

SENATE BILL 6517

State of Washington 55th Legislature 1998 Regular Session

By Senators Roach, Benton, Hochstatter, Rossi, Goings, Johnson, Sellar, Snyder, Zarelli, Horn, McDonald, McCaslin, Strannigan, Oke, Fraser, Schow, Swecker and Deccio

Read first time 01/20/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to deadly weapon sentence enhancements; amending
2 RCW 9.94A.400; reenacting and amending RCW 9.94A.310; and prescribing
3 penalties.

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

5 Sec. 1. RCW 9.94A.310 and 1997 c 365 s 3 and 1997 c 338 s 50 are
6 each reenacted and amended to read as follows:

7 (1) TABLE 1

8 Sentencing Grid

9 SERIOUSNESS

10 SCORE

OFFENDER SCORE

11 9 or
12 0 1 2 3 4 5 6 7 8 more

13
14 XV Life Sentence without Parole/Death Penalty

15
16 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y
17 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-
18 320 333 347 361 374 388 416 450 493 548

1											
2	XIII	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
3		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
4		220	234	244	254	265	275	295	316	357	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,~~  
29 ~~1995~~) the effective date of this act, if the offender or an accomplice  
30 was armed with a firearm as defined in RCW 9.41.010 or a deadly weapon  
31 as defined in this chapter other than a firearm and the offender is  
32 being sentenced for one of the crimes listed in this subsection as  
33 eligible for any firearm or deadly weapon enhancements based on the  
34 classification of the completed felony crime. If the offender or an  
35 accomplice was armed with a firearm as defined in RCW 9.41.010 or a  
36 deadly weapon as defined in this chapter other than a firearm and the  
37 offender is being sentenced for an anticipatory offense under chapter  
38 9A.28 RCW to commit one of the crimes listed in this subsection as  
39 eligible for any firearm or deadly weapon enhancements, the following

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

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

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

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

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

21 (e) Notwithstanding any other provision of law, any and all  
22 firearm or deadly weapon enhancements under this section are mandatory,  
23 shall be served in total confinement, and shall not run concurrently  
24 with any other sentencing provisions.

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

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

34 ~~(4) ((The following additional times shall be added to the~~  
35 ~~presumptive sentence for felony crimes committed after July 23, 1995,~~  
36 ~~if the offender or an accomplice was armed with a deadly weapon as~~  
37 ~~defined in this chapter other than a firearm as defined in RCW 9.41.010~~  
38 ~~and the offender is being sentenced for one of the crimes listed in~~  
39 ~~this subsection as eligible for any deadly weapon enhancements based on~~

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

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

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

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

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

26 (e) Notwithstanding any other provision of law, any and all deadly  
27 weapon enhancements under this section are mandatory, shall be served  
28 in total confinement, and shall not run concurrently with any other  
29 sentencing provisions.

30 (f) The deadly weapon enhancements in this section shall apply to  
31 all felony crimes except the following: Possession of a machine gun,  
32 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
33 unlawful possession of a firearm in the first and second degree, and  
34 use of a machine gun in a felony.

35 (g) If the presumptive sentence under this section exceeds the  
36 statutory maximum for the offense, the statutory maximum sentence shall  
37 be the presumptive sentence unless the offender is a persistent  
38 offender as defined in RCW 9.94A.030.

1       ~~(5))~~) The following additional times shall be added to the  
2 presumptive sentence if the offender or an accomplice committed the  
3 offense while in a county jail or state correctional facility as that  
4 term is defined in this chapter and the offender is being sentenced for  
5 one of the crimes listed in this subsection. If the offender or an  
6 accomplice committed one of the crimes listed in this subsection while  
7 in a county jail or state correctional facility as that term is defined  
8 in this chapter, and the offender is being sentenced for an  
9 anticipatory offense under chapter 9A.28 RCW to commit one of the  
10 crimes listed in this subsection, the following additional times shall  
11 be added to the presumptive sentence determined under subsection (2) of  
12 this section:

13       (a) Eighteen months for offenses committed under RCW  
14 69.50.401(a)(1) (i) or (ii) or 69.50.410;

15       (b) Fifteen months for offenses committed under RCW  
16 69.50.401(a)(1) (iii), (iv), and (v);

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

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

21       (~~(6))~~) (5) An additional twenty-four months shall be added to the  
22 presumptive sentence for any ranked offense involving a violation of  
23 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

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

26       (1)(a) Except as provided in (b) of this subsection, whenever a  
27 person is to be sentenced for two or more current offenses, the  
28 sentence range for each current offense shall be determined by using  
29 all other current and prior convictions as if they were prior  
30 convictions for the purpose of the offender score: PROVIDED, That if  
31 the court enters a finding that some or all of the current offenses  
32 encompass the same criminal conduct then those current offenses shall  
33 be counted as one crime. Sentences imposed under this subsection shall  
34 be served concurrently. Consecutive sentences may only be imposed  
35 under the exceptional sentence provisions of RCW 9.94A.120,  
36 9.94A.310(3), and 9.94A.390(2)(~~(f))~~) (g) or any other provision of RCW  
37 9.94A.390. "Same criminal conduct," as used in this subsection, means  
38 two or more crimes that require the same criminal intent, are committed

1 at the same time and place, and involve the same victim. This  
2 definition applies in cases involving vehicular assault or vehicular  
3 homicide even if the victims occupied the same vehicle.

4 (b) Whenever a person is convicted of two or more serious violent  
5 offenses, as defined in RCW 9.94A.030, arising from separate and  
6 distinct criminal conduct, the sentence range for the offense with the  
7 highest seriousness level under RCW 9.94A.320 shall be determined using  
8 the offender's prior convictions and other current convictions that are  
9 not serious violent offenses in the offender score and the sentence  
10 range for other serious violent offenses shall be determined by using  
11 an offender score of zero. The sentence range for any offenses that  
12 are not serious violent offenses shall be determined according to (a)  
13 of this subsection. All sentences imposed under (b) of this subsection  
14 shall be served consecutively to each other and concurrently with  
15 sentences imposed under (a) of this subsection.

16 (2)(a) Except as provided in (b) of this subsection, whenever a  
17 person while under sentence of felony commits another felony and is  
18 sentenced to another term of confinement, the latter term shall not  
19 begin until expiration of all prior terms.

20 (b) Whenever a second or later felony conviction results in  
21 community supervision with conditions not currently in effect, under  
22 the prior sentence or sentences of community supervision the court may  
23 require that the conditions of community supervision contained in the  
24 second or later sentence begin during the immediate term of community  
25 supervision and continue throughout the duration of the consecutive  
26 term of community supervision.

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

34 (4) Whenever any person granted probation under RCW 9.95.210 or  
35 9.92.060, or both, has the probationary sentence revoked and a prison  
36 sentence imposed, that sentence shall run consecutively to any sentence  
37 imposed pursuant to this chapter, unless the court pronouncing the  
38 subsequent sentence expressly orders that they be served concurrently.

1           (5) However, in the case of consecutive sentences, all periods of  
2 total confinement shall be served before any partial confinement,  
3 community service, community supervision, or any other requirement or  
4 conditions of any of the sentences. Except for exceptional sentences  
5 as authorized under RCW 9.94A.120(2), if two or more sentences that run  
6 consecutively include periods of community supervision, the aggregate  
7 of the community supervision period shall not exceed twenty-four  
8 months.

--- END ---