
HOUSE BILL 2323

State of Washington

55th Legislature

1998 Regular Session

By Representatives Ballasiotes, Costa, Hatfield, Poulsen, Zellinsky, Dunshee, Anderson, Lambert and Conway; by request of Sentencing Guidelines Commission

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1 AN ACT Relating to manslaughter as criminal history; amending RCW
2 9.94A.360; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.94A.360 and 1997 c 338 s 5 are each amended to read
5 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) Class A and sex prior felony convictions shall always be
16 included in the offender score. Class B prior felony convictions other
17 than sex offenses shall not be included in the offender score, if since
18 the last date of release from confinement (including full-time
19 residential treatment) pursuant to a felony conviction, if any, or

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

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

25 (4) Score prior convictions for felony anticipatory offenses
26 (attempts, criminal solicitations, and criminal conspiracies) the same
27 as if they were convictions for completed offenses.

28 (5)(a) In the case of multiple prior convictions, for the purpose
29 of computing the offender score, count all convictions separately,
30 except:

31 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
32 encompass the same criminal conduct, shall be counted as one offense,
33 the offense that yields the highest offender score. The current
34 sentencing court shall determine with respect to other prior adult
35 offenses for which sentences were served concurrently or prior juvenile
36 offenses for which sentences were served consecutively, whether those
37 offenses shall be counted as one offense or as separate offenses using
38 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
39 if the court finds that they shall be counted as one offense, then the

1 offense that yields the highest offender score shall be used. The
2 current sentencing court may presume that such other prior offenses
3 were not the same criminal conduct from sentences imposed on separate
4 dates, or in separate counties or jurisdictions, or in separate
5 complaints, indictments, or informations;

6 (ii) In the case of multiple prior convictions for offenses
7 committed before July 1, 1986, for the purpose of computing the
8 offender score, count all adult convictions served concurrently as one
9 offense, and count all juvenile convictions entered on the same date as
10 one offense. Use the conviction for the offense that yields the
11 highest offender score.

12 (b) As used in this subsection (5), "served concurrently" means
13 that: (i) The latter sentence was imposed with specific reference to
14 the former; (ii) the concurrent relationship of the sentences was
15 judicially imposed; and (iii) the concurrent timing of the sentences
16 was not the result of a probation or parole revocation on the former
17 offense.

18 (6) If the present conviction is one of the anticipatory offenses
19 of criminal attempt, solicitation, or conspiracy, count each prior
20 conviction as if the present conviction were for a completed offense.

21 (7) If the present conviction is for a nonviolent offense and not
22 covered by subsection (11) or (12) of this section, count one point for
23 each adult prior felony conviction and one point for each juvenile
24 prior violent felony conviction and « point for each juvenile prior
25 nonviolent felony conviction.

26 (8) If the present conviction is for a violent offense and not
27 covered in subsection (9), (10), (11), or (12) of this section, count
28 two points for each prior adult and juvenile violent felony conviction,
29 one point for each prior adult nonviolent felony conviction, and «
30 point for each prior juvenile nonviolent felony conviction.

31 (9) If the present conviction is for (~~Murder 1 or 2, Assault 1,~~
32 ~~Assault of a Child 1, Kidnapping 1, Homicide by Abuse, or Rape 1~~) a
33 serious violent offense, count three points for prior adult and
34 juvenile convictions for crimes in (~~these categories~~) this category,
35 two points for each prior adult and juvenile violent conviction (not
36 already counted), one point for each prior adult nonviolent felony
37 conviction, and « point for each prior juvenile nonviolent felony
38 conviction.

1 (10) If the present conviction is for Burglary 1, count prior
2 convictions as in subsection (8) of this section; however count two
3 points for each prior adult Burglary 2 or residential burglary
4 conviction, and one point for each prior juvenile Burglary 2 or
5 residential burglary conviction.

6 (11) If the present conviction is for a felony traffic offense
7 count two points for each adult or juvenile prior conviction for
8 Vehicular Homicide or Vehicular Assault; for each felony offense or
9 serious traffic offense, count one point for each adult and « point for
10 each juvenile prior conviction.

11 (12) If the present conviction is for a drug offense count three
12 points for each adult prior felony drug offense conviction and two
13 points for each juvenile drug offense. All other adult and juvenile
14 felonies are scored as in subsection (8) of this section if the current
15 drug offense is violent, or as in subsection (7) of this section if the
16 current drug offense is nonviolent.

17 (13) If the present conviction is for Willful Failure to Return
18 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
19 Release, RCW 72.65.070, or Escape from Community Custody, RCW
20 72.09.310, count only prior escape convictions in the offender score.
21 Count adult prior escape convictions as one point and juvenile prior
22 escape convictions as « point.

23 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
24 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
25 juvenile prior convictions as « point.

26 (15) If the present conviction is for Burglary 2 or residential
27 burglary, count priors as in subsection (7) of this section; however,
28 count two points for each adult and juvenile prior Burglary 1
29 conviction, two points for each adult prior Burglary 2 or residential
30 burglary conviction, and one point for each juvenile prior Burglary 2
31 or residential burglary conviction.

32 (16) If the present conviction is for a sex offense, count priors
33 as in subsections (7) through (15) of this section; however count three
34 points for each adult and juvenile prior sex offense conviction.

35 (17) If the present conviction is for an offense committed while
36 the offender was under community placement, add one point.

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