
SUBSTITUTE HOUSE BILL 1863

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Kagi, Ballasiotes, O'Brien, Dickerson, Darneille and Wood)

Read first time 02/26/2001. Referred to Committee on .

1 AN ACT Relating to drug offenders; amending RCW 9.94A.360 and
2 69.50.410; reenacting and amending RCW 9.94A.320; adding a new section
3 to chapter 70.96A RCW; adding a new section to chapter 43.135 RCW;
4 adding a new section to chapter 43.20A RCW; creating new sections;
5 prescribing penalties; making appropriations; providing an effective
6 date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds and declares that
9 substance abuse treatment is a proven public safety and health measure.
10 Nonviolent, drug-dependent criminal offenders who receive chemical
11 dependency treatment are much less likely to abuse drugs and commit
12 future crimes, and are more likely to live healthier, more stable, and
13 more productive lives.

14 This act is intended to reduce sentences and eliminate triple and
15 double scoring in order to create savings to provide treatment for
16 drug-dependent criminal offenders.

17 **Sec. 2.** RCW 9.94A.320 and 2000 c 225 s 5, 2000 c 119 s 17, and
18 2000 c 66 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XVI	Aggravated Murder 1 (RCW 10.95.020)
4	XV	Homicide by abuse (RCW 9A.32.055)
5		Malicious explosion 1 (RCW 70.74.280(1))
6		Murder 1 (RCW 9A.32.030)
7	XIV	Murder 2 (RCW 9A.32.050)
8	XIII	Malicious explosion 2 (RCW 70.74.280(2))
9		Malicious placement of an explosive 1 (RCW
10		70.74.270(1))
11	XII	Assault 1 (RCW 9A.36.011)
12		Assault of a Child 1 (RCW 9A.36.120)
13		Malicious placement of an imitation device
14		1 (RCW 70.74.272(1)(a))
15		Rape 1 (RCW 9A.44.040)
16		Rape of a Child 1 (RCW 9A.44.073)
17	XI	Manslaughter 1 (RCW 9A.32.060)
18		Rape 2 (RCW 9A.44.050)
19		Rape of a Child 2 (RCW 9A.44.076)
20	X	Child Molestation 1 (RCW 9A.44.083)
21		Indecent Liberties (with forcible
22		compulsion) (RCW 9A.44.100(1)(a))
23		Kidnapping 1 (RCW 9A.40.020)
24		Leading Organized Crime (RCW
25		9A.82.060(1)(a))
26		Malicious explosion 3 (RCW 70.74.280(3))
27		Manufacture of methamphetamine (RCW
28		69.50.401(a)(1)(ii))
29		Over 18 and deliver heroin,
30		methamphetamine, a narcotic from
31		Schedule I or II, or flunitrazepam
32		from Schedule IV to someone under 18
33		(RCW 69.50.406)
34	IX	Assault of a Child 2 (RCW 9A.36.130)

1 Controlled Substance Homicide (RCW
2 69.50.415)
3 Explosive devices prohibited (RCW
4 70.74.180)
5 Homicide by Watercraft, by being under the
6 influence of intoxicating liquor or
7 any drug (RCW 79A.60.050)
8 Inciting Criminal Profiteering (RCW
9 9A.82.060(1)(b))
10 Malicious placement of an explosive 2 (RCW
11 70.74.270(2))
12 Over 18 and deliver narcotic from Schedule
13 III, IV, or V or a nonnarcotic, except
14 flunitrazepam or methamphetamine, from
15 Schedule I-V to someone under 18 and 3
16 years junior (RCW 69.50.406)
17 Robbery 1 (RCW 9A.56.200)
18 Sexual Exploitation (RCW 9.68A.040)
19 Vehicular Homicide, by being under the
20 influence of intoxicating liquor or
21 any drug (RCW 46.61.520)

22 VIII Arson 1 (RCW 9A.48.020)
23 Deliver or possess with intent to deliver
24 m e t h a m p h e t a m i n e (R C W
25 69.50.401(a)(1)(ii))
26 Hit and Run--Death (RCW 46.52.020(4)(a))
27 Homicide by Watercraft, by the operation of
28 any vessel in a reckless manner (RCW
29 79A.60.050)
30 Manslaughter 2 (RCW 9A.32.070)
31 Manufacture, deliver, or possess with
32 intent to deliver amphetamine (RCW
33 69.50.401(a)(1)(ii))
34 (~~Manufacture, deliver, or possess with~~
35 ~~intent to deliver heroin or cocaine~~
36 ~~(RCW 69.50.401(a)(1)(i))~~)
37 Possession of Ephedrine, Pseudoephedrine,
38 or Anhydrous Ammonia with intent to

1 manufacture methamphetamine (RCW
2 69.50.440)
3 Promoting Prostitution 1 (RCW 9A.88.070)
4 (~~Selling for profit (controlled or~~
5 ~~counterfeit) any controlled substance~~
6 ~~(RCW 69.50.410)~~)
7 Theft of Anhydrous Ammonia (RCW 69.55.010)
8 Vehicular Homicide, by the operation of any
9 vehicle in a reckless manner (RCW
10 46.61.520)

11 VII Burglary 1 (RCW 9A.52.020)
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 Drive-by Shooting (RCW 9A.36.045)
17 Homicide by Watercraft, by disregard for
18 the safety of others (RCW 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1) (b) and
21 (c))
22 Introducing Contraband 1 (RCW 9A.76.140)
23 Involving a minor in drug dealing (RCW
24 69.50.401(f))
25 Malicious placement of an explosive 3 (RCW
26 70.74.270(3))
27 Manufacture, deliver, or possess with
28 intent to deliver heroin or cocaine
29 (RCW 69.50.401(a)(1)(i))
30 Selling for profit (controlled or
31 counterfeit) any controlled substance
32 (RCW 69.50.410)
33 Sending, bringing into state depictions of
34 minor engaged in sexually explicit
35 conduct (RCW 9.68A.060)
36 Unlawful Possession of a Firearm in the
37 first degree (RCW 9.41.040(1)(a))
38 Use of a Machine Gun in Commission of a
39 Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for the
2 safety of others (RCW 46.61.520)

3 VI Bail Jumping with Murder 1 (RCW
4 9A.76.170(2)(a))
5 Bribery (RCW 9A.68.010)
6 Incest 1 (RCW 9A.64.020(1))
7 Intimidating a Judge (RCW 9A.72.160)
8 Intimidating a Juror/Witness (RCW
9 9A.72.110, 9A.72.130)
10 Malicious placement of an imitation device
11 2 (RCW 70.74.272(1)(b))
12 Manufacture, deliver, or possess with
13 intent to deliver narcotics from
14 Schedule I or II (except heroin or
15 cocaine) or flunitrazepam from
16 Schedule IV (RCW 69.50.401(a)(1)(i))
17 Rape of a Child 3 (RCW 9A.44.079)
18 Theft of a Firearm (RCW 9A.56.300)
19 Unlawful Storage of Anhydrous Ammonia (RCW
20 69.55.020)

21 V Abandonment of dependent person 1 (RCW
22 9A.42.060)
23 Advancing money or property for
24 extortionate extension of credit (RCW
25 9A.82.030)
26 Bail Jumping with class A Felony (RCW
27 9A.76.170(2)(b))
28 Child Molestation 3 (RCW 9A.44.089)
29 Criminal Mistreatment 1 (RCW 9A.42.020)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)
32 Delivery of imitation controlled substance
33 by person eighteen or over to person
34 under eighteen (RCW 69.52.030(2))
35 Domestic Violence Court Order Violation
36 (RCW 10.99.040, 10.99.050, 26.09.300,
37 26.10.220, 26.26.138, 26.50.110,
38 26.52.070, or 74.34.145)

1 Extortion 1 (RCW 9A.56.120)
2 Extortionate Extension of Credit (RCW
3 9A.82.020)
4 Extortionate Means to Collect Extensions of
5 Credit (RCW 9A.82.040)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Perjury 1 (RCW 9A.72.020)
9 Persistent prison misbehavior (RCW
10 9.94.070)
11 Possession of a Stolen Firearm (RCW
12 9A.56.310)
13 Rape 3 (RCW 9A.44.060)
14 Rendering Criminal Assistance 1 (RCW
15 9A.76.070)
16 Sexual Misconduct with a Minor 1 (RCW
17 9A.44.093)
18 Sexually Violating Human Remains (RCW
19 9A.44.105)
20 Stalking (RCW 9A.46.110)

21 IV Arson 2 (RCW 9A.48.030)
22 Assault 2 (RCW 9A.36.021)
23 Assault by Watercraft (RCW 79A.60.060)
24 Bribing a Witness/Bribe Received by Witness
25 (RCW 9A.72.090, 9A.72.100)
26 Commercial Bribery (RCW 9A.68.060)
27 Counterfeiting (RCW 9.16.035(4))
28 Escape 1 (RCW 9A.76.110)
29 Hit and Run--Injury (RCW 46.52.020(4)(b))
30 Hit and Run with Vessel--Injury Accident
31 (RCW 79A.60.200(3))
32 Indecent Exposure to Person Under Age
33 Fourteen (subsequent sex offense) (RCW
34 9A.88.010)
35 Influencing Outcome of Sporting Event (RCW
36 9A.82.070)
37 Knowingly Trafficking in Stolen Property
38 (RCW 9A.82.050(2))
39 Malicious Harassment (RCW 9A.36.080)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or nonnarcotics
4 from Schedule I-V (except marijuana,
5 amphetamine, methamphetamines, or
6 flunitrazepam) (RCW 69.50.401(a)(1)
7 (iii) through (v))
8 Residential Burglary (RCW 9A.52.025)
9 Robbery 2 (RCW 9A.56.210)
10 Theft of Livestock 1 (RCW 9A.56.080)
11 Threats to Bomb (RCW 9.61.160)
12 Use of Proceeds of Criminal Profiteering
13 (RCW 9A.82.080 (1) and (2))
14 Vehicular Assault (RCW 46.61.522)
15 Willful Failure to Return from Furlough
16 (RCW 72.66.060)
17 III Abandonment of dependent person 2 (RCW
18 9A.42.070)
19 Assault 3 (RCW 9A.36.031)
20 Assault of a Child 3 (RCW 9A.36.140)
21 Bail Jumping with class B or C Felony (RCW
22 9A.76.170(2)(c))
23 Burglary 2 (RCW 9A.52.030)
24 Communication with a Minor for Immoral
25 Purposes (RCW 9.68A.090)
26 Criminal Gang Intimidation (RCW 9A.46.120)
27 Criminal Mistreatment 2 (RCW 9A.42.030)
28 Custodial Assault (RCW 9A.36.100)
29 Delivery of a material in lieu of a
30 controlled substance (RCW
31 69.50.401(c))
32 Escape 2 (RCW 9A.76.120)
33 Extortion 2 (RCW 9A.56.130)
34 Harassment (RCW 9A.46.020)
35 Intimidating a Public Servant (RCW
36 9A.76.180)
37 Introducing Contraband 2 (RCW 9A.76.150)

1 Maintaining a Dwelling or Place for
2 Controlled Substances (RCW
3 69.50.402(a)(6))
4 Malicious Injury to Railroad Property (RCW
5 81.60.070)
6 Manufacture, deliver, or possess with
7 intent to deliver marijuana (RCW
8 69.50.401(a)(1)(iii))
9 Manufacture, distribute, or possess with
10 intent to distribute an imitation
11 controlled substance (RCW
12 69.52.030(1))
13 Patronizing a Juvenile Prostitute (RCW
14 9.68A.100)
15 Perjury 2 (RCW 9A.72.030)
16 Possession of Incendiary Device (RCW
17 9.40.120)
18 Possession of Machine Gun or Short-Barreled
19 Shotgun or Rifle (RCW 9.41.190)
20 Promoting Prostitution 2 (RCW 9A.88.080)
21 Recklessly Trafficking in Stolen Property
22 (RCW 9A.82.050(1))
23 Securities Act violation (RCW 21.20.400)
24 Tampering with a Witness (RCW 9A.72.120)
25 Telephone Harassment (subsequent conviction
26 or threat of death) (RCW 9.61.230)
27 Theft of Livestock 2 (RCW 9A.56.080)
28 Unlawful Imprisonment (RCW 9A.40.040)
29 Unlawful possession of firearm in the
30 second degree (RCW 9.41.040(1)(b))
31 Unlawful Use of Building for Drug Purposes
32 (RCW 69.53.010)
33 Willful Failure to Return from Work Release
34 (RCW 72.65.070)
35 II Computer Trespass 1 (RCW 9A.52.110)
36 Counterfeiting (RCW 9.16.035(3))
37 Create, deliver, or possess a counterfeit
38 controlled substance (RCW
39 69.50.401(b))

1 Escape from Community Custody (RCW
2 72.09.310)
3 Health Care False Claims (RCW 48.80.030)
4 Malicious Mischief 1 (RCW 9A.48.070)
5 Possession of controlled substance that is
6 either heroin or narcotics from
7 Schedule I or II or flunitrazepam from
8 Schedule IV (RCW 69.50.401(d))
9 Possession of phencyclidine (PCP) (RCW
10 69.50.401(d))
11 Possession of Stolen Property 1 (RCW
12 9A.56.150)
13 Theft 1 (RCW 9A.56.030)
14 Theft of Rental, Leased, or Lease-purchased
15 Property (valued at one thousand five
16 hundred dollars or more) (RCW
17 9A.56.096(4))
18 Trafficking in Insurance Claims (RCW
19 48.30A.015)
20 Unlawful Practice of Law (RCW 2.48.180)
21 Unlicensed Practice of a Profession or
22 Business (RCW 18.130.190(7))

23 I Attempting to Elude a Pursuing Police
24 Vehicle (RCW 46.61.024)
25 False Verification for Welfare (RCW
26 74.08.055)
27 Forged Prescription (RCW 69.41.020)
28 Forged Prescription for a Controlled
29 Substance (RCW 69.50.403)
30 Forgery (RCW 9A.60.020)
31 Malicious Mischief 2 (RCW 9A.48.080)
32 Possess Controlled Substance that is a
33 Narcotic from Schedule III, IV, or V
34 or Non-narcotic from Schedule I-V
35 (except phencyclidine or
36 flunitrazepam) (RCW 69.50.401(d))
37 Possession of Stolen Property 2 (RCW
38 9A.56.160)
39 Reckless Burning 1 (RCW 9A.48.040)

1 Taking Motor Vehicle Without Permission
2 (RCW 9A.56.070)
3 Theft 2 (RCW 9A.56.040)
4 Theft of Rental, Leased, or Lease-purchased
5 Property (valued at two hundred fifty
6 dollars or more but less than one
7 thousand five hundred dollars) (RCW
8 9A.56.096(4))
9 Unlawful Issuance of Checks or Drafts (RCW
10 9A.56.060)
11 Unlawful Use of Food Stamps (RCW 9.91.140
12 (2) and (3))
13 Vehicle Prowl 1 (RCW 9A.52.095)

14 **Sec. 3.** RCW 9.94A.360 and 2000 c 28 s 15 are each amended to read
15 as follows:

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

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

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

25 (2) Class A and sex prior felony convictions shall always be
26 included in the offender score. Class B prior felony convictions other
27 than sex offenses shall not be included in the offender score, if since
28 the last date of release from confinement (including full-time
29 residential treatment) pursuant to a felony conviction, if any, or
30 entry of judgment and sentence, the offender had spent ten consecutive
31 years in the community without committing any crime that subsequently
32 results in a conviction. Class C prior felony convictions other than
33 sex offenses shall not be included in the offender score if, since the
34 last date of release from confinement (including full-time residential
35 treatment) pursuant to a felony conviction, if any, or entry of
36 judgment and sentence, the offender had spent five consecutive years in
37 the community without committing any crime that subsequently results in
38 a conviction. Serious traffic convictions shall not be included in the

1 offender score if, since the last date of release from confinement
2 (including full-time residential treatment) pursuant to a felony
3 conviction, if any, or entry of judgment and sentence, the offender
4 spent five years in the community without committing any crime that
5 subsequently results in a conviction. This subsection applies to both
6 adult and juvenile prior convictions.

7 (3) Out-of-state convictions for offenses shall be classified
8 according to the comparable offense definitions and sentences provided
9 by Washington law. Federal convictions for offenses shall be
10 classified according to the comparable offense definitions and
11 sentences provided by Washington law. If there is no clearly
12 comparable offense under Washington law or the offense is one that is
13 usually considered subject to exclusive federal jurisdiction, the
14 offense shall be scored as a class C felony equivalent if it was a
15 felony under the relevant federal statute.

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

19 (5)(a) In the case of multiple prior convictions, for the purpose
20 of computing the offender score, count all convictions separately,
21 except:

22 (i) Prior offenses which were found, under RCW 9.94A.400(1)(a), to
23 encompass the same criminal conduct, shall be counted as one offense,
24 the offense that yields the highest offender score. The current
25 sentencing court shall determine with respect to other prior adult
26 offenses for which sentences were served concurrently or prior juvenile
27 offenses for which sentences were served consecutively, whether those
28 offenses shall be counted as one offense or as separate offenses using
29 the "same criminal conduct" analysis found in RCW 9.94A.400(1)(a), and
30 if the court finds that they shall be counted as one offense, then the
31 offense that yields the highest offender score shall be used. The
32 current sentencing court may presume that such other prior offenses
33 were not the same criminal conduct from sentences imposed on separate
34 dates, or in separate counties or jurisdictions, or in separate
35 complaints, indictments, or informations;

36 (ii) In the case of multiple prior convictions for offenses
37 committed before July 1, 1986, for the purpose of computing the
38 offender score, count all adult convictions served concurrently as one
39 offense, and count all juvenile convictions entered on the same date as

1 one offense. Use the conviction for the offense that yields the
2 highest offender score.

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

9 (6) If the present conviction is one of the anticipatory offenses
10 of criminal attempt, solicitation, or conspiracy, count each prior
11 conviction as if the present conviction were for a completed offense.
12 When these convictions are used as criminal history, score them the
13 same as a completed crime.

14 (7) If the present conviction is for a nonviolent offense and not
15 covered by subsection (11) or (12) of this section, count one point for
16 each adult prior felony conviction and one point for each juvenile
17 prior violent felony conviction and 1/2 point for each juvenile prior
18 nonviolent felony conviction.

19 (8) If the present conviction is for a violent offense and not
20 covered in subsection (9), (10), (11), or (12) of this section, count
21 two points for each prior adult and juvenile violent felony conviction,
22 one point for each prior adult nonviolent felony conviction, and 1/2
23 point for each prior juvenile nonviolent felony conviction.

24 (9) If the present conviction is for a serious violent offense,
25 count three points for prior adult and juvenile convictions for crimes
26 in this category, two points for each prior adult and juvenile violent
27 conviction (not already counted), one point for each prior adult
28 nonviolent felony conviction, and 1/2 point for each prior juvenile
29 nonviolent felony conviction.

30 (10) If the present conviction is for Burglary 1, count prior
31 convictions as in subsection (8) of this section; however count two
32 points for each prior adult Burglary 2 or residential burglary
33 conviction, and one point for each prior juvenile Burglary 2 or
34 residential burglary conviction.

35 (11) If the present conviction is for a felony traffic offense
36 count two points for each adult or juvenile prior conviction for
37 Vehicular Homicide or Vehicular Assault; for each felony offense count
38 one point for each adult and 1/2 point for each juvenile prior
39 conviction; for each serious traffic offense, other than those used for

1 an enhancement pursuant to RCW 46.61.520(2), count one point for each
2 adult and 1/2 point for each juvenile prior conviction.

3 (12) If the present conviction is for ((a drug offense))
4 manufacture of methamphetamine count three points for each adult prior
5 ((felony drug offense)) manufacture of methamphetamine conviction and
6 two points for each juvenile ((drug)) manufacture of methamphetamine
7 offense. All other adult and juvenile felonies are scored as in
8 subsection (8) of this section if the current drug offense is violent,
9 or as in subsection (7) of this section if the current drug offense is
10 nonviolent.

11 (13) If the present conviction is for Willful Failure to Return
12 from Furlough, RCW 72.66.060, Willful Failure to Return from Work
13 Release, RCW 72.65.070, or Escape from Community Custody, RCW
14 72.09.310, count only prior escape convictions in the offender score.
15 Count adult prior escape convictions as one point and juvenile prior
16 escape convictions as 1/2 point.

17 (14) If the present conviction is for Escape 1, RCW 9A.76.110, or
18 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and
19 juvenile prior convictions as 1/2 point.

20 (15) If the present conviction is for Burglary 2 or residential
21 burglary, count priors as in subsection (7) of this section; however,
22 count two points for each adult and juvenile prior Burglary 1
23 conviction, two points for each adult prior Burglary 2 or residential
24 burglary conviction, and one point for each juvenile prior Burglary 2
25 or residential burglary conviction.

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

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

31 **Sec. 4.** RCW 69.50.410 and 1999 c 324 s 6 are each amended to read
32 as follows:

33 (1) Except as authorized by this chapter it shall be unlawful for
34 any person to sell for profit any controlled substance or counterfeit
35 substance classified in Schedule I, RCW 69.50.204, except leaves and
36 flowering tops of marihuana.

37 For the purposes of this section only, the following words and
38 phrases shall have the following meanings:

1 (a) "To sell" means the passing of title and possession of a
2 controlled substance from the seller to the buyer for a price whether
3 or not the price is paid immediately or at a future date.

4 (b) "For profit" means the obtaining of anything of value in
5 exchange for a controlled substance.

6 (c) "Price" means anything of value.

7 (2) Any person convicted of a violation of subsection (1) of this
8 section (~~shall receive a sentence of not more than five years in a~~
9 ~~correctional facility of the department of social and health services~~
10 ~~for the first offense. Any person convicted on a second or subsequent~~
11 ~~cause, the sale having transpired after prosecution and conviction on~~
12 ~~the first cause, of subsection (1) of this section shall receive a~~
13 ~~mandatory sentence of five years in a correctional facility of the~~
14 ~~department of social and health services and no judge of any court~~
15 ~~shall suspend or defer the sentence imposed for the second or~~
16 ~~subsequent violation of subsection (1) of this section.~~

17 ~~(3) Any person convicted of a violation of subsection (1) of this~~
18 ~~section by selling heroin shall receive a mandatory sentence of two~~
19 ~~years in a correctional facility of the department of social and health~~
20 ~~services and no judge of any court shall suspend or defer the sentence~~
21 ~~imposed for such violation. Any person convicted on a second or~~
22 ~~subsequent sale of heroin, the sale having transpired after prosecution~~
23 ~~and conviction on the first cause of the sale of heroin shall receive~~
24 ~~a mandatory sentence of ten years in a correctional facility of the~~
25 ~~department of social and health services and no judge of any court~~
26 ~~shall suspend or defer the sentence imposed for this second or~~
27 ~~subsequent violation: PROVIDED, That the indeterminate sentence review~~
28 ~~board under RCW 9.95.040 shall not reduce the minimum term imposed for~~
29 ~~a violation under this subsection.~~

30 ~~(4) Whether or not a mandatory minimum term has expired,)) is~~
31 ~~guilty of a class C felony and shall be punished according to chapter~~
32 ~~9A.20 RCW.~~

33 (3) An offender serving a sentence under this section may be
34 granted an extraordinary medical placement when authorized under RCW
35 9.94A.150(4).

36 ~~((+5))~~ (4) In addition to the sentences provided in subsection (2)
37 of this section, any person convicted of a violation of subsection (1)
38 of this section shall be fined in an amount calculated to at least
39 eliminate any and all proceeds or profits directly or indirectly gained

1 by such person as a result of sales of controlled substances in
2 violation of the laws of this or other states, or the United States, up
3 to the amount of five hundred thousand dollars on each count.

4 ~~((+6+))~~ (5) Any person, addicted to the use of controlled
5 substances, who voluntarily applies to the department of social and
6 health services for the purpose of participating in a rehabilitation
7 program approved by the department for addicts of controlled substances
8 shall be immune from prosecution for subsection (1) offenses unless a
9 filing of an information or indictment against such person for a
10 violation of subsection (1) of this section is made prior to his or her
11 voluntary participation in the program of the department of social and
12 health services. All applications for immunity under this section
13 shall be sent to the department of social and health services in
14 Olympia. It shall be the duty of the department to stamp each
15 application received pursuant to this section with the date and time of
16 receipt.

17 This section shall not apply to offenses defined and punishable
18 under the provisions of RCW 69.50.401.

19 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.96A RCW
20 to read as follows:

21 (1) The criminal justice treatment account is created in the state
22 treasury. Moneys in the account may be expended solely for substance
23 abuse treatment for offenders filed upon by a prosecuting attorney in
24 Washington state as well as to fund drug courts for the provision of
25 drug and alcohol services for nonviolent offenders. Moneys in the
26 account may be spent only after appropriation.

27 (2) Revenues to the criminal justice treatment account consist of:
28 (a) Savings to the state general fund resulting from reductions in drug
29 offender sentencing as a result of sections 2 and 3, chapter . . . ,
30 Laws of 2001 (sections 2 and 3 of this act), as calculated pursuant to
31 this section; and (b) any other revenues appropriated to or deposited
32 in the account.

33 (3)(a) The department of corrections, the sentencing guidelines
34 commission, and the caseload forecast council shall develop a
35 methodology for calculating the projected biennial savings under this
36 section. Savings shall be projected for the fiscal biennium beginning
37 on July 1, 2003, and for each biennium thereafter. By December 1,
38 2001, the proposed methodology shall be submitted to the governor and

1 the appropriate committees of the legislature. The methodology is
2 deemed approved unless the legislature enacts legislation during the
3 2002 session to modify or reject the methodology.

4 (b) By December 1, 2002, and December 1st of each even-numbered
5 year thereafter, the department of corrections shall use the
6 methodology approved in (a) of this subsection to calculate savings to
7 the state general fund for the ensuing fiscal biennium resulting from
8 reductions in drug offender sentencing as a result of sections 2 and 3,
9 chapter . . . , Laws of 2001 (sections 2 and 3 this act). The
10 department shall report the dollar amount of the savings to the office
11 of the state treasurer and the fiscal committees of the legislature.

12 (c) For the fiscal biennium beginning July 1, 2003, and each fiscal
13 biennium thereafter, the treasurer shall transfer the amount reported
14 for that biennium in (b) of this subsection into the criminal justice
15 treatment account, divided into eight equal quarterly payments.

16 (d) In each odd-numbered year, the legislature shall appropriate
17 the amount transferred to the criminal justice treatment account in (c)
18 of this subsection to the division of alcohol and substance abuse for
19 the purposes of subsection (4) of this section.

20 (4) Moneys appropriated to the division of alcohol and substance
21 abuse from the criminal justice treatment account shall be distributed
22 as specified in this subsection. The department shall serve as the
23 fiscal agent for purposes of distribution.

24 (a) Seventy percent of amounts appropriated to the division from
25 the account shall be distributed to counties pursuant to the
26 distribution formula adopted under this section. The division of
27 alcohol and substance abuse, in consultation with the department of
28 corrections, the sentencing guidelines commission, the Washington state
29 association of counties, the Washington state association of drug court
30 professionals, representatives of the criminal defense bar, and any
31 other person deemed by the division to be necessary, shall establish a
32 fair and reasonable methodology for distribution to counties of moneys
33 in the criminal justice treatment account. County plans submitted for
34 the expenditure of formula funds must be approved by the panel
35 established in (b) of this subsection.

36 (b) Thirty percent of the amounts appropriated to the division from
37 the account shall be distributed as grants for purposes of treating
38 offenders against whom charges are filed by a county prosecuting
39 attorney. The division shall appoint a panel of representatives from

1 the Washington association of prosecuting attorneys, the Washington
2 association of sheriffs and police chiefs, the superior court judges
3 association, the Washington state association of counties, the
4 department of corrections, and the division. The panel shall award the
5 grants to eligible counties that have submitted plans pursuant to (a)
6 of this subsection and shall approve expenditure plans for grant funds.
7 The panel shall attempt to ensure that treatment as funded by the
8 grants is available to offenders statewide.

9 (5) The county chemical dependency specialist, in consultation with
10 the county prosecutor, county sheriff, and county superior court, shall
11 jointly submit a plan for disposition of all the funds provided from
12 the criminal justice treatment account within that county. The funds
13 shall be used solely to provide approved alcohol and substance abuse
14 treatment pursuant to RCW 70.96A.090.

15 (6) Counties are encouraged to consider regional agreements for the
16 efficient delivery of treatment under this section.

17 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.135 RCW
18 to read as follows:

19 RCW 43.135.035(4) does not apply to the transfers established in
20 section 5 of this act.

21 NEW SECTION. **Sec. 7.** (1) The sum of dollars, or as
22 much thereof as may be necessary, is appropriated for the fiscal year
23 ending June 30, 2002, from the general fund/public safety and education
24 account to the criminal justice treatment account for the purposes of
25 this act.

26 (2) The sum of dollars, or as much thereof as may be
27 necessary, is appropriated for the fiscal year ending June 30, 2003,
28 from the general fund/public safety and education account to the
29 criminal justice treatment account for the purposes of this act.

30 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.20A RCW
31 to read as follows:

32 The department of social and health services shall annually review
33 and monitor the expenditures made by any county which is funded, in
34 whole or in part, with funds provided by this act. Counties shall
35 repay any funds that are not spent in accordance with the requirements
36 of this act.

1 NEW SECTION. **Sec. 9.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 10.** This act applies to crimes committed on or
6 after July 1, 2001.

7 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of the
9 state government and its existing public institutions, and takes effect
10 July 1, 2001.

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