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HOUSE BILL 1373

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State of Washington                      58th Legislature                      2003 Regular Session

By Representatives Carrell, Newhouse, Mielke, Roach, McMahan, Boldt, Kristiansen, Holmquist, Delvin, Ahern, Pearson, Bush and Campbell

Read first time 01/24/2003.            Referred to Committee on Criminal Justice & Corrections.

1            AN ACT Relating to motor vehicle theft; reenacting and amending RCW  
2 9.94A.525 and 13.40.0357; and prescribing penalties.

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

4            **Sec. 1.** RCW 9.94A.525 and 2002 c 290 s 3 and 2002 c 107 s 3 are  
5 each reenacted and amended to read as follows:

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

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

10            (1) A prior conviction is a conviction which exists before the date  
11 of sentencing for the offense for which the offender score is being  
12 computed. Convictions entered or sentenced on the same date as the  
13 conviction for which the offender score is being computed shall be  
14 deemed "other current offenses" within the meaning of RCW 9.94A.589.

15            (2) Class A and sex prior felony convictions shall always be  
16 included in the offender score. Class B prior felony convictions other  
17 than sex offenses shall not be included in the offender score, if since  
18 the last date of release from confinement (including full-time  
19 residential treatment) pursuant to a felony conviction, if any, or

1 entry of judgment and sentence, the offender had spent ten consecutive  
2 years in the community without committing any crime that subsequently  
3 results in a conviction. Class C prior felony convictions other than  
4 sex offenses shall not be included in the offender score if, since the  
5 last date of release from confinement (including full-time residential  
6 treatment) pursuant to a felony conviction, if any, or entry of  
7 judgment and sentence, the offender had spent five consecutive years in  
8 the community without committing any crime that subsequently results in  
9 a conviction. Serious traffic convictions shall not be included in the  
10 offender score if, since the last date of release from confinement  
11 (including full-time residential treatment) pursuant to a felony  
12 conviction, if any, or entry of judgment and sentence, the offender  
13 spent five years in the community without committing any crime that  
14 subsequently results in a conviction. This subsection applies to both  
15 adult and juvenile prior convictions.

16 (3) Out-of-state convictions for offenses shall be classified  
17 according to the comparable offense definitions and sentences provided  
18 by Washington law. Federal convictions for offenses shall be  
19 classified according to the comparable offense definitions and  
20 sentences provided by Washington law. If there is no clearly  
21 comparable offense under Washington law or the offense is one that is  
22 usually considered subject to exclusive federal jurisdiction, the  
23 offense shall be scored as a class C felony equivalent if it was a  
24 felony under the relevant federal statute.

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

28 (5)(a) In the case of multiple prior convictions, for the purpose  
29 of computing the offender score, count all convictions separately,  
30 except:

31 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to  
32 encompass the same criminal conduct, shall be counted as one offense,  
33 the offense that yields the highest offender score. The current  
34 sentencing court shall determine with respect to other prior adult  
35 offenses for which sentences were served concurrently or prior juvenile  
36 offenses for which sentences were served consecutively, whether those  
37 offenses shall be counted as one offense or as separate offenses using  
38 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and

1 if the court finds that they shall be counted as one offense, then the  
2 offense that yields the highest offender score shall be used. The  
3 current sentencing court may presume that such other prior offenses  
4 were not the same criminal conduct from sentences imposed on separate  
5 dates, or in separate counties or jurisdictions, or in separate  
6 complaints, indictments, or informations;

7 (ii) In the case of multiple prior convictions for offenses  
8 committed before July 1, 1986, for the purpose of computing the  
9 offender score, count all adult convictions served concurrently as one  
10 offense, and count all juvenile convictions entered on the same date as  
11 one offense. Use the conviction for the offense that yields the  
12 highest offender score.

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

19 (6) If the present conviction is one of the anticipatory offenses  
20 of criminal attempt, solicitation, or conspiracy, count each prior  
21 conviction as if the present conviction were for a completed offense.  
22 When these convictions are used as criminal history, score them the  
23 same as a completed crime.

24 (7) If the present conviction is for a nonviolent offense and not  
25 covered by subsection (11) or (12) of this section, count one point for  
26 each adult prior felony conviction and one point for each juvenile  
27 prior violent felony conviction and 1/2 point for each juvenile prior  
28 nonviolent felony conviction.

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

34 (9) If the present conviction is for a serious violent offense,  
35 count three points for prior adult and juvenile convictions for crimes  
36 in this category, two points for each prior adult and juvenile violent  
37 conviction (not already counted), one point for each prior adult

1 nonviolent felony conviction, and 1/2 point for each prior juvenile  
2 nonviolent felony conviction.

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

8 (11) If the present conviction is for a felony traffic offense  
9 count two points for each adult or juvenile prior conviction for  
10 Vehicular Homicide or Vehicular Assault; for each felony offense count  
11 one point for each adult and 1/2 point for each juvenile prior  
12 conviction; for each serious traffic offense, other than those used for  
13 an enhancement pursuant to RCW 46.61.520(2), count one point for each  
14 adult and 1/2 point for each juvenile prior conviction.

15 (12) If the present conviction is for manufacture of  
16 methamphetamine count three points for each adult prior manufacture of  
17 methamphetamine conviction and two points for each juvenile manufacture  
18 of methamphetamine offense. If the present conviction is for a drug  
19 offense and the offender has a criminal history that includes a sex  
20 offense or serious violent offense, count three points for each adult  
21 prior felony drug offense conviction and two points for each juvenile  
22 drug offense. All other adult and juvenile felonies are scored as in  
23 subsection (8) of this section if the current drug offense is violent,  
24 or as in subsection (7) of this section if the current drug offense is  
25 nonviolent.

26 (13) If the present conviction is for Escape from Community  
27 Custody, RCW 72.09.310, count only prior escape convictions in the  
28 offender score. Count adult prior escape convictions as one point and  
29 juvenile prior escape convictions as 1/2 point.

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

33 (15) If the present conviction is for Burglary 2 or residential  
34 burglary, count priors as in subsection (7) of this section; however,  
35 count two points for each adult and juvenile prior Burglary 1  
36 conviction, two points for each adult prior Burglary 2 or residential  
37 burglary conviction, and one point for each juvenile prior Burglary 2  
38 or residential burglary conviction.

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

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

(18) If the present conviction is for taking a motor vehicle without permission, first or second degree, count two points for each prior juvenile conviction for this offense.

(19) The fact that a prior conviction was not included in an offender's offender score or criminal history at a previous sentencing shall have no bearing on whether it is included in the criminal history or offender score for the current offense. Accordingly, prior convictions that were not counted in the offender score or included in criminal history under repealed or previous versions of the sentencing reform act shall be included in criminal history and shall count in the offender score if the current version of the sentencing reform act requires including or counting those convictions.

**Sec. 2.** RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are each reenacted and amended to read as follows:

**DESCRIPTION AND OFFENSE CATEGORY**

		JUVENILE DISPOSITION
JUVENILE DISPOSITION	OFFENSE CATEGORY	CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION

.....

**Arson and Malicious Mischief**

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E

1	E	Tampering with Fire Alarm Apparatus	
2		(9.40.100)	E
3	A	Possession of Incendiary Device (9.40.120)	B+
4		<b>Assault and Other Crimes Involving</b>	
5		<b>Physical Harm</b>	
6	A	Assault 1 (9A.36.011)	B+
7	B+	Assault 2 (9A.36.021)	C+
8	C+	Assault 3 (9A.36.031)	D+
9	D+	Assault 4 (9A.36.041)	E
10	B+	Drive-By Shooting (9A.36.045)	C+
11	D+	Reckless Endangerment (9A.36.050)	E
12	C+	Promoting Suicide Attempt (9A.36.060)	D+
13	D+	Coercion (9A.36.070)	E
14	C+	Custodial Assault (9A.36.100)	D+
15		<b>Burglary and Trespass</b>	
16	B+	Burglary 1 (9A.52.020)	C+
17	B	Residential Burglary (9A.52.025)	C
18	B	Burglary 2 (9A.52.030)	C
19	D	Burglary Tools (Possession of) (9A.52.060)	E
20	D	Criminal Trespass 1 (9A.52.070)	E
21	E	Criminal Trespass 2 (9A.52.080)	E
22	C	Vehicle Prowling 1 (9A.52.095)	D
23	D	Vehicle Prowling 2 (9A.52.100)	E
24		<b>Drugs</b>	
25	E	Possession/Consumption of Alcohol	
26		(66.44.270)	E
27	C	Illegally Obtaining Legend Drug	
28		(69.41.020)	D
29	C+	Sale, Delivery, Possession of Legend Drug	
30		with Intent to Sell (69.41.030)	D+
31	E	Possession of Legend Drug (69.41.030)	E
32	B+	Violation of Uniform Controlled	
33		Substances Act - Narcotic,	
34		Methamphetamine, or Flunitrazepam Sale	
35		(69.50.401(a)(1) (i) or (ii))	B+

1	C	Violation of Uniform Controlled	
2		Substances Act - Nonnarcotic Sale	
3		(69.50.401(a)(1)(iii))	C
4	E	Possession of Marihuana <40 grams	
5		(69.50.401(e))	E
6	C	Fraudulently Obtaining Controlled	
7		Substance (69.50.403)	C
8	C+	Sale of Controlled Substance for Profit	
9		(69.50.410)	C+
10	E	Unlawful Inhalation (9.47A.020)	E
11	B	Violation of Uniform Controlled	
12		Substances Act - Narcotic,	
13		Methamphetamine, or Flunitrazepam	
14		Counterfeit Substances (69.50.401(b)(1) (i)	
15		or (ii))	B
16	C	Violation of Uniform Controlled	
17		Substances Act - Nonnarcotic Counterfeit	
18		Substances (69.50.401(b)(1) (iii), (iv), (v))	C
19	C	Violation of Uniform Controlled	
20		Substances Act - Possession of a Controlled	
21		Substance (69.50.401(d))	C
22	C	Violation of Uniform Controlled	
23		Substances Act - Possession of a Controlled	
24		Substance (69.50.401(c))	C
25		<b>Firearms and Weapons</b>	
26	B	Theft of Firearm (9A.56.300)	C
27	B	Possession of Stolen Firearm (9A.56.310)	C
28	E	Carrying Loaded Pistol Without Permit	
29		(9.41.050)	E
30	C	Possession of Firearms by Minor (<18)	
31		(9.41.040(1)(b)(iii))	C
32	D+	Possession of Dangerous Weapon	
33		(9.41.250)	E
34	D	Intimidating Another Person by use of	
35		Weapon (9.41.270)	E
36		<b>Homicide</b>	
37	A+	Murder 1 (9A.32.030)	A

1	A+	Murder 2 (9A.32.050)	B+
2	B+	Manslaughter 1 (9A.32.060)	C+
3	C+	Manslaughter 2 (9A.32.070)	D+
4	B+	Vehicle Homicide (46.61.520)	C+
5		<b>Kidnapping</b>	
6	A	Kidnap 1 (9A.40.020)	B+
7	B+	Kidnap 2 (9A.40.030)	C+
8	C+	Unlawful Imprisonment (9A.40.040)	D+
9		<b>Obstructing Governmental Operation</b>	
10	D	Obstructing a Law Enforcement Officer (9A.76.020)	E
11	E	Resisting Arrest (9A.76.040)	E
12	B	Introducing Contraband 1 (9A.76.140)	C
13	C	Introducing Contraband 2 (9A.76.150)	D
14	E	Introducing Contraband 3 (9A.76.160)	E
15	B+	Intimidating a Public Servant (9A.76.180)	C+
16	B+	Intimidating a Witness (9A.72.110)	C+
17		<b>Public Disturbance</b>	
18	C+	Riot with Weapon (9A.84.010)	D+
19	D+	Riot Without Weapon (9A.84.010)	E
20	E	Failure to Disperse (9A.84.020)	E
21	E	Disorderly Conduct (9A.84.030)	E
22		<b>Sex Crimes</b>	
23	A	Rape 1 (9A.44.040)	B+
24	A-	Rape 2 (9A.44.050)	B+
25	C+	Rape 3 (9A.44.060)	D+
26	A-	Rape of a Child 1 (9A.44.073)	B+
27	B+	Rape of a Child 2 (9A.44.076)	C+
28	B	Incest 1 (9A.64.020(1))	C
29	C	Incest 2 (9A.64.020(2))	D
30	D+	Indecent Exposure (Victim <14) (9A.88.010)	E
31	E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
32	B+	Promoting Prostitution 1 (9A.88.070)	C+
33	C+	Promoting Prostitution 2 (9A.88.080)	D+
34			
35			
36			



1	E	O & A (Prostitution) (9A.88.030)	E
2	B+	Indecent Liberties (9A.44.100)	C+
3	A-	Child Molestation 1 (9A.44.083)	B+
4	B	Child Molestation 2 (9A.44.086)	C+
5		<b>Theft, Robbery, Extortion, and Forgery</b>	
6	B	Theft 1 (9A.56.030)	C
7	C	Theft 2 (9A.56.040)	D
8	D	Theft 3 (9A.56.050)	E
9	B	Theft of Livestock (9A.56.080)	C
10	C	Forgery (9A.60.020)	D
11	A	Robbery 1 (9A.56.200)	B+
12	B+	Robbery 2 (9A.56.210)	C+
13	B+	Extortion 1 (9A.56.120)	C+
14	C+	Extortion 2 (9A.56.130)	D+
15	C	Identity Theft 1 (9.35.020(2)(a))	D
16	D	Identity Theft 2 (9.35.020(2)(b))	E
17	D	Improperly Obtaining Financial	
18		Information (9.35.010)	E
19	B	Possession of Stolen Property 1	
20		(9A.56.150)	C
21	C	Possession of Stolen Property 2	
22		(9A.56.160)	D
23	D	Possession of Stolen Property 3	
24		(9A.56.170)	E
25	((€))		
26	<u>B+</u>	<u>Taking Motor Vehicle Without Permission</u>	
27		1 ( <del>(and-2)</del> ) ( <u>Second or subsequent offense</u> ) ( <del>(D)</del> )	
28		(9A.56.070 (1) ( <del>(and-2)</del> )))	<u>C+</u>
29	<u>B</u>	<u>Taking Motor Vehicle Without Permission</u>	
30		1 (First offense) (9A.56.070(1)) and 2	
31		(9A.56.070(2))	<u>C</u>
32		<b>Motor Vehicle Related Crimes</b>	
33	E	Driving Without a License (46.20.005)	E
34	B+	Hit and Run - Death (46.52.020(4)(a))	C+
35	C	Hit and Run - Injury (46.52.020(4)(b))	D
36	D	Hit and Run-Attended (46.52.020(5))	E
37	E	Hit and Run-Unattended (46.52.010)	E

1	C	Vehicular Assault (46.61.522)	D
2	C	Attempting to Elude Pursuing Police	
3		Vehicle (46.61.024)	D
4	E	Reckless Driving (46.61.500)	E
5	D	Driving While Under the Influence	
6		(46.61.502 and 46.61.504)	E
7		<b>Other</b>	
8	B	Bomb Threat (9.61.160)	C
9	C	Escape 1 <sup>1</sup> (9A.76.110)	C
10	C	Escape 2 <sup>1</sup> (9A.76.120)	C
11	D	Escape 3 (9A.76.130)	E
12	E	Obscene, Harassing, Etc., Phone Calls	
13		(9.61.230)	E
14	A	Other Offense Equivalent to an Adult Class	
15		A Felony	B+
16	B	Other Offense Equivalent to an Adult Class	
17		B Felony	C
18	C	Other Offense Equivalent to an Adult Class	
19		C Felony	D
20	D	Other Offense Equivalent to an Adult	
21		Gross Misdemeanor	E
22	E	Other Offense Equivalent to an Adult	
23		Misdemeanor	E
24	V	Violation of Order of Restitution,	
25		Community Supervision, or Confinement	
26		(13.40.200) <sup>2</sup>	V

27 <sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses  
28 and the standard range is established as follows:

29 1st escape or attempted escape during 12-month period - 4 weeks  
30 confinement

31 2nd escape or attempted escape during 12-month period - 8 weeks  
32 confinement

33 3rd and subsequent escape or attempted escape during 12-month  
34 period - 12 weeks confinement

35 <sup>2</sup>If the court finds that a respondent has violated terms of an order,  
36 it may impose a penalty of up to 30 days of confinement.

37 **JUVENILE SENTENCING STANDARDS**

1 This schedule must be used for juvenile offenders. The court may  
 2 select sentencing option A, B, or C.

3  
 4 **OPTION A**  
 5 **JUVENILE OFFENDER SENTENCING GRID**  
 6 **STANDARD RANGE**

7  
 8 A+ 180 WEEKS TO AGE 21 YEARS

9  
 10 A 103 WEEKS TO 129 WEEKS

11	A-	15-36	52-65	80-100	103-129
12		WEEKS	WEEKS	WEEKS	WEEKS
13		EXCEPT			
14		30-40			
15		WEEKS FOR			
16		15-17			
17		YEAR OLDS			

18	Current	B+	15-36	52-65	80-100	103-129
19	Offense		WEEKS	WEEKS	WEEKS	WEEKS

20 Category

21	B	LOCAL			52-65
22		SANCTIONS (LS)	15-36 WEEKS		WEEKS

23	C+	LS			
24				15-36 WEEKS	

25	C	LS			15-36 WEEKS
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26 Local Sanctions:

27 0 to 30 Days

28 D+ LS 0 to 12 Months Community Supervision

29 0 to 150 Hours Community Restitution

30 D LS \$0 to \$500 Fine

31 E LS

32  
 33  
 34  
 35  
 36 0 1 2 3 4  
 37 or more

38 PRIOR ADJUDICATIONS

39 NOTE: References in the grid to days or weeks mean periods of  
 40 confinement.

41 (1) The vertical axis of the grid is the current offense category.

1 The current offense category is determined by the offense of  
2 adjudication.

3 (2) The horizontal axis of the grid is the number of prior  
4 adjudications included in the juvenile's criminal history. Each prior  
5 felony adjudication shall count as one point. Each prior violation,  
6 misdemeanor, and gross misdemeanor adjudication shall count as 1/4  
7 point. Fractional points shall be rounded down.

8 (3) The standard range disposition for each offense is determined  
9 by the intersection of the column defined by the prior adjudications  
10 and the row defined by the current offense category.

11 (4) RCW 13.40.180 applies if the offender is being sentenced for  
12 more than one offense.

13 (5) A current offense that is a violation is equivalent to an  
14 offense category of E. However, a disposition for a violation shall  
15 not include confinement.

16 **OR**

17 **OPTION B**

18 **CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE**

19 If the juvenile offender is subject to a standard range disposition  
20 of local sanctions or 15 to 36 weeks of confinement and has not  
21 committed an A- or B+ offense, the court may impose a disposition  
22 under RCW 13.40.160(4) and 13.40.165.

23 **OR**

24 **OPTION C**

25 **MANIFEST INJUSTICE**

26 If the court determines that a disposition under option A or B would  
27 effectuate a manifest injustice, the court shall impose a disposition  
28 outside the standard range under RCW 13.40.160(2).

**--- END ---**