

**HOUSE BILL ANALYSIS**  
**HB 2443**

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**Title:** An act relating to sentencing for certain criminal acts.

**Brief Description:** Clarifying sentencing requirements for certain crimes.

**Sponsors:** Representatives Ballasiotes and Costa; by request of Sentencing Guidelines Commission.

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**HOUSE COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS**

**Hearing Date:** January 30, 1998.

**Prepared By:** Mark G. Hamilton, Counsel (786-7310).

**Background:** *Sentencing Guidelines.* The state's sentencing guidelines provide a classification of crimes by their "seriousness level," from Level I, punishable by 0 days to 29 months imprisonment, to Level XV, punishable by life imprisonment without parole or by death. Within each seriousness level, determined by the crime for which a defendant is convicted, a defendant being sentenced is assigned an "offender score," based on a number of factors, including prior convictions. The offender score determines what punishment the defendant will receive within the range of punishments in the seriousness level of his or her crime. In addition, sentencing courts may take into account other mitigating or aggravating factors to reduce or increase a sentence beyond the ranges specified by the guidelines.

*Malicious Injury to Railroad Property.* The crime of malicious injury to railroad property occurs when a person endangers the safety of any railroad property or person thereon, and is currently punishable by up to 25 years imprisonment.

*Incendiary Devices — Penalty.* An incendiary device is a device or material which is capable of supplying ignition and/or fuel for a fire and is designed to be used as an instrument of wilful destruction. To "dispose of" an incendiary device means to give, give away, loan, offer, offer for sale, sell, or transfer such a device. Currently, anyone who knowingly possesses, manufactures, or disposes of an incendiary device is guilty of a felony, punishable by up to 25 years imprisonment.

*Alphabetization.* Currently, the crimes within each seriousness level in the sentencing guidelines are not printed in alphabetical order, but are placed in the order in which they appear in approved legislation.

**Summary:**

**Section 1.** Amends RCW 9.94A.320, Table 2 of the Sentencing Guidelines, specifying the crimes within each seriousness level, as follows:

**Sentencing Guidelines.**

*New Level VII Crime.* The following crime has been added to the list of offenses of seriousness Level VII, which are punishable by between 15 and 116 months imprisonment:

- Use of a Machine Gun in the Commission of a Felony (RCW 9.41.225).

*New Level V Crimes.* The following crimes have been added to the list of offenses of seriousness Level V, which are punishable by between 6 and 96 months imprisonment:

- No-Contact Order Violation: Domestic Violence Pretrial Condition (RCW 10.99.040(4)(b)-(c));
- No-Contact Order Violation: Domestic Violence Sentence Condition (RCW 10.99.050(2));
- Protection Order Violation: Domestic Violence Civil Action (RCW 26.50.110(4)-(5)); and
- Stalking (RCW 9A.46.110).

*New Level IV Crime.* The following crime has been added to the list of offenses of seriousness Level IV, which are punishable by between 3 and 84 months imprisonment:

- Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010).

*New Level III Crimes.* The following crimes have been added to the list of offenses of seriousness Level III, which are punishable by between 1 and 68 months imprisonment:

- Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(a)(6));
- Malicious injury to Railroad Property (RCW 81.60.070);
- Possession of Incendiary Device (RCW 9.40.120);
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.61.190);
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230); and
- Unlawful Use of Building for Drug Purposes (RCW 69.53.010).

*Amended Level II Crime.* The following crime has been amended in the list of offenses of seriousness Level II, which are punishable by between 0 days and 57 months imprisonment:\*

- Theft of Rental, Leased, or Lease-Purchased Property (valued at \$1,500 or more) (RCW 9A.56.096(4)).

*Amended Level I Crime.* The following crime has been amended in the list of offenses of seriousness Level I, which are punishable by between 0 days and 57 months imprisonment:\*

- Theft of Rental, Leased, or Lease-Purchased Property (valued at \$250 or more but less than \$1,500) (RCW 9A.56.096(4)).

**Section 2.** Amends RCW 81.60.070 as follows:

*Malicious Injury to Railroad Property.* Reduces the penalty for malicious injury to railroad property from a maximum of 25 years to a maximum of 10 years imprisonment.

**Section 3.** Amends RCW 9.40.120 as follows:

*Incendiary Devices — Penalty.* Reduces the penalty for the felony of possessing, manufacturing, or disposing of an incendiary device from a maximum of 25 years to a maximum of 10 years imprisonment.

**Section 4.** *Alphabetization.* Requires the Code Reviser to alphabetize the offenses within each seriousness level.

**Section 5.** *Effective Date.* Provides for application to offenses committed on or after July 1, 1998.

**Rules Authority:** No.

**Fiscal Note:** Requested January 23, 1998.

**Effective Date:** The amendments made by this bill would apply to offenses committed on or after July 1, 1998.

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\* *Amended Level II Crime.* The following crime has been amended in the list of offenses of seriousness Level II, which are punishable by between 0 days and 57 months imprisonment:\*