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HOUSE BILL 2967

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State of Washington

58th Legislature

2004 Regular Session

By Representatives Schoesler, Cox, Rodne, Simpson, G., Bush, Ahern, Campbell, Roach, Clements, Armstrong, Holmquist, McMahan, Pearson, Orcutt, Woods, Condotta, Anderson and Newhouse

Read first time 01/26/2004. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to mandatory sentences for sex crimes against  
2 minors; amending RCW 9.94A.533, 9.94A.533, and 9.94A.475; prescribing  
3 penalties; providing an effective date; and providing an expiration  
4 date.

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

6 **Sec. 1.** RCW 9.94A.533 and 2002 c 290 s 11 are each amended to read  
7 as follows:

8 (1) The provisions of this section apply to the standard sentence  
9 ranges determined by RCW 9.94A.510 or 9.94A.517.

10 (2) For persons convicted of the anticipatory offenses of criminal  
11 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
12 standard sentence range is determined by locating the sentencing grid  
13 sentence range defined by the appropriate offender score and the  
14 seriousness level of the completed crime, and multiplying the range by  
15 seventy-five percent.

16 (3) The following additional times shall be added to the standard  
17 sentence range for felony crimes committed after July 23, 1995, if the  
18 offender or an accomplice was armed with a firearm as defined in RCW  
19 9.41.010 and the offender is being sentenced for one of the crimes

1 listed in this subsection as eligible for any firearm enhancements  
2 based on the classification of the completed felony crime. If the  
3 offender is being sentenced for more than one offense, the firearm  
4 enhancement or enhancements must be added to the total period of  
5 confinement for all offenses, regardless of which underlying offense is  
6 subject to a firearm enhancement. If the offender or an accomplice was  
7 armed with a firearm as defined in RCW 9.41.010 and the offender is  
8 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
9 commit one of the crimes listed in this subsection as eligible for any  
10 firearm enhancements, the following additional times shall be added to  
11 the standard sentence range determined under subsection (2) of this  
12 section based on the felony crime of conviction as classified under RCW  
13 9A.28.020:

14 (a) Five years for any felony defined under any law as a class A  
15 felony or with a statutory maximum sentence of at least twenty years,  
16 or both, and not covered under (f) of this subsection;

17 (b) Three years for any felony defined under any law as a class B  
18 felony or with a statutory maximum sentence of ten years, or both, and  
19 not covered under (f) of this subsection;

20 (c) Eighteen months for any felony defined under any law as a class  
21 C felony or with a statutory maximum sentence of five years, or both,  
22 and not covered under (f) of this subsection;

23 (d) If the offender is being sentenced for any firearm enhancements  
24 under (a), (b), and/or (c) of this subsection and the offender has  
25 previously been sentenced for any deadly weapon enhancements after July  
26 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
27 (4)(a), (b), and/or (c) of this section, or both, all firearm  
28 enhancements under this subsection shall be twice the amount of the  
29 enhancement listed;

30 (e) Notwithstanding any other provision of law, all firearm  
31 enhancements under this section are mandatory, shall be served in total  
32 confinement, and shall run consecutively to all other sentencing  
33 provisions, including other firearm or deadly weapon enhancements, for  
34 all offenses sentenced under this chapter. However, whether or not a  
35 mandatory minimum term has expired, an offender serving a sentence  
36 under this subsection may be granted an extraordinary medical placement  
37 when authorized under RCW 9.94A.728(4);

1 (f) The firearm enhancements in this section shall apply to all  
2 felony crimes except the following: Possession of a machine gun,  
3 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
4 unlawful possession of a firearm in the first and second degree, and  
5 use of a machine gun in a felony;

6 (g) If the standard sentence range under this section exceeds the  
7 statutory maximum sentence for the offense, the statutory maximum  
8 sentence shall be the presumptive sentence unless the offender is a  
9 persistent offender. If the addition of a firearm enhancement  
10 increases the sentence so that it would exceed the statutory maximum  
11 for the offense, the portion of the sentence representing the  
12 enhancement may not be reduced.

13 (4) The following additional times shall be added to the standard  
14 sentence range for felony crimes committed after July 23, 1995, if the  
15 offender or an accomplice was armed with a deadly weapon other than a  
16 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
17 for one of the crimes listed in this subsection as eligible for any  
18 deadly weapon enhancements based on the classification of the completed  
19 felony crime. If the offender is being sentenced for more than one  
20 offense, the deadly weapon enhancement or enhancements must be added to  
21 the total period of confinement for all offenses, regardless of which  
22 underlying offense is subject to a deadly weapon enhancement. If the  
23 offender or an accomplice was armed with a deadly weapon other than a  
24 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
25 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
26 the crimes listed in this subsection as eligible for any deadly weapon  
27 enhancements, the following additional times shall be added to the  
28 standard sentence range determined under subsection (2) of this section  
29 based on the felony crime of conviction as classified under RCW  
30 9A.28.020:

31 (a) Two years for any felony defined under any law as a class A  
32 felony or with a statutory maximum sentence of at least twenty years,  
33 or both, and not covered under (f) of this subsection;

34 (b) One year for any felony defined under any law as a class B  
35 felony or with a statutory maximum sentence of ten years, or both, and  
36 not covered under (f) of this subsection;

37 (c) Six months for any felony defined under any law as a class C

1 felony or with a statutory maximum sentence of five years, or both, and  
2 not covered under (f) of this subsection;

3 (d) If the offender is being sentenced under (a), (b), and/or (c)  
4 of this subsection for any deadly weapon enhancements and the offender  
5 has previously been sentenced for any deadly weapon enhancements after  
6 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
7 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly  
8 weapon enhancements under this subsection shall be twice the amount of  
9 the enhancement listed;

10 (e) Notwithstanding any other provision of law, all deadly weapon  
11 enhancements under this section are mandatory, shall be served in total  
12 confinement, and shall run consecutively to all other sentencing  
13 provisions, including other firearm or deadly weapon enhancements, for  
14 all offenses sentenced under this chapter. However, whether or not a  
15 mandatory minimum term has expired, an offender serving a sentence  
16 under this subsection may be granted an extraordinary medical placement  
17 when authorized under RCW 9.94A.728(4);

18 (f) The deadly weapon enhancements in this section shall apply to  
19 all felony crimes except the following: Possession of a machine gun,  
20 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
21 unlawful possession of a firearm in the first and second degree, and  
22 use of a machine gun in a felony;

23 (g) If the standard sentence range under this section exceeds the  
24 statutory maximum sentence for the offense, the statutory maximum  
25 sentence shall be the presumptive sentence unless the offender is a  
26 persistent offender. If the addition of a deadly weapon enhancement  
27 increases the sentence so that it would exceed the statutory maximum  
28 for the offense, the portion of the sentence representing the  
29 enhancement may not be reduced.

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

1 subsection, the following additional times shall be added to the  
2 standard sentence range determined under subsection (2) of this  
3 section:

4 (a) Eighteen months for offenses committed under RCW  
5 69.50.401(a)(1) (i) or (ii) or 69.50.410;

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

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

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

12 (6) An additional twenty-four months shall be added to the standard  
13 sentence range for any ranked offense involving a violation of chapter  
14 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
15 9.94A.605.

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

20 (8) Notwithstanding any other provision of law, all requirements of  
21 this subsection are mandatory, shall be served in total confinement,  
22 and run consecutively to all other sentencing provisions for all  
23 offenses sentenced under this chapter. The standard sentence range  
24 maximum under RCW 9.94A.510 shall be imposed for a violation of:

25 (a) RCW 9A.44.073, 9A.44.076, or 9A.44.083 if the person previously  
26 violated any of those sections;

27 (b) RCW 9A.44.086 if the person previously violated that section or  
28 any section listed in (a) of this subsection;

29 (c) RCW 9A.44.079, 9A.44.089, or 9A.44.093 if the person previously  
30 violated any of those sections, or a section listed in (a) or (b) of  
31 this subsection;

32 (d) RCW 9A.44.096 if the person previously violated that section or  
33 any section listed in subsection (a), (b), or (c) of this subsection.

34 **Sec. 2.** RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read  
35 as follows:

36 (1) The provisions of this section apply to the standard sentence  
37 ranges determined by RCW 9.94A.510 or 9.94A.517.

1 (2) For persons convicted of the anticipatory offenses of criminal  
2 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
3 standard sentence range is determined by locating the sentencing grid  
4 sentence range defined by the appropriate offender score and the  
5 seriousness level of the completed crime, and multiplying the range by  
6 seventy-five percent.

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

24 (a) Five 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) Three years 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) Eighteen months for any felony defined under any law as a class  
31 C felony or with a statutory maximum sentence of five years, or both,  
32 and not covered under (f) of this subsection;

33 (d) If the offender is being sentenced for any firearm enhancements  
34 under (a), (b), and/or (c) of this subsection and the offender has  
35 previously been sentenced for any deadly weapon enhancements after July  
36 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
37 (4)(a), (b), and/or (c) of this section, or both, all firearm

1 enhancements under this subsection shall be twice the amount of the  
2 enhancement listed;

3 (e) Notwithstanding any other provision of law, all firearm  
4 enhancements under this section are mandatory, shall be served in total  
5 confinement, and shall run consecutively to all other sentencing  
6 provisions, including other firearm or deadly weapon enhancements, for  
7 all offenses sentenced under this chapter. However, whether or not a  
8 mandatory minimum term has expired, an offender serving a sentence  
9 under this subsection may be granted an extraordinary medical placement  
10 when authorized under RCW 9.94A.728(4);

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

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

23 (4) The following additional times shall be added to the standard  
24 sentence range for felony crimes committed after July 23, 1995, if the  
25 offender or an accomplice was armed with a deadly weapon other than a  
26 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
27 for one of the crimes listed in this subsection as eligible for any  
28 deadly weapon enhancements based on the classification of the completed  
29 felony crime. If the offender is being sentenced for more than one  
30 offense, the deadly weapon enhancement or enhancements must be added to  
31 the total period of confinement for all offenses, regardless of which  
32 underlying offense is subject to a deadly weapon enhancement. If the  
33 offender or an accomplice was armed with a deadly weapon other than a  
34 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
35 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
36 the crimes listed in this subsection as eligible for any deadly weapon  
37 enhancements, the following additional times shall be added to the

1 standard sentence range determined under subsection (2) of this section  
2 based on the felony crime of conviction as classified under RCW  
3 9A.28.020:

4 (a) Two years for any felony defined under any law as a class A  
5 felony or with a statutory maximum sentence of at least twenty years,  
6 or both, and not covered under (f) of this subsection;

7 (b) One year for any felony defined under any law as a class B  
8 felony or with a statutory maximum sentence of ten years, or both, and  
9 not covered under (f) of this subsection;

10 (c) Six months for any felony defined under any law as a class C  
11 felony or with a statutory maximum sentence of five years, or both, and  
12 not covered under (f) of this subsection;

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

20 (e) Notwithstanding any other provision of law, all deadly weapon  
21 enhancements under this section are mandatory, shall be served in total  
22 confinement, and shall run consecutively to all other sentencing  
23 provisions, including other firearm or deadly weapon enhancements, for  
24 all offenses sentenced under this chapter. However, whether or not a  
25 mandatory minimum term has expired, an offender serving a sentence  
26 under this subsection may be granted an extraordinary medical placement  
27 when authorized under RCW 9.94A.728(4);

28 (f) The deadly weapon enhancements in this section shall apply to  
29 all felony crimes except the following: Possession of a machine gun,  
30 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
31 unlawful possession of a firearm in the first and second degree, and  
32 use of a machine gun in a felony;

33 (g) If the standard sentence range under this section exceeds the  
34 statutory maximum sentence for the offense, the statutory maximum  
35 sentence shall be the presumptive sentence unless the offender is a  
36 persistent offender. If the addition of a deadly weapon enhancement  
37 increases the sentence so that it would exceed the statutory maximum



1 for the offense, the portion of the sentence representing the  
2 enhancement may not be reduced.

3 (5) The following additional times shall be added to the standard  
4 sentence range if the offender or an accomplice committed the offense  
5 while in a county jail or state correctional facility and the offender  
6 is being sentenced for one of the crimes listed in this subsection. If  
7 the offender or an accomplice committed one of the crimes listed in  
8 this subsection while in a county jail or state correctional facility,  
9 and the offender is being sentenced for an anticipatory offense under  
10 chapter 9A.28 RCW to commit one of the crimes listed in this  
11 subsection, the following additional times shall be added to the  
12 standard sentence range determined under subsection (2) of this  
13 section:

14 (a) Eighteen months for offenses committed under RCW 69.50.401(2)  
15 (a) or (b) or 69.50.410;

16 (b) Fifteen months for offenses committed under RCW 69.50.401(2)  
17 (c), (d), or (e);

18 (c) Twelve months for offenses committed under RCW 69.50.4013.

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

22 (6) An additional twenty-four months shall be added to the standard  
23 sentence range for any ranked offense involving a violation of chapter  
24 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
25 9.94A.605.

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

30 (8) Notwithstanding any other provision of law, all requirements of  
31 this subsection are mandatory, shall be served in total confinement,  
32 and run consecutively to all other sentencing provisions for all  
33 offenses sentenced under this chapter. The standard sentence range  
34 maximum under RCW 9.94A.510 shall be imposed for a violation of:

35 (a) RCW 9A.44.073, 9A.44.076, or 9A.44.083 if the person previously  
36 violated any of those sections;

37 (b) RCW 9A.44.086 if the person previously violated that section or  
38 any section listed in (a) of this subsection;

1 (c) RCW 9A.44.079, 9A.44.089, or 9A.44.093 if the person previously  
2 violated any of those sections, or a section listed in (a) or (b) of  
3 this subsection;

4 (d) RCW 9A.44.096 if the person previously violated that section or  
5 any section listed in (a), (b), or (c) of this subsection.

6 **Sec. 3.** RCW 9.94A.475 and 2002 c 290 s 15 are each amended to read  
7 as follows:

8 (1) Any and all recommended sentencing agreements or plea  
9 agreements and the sentences for any and all felony crimes shall be  
10 made and retained as public records if the felony crime involves:

11 ((+1)) (a) Any violent offense as defined in this chapter;

12 ((+2)) (b) Any most serious offense as defined in this chapter;

13 ((+3)) (c) Any felony with a deadly weapon special verdict under  
14 RCW 9.94A.602;

15 ((+4)) (d) Any felony with any deadly weapon enhancements under  
16 RCW 9.94A.533 (3) or (4), or both; and/or

17 ((+5)) (e) The felony crimes of possession of a machine gun,  
18 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
19 unlawful possession of a firearm in the first or second degree, and/or  
20 use of a machine gun in a felony.

21 (2) For every case involving a violation of RCW 9A.44.073,  
22 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, 9A.44.093, or  
23 9A.44.096, a prosecutor may only reduce or dismiss a charge if he or  
24 she submits a written statement for public release with a detailed  
25 explanation of the reasoning and justifications for the action.

26 NEW SECTION. **Sec. 4.** Section 1 of this act expires July 1, 2004.

27 NEW SECTION. **Sec. 5.** Sections 2 and 3 of this act take effect  
28 July 1, 2004.

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