

SUBSTITUTE HOUSE BILL 1412

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Ahern, Gombosky, Dunn, Mielke, Cairnes, Lovick, Mulliken, Roach, Woods, Morell, Esser, Armstrong, Schoesler, Barlean, Benson, Schindler, Crouse, B. Chandler, Bush, O'Brien, Pflug, Cox, Pearson, Anderson, McMorris, G. Chandler, Lisk, Clements, Alexander and Conway)

Read first time . Referred to Committee on .

1 AN ACT Relating to increasing penalties for sexually motivated
2 crimes; reenacting and amending RCW 9.94A.310; creating a new section;
3 prescribing penalties; providing an effective date; and declaring an
4 emergency.

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

6 **Sec. 1.** RCW 9.94A.310 and 2000 c 132 s 2 and 2000 c 28 s 11 are
7 each reenacted and amended to read as follows:

8 (1) TABLE 1

9 Sentencing Grid

10 SERIOUSNESS

11 LEVEL

OFFENDER SCORE

9 or
more

12 0 1 2 3 4 5 6 7 8
13

14
15 XVI Life Sentence without Parole/Death Penalty

16
17 XV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m36y 40y
18 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

1		320	333	347	361	374	388	416	450	493	548
2											
3	XIV	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
4		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
5		220	234	244	254	265	275	295	316	357	397
6											
7	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
8		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
9		164	178	192	205	219	233	260	288	342	397
10											
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											
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											
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											
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											
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											
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											
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											

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 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 standard sentence ranges in months,
 24 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 standard sentence range 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 standard
 32 sentence range for felony crimes committed after July 23, 1995, if the
 33 offender or an accomplice was armed with a firearm as defined in RCW
 34 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 is being sentenced for more than one offense, the firearm
 38 enhancement or enhancements must be added to the total period of
 39 confinement for all offenses, regardless of which underlying offense is

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

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

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

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

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

25 (e) Notwithstanding any other provision of law, all firearm
26 enhancements under this section are mandatory, shall be served in total
27 confinement, and shall run consecutively to all other sentencing
28 provisions, including other firearm or deadly weapon enhancements, for
29 all offenses sentenced under this chapter. However, whether or not a
30 mandatory minimum term has expired, an offender serving a sentence
31 under this subsection may be granted an extraordinary medical placement
32 when authorized under RCW 9.94A.150(4).

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

38 (g) If the standard sentence range under this section exceeds the
39 statutory maximum sentence for the offense, the statutory maximum

1 sentence shall be the presumptive sentence unless the offender is a
2 persistent offender. If the addition of a firearm enhancement
3 increases the sentence so that it would exceed the statutory maximum
4 for the offense, the portion of the sentence representing the
5 enhancement may not be reduced.

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

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

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

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

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

1 (e) Notwithstanding any other provision of law, all deadly weapon
2 enhancements under this section are mandatory, shall be served in total
3 confinement, and shall run consecutively to all other sentencing
4 provisions, including other firearm or deadly weapon enhancements, for
5 all offenses sentenced under this chapter. However, whether or not a
6 mandatory minimum term has expired, an offender serving a sentence
7 under this subsection may be granted an extraordinary medical placement
8 when authorized under RCW 9.94A.150(4).

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

14 (g) If the standard sentence range under this section exceeds the
15 statutory maximum sentence for the offense, the statutory maximum
16 sentence shall be the presumptive sentence unless the offender is a
17 persistent offender. If the addition of a deadly weapon enhancement
18 increases the sentence so that it would exceed the statutory maximum
19 for the offense, the portion of the sentence representing the
20 enhancement may not be reduced.

21 (5) The following additional times shall be added to the standard
22 sentence range if the offender or an accomplice committed the offense
23 while in a county jail or state correctional facility and the offender
24 is being sentenced for one of the crimes listed in this subsection. If
25 the offender or an accomplice committed one of the crimes listed in
26 this subsection while in a county jail or state correctional facility,
27 and the offender is being sentenced for an anticipatory offense under
28 chapter 9A.28 RCW to commit one of the crimes listed in this
29 subsection, the following additional times shall be added to the
30 standard sentence range determined under subsection (2) of this
31 section:

32 (a) Eighteen months for offenses committed under RCW
33 69.50.401(a)(1) (i) or (ii) or 69.50.410;

34 (b) Fifteen months for offenses committed under RCW
35 69.50.401(a)(1) (iii), (iv), and (v);

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

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

1 (6) An additional twenty-four months shall be added to the
2 standard sentence range for any ranked offense involving a violation of
3 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435
4 or 9.94A.128.

5 (7) An additional two years shall be added to the standard
6 sentence range for vehicular homicide committed while under the
7 influence of intoxicating liquor or any drug as defined by RCW
8 46.61.502 for each prior offense as defined in RCW 46.61.5055.

9 (8) An additional two years shall be added to the standard
10 sentence range for the following felony crimes committed on or after
11 July 1, 2001, with a finding of sexual motivation:

- 12 (a) Murder in the first degree;
13 (b) Murder in the second degree;
14 (c) Kidnapping in the first degree;
15 (d) Kidnapping in the second degree;
16 (e) Assault in the first degree;
17 (f) Assault in the second degree; and
18 (g) Burglary in the first degree.

19 NEW SECTION. Sec. 2. This act shall be known as the sex offender
20 safety act.

21 NEW SECTION. Sec. 3. This act is necessary for the immediate
22 preservation of the public peace, health, or safety, or support of the
23 state government and its existing public institutions, and takes effect
24 July 1, 2001.

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