issued prescriptions;

11 (iv) An offender in community custody shall not unlawfully possess  
12 controlled substances;

13 (v) The offender shall pay supervision fees as determined by the  
14 department of corrections; and

15 (vi) The residence location and living arrangements are subject to  
16 the prior approval of the department of corrections during the period  
17 of community placement.

18 (c) The court may also order any of the following special  
19 conditions:

20 (i) The offender shall remain within, or outside of, a specified  
21 geographical boundary;

22 (ii) The offender shall not have direct or indirect contact with  
23 the victim of the crime or a specified class of individuals;

24 (iii) The offender shall participate in crime-related treatment or  
25 counseling services;

26 (iv) The offender shall not consume alcohol; or

27 (v) The offender shall comply with any crime-related prohibitions.

28 (d) Prior to transfer to, or during, community placement, any  
29 conditions of community placement may be removed or modified so as not  
30 to be more restrictive by the sentencing court, upon recommendation of  
31 the department of corrections.

32 (9) If the court imposes a sentence requiring confinement of thirty  
33 days or less, the court may, in its discretion, specify that the  
34 sentence be served on consecutive or intermittent days. A sentence  
35 requiring more than thirty days of confinement shall be served on  
36 consecutive days. Local jail administrators may schedule court-ordered  
37 intermittent sentences as space permits.

38 (10) If a sentence imposed includes payment of a legal financial  
39 obligation, the sentence shall specify the total amount of the legal

1 financial obligation owed, and shall require the offender to pay a  
2 specified monthly sum toward that legal financial obligation.  
3 Restitution to victims shall be paid prior to any other payments of  
4 monetary obligations. Any legal financial obligation that is imposed  
5 by the court may be collected by the department, which shall deliver  
6 the amount paid to the county clerk for credit. The offender's  
7 compliance with payment of legal financial obligations shall be  
8 supervised by the department. All monetary payments ordered shall be  
9 paid no later than ten years after the last date of release from  
10 confinement pursuant to a felony conviction or the date the sentence  
11 was entered. Independent of the department, the party or entity to  
12 whom the legal financial obligation is owed shall have the authority to  
13 utilize any other remedies available to the party or entity to collect  
14 the legal financial obligation. Nothing in this section makes the  
15 department, the state, or any of its employees, agents, or other  
16 persons acting on their behalf liable under any circumstances for the  
17 payment of these legal financial obligations. If an order includes  
18 restitution as one of the monetary assessments, the county clerk shall  
19 make disbursements to victims named in the order.

20 (11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a  
21 court may not impose a sentence providing for a term of confinement or  
22 community supervision or community placement which exceeds the  
23 statutory maximum for the crime as provided in chapter 9A.20 RCW.

24 (12) All offenders sentenced to terms involving community  
25 supervision, community service, community placement, or legal financial  
26 obligation shall be under the supervision of the secretary of the  
27 department of corrections or such person as the secretary may designate  
28 and shall follow explicitly the instructions of the secretary including  
29 reporting as directed to a community corrections officer, remaining  
30 within prescribed geographical boundaries, notifying the community  
31 corrections officer of any change in the offender's address or  
32 employment, and paying the supervision fee assessment. The department  
33 may require offenders to pay for special services rendered on or after  
34 July 25, 1993, including electronic monitoring, day reporting, and  
35 telephone reporting, dependent upon the offender's ability to pay. The  
36 department may pay for these services for offenders who are not able to  
37 pay.

38 (13) All offenders sentenced to terms involving community  
39 supervision, community service, or community placement under the

1 supervision of the department of corrections shall not own, use, or  
2 possess firearms or ammunition. Offenders who own, use, or are found  
3 to be in actual or constructive possession of firearms or ammunition  
4 shall be subject to the appropriate violation process and sanctions.  
5 "Constructive possession" as used in this subsection means the power  
6 and intent to control the firearm or ammunition. "Firearm" as used in  
7 this subsection means a weapon or device from which a projectile may be  
8 fired by an explosive such as gunpowder.

9 (14) The sentencing court shall give the offender credit for all  
10 confinement time served before the sentencing if that confinement was  
11 solely in regard to the offense for which the offender is being  
12 sentenced.

13 (15) A departure from the standards in RCW 9.94A.400 (1) and (2)  
14 governing whether sentences are to be served consecutively or  
15 concurrently is an exceptional sentence subject to the limitations in  
16 subsections (2) and (3) of this section, and may be appealed by the  
17 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

18 (16) The court shall order restitution whenever the offender is  
19 convicted of a felony that results in injury to any person or damage to  
20 or loss of property, whether the offender is sentenced to confinement  
21 or placed under community supervision, unless extraordinary  
22 circumstances exist that make restitution inappropriate in the court's  
23 judgment. The court shall set forth the extraordinary circumstances in  
24 the record if it does not order restitution.

25 (17) As a part of any sentence, the court may impose and enforce an  
26 order that relates directly to the circumstances of the crime for which  
27 the offender has been convicted, prohibiting the offender from having  
28 any contact with other specified individuals or a specific class of  
29 individuals for a period not to exceed the maximum allowable sentence  
30 for the crime, regardless of the expiration of the offender's term of  
31 community supervision or community placement.

32 (18) In any sentence of partial confinement, the court may require  
33 the defendant to serve the partial confinement in work release, in a  
34 program of home detention, on work crew, or in a combined program of  
35 work crew and home detention.

36 (19) All court-ordered legal financial obligations collected by the  
37 department and remitted to the county clerk shall be credited and paid  
38 where restitution is ordered. Restitution shall be paid prior to any  
39 other payments of monetary obligations.

1       **Sec. 3.** RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read  
 2 as follows:

3 (1)

TABLE 1

Sentencing Grid

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

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

X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198

IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171

1	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
2		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
3		27	34	41	48	54	61	89	102	116	144
4											
5	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
6		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
7		20	27	34	41	48	54	75	89	102	116
8											
9	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
10		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
11		14	20	27	34	41	48	61	75	89	102
12											
13	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
14		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
15		12	14	17	20	29	43	54	68	82	96
16											
17	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
18		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
19		9	12	14	17	20	29	43	57	70	84
20											
21	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
22		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
23		3	8	12	12	16	22	29	43	57	68
24											
25	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
26		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
27		Days	6	9	12	14	18	22	29	43	57
28											
29	I			3m	4m	5m	8m	13m	16m	20m	2y2m
30		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
31		Days	Days	5	6	8	12	14	18	22	29
32											

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

37 (2) For persons convicted of the anticipatory offenses of criminal  
38 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
39 presumptive sentence is determined by locating the sentencing grid

1 sentence range defined by the appropriate offender score and the  
2 seriousness level of the completed crime, and multiplying the range by  
3 75 percent.

4 (3) The following additional times shall be added to the  
5 presumptive sentence if the offender or an accomplice was armed with a  
6 deadly weapon as defined in this chapter and the offender is being  
7 sentenced for one of the crimes listed in this subsection. If the  
8 offender or an accomplice was armed with a deadly weapon and the  
9 offender is being sentenced for an anticipatory offense under chapter  
10 9A.28 RCW to commit one of the crimes listed in this subsection, the  
11 following times shall be added to the presumptive range determined  
12 under subsection (2) of this section:

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

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

16 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault  
17 of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110), Kidnapping 2  
18 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW  
19 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug  
20 offense.

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

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

35 (b) Fifteen months for offenses committed under RCW  
36 69.50.401(a)(1)(ii), (iii), and (iv);

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

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

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

7 (6)(a) The presumed sentence of an offender convicted of rape of  
8 a child, sexual exploitation, or child molestation shall be doubled  
9 when (i) the offender's position or status makes the victim more  
10 vulnerable or less capable of resistance, or (ii) the current offense  
11 involved multiple victims or multiple incidents per victim.

12 (b) Nothing in this section limits the discretion of the court  
13 under RCW 9.94A.360 to impose a sentence higher than the sentence  
14 mandated by this section.

15 **Sec. 4.** RCW 9.94A.370 and 1989 c 124 s 2 are each amended to read  
16 as follows:

17 (1) The intersection of the column defined by the offender score  
18 and the row defined by the offense seriousness score determines the  
19 presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The  
20 additional time for deadly weapon findings or for those offenses  
21 enumerated in RCW 9.94A.310(4) that were committed in a state  
22 correctional facility or county jail and the additional time under RCW  
23 9.94A.310(6) shall be added to the entire presumptive sentence range.  
24 The court may impose any sentence within the range that it deems  
25 appropriate. All presumptive sentence ranges are expressed in terms of  
26 total confinement.

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



1        NEW SECTION.    **Sec. 5.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 6.**    This act is necessary for the immediate  
6 preservation of the public peace, health, or safety, or support of the  
7 state government and its existing public institutions, and shall take  
8 effect immediately.

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