

1 **SHB 1214 - H AMD 043 ADOPTED 3-11-97**

2 By Representative Costa

3 On page 10, after line 5, insert the following sections:

4 **Sec. 2.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to
5 read as follows:

6 (1) A sentencing guidelines commission is established as an
7 agency of state government.

8 (2) The legislature finds that the commission, having
9 accomplished its original statutory directive to implement this
10 chapter, and having expertise in sentencing practice and policies,
11 shall:

12 (a) Evaluate state sentencing policy, to include whether the
13 sentencing ranges and standards are consistent with and further:

14 (i) The purposes of this chapter as defined in RCW 9.94A.010;
15 and

16 (ii) The intent of the legislature to emphasize confinement
17 for the violent offender and alternatives to confinement for the
18 nonviolent offender.

19 The commission shall provide the governor and the legislature
20 with its evaluation and recommendations under this subsection not
21 later than December 1, 1996, and every two years thereafter;

22 (b) Recommend to the legislature revisions or modifications to
23 the standard sentence ranges, state sentencing policy, prosecuting
24 standards, and other standards. If implementation of the revisions
25 or modifications would result in exceeding the capacity of
26 correctional facilities, then the commission shall accompany its
27 recommendation with an additional list of standard sentence ranges
28 which are consistent with correction capacity;

29 (c) Study the existing criminal code and from time to time
30 make recommendations to the legislature for modification;

31 (d)(i) Serve as a clearinghouse and information center for the
32 collection, preparation, analysis, and dissemination of information
33 on state and local adult and juvenile sentencing practices; (ii)
34 develop and maintain a computerized adult and juvenile sentencing
35 information system by individual superior court judge consisting of
36 offender, offense, history, and sentence information entered from

1 judgment and sentence forms for all adult felons; and (iii) conduct
2 ongoing research regarding adult and juvenile sentencing
3 guidelines, use of total confinement and alternatives to total
4 confinement, plea bargaining, and other matters relating to the
5 improvement of the adult criminal justice system and the juvenile
6 justice system;

7 (e) Assume the powers and duties of the juvenile disposition
8 standards commission after June 30, 1996;

9 (f) Evaluate the effectiveness of existing disposition
10 standards and related statutes in implementing policies set forth
11 in RCW 13.40.010 generally, specifically review the guidelines
12 relating to the confinement of minor and first offenders as well as
13 the use of diversion, and review the application of current and
14 proposed juvenile sentencing standards and guidelines for potential
15 adverse impacts on the sentencing outcomes of racial and ethnic
16 minority youth;

17 (g) Solicit the comments and suggestions of the juvenile
18 justice community concerning disposition standards, and make
19 recommendations to the legislature regarding revisions or
20 modifications of the standards in accordance with RCW 9.94A.045.
21 The evaluations shall be submitted to the legislature on December
22 1 of each odd-numbered year. The department of social and health
23 services shall provide the commission with available data
24 concerning the implementation of the disposition standards and
25 related statutes and their effect on the performance of the
26 department's responsibilities relating to juvenile offenders, and
27 with recommendations for modification of the disposition standards.
28 The office of the administrator for the courts shall provide the
29 commission with available data on diversion and dispositions of
30 juvenile offenders under chapter 13.40 RCW; and

31 (h) Not later than December 1, 1997, and at least every two
32 years thereafter, based on available information, report to the
33 governor and the legislature on:

34 (i) Racial disproportionality in juvenile and adult
35 sentencing;

36 (ii) The capacity of state and local juvenile and adult
37 facilities and resources; and

38 (iii) Recidivism information on adult and juvenile offenders.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) The standard sentence ranges of total and partial confinement under this chapter are subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness category XIII under RCW 9.94A.310, the minimum term in the range shall be no less than fifty percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(5) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW.

Sec. 3. RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read as follows:

(1)

TABLE 1

Sentencing Grid

SERIOUSNESS

SCORE

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
XV	Life Sentence without Parole/Death Penalty									
XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548

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1											
2	XIII	(12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
3		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
4		164-	178-	192-	205-	219-	233-	260-	288-	342-	397-
5		<u>14y4m</u>	<u>15y4m</u>	<u>16y2m</u>	<u>17y</u>	<u>17y11m</u>	<u>18y9m</u>	<u>20y5m</u>	<u>22y2m</u>	<u>25y7m</u>	<u>29y</u>
6		<u>123-</u>	<u>134-</u>	<u>144-</u>	<u>154-</u>	<u>165-</u>	<u>175-</u>	<u>195-</u>	<u>216-</u>	<u>257-</u>	<u>298-</u>
7		<u>220</u>	<u>234</u>	<u>244</u>	<u>254</u>	<u>265</u>	<u>275</u>	<u>295</u>	<u>316</u>	<u>357</u>	<u>397</u>
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											

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1	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
2		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
3		12	14	17	20	29	43	54	68	82	96
4	<hr/>										
5	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
6		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
7		9	12	14	17	20	29	43	57	70	84
8	<hr/>										
9	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
10		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
11		3	8	12	12	16	22	29	43	57	68
12	<hr/>										
13	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
14		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
15		Days	6	9	12	14	18	22	29	43	57
16	<hr/>										
17	I		3m	4m	5m	8m	13m	16m	20m	2y2m	
18		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
19		Days	Days	5	6	8	12	14	18	22	29
20	<hr/>										

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

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

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

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

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

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

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

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

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

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

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

1 (4) The following additional times shall be added to the
2 presumptive sentence for felony crimes committed after July 23,
3 1995, if the offender or an accomplice was armed with a deadly
4 weapon as defined in this chapter other than a firearm as defined
5 in RCW 9.41.010 and the offender is being sentenced for one of the
6 crimes listed in this subsection as eligible for any deadly weapon
7 enhancements based on the classification of the completed felony
8 crime. If the offender or an accomplice was armed with a deadly
9 weapon other than a firearm as defined in RCW 9.41.010 and the
10 offender is being sentenced for an anticipatory offense under
11 chapter 9A.28 RCW to commit one of the crimes listed in this
12 subsection as eligible for any deadly weapon enhancements, the
13 following additional times shall be added to the presumptive
14 sentence determined under subsection (2) of this section based on
15 the felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

25 (d) If the offender is being sentenced under (a), (b), and/or
26 (c) of this subsection for any deadly weapon enhancements and the
27 offender has previously been sentenced for any deadly weapon
28 enhancements after July 23, 1995, under (a), (b), and/or (c) of
29 this subsection or subsection (3) (a), (b), and/or (c) of this
30 section, or both, any and all deadly weapon enhancements under this
31 subsection shall be twice the amount of the enhancement listed.

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

36 (f) The deadly weapon enhancements in this section shall apply
37 to all felony crimes except the following: Possession of a machine
38 gun, possessing a stolen firearm, reckless endangerment in the

1 first degree, theft of a firearm, unlawful possession of a firearm
2 in the first and second degree, and use of a machine gun in a
3 felony.

4 (g) If the presumptive sentence under this section exceeds the
5 statutory maximum for the offense, the statutory maximum sentence
6 shall be the presumptive sentence unless the offender is a
7 persistent offender as defined in RCW 9.94A.030.

8 (5) The following additional times shall be added to the
9 presumptive sentence if the offender or an accomplice committed the
10 offense while in a county jail or state correctional facility as
11 that term is defined in this chapter and the offender is being
12 sentenced for one of the crimes listed in this subsection. If the
13 offender or an accomplice committed one of the crimes listed in
14 this subsection while in a county jail or state correctional
15 facility as that term is defined in this chapter, and the offender
16 is being sentenced for an anticipatory offense under chapter 9A.28
17 RCW to commit one of the crimes listed in this subsection, the
18 following additional times shall be added to the presumptive
19 sentence determined under subsection (2) of this section:

20 (a) Eighteen months for offenses committed under RCW
21 69.50.401(a)(1) (i) or (ii) or 69.50.410;

22 (b) Fifteen months for offenses committed under RCW
23 69.50.401(a)(1) (iii), (iv), and (v);

24 (c) Twelve months for offenses committed under RCW
25 69.50.401(d).

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

29 (6) An additional twenty-four months shall be added to the
30 presumptive sentence for any ranked offense involving a violation
31 of chapter 69.50 RCW if the offense was also a violation of RCW
32 69.50.435.-

33 RENUMBER THE REMAINING SECTIONS CONSECUTIVELY, CORRECT
34 INTERNAL REFERENCES ACCORDINGLY, AND CORRECT THE TITLE

EFFECT: The standard range for murder in the second degree is broadened. The low end of the standard range remains the same as under current law. However, the top end of the standard range is increased so that the top end of the range is closer to the bottom end of the range for murder in the first degree. A related sentencing rule is amended to avoid a technical problem. These provisions were in the original HB 1214.