
ENGROSSED HOUSE BILL 1186

State of Washington

55th Legislature

1997 Regular Session

By Representatives Hickel, Mitchell, Ballasiotes, Dickerson, Robertson, Blalock, Benson, Quall, Sheahan, Delvin, Lisk, Carrell, Cairnes, McDonald, Johnson and DeBolt

Read first time 01/16/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to criminal law; amending RCW 9A.76.050, 9A.76.070,
2 9A.76.080, 9.94A.040, and 9.94A.310; adding a new section to chapter
3 9A.36 RCW; creating a new section; repealing RCW 9A.76.060; and
4 prescribing penalties.

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

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

8 (1) A person is guilty of the crime of failing to summon assistance
9 if:

10 (a) He or she knows that another person has suffered substantial
11 bodily harm and is in need of assistance;

12 (b) He or she could reasonably summon assistance for the person in
13 need without danger to himself or herself and without interference with
14 an important duty owed to a third party;

15 (c) He or she fails to summon assistance for the person in need;
16 and

17 (d) Another person is not summoning assistance for the person in
18 need.

1 (2) The duty to summon assistance is satisfied by making reasonable
2 efforts to summon emergency police, fire, or medical assistance that
3 identifies the location of the victim.

4 (3) Except as provided in RCW 9A.76.050, a violation of subsection
5 (1) of this section is a misdemeanor.

6 **Sec. 2.** RCW 9A.76.050 and 1982 1st ex.s. c 47 s 20 are each
7 amended to read as follows:

8 As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person
9 "renders criminal assistance" if, with intent to prevent, hinder, or
10 delay the apprehension or prosecution of another person who he or she
11 knows has committed a crime or juvenile offense or is being sought by
12 law enforcement officials for the commission of a crime or juvenile
13 offense or has escaped from a detention facility, he or she:

14 (1) Harbors or conceals such person; or

15 (2) Warns such person of impending discovery or apprehension; or

16 (3) Provides such person with money, transportation, disguise, or
17 other means of avoiding discovery or apprehension; or

18 (4) Prevents or obstructs, by use of force, deception, or threat,
19 anyone from performing an act that might aid in the discovery or
20 apprehension of such person; or

21 (5) Conceals, alters, or destroys any physical evidence that might
22 aid in the discovery or apprehension of such person; or

23 (6) Provides such person with a weapon; or

24 (7) Violates section 1 of this act by failing to summon assistance
25 for a victim of such person's crime or juvenile offense.

26 **Sec. 3.** RCW 9A.76.070 and 1982 1st ex.s. c 47 s 21 are each
27 amended to read as follows:

28 (1) A person is guilty of rendering criminal assistance in the
29 first degree if he or she renders criminal assistance to a person who
30 has committed or is being sought for murder in the first degree or any
31 class A felony or equivalent juvenile offense.

32 (2) Rendering criminal assistance in the first degree is((+)

33 ~~(a) A gross misdemeanor if it is established by a preponderance of~~
34 ~~the evidence that the actor is a relative as defined in RCW 9A.76.060;~~

35 ~~(b)) a class C felony ((in all other cases)).~~

1 **Sec. 4.** RCW 9A.76.080 and 1982 1st ex.s. c 47 s 22 are each
2 amended to read as follows:

3 (1) A person is guilty of rendering criminal assistance in the
4 second degree if he or she renders criminal assistance to a person who
5 has committed or is being sought for a class B or class C felony or an
6 equivalent juvenile offense or to someone being sought for violation of
7 parole, probation, or community supervision.

8 (2) Rendering criminal assistance in the second degree is((+)

9 ~~(a) A misdemeanor if it is established by a preponderance of the~~
10 ~~evidence that the actor is a relative as defined in RCW 9A.76.060;~~

11 ~~(b)) a gross misdemeanor ((in all other cases)).~~

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

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

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

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

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

22 (ii) The intent of the legislature to emphasize confinement for the
23 violent offender and alternatives to confinement for the nonviolent
24 offender.

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

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

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

37 (d)(i) Serve as a clearinghouse and information center for the
38 collection, preparation, analysis, and dissemination of information on

1 state and local adult and juvenile sentencing practices; (ii) develop
2 and maintain a computerized adult and juvenile sentencing information
3 system by individual superior court judge consisting of offender,
4 offense, history, and sentence information entered from judgment and
5 sentence forms for all adult felons; and (iii) conduct ongoing research
6 regarding adult and juvenile sentencing guidelines, use of total
7 confinement and alternatives to total confinement, plea bargaining, and
8 other matters relating to the improvement of the adult criminal justice
9 system and the juvenile justice system;

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **Sec. 6.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read
22 as follows:

23 (1) TABLE 1

24 Sentencing Grid

25 SERIOUSNESS

26 SCORE OFFENDER SCORE

27 9 or

28 0 1 2 3 4 5 6 7 8 more

29

30 XV Life Sentence without Parole/Death Penalty

31

32 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y

33 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

34 320 333 347 361 374 388 416 450 493 548

35

1	XIII	((12y 13y 14y 15y 16y 17y 19y 21y 25y 29y))									
2		15y1m 15y11m 16y10m 17y8m 18y7m 19y5m 21y1m 23y1m 26y1m 29y6m									
3		123- 134- 144- 154- 165- 175- 195- 216- 257- 298-									
4		((164 178 192 205 219 233 260 288 342 397))									
5		<u>239</u> <u>249</u> <u>260</u> <u>270</u> <u>280</u> <u>290</u> <u>311</u> <u>337</u> <u>369</u> <u>410</u>									
6											
7	XII	9y 9y11m 10y9m 11y8m 12y6m 13y5m 15y9m 17y3m 20y3m 23y3m									
8		93- 102- 111- 120- 129- 138- 162- 178- 209- 240-									
9		123 136 147 160 171 184 216 236 277 318									
10											
11	XI	7y6m 8y4m 9y2m 9y11m 10y9m 11y7m 14y2m 15y5m 17y11m 20y5m									
12		78- 86- 95- 102- 111- 120- 146- 159- 185- 210-									
13		102 114 125 136 147 158 194 211 245 280									
14											
15	X	5y 5y6m 6y 6y6m 7y 7y6m 9y6m 10y6m 12y6m 14y6m									
16		51- 57- 62- 67- 72- 77- 98- 108- 129- 149-									
17		68 75 82 89 96 102 130 144 171 198									
18											
19	IX	3y 3y6m 4y 4y6m 5y 5y6m 7y6m 8y6m 10y6m 12y6m									
20		31- 36- 41- 46- 51- 57- 77- 87- 108- 129-									
21		41 48 54 61 68 75 102 116 144 171									
22											
23	VIII	2y 2y6m 3y 3y6m 4y 4y6m 6y6m 7y6m 8y6m 10y6m									
24		21- 26- 31- 36- 41- 46- 67- 77- 87- 108-									
25		27 34 41 48 54 61 89 102 116 144									
26											
27	VII	18m 2y 2y6m 3y 3y6m 4y 5y6m 6y6m 7y6m 8y6m									
28		15- 21- 26- 31- 36- 41- 57- 67- 77- 87-									
29		20 27 34 41 48 54 75 89 102 116									
30											
31	VI	13m 18m 2y 2y6m 3y 3y6m 4y6m 5y6m 6y6m 7y6m									
32		12+- 15- 21- 26- 31- 36- 46- 57- 67- 77-									
33		14 20 27 34 41 48 61 75 89 102									
34											
35	V	9m 13m 15m 18m 2y2m 3y2m 4y 5y 6y 7y									
36		6- 12+- 13- 15- 22- 33- 41- 51- 62- 72-									
37		12 14 17 20 29 43 54 68 82 96									
38											

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

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

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

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

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

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

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

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

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

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

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

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

1 crimes listed in this subsection as eligible for any deadly weapon
2 enhancements, the following additional times shall be added to the
3 presumptive sentence determined under subsection (2) of this section
4 based on the felony crime of conviction as classified under RCW
5 9A.28.020:

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

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

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

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

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

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

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

35 (5) The following additional times shall be added to the
36 presumptive sentence if the offender or an accomplice committed the
37 offense while in a county jail or state correctional facility as that
38 term is defined in this chapter and the offender is being sentenced for
39 one of the crimes listed in this subsection. If the offender or an

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

8 (a) Eighteen months for offenses committed under RCW
9 69.50.401(a)(1) (i) or (ii) or 69.50.410;

10 (b) Fifteen months for offenses committed under RCW
11 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

19 NEW SECTION. **Sec. 7.** RCW 9A.76.060 and 1975 1st ex.s. c 260 s
20 9A.76.060 are each repealed.

21 NEW SECTION. **Sec. 8.** This act shall be known as the Joey Levick
22 act.

--- END ---