
SENATE BILL 6180

State of Washington

56th Legislature

2000 Regular Session

By Senators McCaslin, Costa and Oke

Read first time 01/10/2000. Referred to Committee on Judiciary.

1 AN ACT Relating to washout of prior offenses; reenacting and
2 amending RCW 9.94A.360; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that persons convicted
5 of class A felonies and felony sex offenses pose a significant risk to
6 the community that justifies inclusion of these offenses in the
7 offender score for future offenses regardless of the length of time
8 since the past offense. It is further found that the 1990 legislature
9 intended that the amendments to RCW 9.94A.360 would apply prospectively
10 to sentencing proceedings occurring after the effective date of the
11 statute such that class A felonies and felony sex offenses committed at
12 any time would always be included in the offender score. The purpose
13 of this act is to explicate the intent of the 1990 legislature and
14 modify the holding in *State v. Cruz*, Docket No. 67147-8, filed October
15 7, 1999. The legislature restates its intent that all convictions for
16 class A felonies and felony sex offenses shall be counted in the
17 offender score regardless of the amount of time since the prior offense
18 or any prior statutory provision that excluded the offense during
19 computation of the offender score.

1 **Sec. 2.** RCW 9.94A.360 and 1999 c 352 s 10 and 1999 c 331 s 1 are
2 each reenacted and amended to read as follows:

3 The offender score is measured on the horizontal axis of the
4 sentencing grid. The offender score rules are as follows:

5 The offender score is the sum of points accrued under this section
6 rounded down to the nearest whole number.

7 (1) A prior conviction is a conviction which exists before the date
8 of sentencing for the offense for which the offender score is being
9 computed. Convictions entered or sentenced on the same date as the
10 conviction for which the offender score is being computed shall be
11 deemed "other current offenses" within the meaning of RCW 9.94A.400.

12 (2) Class A and sex prior felony convictions shall always be
13 included in the offender score irrespective of whether such convictions
14 were not included in computation of the offender score by prior
15 statutes. Class B prior felony convictions other than sex offenses
16 shall not be included in the offender score, if since the last date of
17 release from confinement (including full-time residential treatment)
18 pursuant to a felony conviction, if any, or entry of judgment and
19 sentence, the offender had spent ten consecutive years in the community
20 without committing any crime that subsequently results in a conviction.
21 Class C prior felony convictions other than sex offenses shall not be
22 included in the offender score if, since the last date of release from
23 confinement (including full-time residential treatment) pursuant to a
24 felony conviction, if any, or entry of judgment and sentence, the
25 offender had spent five consecutive years in the community without
26 committing any crime that subsequently results in a conviction.
27 Serious traffic convictions shall not be included in the offender score
28 if, since the last date of release from confinement (including full-
29 time residential treatment) pursuant to a felony conviction, if any, or
30 entry of judgment and sentence, the offender spent five years in the
31 community without committing any crime that subsequently results in a
32 conviction. This subsection applies to both adult and juvenile prior
33 convictions.

34 (3) Out-of-state convictions for offenses shall be classified
35 according to the comparable offense definitions and sentences provided
36 by Washington law. Federal convictions for offenses shall be
37 classified according to the comparable offense definitions and
38 sentences provided by Washington law. If there is no clearly
39 comparable offense under Washington law or the offense is one that is

1 usually considered subject to exclusive federal jurisdiction, the
2 offense shall be scored as a class C felony equivalent if it was a
3 felony under the relevant federal statute.

4 (4) Score prior convictions for felony anticipatory offenses
5 (attempts, criminal solicitations, and criminal conspiracies) the same
6 as if they were convictions for completed offenses.

7 (5)(a) In the case of multiple prior convictions, for the purpose
8 of computing the offender score, count all convictions separately,
9 except:

10 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
11 encompass the same criminal conduct, shall be counted as one offense,
12 the offense that yields the highest offender score. The current
13 sentencing court shall determine with respect to other prior adult
14 offenses for which sentences were served concurrently or prior juvenile
15 offenses for which sentences were served consecutively, whether those
16 offenses shall be counted as one offense or as separate offenses using
17 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
18 if the court finds that they shall be counted as one offense, then the
19 offense that yields the highest offender score shall be used. The
20 current sentencing court may presume that such other prior offenses
21 were not the same criminal conduct from sentences imposed on separate
22 dates, or in separate counties or jurisdictions, or in separate
23 complaints, indictments, or informations;

24 (ii) In the case of multiple prior convictions for offenses
25 committed before July 1, 1986, for the purpose of computing the
26 offender score, count all adult convictions served concurrently as one
27 offense, and count all juvenile convictions entered on the same date as
28 one offense. Use the conviction for the offense that yields the
29 highest offender score.

30 (b) As used in this subsection (5), "served concurrently" means
31 that: (i) The latter sentence was imposed with specific reference to
32 the former; (ii) the concurrent relationship of the sentences was
33 judicially imposed; and (iii) the concurrent timing of the sentences
34 was not the result of a probation or parole revocation on the former
35 offense.

36 (6) If the present conviction is one of the anticipatory offenses
37 of criminal attempt, solicitation, or conspiracy, count each prior
38 conviction as if the present conviction were for a completed offense.

1 (7) If the present conviction is for a nonviolent offense and not
2 covered by subsection (11) or (12) of this section, count one point for
3 each adult prior felony conviction and one point for each juvenile
4 prior violent felony conviction and « point for each juvenile prior
5 nonviolent felony conviction.

6 (8) If the present conviction is for a violent offense and not
7 covered in subsection (9), (10), (11), or (12) of this section, count
8 two points for each prior adult and juvenile violent felony conviction,
9 one point for each prior adult nonviolent felony conviction, and «
10 point for each prior juvenile nonviolent felony conviction.

11 (9) If the present conviction is for a serious violent offense,
12 count three points for prior adult and juvenile convictions for crimes
13 in this category, two points for each prior adult and juvenile violent
14 conviction (not already counted), one point for each prior adult
15 nonviolent felony conviction, and « point for each prior juvenile
16 nonviolent felony conviction.

17 (10) If the present conviction is for Burglary 1, count prior
18 convictions as in subsection (8) of this section; however count two
19 points for each prior adult Burglary 2 or residential burglary
20 conviction, and one point for each prior juvenile Burglary 2 or
21 residential burglary conviction.

22 (11) If the present conviction is for a felony traffic offense
23 count two points for each adult or juvenile prior conviction for
24 Vehicular Homicide or Vehicular Assault; for each felony offense count
25 one point for each adult and « point for each juvenile prior
26 conviction; for each serious traffic offense, other than those used for
27 an enhancement pursuant to RCW 46.61.520(2), count one point for each
28 adult and « point for each juvenile prior conviction.

29 (12) If the present conviction is for a drug offense count three
30 points for each adult prior felony drug offense conviction and two
31 points for each juvenile drug offense. All other adult and juvenile
32 felonies are scored as in subsection (8) of this section if the current
33 drug offense is violent, or as in subsection (7) of this section if the
34 current drug offense is nonviolent.

35 (13) If the present conviction is for Willful Failure to Return
36 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
37 Release, RCW 72.65.070, or Escape from Community Custody, RCW
38 72.09.310, count only prior escape convictions in the offender score.

1 Count adult prior escape convictions as one point and juvenile prior
2 escape convictions as « point.

3 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
4 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
5 juvenile prior convictions as « point.

6 (15) If the present conviction is for Burglary 2 or residential
7 burglary, count priors as in subsection (7) of this section; however,
8 count two points for each adult and juvenile prior Burglary 1
9 conviction, two points for each adult prior Burglary 2 or residential
10 burglary conviction, and one point for each juvenile prior Burglary 2
11 or residential burglary conviction.

12 (16) If the present conviction is for a sex offense, count priors
13 as in subsections (7) through (15) of this section; however count three
14 points for each adult and juvenile prior sex offense conviction.

15 (17) If the present conviction is for an offense committed while
16 the offender was under community placement, add one point.

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