

SENATE BILL 5695

State of Washington 55th Legislature 1997 Regular Session

By Senators Roach, Long, Oke, Schow, Morton, Benton and Hochstatter

Read first time 02/07/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to crimes involving firearms; amending RCW
2 9.94A.310, 9.94A.400, and 9.94A.420; and prescribing penalties.

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

4 Sec. 1. RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read
5 as follows:

6 (1) TABLE 1

7 Sentencing Grid

8 SERIOUSNESS

9 SCORE

OFFENDER SCORE

10 9 or
11 0 1 2 3 4 5 6 7 8 more

12
13 XV Life Sentence without Parole/Death Penalty

14
15 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y
16 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-
17 320 333 347 361 374 388 416 450 493 548

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

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 is being sentenced for more than one offense, the firearm
34 enhancement or enhancements must be added to the total period of
35 confinement for all offenses, regardless of which underlying offense is
36 subject to a firearm enhancement. If the offender or an accomplice was
37 armed with a firearm as defined in RCW 9.41.010 and the offender is
38 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
39 commit one of the crimes listed in this subsection as eligible for any

1 firearm enhancements, the following additional times shall be added to
2 the presumptive sentence determined under subsection (2) of this
3 section based on the felony crime of conviction as classified under RCW
4 9A.28.020:

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

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

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

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

21 (e) Notwithstanding any other provision of law, any and all
22 firearm enhancements under this section are mandatory, shall be served
23 in total confinement, and shall ~~((not)) run ((concurrently with any))~~
24 consecutively to all other sentencing provisions, including other
25 firearm or deadly weapon enhancements, for all offenses sentenced under
26 this chapter.

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

32 (g) If the presumptive sentence under this section exceeds the
33 statutory maximum for the offense, the statutory maximum sentence shall
34 be the presumptive sentence unless the offender is a persistent
35 offender as defined in RCW 9.94A.030. If the addition of a firearm
36 enhancement increases the sentence so that it would exceed the
37 statutory maximum for the offense, the portion of the sentence
38 representing the enhancement may not be reduced.

1 (4) The following additional times shall be added to the
2 presumptive sentence for felony crimes committed after July 23, 1995,
3 if the offender or an accomplice was armed with a deadly weapon as
4 defined in this chapter other than a firearm as defined in RCW 9.41.010
5 and the offender is being sentenced for one of the crimes listed in
6 this subsection as eligible for any deadly weapon enhancements based on
7 the classification of the completed felony crime. If the offender is
8 being sentenced for more than one offense, the deadly weapon
9 enhancement or enhancements must be added to the total period of
10 confinement for all offenses, regardless of which underlying offense is
11 subject to a deadly weapon enhancement. If the offender or an
12 accomplice was armed with a deadly weapon other than a firearm as
13 defined in RCW 9.41.010 and the offender is being sentenced for an
14 anticipatory offense under chapter 9A.28 RCW to commit one of the
15 crimes listed in this subsection as eligible for any deadly weapon
16 enhancements, the following additional times shall be added to the
17 presumptive sentence determined under subsection (2) of this section
18 based on the felony crime of conviction as classified under RCW
19 9A.28.020:

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

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

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

29 (d) If the offender is being sentenced under (a), (b), and/or (c)
30 of this subsection for any deadly weapon enhancements and the offender
31 has previously been sentenced for any deadly weapon enhancements after
32 July 23, 1995, under (a), (b), and/or (c) of this subsection or
33 subsection (3) (a), (b), and/or (c) of this section, or both, any and
34 all deadly weapon enhancements under this subsection shall be twice the
35 amount of the enhancement listed.

36 (e) Notwithstanding any other provision of law, any and all deadly
37 weapon enhancements under this section are mandatory, shall be served
38 in total confinement, and shall ~~((not))~~ run ~~((concurrently with any))~~
39 consecutively to all other sentencing provisions, including other

1 firearm or deadly weapon enhancements, for all offenses sentenced under
2 this chapter.

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

8 (g) If the presumptive sentence under this section exceeds the
9 statutory maximum for the offense, the statutory maximum sentence shall
10 be the presumptive sentence unless the offender is a persistent
11 offender as defined in RCW 9.94A.030. If the addition of a deadly
12 weapon enhancement increases the sentence so that it would exceed the
13 statutory maximum for the offense, the portion of the sentence
14 representing the enhancement may not be reduced.

15 (5) The following additional times shall be added to the
16 presumptive sentence if the offender or an accomplice committed the
17 offense while in a county jail or state correctional facility as that
18 term is defined in this chapter and the offender is being sentenced for
19 one of the crimes listed in this subsection. If the offender or an
20 accomplice committed one of the crimes listed in this subsection while
21 in a county jail or state correctional facility as that term is defined
22 in this chapter, and the offender is being sentenced for an
23 anticipatory offense under chapter 9A.28 RCW to commit one of the
24 crimes listed in this subsection, the following additional times shall
25 be added to the presumptive sentence determined under subsection (2) of
26 this section:

27 (a) Eighteen months for offenses committed under RCW
28 69.50.401(a)(1) (i) or (ii) or 69.50.410;

29 (b) Fifteen months for offenses committed under RCW
30 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

1 **Sec. 2.** RCW 9.94A.400 and 1996 c 199 s 3 are each amended to read
2 as follows:

3 (1)(a) Except as provided in (b) or (c) of this subsection,
4 whenever a person is to be sentenced for two or more current offenses,
5 the sentence range for each current offense shall be determined by
6 using all other current and prior convictions as if they were prior
7 convictions for the purpose of the offender score: PROVIDED, That if
8 the court enters a finding that some or all of the current offenses
9 encompass the same criminal conduct then those current offenses shall
10 be counted as one crime. Sentences imposed under this subsection shall
11 be served concurrently. Consecutive sentences may only be imposed
12 under the exceptional sentence provisions of RCW 9.94A.120 and
13 9.94A.390(2)((+f)) (g) or any other provision of RCW 9.94A.390. "Same
14 criminal conduct," as used in this subsection, means two or more crimes
15 that require the same criminal intent, are committed at the same time
16 and place, and involve the same victim. This definition applies in
17 cases involving vehicular assault or vehicular homicide even if the
18 victims occupied the same vehicle.

19 (b) Whenever a person is convicted of two or more serious violent
20 offenses, as defined in RCW 9.94A.030, arising from separate and
21 distinct criminal conduct, the sentence range for the offense with the
22 highest seriousness level under RCW 9.94A.320 shall be determined using
23 the offender's prior convictions and other current convictions that are
24 not serious violent offenses in the offender score and the sentence
25 range for other serious violent offenses shall be determined by using
26 an offender score of zero. The sentence range for any offenses that
27 are not serious violent offenses shall be determined according to (a)
28 of this subsection. All sentences imposed under (b) of this subsection
29 shall be served consecutively to each other and concurrently with
30 sentences imposed under (a) of this subsection.

31 (c) If an offender is convicted under RCW 9.41.040 for unlawful
32 possession of a firearm in the first or second degree and for the
33 felony crimes of theft of a firearm or possession of a stolen firearm,
34 or both, then the offender shall serve consecutive sentences for each
35 conviction of the felony crimes listed in this subsection, and for each
36 firearm unlawfully possessed.

37 (2)(a) Except as provided in (b) of this subsection, whenever a
38 person while under sentence of felony commits another felony and is

1 sentenced to another term of confinement, the latter term shall not
2 begin until expiration of all prior terms.

3 (b) Whenever a second or later felony conviction results in
4 community supervision with conditions not currently in effect, under
5 the prior sentence or sentences of community supervision the court may
6 require that the conditions of community supervision contained in the
7 second or later sentence begin during the immediate term of community
8 supervision and continue throughout the duration of the consecutive
9 term of community supervision.

10 (3) Subject to subsections (1) and (2) of this section, whenever
11 a person is sentenced for a felony that was committed while the person
12 was not under sentence of a felony, the sentence shall run concurrently
13 with any felony sentence which has been imposed by any court in this or
14 another state or by a federal court subsequent to the commission of the
15 crime being sentenced unless the court pronouncing the current sentence
16 expressly orders that they be served consecutively.

17 (4) Whenever any person granted probation under RCW 9.95.210 or
18 9.92.060, or both, has the probationary sentence revoked and a prison
19 sentence imposed, that sentence shall run consecutively to any sentence
20 imposed pursuant to this chapter, unless the court pronouncing the
21 subsequent sentence expressly orders that they be served concurrently.

22 (5) However, in the case of consecutive sentences, all periods of
23 total confinement shall be served before any partial confinement,
24 community service, community supervision, or any other requirement or
25 conditions of any of the sentences. Except for exceptional sentences
26 as authorized under RCW 9.94A.120(2), if two or more sentences that run
27 consecutively include periods of community supervision, the aggregate
28 of the community supervision period shall not exceed twenty-four
29 months.

30 **Sec. 3.** RCW 9.94A.420 and 1983 c 115 s 13 are each amended to
31 read as follows:

32 If the presumptive sentence duration given in the sentencing grid
33 exceeds the statutory maximum sentence for the offense, the statutory
34 maximum sentence shall be the presumptive sentence. If the addition of
35 a firearm or deadly weapon enhancement increases the sentence so that

1 it would exceed the statutory maximum for the offense, the portion of
2 the sentence representing the enhancement may not be reduced.

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