

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5938**

55th Legislature  
1997 Regular Session

Passed by the Senate March 17, 1997  
YEAS 45 NAYS 3

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**President of the Senate**

Passed by the House April 18, 1997  
YEAS 96 NAYS 1

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**Speaker of the  
House of Representatives**

Approved

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5938** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

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**Governor of the State of Washington**

**Secretary of State  
State of Washington**

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**SENATE BILL 5938**

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Passed Legislature - 1997 Regular Session

**State of Washington                      55th Legislature                      1997 Regular Session**

**By** Senators Roach, Long, Zarelli, Haugen, Benton, Finkbeiner, Oke, Swecker, Anderson, Stevens, Winsley, Strannigan and Schow

Read first time 02/20/97. Referred to Committee on Law & Justice.

1            AN ACT Relating to sentencing; amending RCW 9.94A.040, 9.94A.310,  
2 9A.32.060, and 9A.32.070; reenacting and amending RCW 9.94A.030 and  
3 9.94A.320; and prescribing penalties.

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

5            **Sec. 1.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are  
6 each reenacted and amended to read as follows:

7            Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9            (1) "Collect," or any derivative thereof, "collect and remit," or  
10 "collect and deliver," when used with reference to the department of  
11 corrections, means that the department is responsible for monitoring  
12 and enforcing the offender's sentence with regard to the legal  
13 financial obligation, receiving payment thereof from the offender, and,  
14 consistent with current law, delivering daily the entire payment to the  
15 superior court clerk without depositing it in a departmental account.

16            (2) "Commission" means the sentencing guidelines commission.

17            (3) "Community corrections officer" means an employee of the  
18 department who is responsible for carrying out specific duties in

1 supervision of sentenced offenders and monitoring of sentence  
2 conditions.

3 (4) "Community custody" means that portion of an inmate's sentence  
4 of confinement in lieu of earned early release time or imposed pursuant  
5 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to  
6 controls placed on the inmate's movement and activities by the  
7 department of corrections.

8 (5) "Community placement" means that period during which the  
9 offender is subject to the conditions of community custody and/or  
10 postrelease supervision, which begins either upon completion of the  
11 term of confinement (postrelease supervision) or at such time as the  
12 offender is transferred to community custody in lieu of earned early  
13 release. Community placement may consist of entirely community  
14 custody, entirely postrelease supervision, or a combination of the two.

15 (6) "Community service" means compulsory service, without  
16 compensation, performed for the benefit of the community by the  
17 offender.

18 (7) "Community supervision" means a period of time during which a  
19 convicted offender is subject to crime-related prohibitions and other  
20 sentence conditions imposed by a court pursuant to this chapter or RCW  
21 16.52.200(6) or 46.61.524. For first-time offenders, the supervision  
22 may include crime-related prohibitions and other conditions imposed  
23 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact  
24 for out-of-state supervision of parolees and probationers, RCW  
25 9.95.270, community supervision is the functional equivalent of  
26 probation and should be considered the same as probation by other  
27 states.

28 (8) "Confinement" means total or partial confinement as defined in  
29 this section.

30 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
31 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
32 acceptance of a plea of guilty.

33 (10) "Court-ordered legal financial obligation" means a sum of  
34 money that is ordered by a superior court of the state of Washington  
35 for legal financial obligations which may include restitution to the  
36 victim, statutorily imposed crime victims' compensation fees as  
37 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
38 drug funds, court-appointed attorneys' fees, and costs of defense,  
39 fines, and any other financial obligation that is assessed to the

1 offender as a result of a felony conviction. Upon conviction for  
2 vehicular assault while under the influence of intoxicating liquor or  
3 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the  
4 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),  
5 legal financial obligations may also include payment to a public agency  
6 of the expense of an emergency response to the incident resulting in  
7 the conviction, subject to the provisions in RCW 38.52.430.

8 (11) "Crime-related prohibition" means an order of a court  
9 prohibiting conduct that directly relates to the circumstances of the  
10 crime for which the offender has been convicted, and shall not be  
11 construed to mean orders directing an offender affirmatively to  
12 participate in rehabilitative programs or to otherwise perform  
13 affirmative conduct.

14 (12)(a) "Criminal history" means the list of a defendant's prior  
15 convictions, whether in this state, in federal court, or elsewhere.  
16 The history shall include, where known, for each conviction (i) whether  
17 the defendant has been placed on probation and the length and terms  
18 thereof; and (ii) whether the defendant has been incarcerated and the  
19 length of incarceration.

20 (b) "Criminal history" shall always include juvenile convictions  
21 for sex offenses and serious violent offenses and shall also include a  
22 defendant's other prior convictions in juvenile court if: (i) The  
23 conviction was for an offense which is a felony or a serious traffic  
24 offense and is criminal history as defined in RCW 13.40.020(9); (ii)  
25 the defendant was fifteen years of age or older at the time the offense  
26 was committed; and (iii) with respect to prior juvenile class B and C  
27 felonies or serious traffic offenses, the defendant was less than  
28 twenty-three years of age at the time the offense for which he or she  
29 is being sentenced was committed.

30 (13) "Day fine" means a fine imposed by the sentencing judge that  
31 equals the difference between the offender's net daily income and the  
32 reasonable obligations that the offender has for the support of the  
33 offender and any dependents.

34 (14) "Day reporting" means a program of enhanced supervision  
35 designed to monitor the defendant's daily activities and compliance  
36 with sentence conditions, and in which the defendant is required to  
37 report daily to a specific location designated by the department or the  
38 sentencing judge.

39 (15) "Department" means the department of corrections.

1 (16) "Determinate sentence" means a sentence that states with  
2 exactitude the number of actual years, months, or days of total  
3 confinement, of partial confinement, of community supervision, the  
4 number of actual hours or days of community service work, or dollars or  
5 terms of a legal financial obligation. The fact that an offender  
6 through "earned early release" can reduce the actual period of  
7 confinement shall not affect the classification of the sentence as a  
8 determinate sentence.

9 (17) "Disposable earnings" means that part of the earnings of an  
10 individual remaining after the deduction from those earnings of any  
11 amount required by law to be withheld. For the purposes of this  
12 definition, "earnings" means compensation paid or payable for personal  
13 services, whether denominated as wages, salary, commission, bonuses, or  
14 otherwise, and, notwithstanding any other provision of law making the  
15 payments exempt from garnishment, attachment, or other process to  
16 satisfy a court-ordered legal financial obligation, specifically  
17 includes periodic payments pursuant to pension or retirement programs,  
18 or insurance policies of any type, but does not include payments made  
19 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
20 or Title 74 RCW.

21 (18) "Drug offense" means:

22 (a) Any felony violation of chapter 69.50 RCW except possession of  
23 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
24 controlled substance (RCW 69.50.403);

25 (b) Any offense defined as a felony under federal law that relates  
26 to the possession, manufacture, distribution, or transportation of a  
27 controlled substance; or

28 (c) Any out-of-state conviction for an offense that under the laws  
29 of this state would be a felony classified as a drug offense under (a)  
30 of this subsection.

31 (19) "Escape" means:

32 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
33 second degree (RCW 9A.76.120), willful failure to return from furlough  
34 (RCW 72.66.060), willful failure to return from work release (RCW  
35 72.65.070), or willful failure to be available for supervision by the  
36 department while in community custody (RCW 72.09.310); or

37 (b) Any federal or out-of-state conviction for an offense that  
38 under the laws of this state would be a felony classified as an escape  
39 under (a) of this subsection.

1 (20) "Felony traffic offense" means:

2 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
3 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
4 and-run injury-accident (RCW 46.52.020(4)); or

5 (b) Any federal or out-of-state conviction for an offense that  
6 under the laws of this state would be a felony classified as a felony  
7 traffic offense under (a) of this subsection.

8 (21) "Fines" means the requirement that the offender pay a specific  
9 sum of money over a specific period of time to the court.

10 (22)(a) "First-time offender" means any person who is convicted of  
11 a felony (i) not classified as a violent offense or a sex offense under  
12 this chapter, or (ii) that is not the manufacture, delivery, or  
13 possession with intent to manufacture or deliver a controlled substance  
14 classified in schedule I or II that is a narcotic drug, nor the  
15 manufacture, delivery, or possession with intent to deliver  
16 methamphetamine, its salts, isomers, and salts of its isomers as  
17 defined in RCW 69.50.206(d)(2), nor the selling for profit of any  
18 controlled substance or counterfeit substance classified in schedule I,  
19 RCW 69.50.204, except leaves and flowering tops of marihuana, and  
20 except as provided in (b) of this subsection, who previously has never  
21 been convicted of a felony in this state, federal court, or another  
22 state, and who has never participated in a program of deferred  
23 prosecution for a felony offense.

24 (b) For purposes of (a) of this subsection, a juvenile adjudication  
25 for an offense committed before the age of fifteen years is not a  
26 previous felony conviction except for adjudications of sex offenses and  
27 serious violent offenses.

28 (23) "Most serious offense" means any of the following felonies or  
29 a felony attempt to commit any of the following felonies, as now  
30 existing or hereafter amended:

31 (a) Any felony defined under any law as a class A felony or  
32 criminal solicitation of or criminal conspiracy to commit a class A  
33 felony;

34 (b) Assault in the second degree;

35 (c) Assault of a child in the second degree;

36 (d) Child molestation in the second degree;

37 (e) Controlled substance homicide;

38 (f) Extortion in the first degree;

39 (g) Incest when committed against a child under age fourteen;

1 (h) Indecent liberties;  
2 (i) Kidnapping in the second degree;  
3 (j) Leading organized crime;  
4 (k) Manslaughter in the first degree;  
5 (l) Manslaughter in the second degree;  
6 (m) Promoting prostitution in the first degree;  
7 (n) Rape in the third degree;  
8 (o) Robbery in the second degree;  
9 (p) Sexual exploitation;  
10 (q) Vehicular assault;  
11 (r) Vehicular homicide, when proximately caused by the driving of  
12 any vehicle by any person while under the influence of intoxicating  
13 liquor or any drug as defined by RCW 46.61.502, or by the operation of  
14 any vehicle in a reckless manner;  
15 (s) Any other class B felony offense with a finding of sexual  
16 motivation, as "sexual motivation" is defined under this section;  
17 (t) Any other felony with a deadly weapon verdict under RCW  
18 9.94A.125;  
19 (u) Any felony offense in effect at any time prior to December 2,  
20 1993, that is comparable to a most serious offense under this  
21 subsection, or any federal or out-of-state conviction for an offense  
22 that under the laws of this state would be a felony classified as a  
23 most serious offense under this subsection.  
24 (24) "Nonviolent offense" means an offense which is not a violent  
25 offense.  
26 (25) "Offender" means a person who has committed a felony  
27 established by state law and is eighteen years of age or older or is  
28 less than eighteen years of age but whose case has been transferred by  
29 the appropriate juvenile court to a criminal court pursuant to RCW  
30 13.40.110. Throughout this chapter, the terms "offender" and  
31 "defendant" are used interchangeably.  
32 (26) "Partial confinement" means confinement for no more than one  
33 year in a facility or institution operated or utilized under contract  
34 by the state or any other unit of government, or, if home detention or  
35 work crew has been ordered by the court, in an approved residence, for  
36 a substantial portion of each day with the balance of the day spent in  
37 the community. Partial confinement includes work release, home  
38 detention, work crew, and a combination of work crew and home detention  
39 as defined in this section.

1 (27) "Persistent offender" is an offender who:

2 (a)(i) Has been convicted in this state of any felony considered a  
3 most serious offense; and

4 (ii) Has, before the commission of the offense under (a) of this  
5 subsection, been convicted as an offender on at least two separate  
6 occasions, whether in this state or elsewhere, of felonies that under  
7 the laws of this state would be considered most serious offenses and  
8 would be included in the offender score under RCW 9.94A.360; provided  
9 that of the two or more previous convictions, at least one conviction  
10 must have occurred before the commission of any of the other most  
11 serious offenses for which the offender was previously convicted; or

12 (b)(i) Has been convicted of (A) rape in the first degree, rape in  
13 the second degree, or indecent liberties by forcible compulsion; (B)  
14 murder in the first degree, murder in the second degree, kidnapping in  
15 the first degree, kidnapping in the second degree, assault in the first  
16 degree, assault in the second degree, or burglary in the first degree,  
17 with a finding of sexual motivation; or (C) an attempt to commit any  
18 crime listed in this subsection (27)(b)(i); and

19 (ii) Has, before the commission of the offense under (b)(i) of this  
20 subsection, been convicted as an offender on at least one occasion,  
21 whether in this state or elsewhere, of an offense listed in (b)(i) of  
22 this subsection.

23 (28) "Postrelease supervision" is that portion of an offender's  
24 community placement that is not community custody.

25 (29) "Restitution" means the requirement that the offender pay a  
26 specific sum of money over a specific period of time to the court as  
27 payment of damages. The sum may include both public and private costs.  
28 The imposition of a restitution order does not preclude civil redress.

29 (30) "Serious traffic offense" means:

30 (a) Driving while under the influence of intoxicating liquor or any  
31 drug (RCW 46.61.502), actual physical control while under the influence  
32 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
33 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
34 or

35 (b) Any federal, out-of-state, county, or municipal conviction for  
36 an offense that under the laws of this state would be classified as a  
37 serious traffic offense under (a) of this subsection.

38 (31) "Serious violent offense" is a subcategory of violent offense  
39 and means:

1 (a) Murder in the first degree, homicide by abuse, murder in the  
2 second degree, manslaughter in the first degree, assault in the first  
3 degree, kidnapping in the first degree, or rape in the first degree,  
4 assault of a child in the first degree, or an attempt, criminal  
5 solicitation, or criminal conspiracy to commit one of these felonies;  
6 or

7 (b) Any federal or out-of-state conviction for an offense that  
8 under the laws of this state would be a felony classified as a serious  
9 violent offense under (a) of this subsection.

10 (32) "Sentence range" means the sentencing court's discretionary  
11 range in imposing a nonappealable sentence.

12 (33) "Sex offense" means:

13 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
14 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a  
15 criminal attempt, criminal solicitation, or criminal conspiracy to  
16 commit such crimes;

17 (b) A felony with a finding of sexual motivation under RCW  
18 9.94A.127 or 13.40.135; or

19 (c) Any federal or out-of-state conviction for an offense that  
20 under the laws of this state would be a felony classified as a sex  
21 offense under (a) of this subsection.

22 (34) "Sexual motivation" means that one of the purposes for which  
23 the defendant committed the crime was for the purpose of his or her  
24 sexual gratification.

25 (35) "Total confinement" means confinement inside the physical  
26 boundaries of a facility or institution operated or utilized under  
27 contract by the state or any other unit of government for twenty-four  
28 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

29 (36) "Transition training" means written and verbal instructions  
30 and assistance provided by the department to the offender during the  
31 two weeks prior to the offender's successful completion of the work  
32 ethic camp program. The transition training shall include instructions  
33 in the offender's requirements and obligations during the offender's  
34 period of community custody.

35 (37) "Victim" means any person who has sustained emotional,  
36 psychological, physical, or financial injury to person or property as  
37 a direct result of the crime charged.

38 (38) "Violent offense" means:

1 (a) Any of the following felonies, as now existing or hereafter  
2 amended: Any felony defined under any law as a class A felony or an  
3 attempt to commit a class A felony, criminal solicitation of or  
4 criminal conspiracy to commit a class A felony, manslaughter in the  
5 first degree, manslaughter in the second degree, indecent liberties if  
6 committed by forcible compulsion, kidnapping in the second degree,  
7 arson in the second degree, assault in the second degree, assault of a  
8 child in the second degree, extortion in the first degree, robbery in  
9 the second degree, vehicular assault, and vehicular homicide, when  
10 proximately caused by the driving of any vehicle by any person while  
11 under the influence of intoxicating liquor or any drug as defined by  
12 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

13 (b) Any conviction for a felony offense in effect at any time prior  
14 to July 1, 1976, that is comparable to a felony classified as a violent  
15 offense in (a) of this subsection; and

16 (c) Any federal or out-of-state conviction for an offense that  
17 under the laws of this state would be a felony classified as a violent  
18 offense under (a) or (b) of this subsection.

19 (39) "Work crew" means a program of partial confinement consisting  
20 of civic improvement tasks for the benefit of the community of not less  
21 than thirty-five hours per week that complies with RCW 9.94A.135. The  
22 civic improvement tasks shall have minimal negative impact on existing  
23 private industries or the labor force in the county where the service  
24 or labor is performed. The civic improvement tasks shall not affect  
25 employment opportunities for people with developmental disabilities  
26 contracted through sheltered workshops as defined in RCW 82.04.385.  
27 Only those offenders sentenced to a facility operated or utilized under  
28 contract by a county or the state are eligible to participate on a work  
29 crew. Offenders sentenced for a sex offense as defined in subsection  
30 (33) of this section are not eligible for the work crew program.

31 (40) "Work ethic camp" means an alternative incarceration program  
32 designed to reduce recidivism and lower the cost of corrections by  
33 requiring offenders to complete a comprehensive array of real-world job  
34 and vocational experiences, character-building work ethics training,  
35 life management skills development, substance abuse rehabilitation,  
36 counseling, literacy training, and basic adult education.

37 (41) "Work release" means a program of partial confinement  
38 available to offenders who are employed or engaged as a student in a  
39 regular course of study at school. Participation in work release shall

1 be conditioned upon the offender attending work or school at regularly  
2 defined hours and abiding by the rules of the work release facility.

3 (42) "Home detention" means a program of partial confinement  
4 available to offenders wherein the offender is confined in a private  
5 residence subject to electronic surveillance.

6 **Sec. 2.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read  
7 as follows:

8 (1) A sentencing guidelines commission is established as an agency  
9 of state government.

10 (2) The legislature finds that the commission, having accomplished  
11 its original statutory directive to implement this chapter, and having  
12 expertise in sentencing practice and policies, shall:

13 (a) Evaluate state sentencing policy, to include whether the  
14 sentencing ranges and standards are consistent with and further:

15 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

16 (ii) The intent of the legislature to emphasize confinement for the  
17 violent offender and alternatives to confinement for the nonviolent  
18 offender.

19 The commission shall provide the governor and the legislature with  
20 its evaluation and recommendations under this subsection not later than  
21 December 1, 1996, and every two years thereafter;

22 (b) Recommend to the legislature revisions or modifications to the  
23 standard sentence ranges, state sentencing policy, prosecuting  
24 standards, and other standards. If implementation of the revisions or  
25 modifications would result in exceeding the capacity of correctional  
26 facilities, then the commission shall accompany its recommendation with  
27 an additional list of standard sentence ranges which are consistent  
28 with correction capacity;

29 (c) Study the existing criminal code and from time to time make  
30 recommendations to the legislature for modification;

31 (d)(i) Serve as a clearinghouse and information center for the  
32 collection, preparation, analysis, and dissemination of information on  
33 state and local adult and juvenile sentencing practices; (ii) develop  
34 and maintain a computerized adult and juvenile sentencing information  
35 system by individual superior court judge consisting of offender,  
36 offense, history, and sentence information entered from judgment and  
37 sentence forms for all adult felons; and (iii) conduct ongoing research  
38 regarding adult and juvenile sentencing guidelines, use of total

1 confinement and alternatives to total confinement, plea bargaining, and  
2 other matters relating to the improvement of the adult criminal justice  
3 system and the juvenile justice system;

4 (e) Assume the powers and duties of the juvenile disposition  
5 standards commission after June 30, 1996;

6 (f) Evaluate the effectiveness of existing disposition standards  
7 and related statutes in implementing policies set forth in RCW  
8 13.40.010 generally, specifically review the guidelines relating to the  
9 confinement of minor and first offenders as well as the use of  
10 diversion, and review the application of current and proposed juvenile  
11 sentencing standards and guidelines for potential adverse impacts on  
12 the sentencing outcomes of racial and ethnic minority youth;

13 (g) Solicit the comments and suggestions of the juvenile justice  
14 community concerning disposition standards, and make recommendations to  
15 the legislature regarding revisions or modifications of the standards  
16 in accordance with RCW 9.94A.045. The evaluations shall be submitted  
17 to the legislature on December 1 of each odd-numbered year. The  
18 department of social and health services shall provide the commission  
19 with available data concerning the implementation of the disposition  
20 standards and related statutes and their effect on the performance of  
21 the department's responsibilities relating to juvenile offenders, and  
22 with recommendations for modification of the disposition standards.  
23 The office of the administrator for the courts shall provide the  
24 commission with available data on diversion and dispositions of  
25 juvenile offenders under chapter 13.40 RCW; and

26 (h) Not later than December 1, 1997, and at least every two years  
27 thereafter, based on available information, report to the governor and  
28 the legislature on:

29 (i) Racial disproportionality in juvenile and adult sentencing;

30 (ii) The capacity of state and local juvenile and adult facilities  
31 and resources; and

32 (iii) Recidivism information on adult and juvenile offenders.

33 (3) Each of the commission's recommended standard sentence ranges  
34 shall include one or more of the following: Total confinement, partial  
35 confinement, community supervision, community service, and a fine.

36 (4) The standard sentence ranges of total and partial confinement  
37 under this chapter are subject to the following limitations:

38 (a) If the maximum term in the range is one year or less, the  
39 minimum term in the range shall be no less than one-third of the

1 maximum term in the range, except that if the maximum term in the range  
2 is ninety days or less, the minimum term may be less than one-third of  
3 the maximum;

4 (b) If the maximum term in the range is greater than one year, the  
5 minimum term in the range shall be no less than seventy-five percent of  
6 the maximum term in the range, except that for murder in the second  
7 degree in seriousness category XIII under RCW 9.94A.310, the minimum  
8 term in the range shall be no less than fifty percent of the maximum  
9 term in the range; and

10 (c) The maximum term of confinement in a range may not exceed the  
11 statutory maximum for the crime as provided in RCW 9A.20.021.

12 (5) The commission shall exercise its duties under this section in  
13 conformity with chapter 34.05 RCW.

14 **Sec. 3.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read  
15 as follows:

16 (1) TABLE 1

17 Sentencing Grid

18 SERIOUSNESS

19 SCORE OFFENDER SCORE

20 9 or

21 0 1 2 3 4 5 6 7 8 more

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23 XV Life Sentence without Parole/Death Penalty

---

25 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y

26 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

27 320 333 347 361 374 388 416 450 493 548

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29 XIII(~~12y 13y 14y 15y 16y 17y 19y 21y 25y 29y~~)

30 ~~123- 134- 144- 154- 165- 175- 195- 216- 257- 298-~~

31 ~~164- 178- 192- 205- 219- 233- 260- 288- 342- 397)~~

32 14y4m 15y4m 16y2m 17y 17y11m 18y9m 20y5m 22y2m 25y7m 29y

33 123- 134- 144- 154- 165- 175- 195- 216- 257- 298-

34 220 234 244 254 265 275 295 316 357 397

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1	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
2		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
3		123	136	147	160	171	184	216	236	277	318
4											
5	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
6		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
7		102	114	125	136	147	158	194	211	245	280
8											
9	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
10		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
11		68	75	82	89	96	102	130	144	171	198
12											
13	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
14		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
15		41	48	54	61	68	75	102	116	144	171
16											
17	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
18		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
19		27	34	41	48	54	61	89	102	116	144
20											
21	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
22		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
23		20	27	34	41	48	54	75	89	102	116
24											
25	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
26		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
27		14	20	27	34	41	48	61	75	89	102
28											
29	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
30		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
31		12	14	17	20	29	43	54	68	82	96
32											
33	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
34		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
35		9	12	14	17	20	29	43	57	70	84
36											
37	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
38		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
39		3	8	12	12	16	22	29	43	57	68

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II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57

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I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

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

14 (2) For persons convicted of the anticipatory offenses of criminal  
15 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
16 presumptive sentence is determined by locating the sentencing grid  
17 sentence range defined by the appropriate offender score and the  
18 seriousness level of the completed crime, and multiplying the range by  
19 75 percent.

20 (3) The following additional times shall be added to the  
21 presumptive sentence for felony crimes committed after July 23, 1995,  
22 if the offender or an accomplice was armed with a firearm as defined in  
23 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
24 listed in this subsection as eligible for any firearm enhancements  
25 based on the classification of the completed felony crime. If the  
26 offender or an accomplice was armed with a firearm as defined in RCW  
27 9.41.010 and the offender is being sentenced for an anticipatory  
28 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
29 this subsection as eligible for any firearm enhancements, the following  
30 additional times shall be added to the presumptive sentence determined  
31 under subsection (2) of this section based on the felony crime of  
32 conviction as classified under RCW 9A.28.020:

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

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

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

4 (d) If the offender is being sentenced for any firearm  
5 enhancements under (a), (b), and/or (c) of this subsection and the  
6 offender has previously been sentenced for any deadly weapon  
7 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
8 subsection or subsection (4) (a), (b), and/or (c) of this section, or  
9 both, any and all firearm enhancements under this subsection shall be  
10 twice the amount of the enhancement listed.

11 (e) Notwithstanding any other provision of law, any and all  
12 firearm enhancements under this section are mandatory, shall be served  
13 in total confinement, and shall not run concurrently with any other  
14 sentencing provisions.

15 (f) The firearm enhancements in this section shall apply to all  
16 felony crimes except the following: Possession of a machine gun,  
17 possessing a stolen firearm, reckless endangerment in the first degree,  
18 theft of a firearm, unlawful possession of a firearm in the first and  
19 second degree, and use of a machine gun in a felony.

20 (g) If the presumptive sentence under this section exceeds the  
21 statutory maximum for the offense, the statutory maximum sentence shall  
22 be the presumptive sentence unless the offender is a persistent  
23 offender as defined in RCW 9.94A.030.

24 (4) The following additional times shall be added to the  
25 presumptive sentence for felony crimes committed after July 23, 1995,  
26 if the offender or an accomplice was armed with a deadly weapon as  
27 defined in this chapter other than a firearm as defined in RCW 9.41.010  
28 and the offender is being sentenced for one of the crimes listed in  
29 this subsection as eligible for any deadly weapon enhancements based on  
30 the classification of the completed felony crime. If the offender or  
31 an accomplice was armed with a deadly weapon other than a firearm as  
32 defined in RCW 9.41.010 and the offender is being sentenced for an  
33 anticipatory offense under chapter 9A.28 RCW to commit one of the  
34 crimes listed in this subsection as eligible for any deadly weapon  
35 enhancements, the following additional times shall be added to the  
36 presumptive sentence determined under subsection (2) of this section  
37 based on the felony crime of conviction as classified under RCW  
38 9A.28.020:

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

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

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

10 (d) If the offender is being sentenced under (a), (b), and/or (c)  
11 of this subsection for any deadly weapon enhancements and the offender  
12 has previously been sentenced for any deadly weapon enhancements after  
13 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
14 subsection (3) (a), (b), and/or (c) of this section, or both, any and  
15 all deadly weapon enhancements under this subsection shall be twice the  
16 amount of the enhancement listed.

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

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

26 (g) If the presumptive sentence under this section exceeds the  
27 statutory maximum for the offense, the statutory maximum sentence shall  
28 be the presumptive sentence unless the offender is a persistent  
29 offender as defined in RCW 9.94A.030.

30 (5) The following additional times shall be added to the  
31 presumptive sentence if the offender or an accomplice committed the  
32 offense while in a county jail or state correctional facility as that  
33 term is defined in this chapter and the offender is being sentenced for  
34 one of the crimes listed in this subsection. If the offender or an  
35 accomplice committed one of the crimes listed in this subsection while  
36 in a county jail or state correctional facility as that term is defined  
37 in this chapter, and the offender is being sentenced for an  
38 anticipatory offense under chapter 9A.28 RCW to commit one of the  
39 crimes listed in this subsection, the following additional times shall

1 be added to the presumptive sentence determined under subsection (2) of  
2 this section:

3 (a) Eighteen months for offenses committed under RCW  
4 69.50.401(a)(1) (i) or (ii) or 69.50.410;

5 (b) Fifteen months for offenses committed under RCW  
6 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

14 **Sec. 4.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and  
15 1996 c 36 s 2 are each reenacted and amended to read as follows:

16 TABLE 2

17 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

18	XV	Aggravated Murder 1 (RCW 10.95.020)
19	XIV	Murder 1 (RCW 9A.32.030)
20		Homicide by abuse (RCW 9A.32.055)
21	XIII	Murder 2 (RCW 9A.32.050)
22	XII	Assault 1 (RCW 9A.36.011)
23		Assault of a Child 1 (RCW 9A.36.120)
24	XI	Rape 1 (RCW 9A.44.040)
25		Rape of a Child 1 (RCW 9A.44.073)
26		<u>Manslaughter 1 (RCW 9A.32.060)</u>
27	X	Kidnapping 1 (RCW 9A.40.020)
28		Rape 2 (RCW 9A.44.050)
29		Rape of a Child 2 (RCW 9A.44.076)
30		Child Molestation 1 (RCW 9A.44.083)
31		Damaging building, etc., by explosion with
32		threat to human being (RCW 70.74.280(1))

1 Over 18 and deliver heroin or narcotic from  
2 Schedule I or II to someone under 18  
3 (RCW 69.50.406)  
4 Leading Organized Crime (RCW 9A.82.060(1)(a))  
5 IX Assault of a Child 2 (RCW 9A.36.130)  
6 Robbery 1 (RCW 9A.56.200)  
7 (~~Manslaughter 1 (RCW 9A.32.060)~~)  
8 Explosive devices prohibited (RCW 70.74.180)  
9 Indecent Liberties (with forcible compulsion)  
10 (RCW 9A.44.100(1)(a))  
11 Endangering life and property by explosives  
12 with threat to human being (RCW  
13 70.74.270)  
14 Over 18 and deliver narcotic from Schedule  
15 III, IV, or V or a nonnarcotic from  
16 Schedule I-V to someone under 18 and 3  
17 years junior (RCW 69.50.406)  
18 Controlled Substance Homicide (RCW 69.50.415)  
19 Sexual Exploitation (RCW 9.68A.040)  
20 Inciting Criminal Profiteering (RCW  
21 9A.82.060(1)(b))  
22 Vehicular Homicide, by being under the  
23 influence of intoxicating liquor or any  
24 drug (RCW 46.61.520)  
25 VIII Arson 1 (RCW 9A.48.020)  
26 Promoting Prostitution 1 (RCW 9A.88.070)  
27 Selling for profit (controlled or  
28 counterfeit) any controlled substance  
29 (RCW 69.50.410)  
30 Manufacture, deliver, or possess with intent  
31 to deliver heroin or cocaine (RCW  
32 69.50.401(a)(1)(i))  
33 Manufacture, deliver, or possess with intent  
34 to deliver methamphetamine (RCW  
35 69.50.401(a)(1)(ii))  
36 Possession of ephedrine or pseudoephedrine  
37 with intent to manufacture  
38 methamphetamine (RCW 69.50.440)

1 Vehicular Homicide, by the operation of any  
2 vehicle in a reckless manner (RCW  
3 46.61.520)  
4 Manslaughter 2 (RCW 9A.32.070)

5 VII Burglary 1 (RCW 9A.52.020)  
6 Vehicular Homicide, by disregard for the  
7 safety of others (RCW 46.61.520)  
8 Introducing Contraband 1 (RCW 9A.76.140)  
9 Indecent Liberties (without forcible  
10 compulsion) (RCW 9A.44.100(1) (b) and  
11 (c))  
12 Child Molestation 2 (RCW 9A.44.086)  
13 Dealing in depictions of minor engaged in  
14 sexually explicit conduct (RCW  
15 9.68A.050)  
16 Sending, bringing into state depictions of  
17 minor engaged in sexually explicit  
18 conduct (RCW 9.68A.060)  
19 Involving a minor in drug dealing (RCW  
20 69.50.401(f))  
21 Reckless Endangerment 1 (RCW 9A.36.045)  
22 Unlawful Possession of a Firearm in the first  
23 degree (RCW 9.41.040(1)(a))

24 VI Bribery (RCW 9A.68.010)  
25 (~~Manslaughter 2 (RCW 9A.32.070)~~)  
26 Rape of a Child 3 (RCW 9A.44.079)  
27 Intimidating a Juror/Witness (RCW 9A.72.110,  
28 9A.72.130)  
29 Damaging building, etc., by explosion with no  
30 threat to human being (RCW 70.74.280(2))  
31 Endangering life and property by explosives  
32 with no threat to human being (RCW  
33 70.74.270)  
34 Incest 1 (RCW 9A.64.020(1))  
35 Manufacture, deliver, or possess with intent  
36 to deliver narcotics from Schedule I or  
37 II (except heroin or cocaine) (RCW  
38 69.50.401(a)(1)(i))

1 Intimidating a Judge (RCW 9A.72.160)  
2 Bail Jumping with Murder 1 (RCW  
3 9A.76.170(2)(a))  
4 Theft of a Firearm (RCW 9A.56.300)

5 V Persistent prison misbehavior (RCW 9.94.070)  
6 Criminal Mistreatment 1 (RCW 9A.42.020)  
7 Abandonment of dependent person 1 (RCW  
8 9A.42.060)  
9 Rape 3 (RCW 9A.44.060)  
10 Sexual Misconduct with a Minor 1 (RCW  
11 9A.44.093)  
12 Child Molestation 3 (RCW 9A.44.089)  
13 Kidnapping 2 (RCW 9A.40.030)  
14 Extortion 1 (RCW 9A.56.120)  
15 Incest 2 (RCW 9A.64.020(2))  
16 Perjury 1 (RCW 9A.72.020)  
17 Extortionate Extension of Credit (RCW  
18 9A.82.020)  
19 Advancing money or property for extortionate  
20 extension of credit (RCW 9A.82.030)  
21 Extortionate Means to Collect Extensions of  
22 Credit (RCW 9A.82.040)  
23 Rendering Criminal Assistance 1 (RCW  
24 9A.76.070)  
25 Bail Jumping with class A Felony (RCW  
26 9A.76.170(2)(b))  
27 Sexually Violating Human Remains (RCW  
28 9A.44.105)  
29 Delivery of imitation controlled substance by  
30 person eighteen or over to person under  
31 eighteen (RCW 69.52.030(2))  
32 Possession of a Stolen Firearm (RCW  
33 9A.56.310)

34 IV Residential Burglary (RCW 9A.52.025)  
35 Theft of Livestock 1 (RCW 9A.56.080)  
36 Robbery 2 (RCW 9A.56.210)  
37 Assault 2 (RCW 9A.36.021)  
38 Escape 1 (RCW 9A.76.110)

1 Arson 2 (RCW 9A.48.030)  
2 Commercial Bribery (RCW 9A.68.060)  
3 Bribing a Witness/Bribe Received by Witness  
4 (RCW 9A.72.090, 9A.72.100)  
5 Malicious Harassment (RCW 9A.36.080)  
6 Threats to Bomb (RCW 9.61.160)  
7 Willful Failure to Return from Furlough (RCW  
8 72.66.060)  
9 Hit and Run -- Injury Accident (RCW  
10 46.52.020(4))  
11 Hit and Run with Vessel -- Injury Accident  
12 (RCW 88.12.155(3))  
13 Vehicular Assault (RCW 46.61.522)  
14 Manufacture, deliver, or possess with intent  
15 to deliver narcotics from Schedule III,  
16 IV, or V or nonnarcotics from Schedule  
17 I-V (except marijuana or  
18 methamphetamines) (RCW 69.50.401(a)(1)  
19 (iii) through (v))  
20 Influencing Outcome of Sporting Event (RCW  
21 9A.82.070)  
22 Use of Proceeds of Criminal Profiteering (RCW  
23 9A.82.080 (1) and (2))  
24 Knowingly Trafficking in Stolen Property (RCW  
25 9A.82.050(2))  
26 III Criminal Mistreatment 2 (RCW 9A.42.030)  
27 Abandonment of dependent person 2 (RCW  
28 9A.42.070)  
29 Extortion 2 (RCW 9A.56.130)  
30 Unlawful Imprisonment (RCW 9A.40.040)  
31 Assault 3 (RCW 9A.36.031)  
32 Assault of a Child 3 (RCW 9A.36.140)  
33 Custodial Assault (RCW 9A.36.100)  
34 Unlawful possession of firearm in the second  
35 degree (RCW 9.41.040(1)(b))  
36 Harassment (RCW 9A.46.020)  
37 Promoting Prostitution 2 (RCW 9A.88.080)  
38 Willful Failure to Return from Work Release  
39 (RCW 72.65.070)

1 Burglary 2 (RCW 9A.52.030)  
2 Introducing Contraband 2 (RCW 9A.76.150)  
3 Communication with a Minor for Immoral  
4 Purposes (RCW 9.68A.090)  
5 Patronizing a Juvenile Prostitute (RCW  
6 9.68A.100)  
7 Escape 2 (RCW 9A.76.120)  
8 Perjury 2 (RCW 9A.72.030)  
9 Bail Jumping with class B or C Felony (RCW  
10 9A.76.170(2)(c))  
11 Intimidating a Public Servant (RCW 9A.76.180)  
12 Tampering with a Witness (RCW 9A.72.120)  
13 Manufacture, deliver, or possess with intent  
14 to deliver marijuana (RCW  
15 69.50.401(a)(1)(iii))  
16 Delivery of a material in lieu of a  
17 controlled substance (RCW 69.50.401(c))  
18 Manufacture, distribute, or possess with  
19 intent to distribute an imitation  
20 controlled substance (RCW 69.52.030(1))  
21 Recklessly Trafficking in Stolen Property  
22 (RCW 9A.82.050(1))  
23 Theft of livestock 2 (RCW 9A.56.080)  
24 Securities Act violation (RCW 21.20.400)  
25 II Unlawful Practice of Law (RCW 2.48.180)  
26 Malicious Mischief 1 (RCW 9A.48.070)  
27 Possession of Stolen Property 1 (RCW  
28 9A.56.150)  
29 Theft 1 (RCW 9A.56.030)  
30 Trafficking in Insurance Claims (RCW  
31 48.30A.015)  
32 Unlicensed Practice of a Profession or  
33 Business (RCW 18.130.190(7))  
34 Health Care False Claims (RCW 48.80.030)  
35 Possession of controlled substance that is  
36 either heroin or narcotics from Schedule  
37 I or II (RCW 69.50.401(d))  
38 Possession of phencyclidine (PCP) (RCW  
39 69.50.401(d))

1 Create, deliver, or possess a counterfeit  
2 controlled substance (RCW 69.50.401(b))  
3 Computer Trespass 1 (RCW 9A.52.110)  
4 Escape from Community Custody (RCW 72.09.310)  
5 I Theft 2 (RCW 9A.56.040)  
6 Possession of Stolen Property 2 (RCW  
7 9A.56.160)  
8 Forgery (RCW 9A.60.020)  
9 Taking Motor Vehicle Without Permission (RCW  
10 9A.56.070)  
11 Vehicle Prowl 1 (RCW 9A.52.095)  
12 Attempting to Elude a Pursuing Police Vehicle  
13 (RCW 46.61.024)  
14 Malicious Mischief 2 (RCW 9A.48.080)  
15 Reckless Burning 1 (RCW 9A.48.040)  
16 Unlawful Issuance of Checks or Drafts (RCW  
17 9A.56.060)  
18 Unlawful Use of Food Stamps (RCW 9.91.140 (2)  
19 and (3))  
20 False Verification for Welfare (RCW  
21 74.08.055)  
22 Forged Prescription (RCW 69.41.020)  
23 Forged Prescription for a Controlled  
24 Substance (RCW 69.50.403)  
25 Possess Controlled Substance that is a  
26 Narcotic from Schedule III, IV, or V or  
27 Non-narcotic from Schedule I-V (except  
28 phencyclidine) (RCW 69.50.401(d))

29 **Sec. 5.** RCW 9A.32.060 and 1975 1st ex.s. c 260 s 9A.32.060 are  
30 each amended to read as follows:

31 (1) A person is guilty of manslaughter in the first degree when:  
32 (a) He recklessly causes the death of another person; or  
33 (b) He intentionally and unlawfully kills an unborn quick child by  
34 inflicting any injury upon the mother of such child.  
35 (2) Manslaughter in the first degree is a class ((B)) A felony.

36 **Sec. 6.** RCW 9A.32.070 and 1975 1st ex.s. c 260 s 9A.32.070 are  
37 each amended to read as follows:

1           (1) A person is guilty of manslaughter in the second degree when,  
2 with criminal negligence, he causes the death of another person.  
3           (2) Manslaughter in the second degree is a class ((C)) B felony.

--- END ---