

HOUSE BILL 2921

State of Washington 53rd Legislature 1994 Regular Session

By Representatives Campbell, Ballasiotes, Chappell, Padden, Johanson, Shin, Conway, Schoesler, Kremen, Chandler, Casada, Sheldon, Tate, Kessler, Ballard, Long, Foreman, Roland, Lisk, L. Thomas, Forner and Brumsickle

Read first time 03/04/94. Referred to Committee on Corrections.

1 AN ACT Relating to increasing penalties for armed crime; amending
2 RCW 9.94A.310, 9.94A.150, 9A.36.045, 9A.52.020, 9A.56.040, 9A.56.160,
3 and 10.95.020; reenacting and amending RCW 9.94A.320 and 9.41.040;
4 adding new sections to chapter 9.94A RCW; adding new sections to
5 chapter 9A.56 RCW; creating new sections; and prescribing penalties.

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

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

9 (1) TABLE 1

10 Sentencing Grid

11 SERIOUSNESS

12 SCORE OFFENDER SCORE

13 9 or
14 0 1 2 3 4 5 6 7 8 more

15
16 XV Life Sentence without Parole/Death Penalty
17

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 for felony crimes committed after the effective
30 date of this section if the offender or an accomplice was armed with a
31 firearm as defined in RCW 9.41.010 and the offender is being sentenced
32 for one of the crimes listed in this subsection as eligible for firearm
33 enhancements. If the offender or an accomplice was armed with a
34 firearm as defined in RCW 9.41.010 and the offender is being sentenced
35 for an anticipatory offense under chapter 9A.28 RCW to commit one of
36 the crimes listed in this subsection as eligible for firearm
37 enhancements, the following additional times shall be added to the
38 presumptive sentence determined under subsection (2) of this section:

1 (a) Five years for a felony defined under law as a class A felony
2 and not covered under (f) of this subsection.

3 (b) Three years for a class B felony as defined in RCW
4 9A.20.021(1)(b) and not covered under (f) of this subsection.

5 (c) Eighteen months for a class C felony as defined in RCW
6 9A.20.021(1)(c) and not covered under (f) of this subsection.

7 (d) If the offender is being sentenced for firearm enhancements
8 under (a), (b), or (c) of this subsection and the offender has already
9 been previously sentenced for deadly weapon enhancements after the
10 effective date of this section under (a) through (c) of this subsection
11 or subsection (4) (a) through (c) of this section, all firearm
12 enhancements under this subsection are automatically doubled.

13 (e) Notwithstanding any other provision of law, the firearm
14 enhancements under this section shall not run concurrently with any
15 other term or terms of imprisonment.

16 (f) All felony crimes which by definition require as the essential
17 and only element of the crime the possession, theft, display, or use of
18 a deadly weapon as defined in either RCW 9.41.010 or 9.94A.125, or
19 both, are excluded from this subsection. These crimes include:
20 Possessing a machine gun, possessing a stolen firearm, reckless
21 endangerment in the first degree, setting a spring gun, theft of a
22 firearm, unlawful possession of a firearm, and use of a machine gun in
23 a felony. All other felony crimes including, but not limited to, rape
24 in the first degree and robbery in the first degree shall not be
25 considered under this subsection because the deadly weapon is an
26 alternative element of the crime.

27 (4) The following additional times shall be added to the
28 presumptive sentence for felony crimes committed after the effective
29 date of this section if the offender or an accomplice was armed with a
30 deadly weapon as defined in this chapter other than a firearm as
31 defined in RCW 9.41.010 and the offender is being sentenced for one of
32 the crimes listed in this subsection as eligible for any deadly weapon
33 enhancements. If the offender or an accomplice was armed with a deadly
34 weapon other than a firearm as defined in RCW 9.41.010 and the offender
35 is being sentenced for an anticipatory offense under chapter 9A.28 RCW
36 to commit one of the crimes listed in this subsection as eligible for
37 any deadly weapon enhancements, the following times shall be added to
38 the presumptive ((range)) sentence determined under subsection (2) of
39 this section:

1 (a) (~~24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW~~
2 ~~9A.56.200), or Kidnapping 1 (RCW 9A.40.020)~~) Two years for a felony
3 defined under law as a class A felony and not covered under (f) of this
4 subsection.

5 (b) (~~18 months for Burglary 1 (RCW 9A.52.020)~~) One year for any
6 class B felony as defined in RCW 9A.20.021(1)(b) and not covered under
7 (f) of this subsection.

8 (c) (~~12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021),~~
9 ~~Assault of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110),~~
10 ~~Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a~~
11 ~~dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or~~
12 ~~any drug offense)~~) Six months for any class C felony as defined in RCW
13 9A.20.021(1)(c) and not covered under (f) of this subsection.

14 (d) If the offender is being sentenced under (a) through (c) of
15 this subsection for deadly weapon enhancements and the offender has
16 already been previously sentenced for deadly weapon enhancements after
17 the effective date of this section under (a) through (c) of this
18 subsection or subsection (3) (a) through (c) of this section, all
19 deadly weapon enhancements under this subsection are automatically
20 doubled.

21 (e) Notwithstanding any other provision of law, the deadly weapon
22 enhancements under this section shall not run concurrently with any
23 other term or terms of imprisonment.

24 (f) All felony crimes which by definition require as the essential
25 and only element of the crime the possession, theft, display, or use of
26 any deadly weapon as defined in either RCW 9.41.010 or 9.94A.125 or
27 both, are excluded from this subsection. These crimes include:
28 Possessing a machine gun, possessing a stolen firearm, reckless
29 endangerment in the first degree, setting a spring gun, theft of a
30 firearm, unlawful possession of a firearm, and use of a machine gun in
31 a felony. All other felony crimes including, but not limited to, rape
32 in the first degree and robbery in the first degree shall not be
33 considered under this subsection because the deadly weapon is an
34 alternative element of the crime.

35 (~~(4)~~) (5) The following additional times shall be added to the
36 presumptive sentence if the offender or an accomplice committed the
37 offense while in a county jail or state correctional facility as that
38 term is defined in this chapter and the offender is being sentenced for
39 one of the crimes listed in this subsection. If the offender or an

1 accomplice committed one of the crimes listed in this subsection while
2 in a county jail or state correctional facility as that term is defined
3 in this chapter, and the offender is being sentenced for an
4 anticipatory offense under chapter 9A.28 RCW to commit one of the
5 crimes listed in this subsection, the following additional times shall
6 be added to the presumptive sentence (~~(range)~~) determined under
7 subsection (2) of this section:

8 (a) Eighteen months for offenses committed under RCW
9 69.50.401(a)(1)(i) or 69.50.410;

10 (b) Fifteen months for offenses committed under RCW
11 69.50.401(a)(1)(ii), (iii), and (iv);

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

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

16 (~~(+5)~~) (6) An additional twenty-four months shall be added to the
17 presumptive sentence for any ranked offense involving a violation of
18 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

19 **Sec. 2.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are
20 each reenacted and amended to read as follows:

21 TABLE 2

22 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

23 XV Aggravated Murder 1 (RCW 10.95.020)

24 XIV Murder 1 (RCW 9A.32.030)

25 Homicide by abuse (RCW 9A.32.055)

26 XIII Murder 2 (RCW 9A.32.050)

27 XII Assault 1 (RCW 9A.36.011)

28 Assault of a Child 1 (RCW 9A.36.120)

29 XI Rape 1 (RCW 9A.44.040)

30 Rape of a Child 1 (RCW 9A.44.073)

31 X Kidnapping 1 (RCW 9A.40.020)

32 Rape 2 (RCW 9A.44.050)

33 Rape of a Child 2 (RCW 9A.44.076)

1 Child Molestation 1 (RCW 9A.44.083)
2 Damaging building, etc., by explosion with
3 threat to human being (RCW
4 70.74.280(1))
5 Over 18 and deliver heroin or narcotic from
6 Schedule I or II to someone under 18
7 (RCW 69.50.406)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))

10 IX Assault of a Child 2 (RCW 9A.36.130)
11 Robbery 1 (RCW 9A.56.200)
12 Manslaughter 1 (RCW 9A.32.060)
13 Explosive devices prohibited (RCW 70.74.180)
14 Indecent Liberties (with forcible
15 compulsion) (RCW 9A.44.100(1)(a))
16 Endangering life and property by explosives
17 with threat to human being (RCW
18 70.74.270)
19 Over 18 and deliver narcotic from Schedule
20 III, IV, or V or a nonnarcotic from
21 Schedule I-V to someone under 18 and 3
22 years junior (RCW 69.50.406)
23 Controlled Substance Homicide (RCW
24 69.50.415)
25 Sexual Exploitation (RCW 9.68A.040)
26 Inciting Criminal Profiteering (RCW
27 9A.82.060(1)(b))

28 VIII Arson 1 (RCW 9A.48.020)
29 Promoting Prostitution 1 (RCW 9A.88.070)
30 Selling for profit (controlled or
31 counterfeit) any controlled substance
32 (RCW 69.50.410)
33 Manufacture, deliver, or possess with intent
34 to deliver heroin or cocaine (RCW
35 69.50.401(a)(1)(i))
36 Manufacture, deliver, or possess with intent
37 to deliver methamphetamine (RCW
38 69.50.401(a)(1)(ii))

1 Vehicular Homicide, by being under the
2 influence of intoxicating liquor or any
3 drug or by the operation of any vehicle
4 in a reckless manner (RCW 46.61.520)

5 VII Burglary 1 (RCW 9A.52.020)
6 Vehicular Homicide, by disregard for the
7 safety of others (RCW 46.61.520)
8 Introducing Contraband 1 (RCW 9A.76.140)
9 Indecent Liberties (without forcible
10 compulsion) (RCW 9A.44.100(1) (b) and
11 (c))
12 Child Molestation 2 (RCW 9A.44.086)
13 Dealing in depictions of minor engaged in
14 sexually explicit conduct (RCW
15 9.68A.050)
16 Sending, bringing into state depictions of
17 minor engaged in sexually explicit
18 conduct (RCW 9.68A.060)
19 Involving a minor in drug dealing (RCW
20 69.50.401(f))
21 Reckless Endangerment 1 (RCW 9A.36.045)
22 Unlawful Possession of a Firearm by a Felon
23 (RCW 9.41.040)

24 VI Bribery (RCW 9A.68.010)
25 Manslaughter 2 (RCW 9A.32.070)
26 Rape of a Child 3 (RCW 9A.44.079)
27 Intimidating a Juror/Witness (RCW 9A.72.110,
28 9A.72.130)
29 Damaging building, etc., by explosion with
30 no threat to human being (RCW
31 70.74.280(2))
32 Endangering life and property by explosives
33 with no threat to human being (RCW
34 70.74.270)
35 Incest 1 (RCW 9A.64.020(1))
36 Manufacture, deliver, or possess with intent
37 to deliver narcotics from Schedule I or

1 II (except heroin or cocaine) (RCW
2 69.50.401(a)(1)(i))
3 Intimidating a Judge (RCW 9A.72.160)
4 Bail Jumping with Murder 1 (RCW
5 9A.76.170(2)(a))
6 Theft of a Firearm (section 9 of this act)

7 V Criminal Mistreatment 1 (RCW 9A.42.020)
8 Rape 3 (RCW 9A.44.060)
9 Sexual Misconduct with a Minor 1 (RCW
10 9A.44.093)
11 Child Molestation 3 (RCW 9A.44.089)
12 Kidnapping 2 (RCW 9A.40.030)
13 Extortion 1 (RCW 9A.56.120)
14 Incest 2 (RCW 9A.64.020(2))
15 Perjury 1 (RCW 9A.72.020)
16 Extortionate Extension of Credit (RCW
17 9A.82.020)
18 Advancing money or property for extortionate
19 extension of credit (RCW 9A.82.030)
20 Extortionate Means to Collect Extensions of
21 Credit (RCW 9A.82.040)
22 Rendering Criminal Assistance 1 (RCW
23 9A.76.070)
24 Bail Jumping with class A Felony (RCW
25 9A.76.170(2)(b))
26 Delivery of imitation controlled substance
27 by person eighteen or over to person
28 under eighteen (RCW 69.52.030(2))
29 Possession of a Stolen Firearm (section 11
30 of this act)

31 IV Residential Burglary (RCW 9A.52.025)
32 Theft of Livestock 1 (RCW 9A.56.080)
33 Robbery 2 (RCW 9A.56.210)
34 Assault 2 (RCW 9A.36.021)
35 Escape 1 (RCW 9A.76.110)
36 Arson 2 (RCW 9A.48.030)
37 Bribing a Witness/Bribe Received by Witness
38 (RCW 9A.72.090, 9A.72.100)

1 Malicious Harassment (RCW 9A.36.080)
2 Threats to Bomb (RCW 9.61.160)
3 Willful Failure to Return from Furlough (RCW
4 72.66.060)
5 Hit and Run « Injury Accident (RCW
6 46.52.020(4))
7 Vehicular Assault (RCW 46.61.522)
8 Manufacture, deliver, or possess with intent
9 to deliver narcotics from Schedule III,
10 IV, or V or nonnarcotics from Schedule
11 I-V (except marijuana or
12 methamphetamines) (RCW
13 69.50.401(a)(1)(ii) through (iv))
14 Influencing Outcome of Sporting Event (RCW
15 9A.82.070)
16 Use of Proceeds of Criminal Profiteering
17 (RCW 9A.82.080 (1) and (2))
18 Knowingly Trafficking in Stolen Property
19 (RCW 9A.82.050(2))
20 III Criminal mistreatment 2 (RCW 9A.42.030)
21 Extortion 2 (RCW 9A.56.130)
22 Unlawful Imprisonment (RCW 9A.40.040)
23 Assault 3 (RCW 9A.36.031)
24 Assault of a Child 3 (RCW 9A.36.140)
25 Custodial Assault (RCW 9A.36.100)
26 (~~Unlawful possession of firearm or pistol by felon (RCW~~
27 ~~9.41.040))
28 Harassment (RCW 9A.46.020)
29 Promoting Prostitution 2 (RCW 9A.88.080)
30 Willful Failure to Return from Work Release
31 (RCW 72.65.070)
32 Burglary 2 (RCW 9A.52.030)
33 Introducing Contraband 2 (RCW 9A.76.150)
34 Communication with a Minor for Immoral
35 Purposes (RCW 9.68A.090)
36 Patronizing a Juvenile Prostitute (RCW
37 9.68A.100)
38 Escape 2 (RCW 9A.76.120)
39 Perjury 2 (RCW 9A.72.030)~~

1 Bail Jumping with class B or C Felony (RCW
2 9A.76.170(2)(c))
3 Intimidating a Public Servant (RCW
4 9A.76.180)
5 Tampering with a Witness (RCW 9A.72.120)
6 Manufacture, deliver, or possess with intent
7 to deliver marijuana (RCW
8 69.50.401(a)(1)(ii))
9 Delivery of a material in lieu of a
10 controlled substance (RCW 69.50.401(c))
11 Manufacture, distribute, or possess with
12 intent to distribute an imitation
13 controlled substance (RCW 69.52.030(1))
14 Recklessly Trafficking in Stolen Property
15 (RCW 9A.82.050(1))
16 Theft of livestock 2 (RCW 9A.56.080)
17 Securities Act violation (RCW 21.20.400)

18 II Malicious Mischief 1 (RCW 9A.48.070)
19 Possession of Stolen Property 1 (RCW
20 9A.56.150)
21 Theft 1 (RCW 9A.56.030)
22 Possession of controlled substance that is
23 either heroin or narcotics from
24 Schedule I or II (RCW 69.50.401(d))
25 Possession of phencyclidine (PCP) (RCW
26 69.50.401(d))
27 Create, deliver, or possess a counterfeit
28 controlled substance (RCW 69.50.401(b))
29 Computer Trespass 1 (RCW 9A.52.110)
30 (~~Reckless Endangerment 1 (RCW 9A.36.045)~~)
31 Escape from Community Custody (RCW
32 72.09.310)

33 I Theft 2 (RCW 9A.56.040)
34 Possession of Stolen Property 2 (RCW
35 9A.56.160)
36 Forgery (RCW 9A.60.020)
37 Taking Motor Vehicle Without Permission (RCW
38 9A.56.070)

1 Vehicle Prowl 1 (RCW 9A.52.095)
2 Attempting to Elude a Pursuing Police
3 Vehicle (RCW 46.61.024)
4 Malicious Mischief 2 (RCW 9A.48.080)
5 Reckless Burning 1 (RCW 9A.48.040)
6 Unlawful Issuance of Checks or Drafts (RCW
7 9A.56.060)
8 Unlawful Use of Food Stamps (RCW 9.91.140
9 (2) and (3))
10 False Verification for Welfare (RCW
11 74.08.055)
12 Forged Prescription (RCW 69.41.020)
13 Forged Prescription for a Controlled
14 Substance (RCW 69.50.403)
15 Possess Controlled Substance that is a
16 Narcotic from Schedule III, IV, or V or
17 Non-narcotic from Schedule I-V (except
18 phencyclidine) (RCW 69.50.401(d))

19 NEW SECTION. **Sec. 3.** Notwithstanding the current placement or
20 listing of crimes in categories or classifications of prosecuting
21 standards for deciding to prosecute under RCW 9.94A.440(2), all felony
22 crimes involving a deadly weapon special verdict under RCW 9.94A.125,
23 any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), and all
24 felony crimes as defined in either RCW 9.94A.310 (3)(f) or (4)(f), or
25 both, which are excluded from the deadly weapon enhancements but by
26 definition require as the essential and only element of the crime the
27 possession, theft, display, or use of any deadly weapon as defined in
28 either RCW 9.41.010 or 9.94A.125, or both, shall all be treated as
29 crimes against a person and subject to the prosecuting standards for
30 deciding to prosecute under RCW 9.94A.440(2) as crimes against persons.

31 NEW SECTION. **Sec. 4.** All recommended sentencing agreements or
32 plea agreements and sentences for all felony crimes shall be made and
33 retained as public records if the felony crime involves:

- 34 (1) A violent offense as defined in this chapter;
35 (2) A most serious offense as defined in this chapter;

1 (3) A felony with a deadly weapon special verdict under RCW
2 9.94A.125;

3 (4) A felony with deadly weapon enhancements under RCW 9.94A.310
4 (3) or (4); or

5 (5) Any felony crimes as defined in either RCW 9.94A.310 (3)(f) or
6 (4)(f), or both, which are excluded from the deadly weapon enhancements
7 but by definition require as the essential and only element of the
8 crime the possession, theft, display, or use of any deadly weapon as
9 defined in either RCW 9.41.010 or 9.94A.125, or both.

10 NEW SECTION. **Sec. 5.** (1) A current, newly created, or reworked
11 judgment and sentence document for each felony sentencing shall record
12 all recommended sentencing agreements or plea agreements and sentences
13 for all felony crimes kept as public records under section 4 of this
14 act shall contain the clearly printed name and legal signature of the
15 sentencing judge. The judgment and sentence document as defined in
16 this section shall also provide additional space for the sentencing
17 judge's reasons for going either above or below the sentence range for
18 all felony crimes covered as public records under section 4 of this
19 act. Both the sentencing judge and the prosecuting attorney's office
20 shall each retain or receive a completed copy of each sentencing
21 document as defined in this section for their own records.

22 (2) The sentencing guidelines commission shall be sent a completed
23 copy of the judgment and sentence document upon conviction for each
24 felony sentencing under subsection (1) of this section and shall
25 compile a yearly and cumulative judicial record of each sentencing
26 judge in regards to his or her sentencing practices for all felony
27 crimes involving:

28 (a) A violent offense as defined in this chapter;

29 (b) A most serious offense as defined in this chapter;

30 (c) A felony with any deadly weapon special verdict under RCW
31 9.94A.125;

32 (d) A felony with deadly weapon enhancements under RCW 9.94A.310
33 (3) or (4); or

34 (e) A felony crime as defined in either RCW 9.94A.310 (3)(f) or
35 (4)(f), or both, which are excluded from the deadly weapon
36 enhancements but by definition require as the essential and only
37 element of the crime the possession, theft, display, or use of any
38 deadly weapon as defined in either RCW 9.41.010 or 9.94A.125, or both.

1 (3) Each individual judge's sentencing practices shall be compared
2 to the standard or presumptive sentencing range for all felony crimes
3 listed in subsection (2) of this section for the appropriate offender
4 score as defined in RCW 9.94A.360. These comparative records shall be
5 retained and made available to the public for review in a current,
6 newly created, or reworked officially published document by the
7 sentencing guidelines commission.

8 (4) All felony sentences which are either above or below the
9 standard or presumptive sentence range in subsection (3) of this
10 section shall also mark whether the prosecuting attorney in the case
11 also recommended a similar sentence, if any, which was either above or
12 below the presumptive range.

13 (5) All felony sentences with a portion of any applicable deadly
14 weapon enhancements under RCW 9.94A.310 (3) or (4) deferred or
15 suspended under RCW 9.94A.130 shall also have a recommended sentencing
16 agreement or plea agreement under section 4 of this act between the
17 prosecuting attorney and the defendant in exchange for a plea of guilty
18 in order to be a valid sentence.

19 (6) If any completed judgment and sentence document as defined in
20 subsection (1) of this section is not sent to the sentencing guidelines
21 commission as required in subsection (2) of this section, the
22 sentencing guidelines commission shall have the authority and shall
23 undertake reasonable and necessary steps to assure that all past,
24 current, and future sentencing documents as defined in subsection (1)
25 of this section are received by the sentencing guidelines commission.

26 **Sec. 6.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to read
27 as follows:

28 No person serving a sentence imposed pursuant to this chapter and
29 committed to the custody of the department shall leave the confines of
30 the correctional facility or be released prior to the expiration of the
31 sentence except as follows:

32 (1) Except as otherwise provided for in subsection (2) of this
33 section, the term of the sentence of an offender committed to a
34 correctional facility operated by the department, may be reduced by
35 earned early release time in accordance with procedures that shall be
36 developed and promulgated by the correctional agency having
37 jurisdiction in which the offender is confined. The earned early
38 release time shall be for good behavior and good performance, as

1 determined by the correctional agency having jurisdiction. The
2 correctional agency shall not credit the offender with earned early
3 release credits in advance of the offender actually earning the
4 credits. Any program established pursuant to this section shall allow
5 an offender to earn early release credits for presentence
6 incarceration. If an offender is transferred from a county jail to the
7 department of corrections, the county jail facility shall certify to
8 the department the amount of time spent in custody at the facility and
9 the amount of earned early release time. In the case of an offender
10 who has been convicted of a felony committed after the effective date
11 of this section that involves any deadly weapon enhancements under RCW
12 9.94A.310 (3) or (4) shall not receive any good time credits or earned
13 early release time for that portion of his or her sentence that results
14 from any deadly weapon enhancements. In the case of an offender
15 convicted of a serious violent offense or a sex offense that is a class
16 A felony committed on or after July 1, 1990, the aggregate earned early
17 release time may not exceed fifteen percent of the sentence. In no
18 other case shall the aggregate earned early release time exceed one-
19 third of the total sentence;

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

29 (3) An offender may leave a correctional facility pursuant to an
30 authorized furlough or leave of absence. In addition, offenders may
31 leave a correctional facility when in the custody of a corrections
32 officer or officers;

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

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

1 (6) The governor may pardon any offender;

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

5 (8) An offender may leave a correctional facility prior to
6 completion of his sentence if the sentence has been reduced as provided
7 in RCW 9.94A.160.

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

10 (1) A person is guilty of reckless endangerment in the first
11 degree when he or she recklessly discharges a firearm as defined in RCW
12 9.41.010 in a manner which creates a substantial risk of death or
13 serious physical injury to another person and the discharge is either
14 from a motor vehicle or from the immediate area of a motor vehicle that
15 was used to transport the shooter or the firearm to the scene of the
16 discharge.

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

21 (3) Reckless endangerment in the first degree is a class C felony.

22 **Sec. 8.** RCW 9A.52.020 and 1975 1st ex.s. c 260 s 9A.52.020 are
23 each amended to read as follows:

24 (1) A person is guilty of burglary in the first degree if, with
25 intent to commit a crime against a person or property therein, he or
26 she enters or remains unlawfully in a (~~(dwelling))~~ building and if, in
27 entering or while in the (~~(dwelling))~~ building or in immediate flight
28 therefrom, the actor or another participant in the crime (a) is armed
29 with a deadly weapon, or (b) assaults any person therein.

30 (2) Burglary in the first degree is a class A felony.

31 NEW SECTION. **Sec. 9.** A new section is added to chapter 9A.56 RCW
32 to read as follows:

33 (1) A person is guilty of theft of a firearm if he or she commits
34 theft of any firearm as defined in RCW 9.41.010.

35 (2) Each firearm, as defined in RCW 9.41.010, taken in the theft
36 is a separate offense.

1 (3) The definition of theft and the defense allowed against the
2 prosecution for theft under RCW 9A.56.020 shall apply to the crime of
3 theft of a firearm.

4 (4) Theft of a firearm is a class B felony.

5 **Sec. 10.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to
6 read as follows:

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

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

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

15 (c) An access device; or

16 (d) A motor vehicle, of a value less than one thousand five
17 hundred dollars(~~(+or~~

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

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

21 NEW SECTION. **Sec. 11.** A new section is added to chapter 9A.56
22 RCW to read as follows:

23 (1) A person is guilty of possessing a stolen firearm if he or she
24 possesses, carries, or is in control of a stolen firearm.

25 (2) Each stolen firearm is a separate offense.

26 (3) The definition of possessing stolen property and the defense
27 allowed against the prosecution for possessing stolen property under
28 RCW 9A.56.140 shall apply to the crime of possessing a stolen firearm.
29 Firearm, as defined in this section, means any firearm as defined in
30 RCW 9.41.010.

31 **Sec. 12.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to
32 read as follows:

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

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

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

6 (c) He or she possesses a stolen access device; or

7 (d) He or she possesses a stolen motor vehicle of a value less
8 than one thousand five hundred dollars; ((or

9 ~~(e) He possesses a stolen firearm~~)).

10 (2) Possessing stolen property in the second degree is a class C
11 felony.

12 **Sec. 13.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are
13 each reenacted and amended to read as follows:

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

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

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

33 (4) Except as provided in subsection (5) of this section, a person
34 is guilty of the crime of unlawful possession of a ~~((short))~~ firearm
35 ~~((or pistol))~~ if, after having been convicted or adjudicated of any
36 felony violation of the uniform controlled substances act, chapter
37 69.50 RCW, or equivalent statutes of another jurisdiction, the person

1 owns or has in his or her possession or under his or her control any
2 (~~short~~) firearm (~~or pistol~~).

3 (5) Notwithstanding subsection (1) of this section, a person
4 convicted of an offense other than murder, manslaughter, robbery, rape,
5 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
6 violations with respect to controlled substances under RCW 69.50.401(a)
7 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
8 and who received a dismissal of the charge under RCW 9.95.240, shall
9 not be precluded from ownership, possession, or control of a firearm as
10 a result of the conviction.

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

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

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

27 (7) For the purposes of this section, firearm means any firearm or
28 firearms as defined in RCW 9.41.010.

29 **Sec. 14.** RCW 10.95.020 and 1981 c 138 s 2 are each amended to
30 read as follows:

31 A person is guilty of aggravated first degree murder if he or she
32 commits first degree murder as defined by RCW 9A.32.030(1)(a), as now
33 or hereafter amended, and one or more of the following aggravating
34 circumstances exist:

35 (1) The victim was a law enforcement officer, corrections officer,
36 or fire fighter who was performing his or her official duties at the
37 time of the act resulting in death and the victim was known or

1 reasonably should have been known by the person to be such at the time
2 of the killing;

3 (2) At the time of the act resulting in the death, the person was
4 serving a term of imprisonment, had escaped, or was on authorized or
5 unauthorized leave in or from a state facility or program for the
6 incarceration or treatment of persons adjudicated guilty of crimes;

7 (3) At the time of the act resulting in death, the person was in
8 custody in a county or county-city jail as a consequence of having been
9 adjudicated guilty of a felony;

10 (4) The person committed the murder pursuant to an agreement that
11 he or she would receive money or any other thing of value for
12 committing the murder;

13 (5) The person solicited another person to commit the murder and
14 had paid or had agreed to pay money or any other thing of value for
15 committing the murder;

16 (6) The person committed the murder to obtain, maintain, or
17 advance his or her membership in an organization, association, or
18 identifiable group;

19 (7) The murder was committed during the course of or as a result
20 of a shooting where the discharge of the firearm, as defined in RCW
21 9.41.010 is either from a motor vehicle or from the immediate area of
22 a motor vehicle that was used to transport the shooter or the firearm
23 to the scene of the discharge;

24 (8) The victim was:

25 (a) A judge; juror or former juror; prospective, current, or
26 former witness in an adjudicative proceeding; prosecuting attorney;
27 deputy prosecuting attorney; defense attorney; a member of the ((board
28 of prison terms and paroles)) indeterminate sentence review board; or
29 a probation or parole officer; and

30 (b) The murder was related to the exercise of official duties
31 performed or to be performed by the victim;

32 ((+7)) (9) The person committed the murder to conceal the
33 commission of a crime or to protect or conceal the identity of any
34 person committing a crime, including the attempt to avoid a mandatory
35 life without parole sentence as a persistent offender;

36 ((+8)) (10) There was more than one victim and the murders were
37 part of a common scheme or plan or the result of a single act of the
38 person;

1 (~~(+9)~~) (11) The murder was committed in the course of, in
2 furtherance of, or in immediate flight from one of the following
3 crimes:

4 (a) Robbery in the first or second degree;

5 (b) Rape in the first or second degree;

6 (c) Burglary in the first or second degree or residential
7 burglary;

8 (d) Kidnapping in the first degree; or

9 (e) Arson in the first degree;

10 (~~(+10)~~) (12) The victim was regularly employed or self-employed
11 as a newsreporter and the murder was committed to obstruct or hinder
12 the investigative, research, or reporting activities of the victim.

13 NEW SECTION. Sec. 15. All law enforcement agencies or personnel,
14 criminal justice attorneys, sentencing judges, or state or local
15 correctional facilities or personnel may, but are not required to, give
16 any and all offenders either written or oral notice, or both, of the
17 sanctions imposed and criminal justice changes regarding armed
18 offenders including but not limited to the subjects of:

19 (1) Felony crimes involving any deadly weapon special verdict
20 under RCW 9.94A.125;

21 (2) All deadly weapon enhancements under RCW 9.94A.310 (3) or (4)
22 as well as any federal firearm, ammunition, or other deadly weapon
23 enhancements;

24 (3) All felony crimes requiring the possession, display, or use of
25 any deadly weapon as defined in either RCW 9.41.010 or 9.94A.125, or
26 both, as well as the many increased penalties for these crimes;

27 (4) New prosecuting standards established for filing charges for
28 crimes involving any deadly weapons and new limitations placed on plea
29 agreements;

30 (5) New and strict judicial conduct and court sentencing records
31 regarding armed offenders; and

32 (6) Removal of good time for all deadly weapon enhancements.

33 NEW SECTION. Sec. 16. Sections 3 through 5 of this act are each
34 added to chapter 9.94A RCW.

35 NEW SECTION. Sec. 17. This act shall be known and cited as the
36 hard time for armed crime act.

1 NEW SECTION. **Sec. 18.** 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.

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