

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2339

54th Legislature
1996 Regular Session

Passed by the House March 4, 1996
Yeas 95 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate February 27, 1996
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2339** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2339

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Schoesler, Sheldon, Foreman, Sheahan, Grant, Pelesky, Reams, McMorris, L. Thomas, Thompson, D. Schmidt, Fuhrman, Chandler, Sherstad, Hargrove, Smith, McMahan, Benton and Silver)

Read first time 01/25/96.

1 AN ACT Relating to manufacture, delivering, or possession of
2 methamphetamine; amending RCW 69.50.401, 9.94A.154, 9.94A.310,
3 13.40.0357, 69.50.406, and 69.50.415; reenacting and amending RCW
4 9.94A.320; adding a new section to chapter 69.50 RCW; and prescribing
5 penalties.

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

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.

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

2 (i) a controlled substance classified in Schedule I or II which is
3 a narcotic drug, is guilty of a crime and upon conviction may be
4 imprisoned for not more than ten years, or (A) fined not more than
5 twenty-five thousand dollars if the crime involved less than two
6 kilograms of the drug, or both such imprisonment and fine; or (B) if
7 the crime involved two or more kilograms of the drug, then fined not
8 more than one hundred thousand dollars for the first two kilograms and
9 not more than fifty dollars for each gram in excess of two kilograms,
10 or both such imprisonment and fine;

11 (ii) methamphetamine, is guilty of a crime and upon conviction may
12 be imprisoned for not more than ten years, or (A) fined not more than
13 twenty-five thousand dollars if the crime involved less than two
14 kilograms of the drug, or both such imprisonment and fine; or (B) if
15 the crime involved two or more kilograms of the drug, then fined not
16 more than one hundred thousand dollars for the first two kilograms and
17 not more than fifty dollars for each gram in excess of two kilograms,
18 or both such imprisonment and fine;

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

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

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

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

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

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

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

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

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

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

11 (c) It is unlawful, except as authorized in this chapter and
12 chapter 69.41 RCW, for any person to offer, arrange, or negotiate for
13 the sale, gift, delivery, dispensing, distribution, or administration
14 of a controlled substance to any person and then sell, give, deliver,
15 dispense, distribute, or administer to that person any other liquid,
16 substance, or material in lieu of such controlled substance. Any
17 person who violates this subsection is guilty of a crime and upon
18 conviction may be imprisoned for not more than five years, fined not
19 more than ten thousand dollars, or both.

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

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

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

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

1 Over 18 and deliver narcotic from Schedule
2 III, IV, or V or a nonnarcotic from
3 Schedule I-V to someone under 18 and
4 3 years junior (RCW 69.50.406)
5 Controlled Substance Homicide (RCW
6 69.50.415)
7 Sexual Exploitation (RCW 9.68A.040)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Vehicular Homicide, by being under the
11 influence of intoxicating liquor or
12 any drug (RCW 46.61.520)

13 VIII Arson 1 (RCW 9A.48.020)
14 Promoting Prostitution 1 (RCW 9A.88.070)
15 Selling for profit (controlled or
16 counterfeit) any controlled substance
17 (RCW 69.50.410)
18 Manufacture, deliver, or possess with
19 intent to deliver heroin or cocaine
20 (RCW 69.50.401(a)(1)(i))
21 Manufacture, deliver, or possess with
22 intent to deliver methamphetamine
23 (RCW 69.50.401(a)(1)(ii))
24 Possession of ephedrine or pseudoephedrine
25 with intent to manufacture
26 methamphetamine (RCW 69.50.---
27 (section 1 of this act))
28 Vehicular Homicide, by the operation of
29 any vehicle in a reckless manner (RCW
30 46.61.520)

31 VII Burglary 1 (RCW 9A.52.020)
32 Vehicular Homicide, by disregard for the
33 safety of others (RCW 46.61.520)
34 Introducing Contraband 1 (RCW 9A.76.140)
35 Indecent Liberties (without forcible
36 compulsion) (RCW 9A.44.100(1) (b) and
37 (c))
38 Child Molestation 2 (RCW 9A.44.086)

1 Dealing in depictions of minor engaged in
2 sexually explicit conduct (RCW
3 9.68A.050)
4 Sending, bringing into state depictions of
5 minor engaged in sexually explicit
6 conduct (RCW 9.68A.060)
7 Involving a minor in drug dealing (RCW
8 69.50.401(f))
9 Reckless Endangerment 1 (RCW 9A.36.045)
10 Unlawful Possession of a Firearm in the
11 first degree (RCW 9.41.040(1)(a))
12 VI Bribery (RCW 9A.68.010)
13 Manslaughter 2 (RCW 9A.32.070)
14 Rape of a Child 3 (RCW 9A.44.079)
15 Intimidating a Juror/Witness (RCW
16 9A.72.110, 9A.72.130)
17 Damaging building, etc., by explosion with
18 no threat to human being (RCW
19 70.74.280(2))
20 Endangering life and property by
21 explosives with no threat to human
22 being (RCW 70.74.270)
23 Incest 1 (RCW 9A.64.020(1))
24 Manufacture, deliver, or possess with
25 intent to deliver narcotics from
26 Schedule I or II (except heroin or
27 cocaine) (RCW 69.50.401(a)(1)(i))
28 Intimidating a Judge (RCW 9A.72.160)
29 Bail Jumping with Murder 1 (RCW
30 9A.76.170(2)(a))
31 Theft of a Firearm (RCW 9A.56.300)
32 V Persistent prison misbehavior (RCW
33 9.94.070)
34 Criminal Mistreatment 1 (RCW 9A.42.020)
35 Rape 3 (RCW 9A.44.060)
36 Sexual Misconduct with a Minor 1 (RCW
37 9A.44.093)
38 Child Molestation 3 (RCW 9A.44.089)

1 Kidnapping 2 (RCW 9A.40.030)
2 Extortion 1 (RCW 9A.56.120)
3 Incest 2 (RCW 9A.64.020(2))
4 Perjury 1 (RCW 9A.72.020)
5 Extortionate Extension of Credit (RCW
6 9A.82.020)
7 Advancing money or property for
8 extortionate extension of credit (RCW
9 9A.82.030)
10 Extortionate Means to Collect Extensions
11 of Credit (RCW 9A.82.040)
12 Rendering Criminal Assistance 1 (RCW
13 9A.76.070)
14 Bail Jumping with class A Felony (RCW
15 9A.76.170(2)(b))
16 Sexually Violating Human Remains (RCW
17 9A.44.105)
18 Delivery of imitation controlled substance
19 by person eighteen or over to person
20 under eighteen (RCW 69.52.030(2))
21 Possession of a Stolen Firearm (RCW
22 9A.56.310)

23 IV Residential Burglary (RCW 9A.52.025)
24 Theft of Livestock 1 (RCW 9A.56.080)
25 Robbery 2 (RCW 9A.56.210)
26 Assault 2 (RCW 9A.36.021)
27 Escape 1 (RCW 9A.76.110)
28 Arson 2 (RCW 9A.48.030)
29 Commercial Bribery (RCW 9A.68.060)
30 Bribing a Witness/Bribe Received by
31 Witness (RCW 9A.72.090, 9A.72.100)
32 Malicious Harassment (RCW 9A.36.080)
33 Threats to Bomb (RCW 9.61.160)
34 Willful Failure to Return from Furlough
35 (RCW 72.66.060)
36 Hit and Run « Injury Accident (RCW
37 46.52.020(4))
38 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except marijuana or
6 methamphetamines) (RCW
7 69.50.401(a)(1)(~~(ii)~~) (iii) through
8 (~~(iv)~~) (v))
9 Influencing Outcome of Sporting Event (RCW
10 9A.82.070)
11 Use of Proceeds of Criminal Profiteering
12 (RCW 9A.82.080 (1) and (2))
13 Knowingly Trafficking in Stolen Property
14 (RCW 9A.82.050(2))

15 III Criminal Mistreatment 2 (RCW 9A.42.030)
16 Extortion 2 (RCW 9A.56.130)
17 Unlawful Imprisonment (RCW 9A.40.040)
18 Assault 3 (RCW 9A.36.031)
19 Assault of a Child 3 (RCW 9A.36.140)
20 Custodial Assault (RCW 9A.36.100)
21 Unlawful possession of firearm in the
22 second degree (RCW 9.41.040(1)(b))
23 Harassment (RCW 9A.46.020)
24 Promoting Prostitution 2 (RCW 9A.88.080)
25 Willful Failure to Return from Work
26 Release (RCW 72.65.070)
27 Burglary 2 (RCW 9A.52.030)
28 Introducing Contraband 2 (RCW 9A.76.150)
29 Communication with a Minor for Immoral
30 Purposes (RCW 9.68A.090)
31 Patronizing a Juvenile Prostitute (RCW
32 9.68A.100)
33 Escape 2 (RCW 9A.76.120)
34 Perjury 2 (RCW 9A.72.030)
35 Bail Jumping with class B or C Felony (RCW
36 9A.76.170(2)(c))
37 Intimidating a Public Servant (RCW
38 9A.76.180)
39 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with
2 intent to deliver marijuana (RCW
3 69.50.401(a)(1)(~~(ii)~~) (iii))
4 Delivery of a material in lieu of a
5 controlled substance (RCW
6 69.50.401(c))
7 Manufacture, distribute, or possess with
8 intent to distribute an imitation
9 controlled substance (RCW
10 69.52.030(1))
11 Recklessly Trafficking in Stolen Property
12 (RCW 9A.82.050(1))
13 Theft of livestock 2 (RCW 9A.56.080)
14 Securities Act violation (RCW 21.20.400)

15 II Unlawful Practice of Law (RCW 2.48.180)
16 Malicious Mischief 1 (RCW 9A.48.070)
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Trafficking in Insurance Claims (RCW
21 48.30A.015)
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Health Care False Claims (RCW 48.80.030)
25 Possession of controlled substance that is
26 either heroin or narcotics from
27 Schedule I or II (RCW 69.50.401(d))
28 Possession of phencyclidine (PCP) (RCW
29 69.50.401(d))
30 Create, deliver, or possess a counterfeit
31 controlled substance (RCW
32 69.50.401(b))
33 Computer Trespass 1 (RCW 9A.52.110)
34 Escape from Community Custody (RCW
35 72.09.310)

1 I Theft 2 (RCW 9A.56.040)
2 Possession of Stolen Property 2 (RCW
3 9A.56.160)
4 Forgery (RCW 9A.60.020)
5 Taking Motor Vehicle Without Permission
6 (RCW 9A.56.070)
7 Vehicle Prowl 1 (RCW 9A.52.095)
8 Attempting to Elude a Pursuing Police
9 Vehicle (RCW 46.61.024)
10 Malicious Mischief 2 (RCW 9A.48.080)
11 Reckless Burning 1 (RCW 9A.48.040)
12 Unlawful Issuance of Checks or Drafts (RCW
13 9A.56.060)
14 Unlawful Use of Food Stamps (RCW 9.91.140
15 (2) and (3))
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forged Prescription (RCW 69.41.020)
19 Forged Prescription for a Controlled
20 Substance (RCW 69.50.403)
21 Possess Controlled Substance that is a
22 Narcotic from Schedule III, IV, or V
23 or Non-narcotic from Schedule I-V
24 (except phencyclidine) (RCW
25 69.50.401(d))

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

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

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

37 (b) Any person specified in writing by the prosecuting attorney.

1 Information regarding witnesses requesting the notice, information
2 regarding any other person specified in writing by the prosecuting
3 attorney to receive the notice, and the notice are confidential and
4 shall not be available to the inmate.

5 (2) If an inmate convicted of a serious drug offense escapes from
6 a correctional facility, the department of corrections shall
7 immediately notify, by the most reasonable and expedient means
8 available, the chief of police of the city and the sheriff of the
9 county in which the inmate resided immediately before the inmate's
10 arrest and conviction. If previously requested, the department shall
11 also notify the witnesses who are entitled to notice under this
12 section. If the inmate is recaptured, the department shall send notice
13 to the persons designated in this subsection as soon as possible but in
14 no event later than two working days after the department learns of
15 such recapture.

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

19 (4) The department of corrections shall send the notices required
20 by this section to the last address provided to the department by the
21 requesting party. The requesting party shall furnish the department
22 with a current address.

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

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

27 (1) TABLE 1

28 Sentencing Grid

29 SERIOUSNESS

30 SCORE OFFENDER SCORE

31 9 or

32 0 1 2 3 4 5 6 7 8 more

33

34 XV Life Sentence without Parole/Death Penalty

35

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 July 23, 1995,
30 if the offender or an accomplice was armed with a firearm as defined in
31 RCW 9.41.010 and the offender is being sentenced for one of the crimes
32 listed in this subsection as eligible for any firearm enhancements
33 based on the classification of the completed felony crime. If the
34 offender or an accomplice was armed with a firearm as defined in RCW
35 9.41.010 and the offender is being sentenced for an anticipatory
36 offense under chapter 9A.28 RCW to commit one of the crimes listed in
37 this subsection as eligible for any firearm enhancements, the following
38 additional times shall be added to the presumptive sentence determined

1 under subsection (2) of this section based on the felony crime of
2 conviction as classified under RCW 9A.28.020:

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

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

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

12 (d) If the offender is being sentenced for any firearm
13 enhancements under (a), (b), and/or (c) of this subsection and the
14 offender has previously been sentenced for any deadly weapon
15 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
16 subsection or subsection (4) (a), (b), and/or (c) of this section, or
17 both, any and all firearm enhancements under this subsection shall be
18 twice the amount of the enhancement listed.

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

23 (f) The firearm enhancements in this section shall apply to all
24 felony crimes except the following: Possession of a machine gun,
25 possessing a stolen firearm, reckless endangerment in the first degree,
26 theft of a firearm, unlawful possession of a firearm in the first and
27 second degree, and use of a machine gun in a felony.

28 (g) If the presumptive sentence under this section exceeds the
29 statutory maximum for the offense, the statutory maximum sentence shall
30 be the presumptive sentence unless the offender is a persistent
31 offender as defined in RCW 9.94A.030.

32 (4) The following additional times shall be added to the
33 presumptive sentence for felony crimes committed after July 23, 1995,
34 if the offender or an accomplice was armed with a deadly weapon as
35 defined in this chapter other than a firearm as defined in RCW 9.41.010
36 and the offender is being sentenced for one of the crimes listed in
37 this subsection as eligible for any deadly weapon enhancements based on
38 the classification of the completed felony crime. If the offender or
39 an accomplice was armed with a deadly weapon other than a firearm as

1 defined in RCW 9.41.010 and the offender is being sentenced for an
2 anticipatory offense under chapter 9A.28 RCW to commit one of the
3 crimes listed in this subsection as eligible for any deadly weapon
4 enhancements, the following additional times shall be added to the
5 presumptive sentence determined under subsection (2) of this section
6 based on the felony crime of conviction as classified under RCW
7 9A.28.020:

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

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

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

17 (d) If the offender is being sentenced under (a), (b), and/or (c)
18 of this subsection for any deadly weapon enhancements and the offender
19 has previously been sentenced for any deadly weapon enhancements after
20 July 23, 1995, under (a), (b), and/or (c) of this subsection or
21 subsection (3) (a), (b), and/or (c) of this section, or both, any and
22 all deadly weapon enhancements under this subsection shall be twice the
23 amount of the enhancement listed.

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

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

33 (g) If the presumptive sentence under this section exceeds the
34 statutory maximum for the offense, the statutory maximum sentence shall
35 be the presumptive sentence unless the offender is a persistent
36 offender as defined in RCW 9.94A.030.

37 (5) The following additional times shall be added to the
38 presumptive sentence if the offender or an accomplice committed the
39 offense while in a county jail or state correctional facility as that

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

10 (a) Eighteen months for offenses committed under RCW
 11 69.50.401(a)(1) (i) or (ii) or 69.50.410;

12 (b) Fifteen months for offenses committed under RCW
 13 69.50.401(a)(1)(~~(ii)~~) (iii), ~~(and)~~ (iv), and (v);

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

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

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

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

23 **SCHEDULE A**

24 **DESCRIPTION AND OFFENSE CATEGORY**

25	JUVENILE	JUVENILE DISPOSITION
26	DISPOSITION	CATEGORY FOR ATTEMPT,
27	OFFENSE	BAILJUMP, CONSPIRACY,
28	CATEGORY	DESCRIPTION (RCW CITATION)
29		OR SOLICITATION

30 **Arson and Malicious Mischief**

31	A	Arson 1 (9A.48.020)	B+
32	B	Arson 2 (9A.48.030)	C
33	C	Reckless Burning 1 (9A.48.040)	D
34	D	Reckless Burning 2 (9A.48.050)	E
35	B	Malicious Mischief 1 (9A.48.070)	C
36	C	Malicious Mischief 2 (9A.48.080)	D

1	D	Malicious Mischief 3 (<\$50 is	
2		E class) (9A.48.090)	E
3	E	Tampering with Fire Alarm	
4		Apparatus (9.40.100)	E
5	A	Possession of Incendiary Device	
6		(9.40.120)	B+
7		Assault and Other Crimes	
8		Involving Physical Harm	
9	A	Assault 1 (9A.36.011)	B+
10	B+	Assault 2 (9A.36.021)	C+
11	C+	Assault 3 (9A.36.031)	D+
12	D+	Assault 4 (9A.36.041)	E
13	D+	Reckless Endangerment	
14		(9A.36.050)	E
15	C+	Promoting Suicide Attempt	
16		(9A.36.060)	D+
17	D+	Coercion (9A.36.070)	E
18	C+	Custodial Assault (9A.36.100)	D+
19		Burglary and Trespass	
20	B+	Burglary 1 (9A.52.020)	C+
21	B	Burglary 2 (9A.52.030)	C
22	D	Burglary Tools (Possession of)	
23		(9A.52.060)	E
24	D	Criminal Trespass 1 (9A.52.070)	E
25	E	Criminal Trespass 2 (9A.52.080)	E
26	D	Vehicle Prowling (9A.52.100)	E
27		Drugs	
28	E	Possession/Consumption of Alcohol	
29		(66.44.270)	E
30	C	Illegally Obtaining Legend Drug	
31		(69.41.020)	D
32	C+	Sale, Delivery, Possession of Legend	
33		Drug with Intent to Sell	
34		(69.41.030)	D+
35	E	Possession of Legend Drug	
36		(69.41.030)	E

1	B+	Violation of Uniform Controlled	
2		Substances Act - Narcotic <u>or</u>	
3		<u>Methamphetamine</u> Sale	
4		(69.50.401(a)(1)(i) <u>or</u> (ii))	B+
5	C	Violation of Uniform Controlled	
6		Substances Act - Nonnarcotic Sale	
7		(69.50.401(a)(1)((ii)) (iii))	C
8	E	Possession of Marihuana <40 grams	
9		(69.50.401(e))	E
10	C	Fraudulently Obtaining Controlled	
11		Substance (69.50.403)	C
12	C+	Sale of Controlled Substance	
13		for Profit (69.50.410)	C+
14	E	Unlawful Inhalation (9.47A.020)	E
15	B	Violation of Uniform Controlled	
16		Substances Act - Narcotic <u>or</u>	
17		<u>Methamphetamine</u>	
18		Counterfeit Substances	
19		(69.50.401(b)(1)(i) <u>or</u> (ii))	B
20	C	Violation of Uniform Controlled	
21		Substances Act - Nonnarcotic	
22		Counterfeit Substances	
23		(69.50.401(b)(1) ((ii)) (iii), (iv), <u>(v)</u>)	C
24	C	Violation of Uniform Controlled	
25		Substances Act - Possession of a	
26		Controlled Substance	
27		(69.50.401(d))	C
28	C	Violation of Uniform Controlled	
29		Substances Act - Possession of a	
30		Controlled Substance	
31		(69.50.401(c))	C
32		Firearms and Weapons	
33	E	Carrying Loaded Pistol Without	
34		Permit (9.41.050)	E
35	C	Possession of Firearms by	
36		Minor (<18) (9.41.040(1)((e)) <u>(b)(iv)</u>)	C
37	D+	Possession of Dangerous Weapon	
38		(9.41.250)	E

1	D	Intimidating Another Person by use	
2		of Weapon (9A.41.270)	E
3		Homicide	
4	A+	Murder 1 (9A.32.030)	A
5	A+	Murder 2 (9A.32.050)	B+
6	B+	Manslaughter 1 (9A.32.060)	C+
7	C+	Manslaughter 2 (9A.32.070)	D+
8	B+	Vehicular Homicide (46.61.520)	C+
9		Kidnapping	
10	A	Kidnap 1 (9A.40.020)	B+
11	B+	Kidnap 2 (9A.40.030)	C+
12	C+	Unlawful Imprisonment	
13		(9A.40.040)	D+
14		Obstructing Governmental Operation	
15	E	Obstructing a	
16		Law Enforcement Officer	
17		(9A.76.020)	E
18	E	Resisting Arrest (9A.76.040)	E
19	B	Introducing Contraband 1	
20		(9A.76.140)	C
21	C	Introducing Contraband 2	
22		(9A.76.150)	D
23	E	Introducing Contraband 3	
24		(9A.76.160)	E
25	B+	Intimidating a Public Servant	
26		(9A.76.180)	C+
27	B+	Intimidating a Witness	
28		(9A.72.110)	C+
29		Public Disturbance	
30	C+	Riot with Weapon (9A.84.010)	D+
31	D+	Riot Without Weapon	
32		(9A.84.010)	E
33	E	Failure to Disperse (9A.84.020)	E
34	E	Disorderly Conduct (9A.84.030)	E
35		Sex Crimes	
36	A	Rape 1 (9A.44.040)	B+
37	A-	Rape 2 (9A.44.050)	B+

1	C+	Rape 3 (9A.44.060)	D+
2	A-	Rape of a Child 1 (9A.44.073)	B+
3	B	Rape of a Child 2 (9A.44.076)	C+
4	B	Incest 1 (9A.64.020(1))	C
5	C	Incest 2 (9A.64.020(2))	D
6	D+	Indecent Exposure	
7		(Victim <14) (9A.88.010)	E
8	E	Indecent Exposure	
9		(Victim 14 or over) (9A.88.010)	E
10	B+	Promoting Prostitution 1	
11		(9A.88.070)	C+
12	C+	Promoting Prostitution 2	
13		(9A.88.080)	D+
14	E	O & A (Prostitution) (9A.88.030)	E
15	B+	Indecent Liberties (9A.44.100)	C+
16	B+	Child Molestation 1 (9A.44.083)	C+
17	C+	Child Molestation 2 (9A.44.086)	C
18		Theft, Robbery, Extortion, and Forgery	
19	B	Theft 1 (9A.56.030)	C
20	C	Theft 2 (9A.56.040)	D
21	D	Theft 3 (9A.56.050)	E
22	B	Theft of Livestock (9A.56.080)	C
23	C	Forgery (9A.60.020)	D
24	A	Robbery 1 (9A.56.200)	B+
25	B+	Robbery 2 (9A.56.210)	C+
26	B+	Extortion 1 (9A.56.120)	C+
27	C+	Extortion 2 (9A.56.130)	D+
28	B	Possession of Stolen Property 1	
29		(9A.56.150)	C
30	C	Possession of Stolen Property 2	
31		(9A.56.160)	D
32	D	Possession of Stolen Property 3	
33		(9A.56.170)	E
34	C	Taking Motor Vehicle Without	
35		Owner's Permission (9A.56.070)	D
36		Motor Vehicle Related Crimes	
37	E	Driving Without a License	
38		(46.20.021)	E

1	C	Hit and Run - Injury	
2		(46.52.020(4))	D
3	D	Hit and Run-Attended	
4		(46.52.020(5))	E
5	E	Hit and Run-Unattended	
6		(46.52.010)	E
7	C	Vehicular Assault (46.61.522)	D
8	C	Attempting to Elude Pursuing	
9		Police Vehicle (46.61.024)	D
10	E	Reckless Driving (46.61.500)	E
11	D	Driving While Under the Influence	
12		(46.61.502 and 46.61.504)	E
13	D	Vehicle Prowling (9A.52.100)	E
14	C	Taking Motor Vehicle Without	
15		Owner's Permission (9A.56.070)	D
16		Other	
17	B	Bomb Threat (9.61.160)	C
18	C	Escape 1 (9A.76.110)	C
19	C	Escape 2 (9A.76.120)	C
20	D	Escape 3 (9A.76.130)	E
21	E	Obscene, Harassing, Etc.,	
22		Phone Calls (9.61.230)	E
23	A	Other Offense Equivalent to an	
24		Adult Class A Felony	B+
25	B	Other Offense Equivalent to an	
26		Adult Class B Felony	C
27	C	Other Offense Equivalent to an	
28		Adult Class C Felony	D
29	D	Other Offense Equivalent to an	
30		Adult Gross Misdemeanor	E
31	E	Other Offense Equivalent to an	
32		Adult Misdemeanor	E
33	V	Violation of Order of Restitution,	
34		Community Supervision, or	
35		Confinement (13.40.200)	V

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

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

3 2nd escape or attempted escape during 12-month period - 8 weeks
4 confinement

5 3rd and subsequent escape or attempted escape during 12-month
6 period - 12 weeks confinement

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

9 **SCHEDULE B**

10 **PRIOR OFFENSE INCREASE FACTOR**

11 For use with all CURRENT OFFENSES occurring on or after July 1,
12 1989.

13 **TIME SPAN**

14	OFFENSE	0-12	13-24	25 Months
15	CATEGORY	Months	Months	or More
16			
17	A+	.9	.9	.9
18	A	.9	.8	.6
19	A-	.9	.8	.5
20	B+	.9	.7	.4
21	B	.9	.6	.3
22	C+	.6	.3	.2
23	C	.5	.2	.2
24	D+	.3	.2	.1
25	D	.2	.1	.1
26	E	.1	.1	.1

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

31 **SCHEDULE C**

32 **CURRENT OFFENSE POINTS**

33 For use with all CURRENT OFFENSES occurring on or after July 1,
34 1989.

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AGE

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
A+	STANDARD RANGE 180-224 WEEKS					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55
C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10

**JUVENILE SENTENCING STANDARDS
SCHEDULE D-1**

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

MINOR/FIRST OFFENDER

**OPTION A
STANDARD RANGE**

Points	Community		
	Community Supervision	Service Hours	Fine
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100

1 90-109 9-12 months and/or 56-72 and/or 10-\$100

2 OR

3 OPTION B
4 STATUTORY OPTION

- 5 0-12 Months Community Supervision
- 6 0-150 Hours Community Service
- 7 0-100 Fine
- 8 Posting of a Probation Bond

9 A term of community supervision with a maximum of 150 hours, \$100.00
10 fine, and 12 months supervision.

11 OR

12 OPTION C
13 MANIFEST INJUSTICE

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

19 JUVENILE SENTENCING STANDARDS
20 SCHEDULE D-2

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

24 MIDDLE OFFENDER

25 OPTION A
26 STANDARD RANGE

		Community			
	Community	Service			Confinement
	Points	Supervision	Hours	Fine	Days Weeks
27
28					
29	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
30	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
31	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
32					
33					

1	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
2	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
3	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
4	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
5	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
6	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
7	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
8	110-129				8-12
9	130-149				13-16
10	150-199				21-28
11	200-249				30-40
12	250-299				52-65
13	300-374				80-100
14	375+				103-129

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

18 **OR**

19 **OPTION B**
20 **STATUTORY OPTION**

- 21 0-12 Months Community Supervision
- 22 0-150 Hours Community Service
- 23 0-100 Fine
- 24 Posting of a Probation Bond

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

30 If the middle offender has 110 points or more, the court may
31 impose a disposition under option A and may suspend the disposition on
32 the condition that the offender serve up to thirty days of confinement
33 and follow all conditions of community supervision. If the offender
34 fails to comply with the terms of community supervision, the court may
35 impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended
36 disposition and order execution of the disposition. If the court
37 imposes confinement for offenders with 110 points or more, the court
38 shall state either aggravating or mitigating factors set forth in RCW
39 13.40.150.

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OR

OPTION C

MANIFEST INJUSTICE

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

JUVENILE SENTENCING STANDARDS

SCHEDULE D-3

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

SERIOUS OFFENDER

OPTION A

STANDARD RANGE

Points	Institution Time
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375+	103-129 weeks
All A+ Offenses	180-224 weeks

OR

OPTION B

MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision including posting a probation bond or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30

1 days, the court shall sentence the juvenile to a maximum term, and the
2 provisions of RCW 13.40.030(2) shall be used to determine the range.

3 **Sec. 7.** RCW 69.50.406 and 1987 c 458 s 5 are each amended to read
4 as follows:

5 (a) Any person eighteen years of age or over who violates RCW
6 69.50.401(a) by distributing a controlled substance listed in Schedules
7 I or II which is a narcotic drug or methamphetamine to a person under
8 eighteen years of age is punishable by the fine authorized by RCW
9 69.50.401(a)(1) (i) or (ii), by a term of imprisonment of up to twice
10 that authorized by RCW 69.50.401(a)(1) (i) or (ii), or by both.

11 (b) Any person eighteen years of age or over who violates RCW
12 69.50.401(a) by distributing any other controlled substance listed in
13 Schedules I, II, III, IV, and V to a person under eighteen years of age
14 who is at least three years his junior is punishable by the fine
15 authorized by RCW 69.50.401(a)(1)((~~ii~~)) (iii), (~~iv~~), or (v),
16 by a term of imprisonment up to twice that authorized by RCW
17 69.50.401(a)(1)((~~ii~~)) (iii), (~~iv~~), or (v), or both.

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

20 (a) A person who unlawfully delivers a controlled substance in
21 violation of RCW 69.50.401(a)(1) (i) (~~ii~~), (ii), or (iii) which
22 controlled substance is subsequently used by the person to whom it was
23 delivered, resulting in the death of the user, is guilty of controlled
24 substances homicide.

25 (b) Controlled substances homicide is a class B felony punishable
26 according to RCW 9A.20.021.

--- END ---