

2 **SHB 2339** - S COMM AMD  
3 By Committee on Law & Justice

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 69.50 RCW  
8 to read as follows:

9 It is unlawful for any person to possess ephedrine or  
10 pseudoephedrine with intent to manufacture methamphetamine. Any person  
11 who violates this section is guilty of a crime and may be imprisoned  
12 for not more than ten years, fined not more than twenty-five thousand  
13 dollars, or both.

14 **Sec. 2.** RCW 69.50.401 and 1989 c 271 s 104 are each amended to  
15 read as follows:

16 (a) Except as authorized by this chapter, it is unlawful for any  
17 person to manufacture, deliver, or possess with intent to manufacture  
18 or deliver, a controlled substance.

19 (1) Any person who violates this subsection with respect to:

20 (i) a controlled substance classified in Schedule I or II which is  
21 a narcotic drug, is guilty of a crime and upon conviction may be  
22 imprisoned for not more than ten years, or (A) fined not more than  
23 twenty-five thousand dollars if the crime involved less than two  
24 kilograms of the drug, or both such imprisonment and fine; or (B) if  
25 the crime involved two or more kilograms of the drug, then fined not  
26 more than one hundred thousand dollars for the first two kilograms and  
27 not more than fifty dollars for each gram in excess of two kilograms,  
28 or both such imprisonment and fine;

29 (ii) methamphetamine, is guilty of a crime and upon conviction may  
30 be imprisoned for not more than ten years, or (A) fined not more than  
31 twenty-five thousand dollars if the crime involved less than two  
32 kilograms of the drug, or both such imprisonment and fine; or (B) if  
33 the crime involved two or more kilograms of the drug, then fined not  
34 more than one hundred thousand dollars for the first two kilograms and

1 not more than fifty dollars for each gram in excess of two kilograms,  
2 or both such imprisonment and fine;

3 (iii) any other controlled substance classified in Schedule I, II,  
4 or III, is guilty of a crime and upon conviction may be imprisoned for  
5 not more than five years, fined not more than ten thousand dollars, or  
6 both;

7 (~~(iii)~~) (iv) a substance classified in Schedule IV, is guilty of  
8 a crime and upon conviction may be imprisoned for not more than five  
9 years, fined not more than ten thousand dollars, or both;

10 (~~(iv)~~) (v) a substance classified in Schedule V, is guilty of a  
11 crime and upon conviction may be imprisoned for not more than five  
12 years, fined not more than ten thousand dollars, or both.

13 (b) Except as authorized by this chapter, it is unlawful for any  
14 person to create, deliver, or possess a counterfeit substance.

15 (1) Any person who violates this subsection with respect to:

16 (i) a counterfeit substance classified in Schedule I or II which is  
17 a narcotic drug, is guilty of a crime and upon conviction may be  
18 imprisoned for not more than ten years, fined not more than twenty-five  
19 thousand dollars, or both;

20 (ii) a counterfeit substance which is methamphetamine, is guilty of  
21 a crime and upon conviction may be imprisoned for not more than ten  
22 years, fined not more than twenty-five thousand dollars, or both;

23 (iii) any other counterfeit substance classified in Schedule I, II,  
24 or III, is guilty of a crime and upon conviction may be imprisoned for  
25 not more than five years, fined not more than ten thousand dollars, or  
26 both;

27 (iii) a counterfeit substance classified in Schedule IV, is guilty  
28 of a crime and upon conviction may be imprisoned for not more than five  
29 years, fined not more than ten thousand dollars, or both;

30 (iv) a counterfeit substance classified in Schedule V, is guilty of  
31 a crime and upon conviction may be imprisoned for not more than five  
32 years, fined not more than ten thousand dollars, or both.

33 (c) It is unlawful, except as authorized in this chapter and  
34 chapter 69.41 RCW, for any person to offer, arrange, or negotiate for  
35 the sale, gift, delivery, dispensing, distribution, or administration  
36 of a controlled substance to any person and then sell, give, deliver,  
37 dispense, distribute, or administer to that person any other liquid,  
38 substance, or material in lieu of such controlled substance. Any  
39 person who violates this subsection is guilty of a crime and upon

1 conviction may be imprisoned for not more than five years, fined not  
2 more than ten thousand dollars, or both.

3 (d) It is unlawful for any person to possess a controlled substance  
4 unless the substance was obtained directly from, or pursuant to, a  
5 valid prescription or order of a practitioner while acting in the  
6 course of his or her professional practice, or except as otherwise  
7 authorized by this chapter. Any person who violates this subsection is  
8 guilty of a crime, and upon conviction may be imprisoned for not more  
9 than five years, fined not more than ten thousand dollars, or both,  
10 except as provided for in subsection (e) of this section.

11 (e) Except as provided for in subsection (a)(1)(~~(ii)~~) (iii) of  
12 this section any person found guilty of possession of forty grams or  
13 less of marihuana shall be guilty of a misdemeanor.

14 (f) It is unlawful to compensate, threaten, solicit, or in any  
15 other manner involve a person under the age of eighteen years in a  
16 transaction unlawfully to manufacture, sell, or deliver a controlled  
17 substance. A violation of this subsection shall be punished as a class  
18 C felony punishable in accordance with RCW 9A.20.021.

19 This section shall not apply to offenses defined and punishable  
20 under the provisions of RCW 69.50.410.

21 **Sec. 3.** RCW 9.94A.320 and 1995 c 385 s 2, 1995 c 285 s 28, and  
22 1995 c 129 s 3 (Initiative Measure No. 159) are each reenacted and  
23 amended to read as follows:

24 TABLE 2

25 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

26	XV	Aggravated Murder 1 (RCW 10.95.020)
27	XIV	Murder 1 (RCW 9A.32.030)
28		Homicide by abuse (RCW 9A.32.055)
29	XIII	Murder 2 (RCW 9A.32.050)
30	XII	Assault 1 (RCW 9A.36.011)
31		Assault of a Child 1 (RCW 9A.36.120)
32	XI	Rape 1 (RCW 9A.44.040)
33		Rape of a Child 1 (RCW 9A.44.073)

1 X Kidnapping 1 (RCW 9A.40.020)  
2 Rape 2 (RCW 9A.44.050)  
3 Rape of a Child 2 (RCW 9A.44.076)  
4 Child Molestation 1 (RCW 9A.44.083)  
5 Damaging building, etc., by explosion with  
6 threat to human being (RCW  
7 70.74.280(1))  
8 Over 18 and deliver heroin or narcotic  
9 from Schedule I or II to someone  
10 under 18 (RCW 69.50.406)  
11 Leading Organized Crime (RCW  
12 9A.82.060(1)(a))  
13 IX Assault of a Child 2 (RCW 9A.36.130)  
14 Robbery 1 (RCW 9A.56.200)  
15 Manslaughter 1 (RCW 9A.32.060)  
16 Explosive devices prohibited (RCW  
17 70.74.180)  
18 Indecent Liberties (with forcible  
19 compulsion) (RCW 9A.44.100(1)(a))  
20 Endangering life and property by  
21 explosives with threat to human being  
22 (RCW 70.74.270)  
23 Over 18 and deliver narcotic from Schedule  
24 III, IV, or V or a nonnarcotic from  
25 Schedule I-V to someone under 18 and  
26 3 years junior (RCW 69.50.406)  
27 Controlled Substance Homicide (RCW  
28 69.50.415)  
29 Sexual Exploitation (RCW 9.68A.040)  
30 Inciting Criminal Profiteering (RCW  
31 9A.82.060(1)(b))  
32 Vehicular Homicide, by being under the  
33 influence of intoxicating liquor or  
34 any drug (RCW 46.61.520)

1 VIII Arson 1 (RCW 9A.48.020)  
2 Promoting Prostitution 1 (RCW 9A.88.070)  
3 Selling for profit (controlled or  
4 counterfeit) any controlled substance  
5 (RCW 69.50.410)  
6 Manufacture, deliver, or possess with  
7 intent to deliver heroin or cocaine  
8 (RCW 69.50.401(a)(1)(i))  
9 Manufacture, deliver, or possess with  
10 intent to deliver methamphetamine  
11 (RCW 69.50.401(a)(1)(ii))  
12 Possession of ephedrine or pseudoephedrine  
13 with intent to manufacture  
14 methamphetamine (RCW 69.50.---  
15 (section 1 of this act))  
16 Vehicular Homicide, by the operation of  
17 any vehicle in a reckless manner (RCW  
18 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 Reckless Endangerment 1 (RCW 9A.36.045)  
36 Unlawful Possession of a Firearm in the  
37 first degree (RCW 9.41.040(1)(a))

1 VI Bribery (RCW 9A.68.010)  
2 Manslaughter 2 (RCW 9A.32.070)  
3 Rape of a Child 3 (RCW 9A.44.079)  
4 Intimidating a Juror/Witness (RCW  
5 9A.72.110, 9A.72.130)  
6 Damaging building, etc., by explosion with  
7 no threat to human being (RCW  
8 70.74.280(2))  
9 Endangering life and property by  
10 explosives with no threat to human  
11 being (RCW 70.74.270)  
12 Incest 1 (RCW 9A.64.020(1))  
13 Manufacture, deliver, or possess with  
14 intent to deliver narcotics from  
15 Schedule I or II (except heroin or  
16 cocaine) (RCW 69.50.401(a)(1)(i))  
17 Intimidating a Judge (RCW 9A.72.160)  
18 Bail Jumping with Murder 1 (RCW  
19 9A.76.170(2)(a))  
20 Theft of a Firearm (RCW 9A.56.300)

21 V Persistent prison misbehavior (RCW  
22 9.94.070)  
23 Criminal Mistreatment 1 (RCW 9A.42.020)  
24 Rape 3 (RCW 9A.44.060)  
25 Sexual Misconduct with a Minor 1 (RCW  
26 9A.44.093)  
27 Child Molestation 3 (RCW 9A.44.089)  
28 Kidnapping 2 (RCW 9A.40.030)  
29 Extortion 1 (RCW 9A.56.120)  
30 Incest 2 (RCW 9A.64.020(2))  
31 Perjury 1 (RCW 9A.72.020)  
32 Extortionate Extension of Credit (RCW  
33 9A.82.020)  
34 Advancing money or property for  
35 extortionate extension of credit (RCW  
36 9A.82.030)  
37 Extortionate Means to Collect Extensions  
38 of Credit (RCW 9A.82.040)

1 Rendering Criminal Assistance 1 (RCW  
2 9A.76.070)  
3 Bail Jumping with class A Felony (RCW  
4 9A.76.170(2)(b))  
5 Sexually Violating Human Remains (RCW  
6 9A.44.105)  
7 Delivery of imitation controlled substance  
8 by person eighteen or over to person  
9 under eighteen (RCW 69.52.030(2))  
10 Possession of a Stolen Firearm (RCW  
11 9A.56.310)

12 IV Residential Burglary (RCW 9A.52.025)  
13 Theft of Livestock 1 (RCW 9A.56.080)  
14 Robbery 2 (RCW 9A.56.210)  
15 Assault 2 (RCW 9A.36.021)  
16 Escape 1 (RCW 9A.76.110)  
17 Arson 2 (RCW 9A.48.030)  
18 Commercial Bribery (RCW 9A.68.060)  
19 Bribing a Witness/Bribe Received by  
20 Witness (RCW 9A.72.090, 9A.72.100)  
21 Malicious Harassment (RCW 9A.36.080)  
22 Threats to Bomb (RCW 9.61.160)  
23 Willful Failure to Return from Furlough  
24 (RCW 72.66.060)  
25 Hit and Run « Injury Accident (RCW  
26 46.52.020(4))  
27 Vehicular Assault (RCW 46.61.522)  
28 Manufacture, deliver, or possess with  
29 intent to deliver narcotics from  
30 Schedule III, IV, or V or  
31 nonnarcotics from Schedule I-V  
32 (except marijuana or  
33 methamphetamines) (RCW  
34 69.50.401(a)(1)((~~ii~~)) (iii) through  
35 ((~~iv~~)) (v))  
36 Influencing Outcome of Sporting Event (RCW  
37 9A.82.070)

1 Use of Proceeds of Criminal Profiteering  
2 (RCW 9A.82.080 (1) and (2))  
3 Knowingly Trafficking in Stolen Property  
4 (RCW 9A.82.050(2))

5 III Criminal Mistreatment 2 (RCW 9A.42.030)  
6 Extortion 2 (RCW 9A.56.130)  
7 Unlawful Imprisonment (RCW 9A.40.040)  
8 Assault 3 (RCW 9A.36.031)  
9 Assault of a Child 3 (RCW 9A.36.140)  
10 Custodial Assault (RCW 9A.36.100)  
11 Unlawful possession of firearm in the  
12 second degree (RCW 9.41.040(1)(b))  
13 Harassment (RCW 9A.46.020)  
14 Promoting Prostitution 2 (RCW 9A.88.080)  
15 Willful Failure to Return from Work  
16 Release (RCW 72.65.070)  
17 Burglary 2 (RCW 9A.52.030)  
18 Introducing Contraband 2 (RCW 9A.76.150)  
19 Communication with a Minor for Immoral  
20 Purposes (RCW 9.68A.090)  
21 Patronizing a Juvenile Prostitute (RCW  
22 9.68A.100)  
23 Escape 2 (RCW 9A.76.120)  
24 Perjury 2 (RCW 9A.72.030)  
25 Bail Jumping with class B or C Felony (RCW  
26 9A.76.170(2)(c))  
27 Intimidating a Public Servant (RCW  
28 9A.76.180)  
29 Tampering with a Witness (RCW 9A.72.120)  
30 Manufacture, deliver, or possess with  
31 intent to deliver marijuana (RCW  
32 69.50.401(a)(1)((~~ii~~)) (iii))  
33 Delivery of a material in lieu of a  
34 controlled substance (RCW  
35 69.50.401(c))  
36 Manufacture, distribute, or possess with  
37 intent to distribute an imitation  
38 controlled substance (RCW  
39 69.52.030(1))



1 Recklessly Trafficking in Stolen Property  
2 (RCW 9A.82.050(1))  
3 Theft of livestock 2 (RCW 9A.56.080)  
4 Securities Act violation (RCW 21.20.400)

5 II Unlawful Practice of Law (RCW 2.48.180)  
6 Malicious Mischief 1 (RCW 9A.48.070)  
7 Possession of Stolen Property 1 (RCW  
8 9A.56.150)  
9 Theft 1 (RCW 9A.56.030)  
10 Trafficking in Insurance Claims (RCW  
11 48.30A.015)  
12 Unlicensed Practice of a Profession or  
13 Business (RCW 18.130.190(7))  
14 Health Care False Claims (RCW 48.80.030)  
15 Possession of controlled substance that is  
16 either heroin or narcotics from  
17 Schedule I or II (RCW 69.50.401(d))  
18 Possession of phencyclidine (PCP) (RCW  
19 69.50.401(d))  
20 Create, deliver, or possess a counterfeit  
21 controlled substance (RCW  
22 69.50.401(b))  
23 Computer Trespass 1 (RCW 9A.52.110)  
24 Escape from Community Custody (RCW  
25 72.09.310)

26 I Theft 2 (RCW 9A.56.040)  
27 Possession of Stolen Property 2 (RCW  
28 9A.56.160)  
29 Forgery (RCW 9A.60.020)  
30 Taking Motor Vehicle Without Permission  
31 (RCW 9A.56.070)  
32 Vehicle Prowl 1 (RCW 9A.52.095)  
33 Attempting to Elude a Pursuing Police  
34 Vehicle (RCW 46.61.024)  
35 Malicious Mischief 2 (RCW 9A.48.080)  
36 Reckless Burning 1 (RCW 9A.48.040)  
37 Unlawful Issuance of Checks or Drafts (RCW  
38 9A.56.060)

1 Unlawful Use of Food Stamps (RCW 9.91.140  
2 (2) and (3))  
3 False Verification for Welfare (RCW  
4 74.08.055)  
5 Forged Prescription (RCW 69.41.020)  
6 Forged Prescription for a Controlled  
7 Substance (RCW 69.50.403)  
8 Possess Controlled Substance that is a  
9 Narcotic from Schedule III, IV, or V  
10 or Non-narcotic from Schedule I-V  
11 (except phencyclidine) (RCW  
12 69.50.401(d))

13 **Sec. 4.** RCW 9.94A.154 and 1991 c 147 s 1 are each amended to read  
14 as follows:

15 (1) At the earliest possible date, and in no event later than ten  
16 days before release except in the event of escape or emergency  
17 furloughs as defined in RCW 72.66.010, the department of corrections  
18 shall send written notice of parole, community placement, work release  
19 placement, furlough, or escape about a specific inmate convicted of a  
20 serious drug offense to the following if such notice has been requested  
21 in writing about a specific inmate convicted of a serious drug offense:

22 (a) Any witnesses who testified against the inmate in any court  
23 proceedings involving the serious drug offense; and

24 (b) Any person specified in writing by the prosecuting attorney.  
25 Information regarding witnesses requesting the notice, information  
26 regarding any other person specified in writing by the prosecuting  
27 attorney to receive the notice, and the notice are confidential and  
28 shall not be available to the inmate.

29 (2) If an inmate convicted of a serious drug offense escapes from  
30 a correctional facility, the department of corrections shall  
31 immediately notify, by the most reasonable and expedient means  
32 available, the chief of police of the city and the sheriff of the  
33 county in which the inmate resided immediately before the inmate's  
34 arrest and conviction. If previously requested, the department shall  
35 also notify the witnesses who are entitled to notice under this  
36 section. If the inmate is recaptured, the department shall send notice  
37 to the persons designated in this subsection as soon as possible but in

1 no event later than two working days after the department learns of  
2 such recapture.

3 (3) If any witness is under the age of sixteen, the notice required  
4 by this section shall be sent to the parents or legal guardian of the  
5 child.

6 (4) The department of corrections shall send the notices required  
7 by this section to the last address provided to the department by the  
8 requesting party. The requesting party shall furnish the department  
9 with a current address.

10 (5) For purposes of this section, "serious drug offense" means an  
11 offense under RCW 69.50.401 (a)(1) (i) or (ii) or (b)(1) (i) or (ii).

12 **Sec. 5.** RCW 9.94A.310 and 1995 c 129 s 2 (Initiative Measure No.  
13 159) are each amended to read as follows:

14 (1) TABLE 1

15 Sentencing Grid

16 SERIOUSNESS

17 SCORE

OFFENDER SCORE

18  
19 0 1 2 3 4 5 6 7 8 9 or  
20 more

21 XV Life Sentence without Parole/Death Penalty

22  
23 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y  
24 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-  
25 320 333 347 361 374 388 416 450 493 548

26  
27 XIII 12y 13y 14y 15y 16y 17y 19y 21y 25y 29y  
28 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-  
29 164 178 192 205 219 233 260 288 342 397

30  
31 XII 9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m  
32 93- 102- 111- 120- 129- 138- 162- 178- 209- 240-  
33 123 136 147 160 171 184 216 236 277 318

34

1	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
2		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
3		102	114	125	136	147	158	194	211	245	280
4											
5	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
6		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
7		68	75	82	89	96	102	130	144	171	198
8											
9	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
10		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
11		41	48	54	61	68	75	102	116	144	171
12											
13	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
14		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
15		27	34	41	48	54	61	89	102	116	144
16											
17	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
18		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
19		20	27	34	41	48	54	75	89	102	116
20											
21	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
22		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
23		14	20	27	34	41	48	61	75	89	102
24											
25	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
26		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
27		12	14	17	20	29	43	54	68	82	96
28											
29	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
30		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
31		9	12	14	17	20	29	43	57	70	84
32											
33	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
34		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
35		3	8	12	12	16	22	29	43	57	68
36											
37	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
38		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
39		Days	6	9	12	14	18	22	29	43	57

1  
2  
3  
4  
5

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

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

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

16 (3) The following additional times shall be added to the  
17 presumptive sentence for felony crimes committed after July 23, 1995,  
18 if the offender or an accomplice was armed with a firearm as defined in  
19 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
20 listed in this subsection as eligible for any firearm enhancements  
21 based on the classification of the completed felony crime. If the  
22 offender or an accomplice was armed with a firearm as defined in RCW  
23 9.41.010 and the offender is being sentenced for an anticipatory  
24 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
25 this subsection as eligible for any firearm enhancements, the following  
26 additional times shall be added to the presumptive sentence determined  
27 under subsection (2) of this section based on the felony crime of  
28 conviction as classified under RCW 9A.28.020:

29 (a) Five years for any felony defined under any law as a class A  
30 felony or with a maximum sentence of at least twenty years, or both,  
31 and not covered under (f) of this subsection.

32 (b) Three years for any felony defined under any law as a class B  
33 felony or with a maximum sentence of ten years, or both, and not  
34 covered under (f) of this subsection.

35 (c) Eighteen months for any felony defined under any law as a  
36 class C felony or with a maximum sentence of five years, or both, and  
37 not covered under (f) of this subsection.

1 (d) If the offender is being sentenced for any firearm  
2 enhancements under (a), (b), and/or (c) of this subsection and the  
3 offender has previously been sentenced for any deadly weapon  
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
5 subsection or subsection (4) (a), (b), and/or (c) of this section, or  
6 both, any and all firearm enhancements under this subsection shall be  
7 twice the amount of the enhancement listed.

8 (e) Notwithstanding any other provision of law, any and all  
9 firearm enhancements under this section are mandatory, shall be served  
10 in total confinement, and shall not run concurrently with any other  
11 sentencing provisions.

12 (f) The firearm enhancements in this section shall apply to all  
13 felony crimes except the following: Possession of a machine gun,  
14 possessing a stolen firearm, reckless endangerment in the first degree,  
15 theft of a firearm, unlawful possession of a firearm in the first and  
16 second degree, and use of a machine gun in a felony.

17 (g) If the presumptive sentence under this section exceeds the  
18 statutory maximum for the offense, the statutory maximum sentence shall  
19 be the presumptive sentence unless the offender is a persistent  
20 offender as defined in RCW 9.94A.030.

21 (4) The following additional times shall be added to the  
22 presumptive sentence for felony crimes committed after July 23, 1995,  
23 if the offender or an accomplice was armed with a deadly weapon as  
24 defined in this chapter other than a firearm as defined in RCW 9.41.010  
25 and the offender is being sentenced for one of the crimes listed in  
26 this subsection as eligible for any deadly weapon enhancements based on  
27 the classification of the completed felony crime. If the offender or  
28 an accomplice was armed with a deadly weapon other than a firearm as  
29 defined in RCW 9.41.010 and the offender is being sentenced for an  
30 anticipatory offense under chapter 9A.28 RCW to commit one of the  
31 crimes listed in this subsection as eligible for any deadly weapon  
32 enhancements, the following additional times shall be added to the  
33 presumptive sentence determined under subsection (2) of this section  
34 based on the felony crime of conviction as classified under RCW  
35 9A.28.020:

36 (a) Two years for any felony defined under any law as a class A  
37 felony or with a maximum sentence of at least twenty years, or both,  
38 and not covered under (f) of this subsection.

1 (b) One year for any felony defined under any law as a class B  
2 felony or with a maximum sentence of ten years, or both, and not  
3 covered under (f) of this subsection.

4 (c) Six months for any felony defined under any law as a class C  
5 felony or with a maximum sentence of five years, or both, and not  
6 covered under (f) of this subsection.

7 (d) If the offender is being sentenced under (a), (b), and/or (c)  
8 of this subsection for any deadly weapon enhancements and the offender  
9 has previously been sentenced for any deadly weapon enhancements after  
10 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
11 subsection (3) (a), (b), and/or (c) of this section, or both, any and  
12 all deadly weapon enhancements under this subsection shall be twice the  
13 amount of the enhancement listed.

14 (e) Notwithstanding any other provision of law, any and all deadly  
15 weapon enhancements under this section are mandatory, shall be served  
16 in total confinement, and shall not run concurrently with any other  
17 sentencing provisions.

18 (f) The deadly weapon enhancements in this section shall apply to  
19 all felony crimes except the following: Possession of a machine gun,  
20 possessing a stolen firearm, reckless endangerment in the first degree,  
21 theft of a firearm, unlawful possession of a firearm in the first and  
22 second degree, and use of a machine gun in a felony.

23 (g) If the presumptive sentence under this section exceeds the  
24 statutory maximum for the offense, the statutory maximum sentence shall  
25 be the presumptive sentence unless the offender is a persistent  
26 offender as defined in RCW 9.94A.030.

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

1 (a) Eighteen months for offenses committed under RCW  
2 69.50.401(a)(1) (i) or (ii) or 69.50.410;

3 (b) Fifteen months for offenses committed under RCW  
4 69.50.401(a)(1)(~~(+ii)-7~~) (iii), (~~(and)~~) (iv), and (v);

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

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

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

12 **Sec. 6.** RCW 13.40.0357 and 1995 c 395 s 3 are each amended to  
13 read as follows:

14 **SCHEDULE A**

15 **DESCRIPTION AND OFFENSE CATEGORY**

16	JUVENILE		JUVENILE DISPOSITION
17	DISPOSITION		CATEGORY FOR ATTEMPT,
18	OFFENSE		BAILJUMP, CONSPIRACY,
19	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION
20	.....		

21 **Arson and Malicious Mischief**

22	A	Arson 1 (9A.48.020)	B+
23	B	Arson 2 (9A.48.030)	C
24	C	Reckless Burning 1 (9A.48.040)	D
25	D	Reckless Burning 2 (9A.48.050)	E
26	B	Malicious Mischief 1 (9A.48.070)	C
27	C	Malicious Mischief 2 (9A.48.080)	D
28	D	Malicious Mischief 3 (<\$50 is	
29		E class) (9A.48.090)	E
30	E	Tampering with Fire Alarm	
31		Apparatus (9.40.100)	E
32	A	Possession of Incendiary Device	
33		(9.40.120)	B+

34 **Assault and Other Crimes**

35 **Involving Physical Harm**

36	A	Assault 1 (9A.36.011)	B+
----	---	-----------------------	----



1	B+	Assault 2 (9A.36.021)	C+
2	C+	Assault 3 (9A.36.031)	D+
3	D+	Assault 4 (9A.36.041)	E
4	D+	Reckless Endangerment	
5		(9A.36.050)	E
6	C+	Promoting Suicide Attempt	
7		(9A.36.060)	D+
8	D+	Coercion (9A.36.070)	E
9	C+	Custodial Assault (9A.36.100)	D+
10		<b>Burglary and Trespass</b>	
11	B+	Burglary 1 (9A.52.020)	C+
12	B	Burglary 2 (9A.52.030)	C
13	D	Burglary Tools (Possession of)	
14		(9A.52.060)	E
15	D	Criminal Trespass 1 (9A.52.070)	E
16	E	Criminal Trespass 2 (9A.52.080)	E
17	D	Vehicle Prowling (9A.52.100)	E
18		<b>Drugs</b>	
19	E	Possession/Consumption of Alcohol	
20		(66.44.270)	E
21	C	Illegally Obtaining Legend Drug	
22		(69.41.020)	D
23	C+	Sale, Delivery, Possession of Legend	
24		Drug with Intent to Sell	
25		(69.41.030)	D+
26	E	Possession of Legend Drug	
27		(69.41.030)	E
28	B+	Violation of Uniform Controlled	
29		Substances Act - Narcotic <u>or</u>	
30		<u>Methamphetamine Sale</u>	
31		(69.50.401(a)(1)(i) <u>or</u> (ii))	B+
32	C	Violation of Uniform Controlled	
33		Substances Act - Nonnarcotic Sale	
34		(69.50.401(a)(1)(( <del>ii</del> )) (iii))	C
35	E	Possession of Marihuana <40 grams	
36		(69.50.401(e))	E
37	C	Fraudulently Obtaining Controlled	
38		Substance (69.50.403)	C

1	C+	Sale of Controlled Substance	
2		for Profit (69.50.410)	C+
3	E	Unlawful Inhalation (9.47A.020)	E
4	B	Violation of Uniform Controlled	
5		Substances Act - Narcotic <u>or</u>	
6		<u>Methamphetamine</u>	
7		Counterfeit Substances	
8		(69.50.401(b)(1)(i) <u>or</u> (ii))	B
9	C	Violation of Uniform Controlled	
10		Substances Act - Nonnarcotic	
11		Counterfeit Substances	
12		(69.50.401(b)(1) ( <del>(ii)</del> ) (iii), (iv), <u>(v)</u> )	C
13	C	Violation of Uniform Controlled	
14		Substances Act - Possession of a	
15		Controlled Substance	
16		(69.50.401(d))	C
17	C	Violation of Uniform Controlled	
18		Substances Act - Possession of a	
19		Controlled Substance	
20		(69.50.401(c))	C
21		<b>Firearms and Weapons</b>	
22	E	Carrying Loaded Pistol Without	
23		Permit (9.41.050)	E
24	C	Possession of Firearms by	
25		Minor (<18) (9.41.040(1)( <del>(e)</del> ) <u>(b)(iv)</u> )	C
26	D+	Possession of Dangerous Weapon	
27		(9.41.250)	E
28	D	Intimidating Another Person by use	
29		of Weapon (9.41.270)	E
30		<b>Homicide</b>	
31	A+	Murder 1 (9A.32.030)	A
32	A+	Murder 2 (9A.32.050)	B+
33	B+	Manslaughter 1 (9A.32.060)	C+
34	C+	Manslaughter 2 (9A.32.070)	D+
35	B+	Vehicular Homicide (46.61.520)	C+
36		<b>Kidnapping</b>	
37	A	Kidnap 1 (9A.40.020)	B+
38	B+	Kidnap 2 (9A.40.030)	C+

1	C+	Unlawful Imprisonment	
2		(9A.40.040)	D+
3		<b>Obstructing Governmental Operation</b>	
4	E	Obstructing a	
5		Law Enforcement Officer	
6		(9A.76.020)	E
7	E	Resisting Arrest (9A.76.040)	E
8	B	Introducing Contraband 1	
9		(9A.76.140)	C
10	C	Introducing Contraband 2	
11		(9A.76.150)	D
12	E	Introducing Contraband 3	
13		(9A.76.160)	E
14	B+	Intimidating a Public Servant	
15		(9A.76.180)	C+
16	B+	Intimidating a Witness	
17		(9A.72.110)	C+
18		<b>Public Disturbance</b>	
19	C+	Riot with Weapon (9A.84.010)	D+
20	D+	Riot Without Weapon	
21		(9A.84.010)	E
22	E	Failure to Disperse (9A.84.020)	E
23	E	Disorderly Conduct (9A.84.030)	E
24		<b>Sex Crimes</b>	
25	A	Rape 1 (9A.44.040)	B+
26	A-	Rape 2 (9A.44.050)	B+
27	C+	Rape 3 (9A.44.060)	D+
28	A-	Rape of a Child 1 (9A.44.073)	B+
29	B	Rape of a Child 2 (9A.44.076)	C+
30	B	Incest 1 (9A.64.020(1))	C
31	C	Incest 2 (9A.64.020(2))	D
32	D+	Indecent Exposure	
33		(Victim <14) (9A.88.010)	E
34	E	Indecent Exposure	
35		(Victim 14 or over) (9A.88.010)	E
36	B+	Promoting Prostitution 1	
37		(9A.88.070)	C+

1	C+	Promoting Prostitution 2	
2		(9A.88.080)	D+
3	E	O & A (Prostitution) (9A.88.030)	E
4	B+	Indecent Liberties (9A.44.100)	C+
5	B+	Child Molestation 1 (9A.44.083)	C+
6	C+	Child Molestation 2 (9A.44.086)	C
7		<b>Theft, Robbery, Extortion, and Forgery</b>	
8	B	Theft 1 (9A.56.030)	C
9	C	Theft 2 (9A.56.040)	D
10	D	Theft 3 (9A.56.050)	E
11	B	Theft of Livestock (9A.56.080)	C
12	C	Forgery (9A.60.020)	D
13	A	Robbery 1 (9A.56.200)	B+
14	B+	Robbery 2 (9A.56.210)	C+
15	B+	Extortion 1 (9A.56.120)	C+
16	C+	Extortion 2 (9A.56.130)	D+
17	B	Possession of Stolen Property 1	
18		(9A.56.150)	C
19	C	Possession of Stolen Property 2	
20		(9A.56.160)	D
21	D	Possession of Stolen Property 3	
22		(9A.56.170)	E
23	C	Taking Motor Vehicle Without	
24		Owner's Permission (9A.56.070)	D
25		<b>Motor Vehicle Related Crimes</b>	
26	E	Driving Without a License	
27		(46.20.021)	E
28	C	Hit and Run - Injury	
29		(46.52.020(4))	D
30	D	Hit and Run-Attended	
31		(46.52.020(5))	E
32	E	Hit and Run-Unattended	
33		(46.52.010)	E
34	C	Vehicular Assault (46.61.522)	D
35	C	Attempting to Elude Pursuing	
36		Police Vehicle (46.61.024)	D
37	E	Reckless Driving (46.61.500)	E

1	D	Driving While Under the Influence	
2		(46.61.502 and 46.61.504)	E
3	D	Vehicle Prowling (9A.52.100)	E
4	C	Taking Motor Vehicle Without	
5		Owner's Permission (9A.56.070)	D
6		<b>Other</b>	
7	B	Bomb Threat (9.61.160)	C
8	C	Escape 1 (9A.76.110)	C
9	C	Escape 2 (9A.76.120)	C
10	D	Escape 3 (9A.76.130)	E
11	E	Obscene, Harassing, Etc.,	
12		Phone Calls (9.61.230)	E
13	A	Other Offense Equivalent to an	
14		Adult Class A Felony	B+
15	B	Other Offense Equivalent to an	
16		Adult Class B Felony	C
17	C	Other Offense Equivalent to an	
18		Adult Class C Felony	D
19	D	Other Offense Equivalent to an	
20		Adult Gross Misdemeanor	E
21	E	Other Offense Equivalent to an	
22		Adult Misdemeanor	E
23	V	Violation of Order of Restitution,	
24		Community Supervision, or	
25		Confinement (13.40.200)	V

26 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
27 and the standard range is established as follows:

28 1st escape or attempted escape during 12-month period - 4 weeks  
29 confinement

30 2nd escape or attempted escape during 12-month period - 8 weeks  
31 confinement

32 3rd and subsequent escape or attempted escape during 12-month  
33 period - 12 weeks confinement

34 If the court finds that a respondent has violated terms of an order,  
35 it may impose a penalty of up to 30 days of confinement.

1 **SCHEDULE B**

2 **PRIOR OFFENSE INCREASE FACTOR**

3 For use with all CURRENT OFFENSES occurring on or after July 1,  
4 1989.

5 **TIME SPAN**

6 OFFENSE	0-12	13-24	25 Months
7 CATEGORY	Months	Months	or More

8	.....			
9	A+	.9	.9	.9
10	A	.9	.8	.6
11	A-	.9	.8	.5
12	B+	.9	.7	.4
13	B	.9	.6	.3
14	C+	.6	.3	.2
15	C	.5	.2	.2
16	D+	.3	.2	.1
17	D	.2	.1	.1
18	E	.1	.1	.1

19 Prior history - Any offense in which a diversion agreement or counsel  
20 and release form was signed, or any offense which has been adjudicated  
21 by court to be correct prior to the commission of the current  
22 offense(s).

23 **SCHEDULE C**

24 **CURRENT OFFENSE POINTS**

25 For use with all CURRENT OFFENSES occurring on or after July 1,  
26 1989.

27 **AGE**

28 OFFENSE	12 &					
29 CATEGORY	Under	13	14	15	16	17

30 .....

31 A+	STANDARD RANGE 180-224 WEEKS					
32 A	250	300	350	375	375	375
33 A-	150	150	150	200	200	200
34 B+	110	110	120	130	140	150

1	B	45	45	50	50	57	57
2	C+	44	44	49	49	55	55
3	C	40	40	45	45	50	50
4	D+	16	18	20	22	24	26
5	D	14	16	18	20	22	24
6	E	4	4	4	6	8	10

7 **JUVENILE SENTENCING STANDARDS**  
8 **SCHEDULE D-1**

9 This schedule may only be used for minor/first offenders. After the  
10 determination is made that a youth is a minor/first offender, the court  
11 has the discretion to select sentencing option A, B, or C.

12 **MINOR/FIRST OFFENDER**

13 **OPTION A**  
14 **STANDARD RANGE**

15	Community			
16	Points	Community Supervision	Service Hours	Fine
17				
18	.....			
19	1-9	0-3 months	and/or 0-8	and/or 0-\$10
20	10-19	0-3 months	and/or 0-8	and/or 0-\$10
21	20-29	0-3 months	and/or 0-16	and/or 0-\$10
22	30-39	0-3 months	and/or 8-24	and/or 0-\$25
23	40-49	3-6 months	and/or 16-32	and/or 0-\$25
24	50-59	3-6 months	and/or 24-40	and/or 0-\$25
25	60-69	6-9 months	and/or 32-48	and/or 0-\$50
26	70-79	6-9 months	and/or 40-56	and/or 0-\$50
27	80-89	9-12 months	and/or 48-64	and/or 10-\$100
28	90-109	9-12 months	and/or 56-72	and/or 10-\$100

29 **OR**

30 **OPTION B**  
31 **STATUTORY OPTION**

- 32 0-12 Months Community Supervision
- 33 0-150 Hours Community Service

1 0-100 Fine  
 2 Posting of a Probation Bond  
 3 A term of community supervision with a maximum of 150 hours, \$100.00  
 4 fine, and 12 months supervision.

5 **OR**

6 **OPTION C**  
 7 **MANIFEST INJUSTICE**

8 When a term of community supervision would effectuate a manifest  
 9 injustice, another disposition may be imposed. When a judge imposes a  
 10 sentence of confinement exceeding 30 days, the court shall sentence the  
 11 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall  
 12 be used to determine the range.

13 **JUVENILE SENTENCING STANDARDS**  
 14 **SCHEDULE D-2**

15 This schedule may only be used for middle offenders. After the  
 16 determination is made that a youth is a middle offender, the court has  
 17 the discretion to select sentencing option A, B, or C.

18 **MIDDLE OFFENDER**

19 **OPTION A**  
 20 **STANDARD RANGE**

		Community Supervision	Community Service Hours	Fine	Confinement Days Weeks
21	Points				
22	.....				
23	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
24	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
25	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
26	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
27	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
28	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
29	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
30	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
31	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
32	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
33	110-129				8-12
34	130-149				13-16
35	150-199				21-28



1	200-249	30-40
2	250-299	52-65
3	300-374	80-100
4	375+	103-129

5 Middle offenders with 110 points or more do not have to be committed.  
6 They may be assigned community supervision under option B.  
7 All A+ offenses 180-224 weeks

8 **OR**

9 **OPTION B**  
10 **STATUTORY OPTION**

- 11 0-12 Months Community Supervision
- 12 0-150 Hours Community Service
- 13 0-100 Fine
- 14 Posting of a Probation Bond

15 If the offender has less than 110 points, the court may impose a  
16 determinate disposition of community supervision and/or up to 30 days  
17 confinement; in which case, if confinement has been imposed, the court  
18 shall state either aggravating or mitigating factors as set forth in  
19 RCW 13.40.150.

20 If the middle offender has 110 points or more, the court may  
21 impose a disposition under option A and may suspend the disposition on  
22 the condition that the offender serve up to thirty days of confinement  
23 and follow all conditions of community supervision. If the offender  
24 fails to comply with the terms of community supervision, the court may  
25 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended  
26 disposition and order execution of the disposition. If the court  
27 imposes confinement for offenders with 110 points or more, the court  
28 shall state either aggravating or mitigating factors set forth in RCW  
29 13.40.150.

30 **OR**

31 **OPTION C**  
32 **MANIFEST INJUSTICE**

33 If the court determines that a disposition under A or B would  
34 effectuate a manifest injustice, the court shall sentence the juvenile  
35 to a maximum term and the provisions of RCW 13.40.030(2) shall be used  
36 to determine the range.



1 69.50.401(a)(1) (i) or (ii), by a term of imprisonment of up to twice  
2 that authorized by RCW 69.50.401(a)(1) (i) or (ii), or by both.

3 (b) Any person eighteen years of age or over who violates RCW  
4 69.50.401(a) by distributing any other controlled substance listed in  
5 Schedules I, II, III, IV, and V to a person under eighteen years of age  
6 who is at least three years his junior is punishable by the fine  
7 authorized by RCW 69.50.401(a)(1)((~~ii~~)) (iii), ((~~iv~~)) (iv), or (v),  
8 by a term of imprisonment up to twice that authorized by RCW  
9 69.50.401(a)(1)((~~ii~~)) (iii), ((~~iv~~)) (iv), or (v), or both.

10 **Sec. 8.** RCW 69.50.415 and 1987 c 458 s 2 are each amended to read  
11 as follows:

12 (a) A person who unlawfully delivers a controlled substance in  
13 violation of RCW 69.50.401(a)(1) (i) ((~~iv~~)), (ii), or (iii) which  
14 controlled substance is subsequently used by the person to whom it was  
15 delivered, resulting in the death of the user, is guilty of controlled  
16 substances homicide.

17 (b) Controlled substances homicide is a class B felony punishable  
18 according to RCW 9A.20.021."

19 **SHB 2339** - S COMM AMD

20 By Committee on Law & Justice

21

22 On page 1, line 2 of the title, after "methamphetamine;" strike  
23 the remainder of the title and insert "amending RCW 69.50.401,  
24 9.94A.154, 9.94A.310, 13.40.0357, 69.50.406, and 69.50.415; reenacting  
25 and amending RCW 9.94A.320; adding a new section to chapter 69.50 RCW;  
26 and prescribing penalties."

--- END ---