
ENGROSSED SUBSTITUTE SENATE BILL 5861

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Roach, Schow and Oke)

Read first time 03/05/97.

1 AN ACT Relating to exceeding statutory maximum penalties for crimes
2 involving firearms and deadly weapons; amending RCW 9.92.010,
3 9A.20.021, and 9.94A.470; reenacting and amending RCW 9.94A.310;
4 creating a new section; and prescribing penalties.

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

6 **Sec. 1.** RCW 9.92.010 and 1996 c 44 s 2 are each amended to read as
7 follows:

8 Every person convicted of a felony for which no maximum punishment
9 is specially prescribed by any statutory provision in force at the time
10 of conviction and sentence, shall be punished by confinement or fine
11 which shall not exceed confinement in a state correctional institution
12 for ((a term)) the sum of ten years plus any firearm or deadly weapon
13 penalty enhancement imposed under RCW 9.94A.125, and either RCW
14 9.94A.310 (3) or (4), or by a fine in an amount fixed by the court of
15 not more than twenty thousand dollars, or by both such confinement and
16 fine and the offense shall be classified as a class B felony.

17 **Sec. 2.** RCW 9A.20.021 and 1982 c 192 s 10 are each amended to read
18 as follows:

1 (1) Felony. No person convicted of a classified felony shall be
2 punished by confinement or fine exceeding the following:

3 (a) For a class A felony, by confinement in a state correctional
4 institution for a term of life imprisonment, or by a fine in an amount
5 fixed by the court of fifty thousand dollars, or by both such
6 confinement and fine;

7 (b) For a class B felony, by confinement in a state correctional
8 institution for ~~((a term))~~ the sum of ten years plus any firearm or
9 deadly weapon penalty enhancement imposed under RCW 9.94A.125, and
10 either RCW 9.94A.310 (3) or (4), or by a fine in an amount fixed by the
11 court of twenty thousand dollars, or by both such confinement and fine;

12 (c) For a class C felony, by confinement in a state correctional
13 institution for the sum of five years plus any firearm or deadly weapon
14 penalty enhancement imposed under RCW 9.94A.125, and either RCW
15 9.94A.310 (3) or (4), or by a fine in an amount fixed by the court of
16 ten thousand dollars, or by both such confinement and fine.

17 (2) Gross misdemeanor. Every person convicted of a gross
18 misdemeanor defined in Title 9A RCW shall be punished by imprisonment
19 in the county jail for a maximum term fixed by the court of not more
20 than one year, or by a fine in an amount fixed by the court of not more
21 than five thousand dollars, or by both such imprisonment and fine.

22 (3) Misdemeanor. Every person convicted of a misdemeanor defined
23 in Title 9A RCW shall be punished by imprisonment in the county jail
24 for a maximum term fixed by the court of not more than ninety days, or
25 by a fine in an amount fixed by the court of not more than one thousand
26 dollars, or by both such imprisonment and fine.

27 (4) This section applies to only those crimes committed on or after
28 July 1, 1984.

29 **Sec. 3.** RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are
30 each reenacted and amended to read as follows:

31 (1) TABLE 1

32 Sentencing Grid

33 SERIOUSNESS

34 SCORE

OFFENDER SCORE

35 9 or
36 0 1 2 3 4 5 6 7 8 more

37

1	XV	Life Sentence without Parole/Death Penalty									
2		<hr/>									
3	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
4		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
5		320	333	347	361	374	388	416	450	493	548
6		<hr/>									
7	XIII	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
8		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
9		220	234	244	254	265	275	295	316	357	397
10		<hr/>									
11	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
12		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
13		123	136	147	160	171	184	216	236	277	318
14		<hr/>									
15	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
16		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
17		102	114	125	136	147	158	194	211	245	280
18		<hr/>									
19	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
20		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
21		68	75	82	89	96	102	130	144	171	198
22		<hr/>									
23	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
24		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
25		41	48	54	61	68	75	102	116	144	171
26		<hr/>									
27	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
28		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
29		27	34	41	48	54	61	89	102	116	144
30		<hr/>									
31	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
32		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
33		20	27	34	41	48	54	75	89	102	116
34		<hr/>									
35	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
36		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
37		14	20	27	34	41	48	61	75	89	102
38		<hr/>									

1	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
2		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
3		12	14	17	20	29	43	54	68	82	96
4	<hr/>										
5	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
6		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
7		9	12	14	17	20	29	43	57	70	84
8	<hr/>										
9	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
10		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
11		3	8	12	12	16	22	29	43	57	68
12	<hr/>										
13	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
14		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
15		Days	6	9	12	14	18	22	29	43	57
16	<hr/>										
17	I			3m	4m	5m	8m	13m	16m	20m	2y2m
18		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
19		Days	Days	5	6	8	12	14	18	22	29
20	<hr/>										

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

25 (2) For persons convicted of the anticipatory offenses of criminal
 26 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
 27 presumptive sentence is determined by locating the sentencing grid
 28 sentence range defined by the appropriate offender score and the
 29 seriousness level of the completed crime, and multiplying the range by
 30 75 percent.

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

1 this subsection as eligible for any firearm enhancements, the following
2 additional times shall be added to the presumptive sentence determined
3 under subsection (2) of this section based on the felony crime of
4 conviction as classified under RCW 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))~~ (e) 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))~~ (e) 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))~~ (e) 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 ~~((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 other
24 sentencing provisions.~~

25 ~~(f))~~ The firearm enhancements in this section shall apply to all
26 felony crimes except the following: Possession of a machine gun,
27 possessing a stolen firearm, drive-by shooting, theft of a firearm,
28 unlawful possession of a firearm in the first and second degree, and
29 use of a machine gun in a felony.

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

34 (g) Notwithstanding any other provision of law, including the
35 maximum term, any and all firearm enhancements under this section are
36 mandatory, shall be served in total confinement, and shall run
37 consecutive to any other sentencing provisions, including other firearm
38 or deadly weapon enhancements, for all offenses sentenced under this
39 chapter.

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 or
8 an accomplice was armed with a deadly weapon other than a firearm as
9 defined in RCW 9.41.010 and the offender is being sentenced for an
10 anticipatory offense under chapter 9A.28 RCW to commit one of the
11 crimes listed in this subsection as eligible for any deadly weapon
12 enhancements, the following additional times shall be added to the
13 presumptive sentence determined under subsection (2) of this section
14 based on the felony crime of conviction as classified under RCW
15 9A.28.020:

16 (a) Two years for any felony defined under any law as a class A
17 felony or with a maximum sentence of at least twenty years, or both,
18 and not covered under ~~((f))~~ (e) of this subsection.

19 (b) One year for any felony defined under any law as a class B
20 felony or with a maximum sentence of ten years, or both, and not
21 covered under ~~((f))~~ (e) of this subsection.

22 (c) Six months for any felony defined under any law as a class C
23 felony or with a maximum sentence of five years, or both, and not
24 covered under ~~((f))~~ (e) of this subsection.

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

32 ~~(e) ((Notwithstanding any other provision of law, any and all
33 deadly weapon enhancements under this section are mandatory, shall be
34 served in total confinement, and shall not run concurrently with any
35 other sentencing provisions.~~

36 ~~(f))~~ The deadly weapon enhancements in this section shall apply
37 to all felony crimes except the following: Possession of a machine
38 gun, possessing a stolen firearm, drive-by shooting, theft of a

1 firearm, unlawful possession of a firearm in the first and second
2 degree, and use of a machine gun in a felony.

3 ~~((g))~~ (f) If the presumptive sentence under this section exceeds
4 the statutory maximum for the offense, the statutory maximum sentence
5 shall be the presumptive sentence unless the offender is a persistent
6 offender as defined in RCW 9.94A.030.

7 (g) Notwithstanding any other provision of law, including the
8 maximum term, any and all firearm enhancements under this section are
9 mandatory, shall be served in total confinement, and shall run
10 consecutive to any other sentencing provisions, including other firearm
11 or deadly weapon enhancements, for all offenses sentenced under this
12 chapter.

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

25 (a) Eighteen months for offenses committed under RCW
26 69.50.401(a)(1) (i) or (ii) or 69.50.410;

27 (b) Fifteen months for offenses committed under RCW
28 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

36 **Sec. 4.** RCW 9.94A.470 and 1995 c 129 s 4 are each amended to read
37 as follows:

1 Notwithstanding the current placement or listing of crimes in
2 categories or classifications of prosecuting standards for deciding to
3 prosecute under RCW 9.94A.440(2), any and all felony crimes involving
4 any deadly weapon special verdict under RCW 9.94A.125, any deadly
5 weapon enhancements under RCW 9.94A.310 (3) or (4), or both, and any
6 and all felony crimes as defined in RCW 9.94A.310 (3)((+f+)) (e) or
7 (4)((+f+)) (e), or both, which are excluded from the deadly weapon
8 enhancements shall all be treated as crimes against a person and
9 subject to the prosecuting standards for deciding to prosecute under
10 RCW 9.94A.440(2) as crimes against persons.

11 NEW SECTION. **Sec. 5.** The amendments to RCW 9A.20.021 in section
12 2 of this act apply to only those crimes committed after the effective
13 date of this act.

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