
HOUSE BILL 1956

State of Washington

55th Legislature

1997 Regular Session

By Representative Sullivan

Read first time 02/14/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to stolen motor vehicles; and reenacting and
2 amending RCW 9.94A.360 and 13.04.030.

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

4 **Sec. 1.** RCW 9.94A.360 and 1995 c 316 s 1 and 1995 c 101 s 1 are
5 each reenacted and amended to read as follows:

6 The offender score is measured on the horizontal axis of the
7 sentencing grid. The offender score rules are as follows:

8 The offender score is the sum of points accrued under this section
9 rounded down to the nearest whole number.

10 (1) A prior conviction is a conviction which exists before the date
11 of sentencing for the offense for which the offender score is being
12 computed. Convictions entered or sentenced on the same date as the
13 conviction for which the offender score is being computed shall be
14 deemed "other current offenses" within the meaning of RCW 9.94A.400.

15 (2) Except as provided in subsection (4) of this section, class A
16 and sex prior felony convictions shall always be included in the
17 offender score. Class B prior felony convictions other than sex
18 offenses shall not be included in the offender score, if since the last
19 date of release from confinement (including full-time residential

1 treatment) pursuant to a felony conviction, if any, or entry of
2 judgment and sentence, the offender had spent ten consecutive years in
3 the community without committing any crime that subsequently results in
4 a conviction. Class C prior felony convictions other than sex offenses
5 shall not be included in the offender score if, since the last date of
6 release from confinement (including full-time residential treatment)
7 pursuant to a felony conviction, if any, or entry of judgment and
8 sentence, the offender had spent five consecutive years in the
9 community without committing any crime that subsequently results in a
10 conviction. Serious traffic convictions shall not be included in the
11 offender score if, since the last date of release from confinement
12 (including full-time residential treatment) pursuant to a felony
13 conviction, if any, or entry of judgment and sentence, the offender
14 spent five years in the community without committing any crime that
15 subsequently results in a conviction. This subsection applies to both
16 adult and juvenile prior convictions.

17 (3) Out-of-state convictions for offenses shall be classified
18 according to the comparable offense definitions and sentences provided
19 by Washington law. Federal convictions for offenses shall be
20 classified according to the comparable offense definitions and
21 sentences provided by Washington law. If there is no clearly
22 comparable offense under Washington law or the offense is one that is
23 usually considered subject to exclusive federal jurisdiction, the
24 offense shall be scored as a class C felony equivalent if it was a
25 felony under the relevant federal statute.

26 (4) Always include juvenile convictions for sex offenses and
27 serious violent offenses. Include other class A juvenile felonies only
28 if the offender was 15 or older at the time the juvenile offense was
29 committed. Include other class B and C juvenile felony convictions
30 only if the offender was 15 or older at the time the juvenile offense
31 was committed and the offender was less than 23 at the time the offense
32 for which he or she is being sentenced was committed.

33 (5) Score prior convictions for felony anticipatory offenses
34 (attempts, criminal solicitations, and criminal conspiracies) the same
35 as if they were convictions for completed offenses.

36 (6)(a) In the case of multiple prior convictions, for the purpose
37 of computing the offender score, count all convictions separately,
38 except:

1 (i) Prior adult offenses which were found, under RCW
2 9.94A.400(1)(a), to encompass the same criminal conduct, shall be
3 counted as one offense, the offense that yields the highest offender
4 score. The current sentencing court shall determine with respect to
5 other prior adult offenses for which sentences were served concurrently
6 whether those offenses shall be counted as one offense or as separate
7 offenses using the "same criminal conduct" analysis found in RCW
8 9.94A.400(1)(a), and if the court finds that they shall be counted as
9 one offense, then the offense that yields the highest offender score
10 shall be used. The current sentencing court may presume that such
11 other prior adult offenses were not the same criminal conduct from
12 sentences imposed on separate dates, or in separate counties or
13 jurisdictions, or in separate complaints, indictments, or informations;

14 (ii) Juvenile prior convictions entered or sentenced on the same
15 date shall count as one offense, the offense that yields the highest
16 offender score, except for juvenile prior convictions for violent
17 offenses with separate victims, which shall count as separate offenses;
18 and

19 (iii) In the case of multiple prior convictions for offenses
20 committed before July 1, 1986, for the purpose of computing the
21 offender score, count all adult convictions served concurrently as one
22 offense, and count all juvenile convictions entered on the same date as
23 one offense. Use the conviction for the offense that yields the
24 highest offender score.

25 (b) As used in this subsection (6), "served concurrently" means
26 that: (i) The latter sentence was imposed with specific reference to
27 the former; (ii) the concurrent relationship of the sentences was
28 judicially imposed; and (iii) the concurrent timing of the sentences
29 was not the result of a probation or parole revocation on the former
30 offense.

31 (7) If the present conviction is one of the anticipatory offenses
32 of criminal attempt, solicitation, or conspiracy, count each prior
33 conviction as if the present conviction were for a completed offense.

34 (8) If the present conviction is for a nonviolent offense and not
35 covered by subsection (12) ~~((or))~~, (13), or (19) of this section, count
36 one point for each adult prior felony conviction and one point for each
37 juvenile prior violent felony conviction and 1/2 point for each
38 juvenile prior nonviolent felony conviction.

1 (9) If the present conviction is for a violent offense and not
2 covered in subsection (10), (11), (12), or (13) of this section, count
3 two points for each prior adult and juvenile violent felony conviction,
4 one point for each prior adult nonviolent felony conviction, and 1/2
5 point for each prior juvenile nonviolent felony conviction.

6 (10) If the present conviction is for Murder 1 or 2, Assault 1,
7 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count
8 three points for prior adult and juvenile convictions for crimes in
9 these categories, two points for each prior adult and juvenile violent
10 conviction (not already counted), one point for each prior adult
11 nonviolent felony conviction, and 1/2 point for each prior juvenile
12 nonviolent felony conviction.

13 (11) If the present conviction is for Burglary 1, count prior
14 convictions as in subsection (9) of this section; however count two
15 points for each prior adult Burglary 2 or residential burglary
16 conviction, and one point for each prior juvenile Burglary 2 or
17 residential burglary conviction.

18 (12) If the present conviction is for a felony traffic offense
19 count two points for each adult or juvenile prior conviction for
20 Vehicular Homicide or Vehicular Assault; for each felony offense or
21 serious traffic offense, count one point for each adult and 1/2 point
22 for each juvenile prior conviction.

23 (13) If the present conviction is for a drug offense count three
24 points for each adult prior felony drug offense conviction and two
25 points for each juvenile drug offense. All other adult and juvenile
26 felonies are scored as in subsection (9) of this section if the current
27 drug offense is violent, or as in subsection (8) of this section if the
28 current drug offense is nonviolent.

29 (14) If the present conviction is for Willful Failure to Return
30 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
31 Release, RCW 72.65.070, or Escape from Community Custody, RCW
32 72.09.310, count only prior escape convictions in the offender score.
33 Count adult prior escape convictions as one point and juvenile prior
34 escape convictions as 1/2 point.

35 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
36 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
37 juvenile prior convictions as 1/2 point.

38 (16) If the present conviction is for Burglary 2 or residential
39 burglary, count priors as in subsection (8) of this section; however,

1 count two points for each adult and juvenile prior Burglary 1
2 conviction, two points for each adult prior Burglary 2 or residential
3 burglary conviction, and one point for each juvenile prior Burglary 2
4 or residential burglary conviction.

5 (17) If the present conviction is for a sex offense, count priors
6 as in subsections (8) through (16) of this section; however count three
7 points for each adult and juvenile prior sex offense conviction.

8 (18) If the present conviction is for an offense committed while
9 the offender was under community placement, add one point.

10 (19) If the present conviction is for Taking a Motor Vehicle
11 Without Permission under RCW 9A.56.070, Theft in the Second Degree
12 under RCW 9A.56.040(1)(d), Theft in the First Degree under RCW
13 9A.56.030 if the property stolen is a motor vehicle, Second Degree
14 Possession of Stolen Property under RCW 9A.56.160(1)(d), or First
15 Degree Possession of Stolen Property under RCW 9A.56.150 if the
16 property stolen is a motor vehicle, count priors as in subsection (8)
17 of this section; however, if the prior conviction is for any one of the
18 crimes enumerated in this subsection and the property stolen,
19 possessed, or taken without permission was a motor vehicle, count two
20 points for each prior adult conviction and one point for each prior
21 juvenile conviction.

22 **Sec. 2.** RCW 13.04.030 and 1995 c 312 s 39 and 1995 c 311 s 15 are
23 each reenacted and amended to read as follows:

24 (1) Except as provided in subsection (2) of this section, the
25 juvenile courts in the several counties of this state, shall have
26 exclusive original jurisdiction over all proceedings:

27 (a) Under the interstate compact on placement of children as
28 provided in chapter 26.34 RCW;

29 (b) Relating to children alleged or found to be dependent as
30 provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170;

31 (c) Relating to the termination of a parent and child relationship
32 as provided in RCW 13.34.180 through 13.34.210;

33 (d) To approve or disapprove out-of-home placement as provided in
34 RCW 13.32A.170;

35 (e) Relating to juveniles alleged or found to have committed
36 offenses, traffic infractions, or violations as provided in RCW
37 13.40.020 through 13.40.230, unless:

1 (i) The juvenile court transfers jurisdiction of a particular
2 juvenile to adult criminal court pursuant to RCW 13.40.110; or
3 (ii) The statute of limitations applicable to adult prosecution for
4 the offense, traffic infraction, or violation has expired; or
5 (iii) The alleged offense or infraction is a traffic, fish,
6 boating, or game offense or traffic infraction committed by a juvenile
7 sixteen years of age or older and would, if committed by an adult, be
8 tried or heard in a court of limited jurisdiction, in which instance
9 the appropriate court of limited jurisdiction shall have jurisdiction
10 over the alleged offense or infraction: PROVIDED, That if such an
11 alleged offense or infraction and an alleged offense or infraction
12 subject to juvenile court jurisdiction arise out of the same event or
13 incident, the juvenile court may have jurisdiction of both matters:
14 PROVIDED FURTHER, That the jurisdiction under this subsection does not
15 constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1)
16 or (e)(i) of this subsection: PROVIDED FURTHER, That courts of limited
17 jurisdiction which confine juveniles for an alleged offense or
18 infraction may place juveniles in juvenile detention facilities under
19 an agreement with the officials responsible for the administration of
20 the juvenile detention facility in RCW 13.04.035 and 13.20.060; or
21 (iv) The juvenile is sixteen or seventeen years old and the alleged
22 offense is: (A) A serious violent offense as defined in RCW 9.94A.030
23 committed on or after June 13, 1994; or (B) a violent offense as
24 defined in RCW 9.94A.030 committed on or after June 13, 1994, and the
25 juvenile has a criminal history consisting of: (I) One or more prior
26 serious violent offenses; (II) two or more prior violent offenses; or
27 (III) three or more of any combination of the following offenses: Any
28 class A felony, any class B felony, vehicular assault, or manslaughter
29 in the second degree, all of which must have been committed after the
30 juvenile's thirteenth birthday and prosecuted separately. In such a
31 case the adult criminal court shall have exclusive original
32 jurisdiction.

33 If the juvenile challenges the state's determination of the
34 juvenile's criminal history, the state may establish the offender's
35 criminal history by a preponderance of the evidence. If the criminal
36 history consists of adjudications entered upon a plea of guilty, the
37 state shall not bear a burden of establishing the knowing and
38 voluntariness of the plea; or

1 (v) The juvenile is sixteen or seventeen years old and the alleged
2 offense is one of the following offenses: Taking a Motor Vehicle
3 Without Permission under RCW 9A.56.070, Theft in the Second Degree
4 under RCW 9A.56.040(1)(d), Theft in the First Degree under RCW
5 9A.56.030 if the property stolen is a motor vehicle, Possession of
6 Stolen Property in the Second Degree under RCW 9A.56.160(1)(d), or
7 Possession of Stolen Property in the First Degree under RCW 9A.56.150
8 if the property is a stolen motor vehicle; and, the juvenile has a
9 criminal history of one or more of those offenses and the offenses
10 involve the theft, possession, or taking of a motor vehicle. In such
11 a case, the adult criminal court shall have exclusive original
12 jurisdiction;

13 (f) Under the interstate compact on juveniles as provided in
14 chapter 13.24 RCW;

15 (g) Relating to termination of a diversion agreement under RCW
16 13.40.080, including a proceeding in which the divertee has attained
17 eighteen years of age;

18 (h) Relating to court validation of a voluntary consent to an out-
19 of-home placement under chapter 13.34 RCW, by the parent or Indian
20 custodian of an Indian child, except if the parent or Indian custodian
21 and child are residents of or domiciled within the boundaries of a
22 federally recognized Indian reservation over which the tribe exercises
23 exclusive jurisdiction; and

24 (i) Relating to petitions to compel disclosure of information filed
25 by the department of social and health services pursuant to RCW
26 74.13.042.

27 (2) The family court shall have concurrent original jurisdiction
28 with the juvenile court over all proceedings under this section if the
29 superior court judges of a county authorize concurrent jurisdiction as
30 provided in RCW 26.12.010.

31 (3) A juvenile subject to adult superior court jurisdiction under
32 subsection (1)(e)(i) through ~~((iv))~~ (v) of this section, who is
33 detained pending trial, may be detained in a county detention facility
34 as defined in RCW 13.40.020 pending sentencing or a dismissal.

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