

2 SHB 1150 - S AMD  
3 By Committee on Law & Justice

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.36 RCW  
8 to read as follows:

9 In sentencing an offender convicted of a violation of assault in  
10 the fourth degree under RCW 9A.36.041, the court shall consider as an  
11 aggravating factor the fact that the offender assaulted a sports  
12 official: (1) Who was performing his or her sports official duties at  
13 the time of the assault; or (2) after the sports official performed his  
14 or her sports official duties at an athletic event if the assault  
15 occurred within the confines or immediate vicinity of the athletic  
16 facility at which the event occurred. For purposes of this section,  
17 "sports official" means an individual who serves as a referee, umpire,  
18 or linesman, or who serves in a similar capacity but might be known by  
19 another title, and who is registered with or is a member of a local,  
20 state, regional, or national organization engaged in part in providing  
21 education and training to sports officials.

22 **Sec. 2.** RCW 9.94A.390 and 1997 c 52 s 4 are each amended to read  
23 as follows:

24 If the sentencing court finds that an exceptional sentence outside  
25 the standard range should be imposed in accordance with RCW  
26 9.94A.120(2), the sentence is subject to review only as provided for in  
27 RCW 9.94A.210(4).

28 The following are illustrative factors which the court may consider  
29 in the exercise of its discretion to impose an exceptional sentence.  
30 The following are illustrative only and are not intended to be  
31 exclusive reasons for exceptional sentences.

32 (1) Mitigating Circumstances

33 (a) To a significant degree, the victim was an initiator, willing  
34 participant, aggressor, or provoker of the incident.

1 (b) Before detection, the defendant compensated, or made a good  
2 faith effort to compensate, the victim of the criminal conduct for any  
3 damage or injury sustained.

4 (c) The defendant committed the crime under duress, coercion,  
5 threat, or compulsion insufficient to constitute a complete defense but  
6 which significantly affected his or her conduct.

7 (d) The defendant, with no apparent predisposition to do so, was  
8 induced by others to participate in the crime.

9 (e) The defendant's capacity to appreciate the wrongfulness of his  
10 or her conduct or to conform his or her conduct to the requirements of  
11 the law, was significantly impaired (voluntary use of drugs or alcohol  
12 is excluded).

13 (f) The offense was principally accomplished by another person and  
14 the defendant manifested extreme caution or sincere concern for the  
15 safety or well-being of the victim.

16 (g) The operation of the multiple offense policy of RCW 9.94A.400  
17 results in a presumptive sentence that is clearly excessive in light of  
18 the purpose of this chapter, as expressed in RCW 9.94A.010.

19 (h) The defendant or the defendant's children suffered a continuing  
20 pattern of physical or sexual abuse by the victim of the offense and  
21 the offense is a response to that abuse.

22 (2) Aggravating Circumstances

23 (a) The defendant's conduct during the commission of the current  
24 offense manifested deliberate cruelty to the victim.

25 (b) The defendant knew or should have known that the victim of the  
26 current offense was particularly vulnerable or incapable of resistance  
27 due to extreme youth, advanced age, disability, or ill health.

28 (c) The current offense was a violent offense, and the defendant  
29 knew that the victim of the current offense was pregnant.

30 (d) The current offense was a major economic offense or series of  
31 offenses, so identified by a consideration of any of the following  
32 factors:

33 (i) The current offense involved multiple victims or multiple  
34 incidents per victim;

35 (ii) The current offense involved attempted or actual monetary loss  
36 substantially greater than typical for the offense;

37 (iii) The current offense involved a high degree of sophistication  
38 or planning or occurred over a lengthy period of time; or

1 (iv) The defendant used his or her position of trust, confidence,  
2 or fiduciary responsibility to facilitate the commission of the current  
3 offense.

4 (e) The current offense was a major violation of the Uniform  
5 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to  
6 trafficking in controlled substances, which was more onerous than the  
7 typical offense of its statutory definition: The presence of ANY of  
8 the following may identify a current offense as a major VUCSA:

9 (i) The current offense involved at least three separate  
10 transactions in which controlled substances were sold, transferred, or  
11 possessed with intent to do so;

12 (ii) The current offense involved an attempted or actual sale or  
13 transfer of controlled substances in quantities substantially larger  
14 than for personal use;

15 (iii) The current offense involved the manufacture of controlled  
16 substances for use by other parties;

17 (iv) The circumstances of the current offense reveal the offender  
18 to have occupied a high position in the drug distribution hierarchy;

19 (v) The current offense involved a high degree of sophistication or  
20 planning or occurred over a lengthy period of time or involved a broad  
21 geographic area of disbursement; or

22 (vi) The offender used his or her position or status to facilitate  
23 the commission of the current offense, including positions of trust,  
24 confidence or fiduciary responsibility (e.g., pharmacist, physician, or  
25 other medical professional).

26 (f) The current offense included a finding of sexual motivation  
27 pursuant to RCW 9.94A.127.

28 (g) The offense was part of an ongoing pattern of sexual abuse of  
29 the same victim under the age of eighteen years manifested by multiple  
30 incidents over a prolonged period of time.

31 (h) The current offense involved domestic violence, as defined in  
32 RCW 10.99.020 and one or more of the following was present:

33 (i) The offense was part of an ongoing pattern of psychological,  
34 physical, or sexual abuse of the victim manifested by multiple  
35 incidents over a prolonged period of time;

36 (ii) The offense occurred within sight or sound of the victim's or  
37 the offender's minor children under the age of eighteen years; or

38 (iii) The offender's conduct during the commission of the current  
39 offense manifested deliberate cruelty or intimidation of the victim.

1 (i) The operation of the multiple offense policy of RCW 9.94A.400  
2 results in a presumptive sentence that is clearly too lenient in light  
3 of the purpose of this chapter, as expressed in RCW 9.94A.010.

4 (j) The defendant's prior unscored misdemeanor or prior unscored  
5 foreign criminal history results in a presumptive sentence that is  
6 clearly too lenient in light of the purpose of this chapter as  
7 expressed in RCW 9.94A.010.

8 (k) The offense resulted in the pregnancy of a child victim of  
9 rape.

10 (l) In the case of a conviction for assault in the first, second,  
11 or third degree, the offender assaulted a sports official: (i) Who was  
12 performing his or her sports official duties at the time of the  
13 assault; or (ii) after the sports official performed his or her sports  
14 official duties at an athletic event if the assault occurred within the  
15 confines or immediate vicinity of the athletic facility at which the  
16 event occurred. For purposes of this subsection, "sports official"  
17 means an individual who serves as a referee, umpire, or linesman, or  
18 who serves in a similar capacity but might be known by another title,  
19 and who is registered with or is a member of a local, state, regional,  
20 or national organization engaged in part in providing education and  
21 training to sports officials."

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25 On page 1, line 1 of the title, after "assault;" strike the  
26 remainder of the title and insert "amending RCW 9.94A.390; adding a new  
27 section to chapter 9A.36 RCW; and prescribing penalties."

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