

HOUSE BILL 2443

State of Washington

55th Legislature

1998 Regular Session

By Representatives Ballasiotes, Costa, Zellinsky and Mitchell; by request of Sentencing Guidelines Commission

Read first time 01/14/98. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to sentencing for certain criminal acts; amending
2 RCW 81.60.070 and 9.40.120; reenacting and amending RCW 9.94A.320;
3 creating new sections; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.320 and 1997 c 365 s 4, 1997 c 346 s 3, 1997 c
6 340 s 1, 1997 c 338 s 51, 1997 c 266 s 15, and 1997 c 120 s 5 are each
7 reenacted and amended to read as follows:

8 TABLE 2

9 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- 10 XV Aggravated Murder 1 (RCW 10.95.020)
- 11 XIV Murder 1 (RCW 9A.32.030)
- 12 Homicide by abuse (RCW 9A.32.055)
- 13 Malicious explosion 1 (RCW 70.74.280(1))
- 14 XIII Murder 2 (RCW 9A.32.050)
- 15 Malicious explosion 2 (RCW 70.74.280(2))

1 Malicious placement of an explosive 1 (RCW
2 70.74.270(1))

3 XII Assault 1 (RCW 9A.36.011)
4 Assault of a Child 1 (RCW 9A.36.120)
5 Rape 1 (RCW 9A.44.040)
6 Rape of a Child 1 (RCW 9A.44.073)
7 Malicious placement of an imitation device
8 1 (RCW 70.74.272(1)(a))

9 XI Rape 2 (RCW 9A.44.050)
10 Rape of a Child 2 (RCW 9A.44.076)
11 Manslaughter 1 (RCW 9A.32.060)

12 X Kidnapping 1 (RCW 9A.40.020)
13 Child Molestation 1 (RCW 9A.44.083)
14 Malicious explosion 3 (RCW 70.74.280(3))
15 Over 18 and deliver heroin or narcotic from
16 Schedule I or II to someone under 18
17 (RCW 69.50.406)
18 Leading Organized Crime (RCW
19 9A.82.060(1)(a))
20 Indecent Liberties (with forcible
21 compulsion) (RCW 9A.44.100(1)(a))

22 IX Assault of a Child 2 (RCW 9A.36.130)
23 Robbery 1 (RCW 9A.56.200)
24 Explosive devices prohibited (RCW
25 70.74.180)
26 Malicious placement of an explosive 2 (RCW
27 70.74.270(2))
28 Over 18 and deliver narcotic from Schedule
29 III, IV, or V or a nonnarcotic from
30 Schedule I-V to someone under 18 and 3
31 years junior (RCW 69.50.406)
32 Controlled Substance Homicide (RCW
33 69.50.415)
34 Sexual Exploitation (RCW 9.68A.040)
35 Inciting Criminal Profiteering (RCW
36 9A.82.060(1)(b))

1 Vehicular Homicide, by being under the
2 influence of intoxicating liquor or
3 any drug (RCW 46.61.520)

4 VIII Arson 1 (RCW 9A.48.020)
5 Promoting Prostitution 1 (RCW 9A.88.070)
6 Selling for profit (controlled or
7 counterfeit) any controlled substance
8 (RCW 69.50.410)
9 Manufacture, deliver, or possess with
10 intent to deliver heroin or cocaine
11 (RCW 69.50.401(a)(1)(i))
12 Manufacture, deliver, or possess with
13 intent to deliver methamphetamine (RCW
14 69.50.401(a)(1)(ii))
15 Possession of ephedrine or pseudoephedrine
16 with intent to manufacture
17 methamphetamine (RCW 69.50.440)
18 Vehicular Homicide, by the operation of any
19 vehicle in a reckless manner (RCW
20 46.61.520)
21 Manslaughter 2 (RCW 9A.32.070)

22 VII Burglary 1 (RCW 9A.52.020)
23 Vehicular Homicide, by disregard for the
24 safety of others (RCW 46.61.520)
25 Introducing Contraband 1 (RCW 9A.76.140)
26 Indecent Liberties (without forcible
27 compulsion) (RCW 9A.44.100(1) (b) and
28 (c))
29 Child Molestation 2 (RCW 9A.44.086)
30 Dealing in depictions of minor engaged in
31 sexually explicit conduct (RCW
32 9.68A.050)
33 Sending, bringing into state depictions of
34 minor engaged in sexually explicit
35 conduct (RCW 9.68A.060)
36 Involving a minor in drug dealing (RCW
37 69.50.401(f))
38 Drive-by Shooting (RCW 9A.36.045)

1 Unlawful Possession of a Firearm in the
2 first degree (RCW 9.41.040(1)(a))
3 Malicious placement of an explosive 3 (RCW
4 70.74.270(3))
5 Use of a Machine Gun in Commission of a
6 Felony (RCW 9.41.225)

7 VI Bribery (RCW 9A.68.010)
8 Rape of a Child 3 (RCW 9A.44.079)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation device
12 2 (RCW 70.74.272(1)(b))
13 Incest 1 (RCW 9A.64.020(1))
14 Manufacture, deliver, or possess with
15 intent to deliver narcotics from
16 Schedule I or II (except heroin or
17 cocaine) (RCW 69.50.401(a)(1)(i))
18 Intimidating a Judge (RCW 9A.72.160)
19 Bail Jumping with Murder 1 (RCW
20 9A.76.170(2)(a))
21 Theft of a Firearm (RCW 9A.56.300)

22 V Persistent prison misbehavior (RCW
23 9.94.070)
24 Criminal Mistreatment 1 (RCW 9A.42.020)
25 Abandonment of dependent person 1 (RCW
26 9A.42.060)
27 Rape 3 (RCW 9A.44.060)
28 Sexual Misconduct with a Minor 1 (RCW
29 9A.44.093)
30 Child Molestation 3 (RCW 9A.44.089)
31 Kidnapping 2 (RCW 9A.40.030)
32 Extortion 1 (RCW 9A.56.120)
33 Incest 2 (RCW 9A.64.020(2))
34 Perjury 1 (RCW 9A.72.020)
35 Extortionate Extension of Credit (RCW
36 9A.82.020)

1 Advancing money or property for
2 extortionate extension of credit (RCW
3 9A.82.030)
4 Extortionate Means to Collect Extensions of
5 Credit (RCW 9A.82.040)
6 Rendering Criminal Assistance 1 (RCW
7 9A.76.070)
8 Bail Jumping with class A Felony (RCW
9 9A.76.170(2)(b))
10 Sexually Violating Human Remains (RCW
11 9A.44.105)
12 Delivery of imitation controlled substance
13 by person eighteen or over to person
14 under eighteen (RCW 69.52.030(2))
15 Possession of a Stolen Firearm (RCW
16 9A.56.310)
17 Stalking (RCW 9A.46.110)
18 No-Contact Order Violation: Domestic
19 Violence Pretrial Condition (RCW
20 10.99.040(4) (b) and (c))
21 No-Contact Order Violation: Domestic
22 Violence Sentence Condition (RCW
23 10.99.050(2))
24 Protection Order Violation: Domestic
25 Violence Civil Action (RCW 26.50.110
26 (4) and (5))

27 IV Residential Burglary (RCW 9A.52.025)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Robbery 2 (RCW 9A.56.210)
30 Assault 2 (RCW 9A.36.021)
31 Escape 1 (RCW 9A.76.110)
32 Arson 2 (RCW 9A.48.030)
33 Commercial Bribery (RCW 9A.68.060)
34 Bribing a Witness/Bribe Received by Witness
35 (RCW 9A.72.090, 9A.72.100)
36 Malicious Harassment (RCW 9A.36.080)
37 Threats to Bomb (RCW 9.61.160)
38 Willful Failure to Return from Furlough
39 (RCW 72.66.060)

1 Hit and Run--Injury Accident (RCW
2 46.52.020(4))
3 Hit and Run with Vessel--Injury Accident
4 (RCW 88.12.155(3))
5 Vehicular Assault (RCW 46.61.522)
6 Manufacture, deliver, or possess with
7 intent to deliver narcotics from
8 Schedule III, IV, or V or nonnarcotics
9 from Schedule I-V (except marijuana or
10 methamphetamines) (RCW 69.50.401
11 (a)(1) (iii) through (v))
12 Influencing Outcome of Sporting Event (RCW
13 9A.82.070)
14 Use of Proceeds of Criminal Profiteering
15 (RCW 9A.82.080 (1) and (2))
16 Knowingly Trafficking in Stolen Property
17 (RCW 9A.82.050(2))
18 Indecent Exposure to Person Under Age
19 Fourteen (subsequent sex offense) (RCW
20 9A.88.010)
21 III Criminal Gang Intimidation (RCW 9A.46.120)
22 Criminal Mistreatment 2 (RCW 9A.42.030)
23 Abandonment of dependent person 2 (RCW
24 9A.42.070)
25 Extortion 2 (RCW 9A.56.130)
26 Unlawful Imprisonment (RCW 9A.40.040)
27 Assault 3 (RCW 9A.36.031)
28 Assault of a Child 3 (RCW 9A.36.140)
29 Custodial Assault (RCW 9A.36.100)
30 Unlawful possession of firearm in the
31 second degree (RCW 9.41.040(1)(b))
32 Harassment (RCW 9A.46.020)
33 Promoting Prostitution 2 (RCW 9A.88.080)
34 Willful Failure to Return from Work Release
35 (RCW 72.65.070)
36 Burglary 2 (RCW 9A.52.030)
37 Introducing Contraband 2 (RCW 9A.76.150)
38 Communication with a Minor for Immoral
39 Purposes (RCW 9.68A.090)

1 Patronizing a Juvenile Prostitute (RCW
2 9.68A.100)
3 Escape 2 (RCW 9A.76.120)
4 Perjury 2 (RCW 9A.72.030)
5 Bail Jumping with class B or C Felony (RCW
6 9A.76.170(2)(c))
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Tampering with a Witness (RCW 9A.72.120)
10 Manufacture, deliver, or possess with
11 intent to deliver marijuana (RCW
12 69.50.401(a)(1)(iii))
13 Delivery of a material in lieu of a
14 controlled substance (RCW
15 69.50.401(c))
16 Manufacture, distribute, or possess with
17 intent to distribute an imitation
18 controlled substance (RCW
19 69.52.030(1))
20 Recklessly Trafficking in Stolen Property
21 (RCW 9A.82.050(1))
22 Theft of livestock 2 (RCW 9A.56.080)
23 Securities Act violation (RCW 21.20.400)
24 Maintaining a Dwelling or Place for
25 Controlled Substances (RCW
26 69.50.402(a)(6))
27 Malicious Injury to Railroad Property (RCW
28 81.60.070)
29 Possession of Incendiary Device (RCW
30 9.40.120)
31 Possession of Machine Gun or Short-Barreled
32 Shotgun or Rifle (RCW 9.41.190)
33 Telephone Harassment (subsequent conviction
34 or threat of death) (RCW 9.61.230)
35 Unlawful Use of Building for Drug Purposes
36 (RCW 69.53.010)

1 II Unlawful Practice of Law (RCW 2.48.180)
2 Malicious Mischief 1 (RCW 9A.48.070)
3 Possession of Stolen Property 1 (RCW
4 9A.56.150)
5 Theft 1 (RCW 9A.56.030)
6 (~~Class B Felony~~) Theft of Rental, Leased,
7 or Lease-purchased Property (valued at
8 one thousand five hundred dollars or
9 more) (RCW 9A.56.096(4))
10 Trafficking in Insurance Claims (RCW
11 48.30A.015)
12 Unlicensed Practice of a Profession or
13 Business (RCW 18.130.190(7))
14 Health Care False Claims (RCW 48.80.030)
15 Possession of controlled substance that is
16 either heroin or narcotics from
17 Schedule I or II (RCW 69.50.401(d))
18 Possession of phencyclidine (PCP) (RCW
19 69.50.401(d))
20 Create, deliver, or possess a counterfeit
21 controlled substance (RCW
22 69.50.401(b))
23 Computer Trespass 1 (RCW 9A.52.110)
24 Escape from Community Custody (RCW
25 72.09.310)
26 I Theft 2 (RCW 9A.56.040)
27 (~~Class C Felony~~) Theft of Rental, Leased,
28 or Lease-purchased Property (valued at
29 two hundred fifty dollars or more but
30 less than one thousand five hundred
31 dollars) (RCW 9A.56.096(4))
32 Possession of Stolen Property 2 (RCW
33 9A.56.160)
34 Forgery (RCW 9A.60.020)
35 Taking Motor Vehicle Without Permission
36 (RCW 9A.56.070)
37 Vehicle Prowl 1 (RCW 9A.52.095)
38 Attempting to Elude a Pursuing Police
39 Vehicle (RCW 46.61.024)

1 Malicious Mischief 2 (RCW 9A.48.080)
2 Reckless Burning 1 (RCW 9A.48.040)
3 Unlawful Issuance of Checks or Drafts (RCW
4 9A.56.060)
5 Unlawful Use of Food Stamps (RCW 9.91.140
6 (2) and (3))
7 False Verification for Welfare (RCW
8 74.08.055)
9 Forged Prescription (RCW 69.41.020)
10 Forged Prescription for a Controlled
11 Substance (RCW 69.50.403)
12 Possess Controlled Substance that is a
13 Narcotic from Schedule III, IV, or V
14 or Non-narcotic from Schedule I-V
15 (except phencyclidine) (RCW
16 69.50.401(d))

17 **Sec. 2.** RCW 81.60.070 and 1992 c 7 s 60 are each amended to read
18 as follows:

19 Every person who, in such manner as might, if not discovered,
20 endanger the safety of any engine, motor, car or train, or any person
21 thereon, shall in any manner interfere or tamper with or obstruct any
22 switch, frog, rail, roadbed, sleeper, viaduct, bridge, trestle,
23 culvert, embankment, structure, or appliance pertaining to or connected
24 with any railway, or any train, engine, motor, or car on such railway,
25 and every person who shall discharge any firearm or throw any dangerous
26 missile at any train, engine, motor, or car on any railway, shall be
27 punished by imprisonment in a state correctional facility for not more
28 than ((~~twenty-five~~)) ten years.

29 **Sec. 3.** RCW 9.40.120 and 1971 ex.s. c 302 s 4 are each amended to
30 read as follows:

31 Every person who possesses, manufactures, or disposes of an
32 incendiary device knowing it to be such is guilty of a felony, and upon
33 conviction, shall be punished by imprisonment in a state prison for a
34 term of not more than ((~~twenty-five~~)) ten years.

1 NEW SECTION. **Sec. 4.** The code reviser shall alphabetize the
2 offenses within each seriousness level in RCW 9.94A.320, including any
3 offenses added in the 1998 legislative session.

4 NEW SECTION. **Sec. 5.** The amendments made by this act shall apply
5 to offenses committed on or after July 1, 1998.

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