
SENATE BILL 5442

State of Washington

58th Legislature

2003 Regular Session

By Senators Roach, Oke and Rasmussen

Read first time 01/24/2003. Referred to Committee on Judiciary.

1 AN ACT Relating to increasing penalties for manufacturing
2 methamphetamine; amending RCW 69.50.406, 69.50.415, 9.94A.533,
3 9.94A.518, and 9.94A.610; reenacting and amending RCW 69.50.401,
4 9.94A.510, 9.94A.515, and 13.40.0357; prescribing penalties; providing
5 an effective date; and providing an expiration date.

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

7 **Sec. 1.** RCW 69.50.401 and 1998 c 290 s 1 and 1998 c 82 s 2 are
8 each reenacted and amended to read as follows:

9 (a) Except as authorized by this chapter, it is unlawful for any
10 person to manufacture, deliver, or possess with intent to manufacture
11 or deliver, a controlled substance.

12 (1) Any person who violates this subsection with respect to:

13 (i) a controlled substance classified in Schedule I or II which is
14 a narcotic drug or flunitrazepam classified in Schedule IV, is guilty
15 of a crime and upon conviction may be imprisoned for not more than ten
16 years, or (A) fined not more than twenty-five thousand dollars if the
17 crime involved less than two kilograms of the drug, or both such
18 imprisonment and fine; or (B) if the crime involved two or more
19 kilograms of the drug, then fined not more than one hundred thousand

1 dollars for the first two kilograms and not more than fifty dollars for
2 each gram in excess of two kilograms, or both such imprisonment and
3 fine;

4 (ii) amphetamine or delivery or possession with intent to deliver
5 methamphetamine, is guilty of a crime and upon conviction may be
6 imprisoned for not more than ten years, or (A) fined not more than
7 twenty-five thousand dollars if the crime involved less than two
8 kilograms of the drug, or both such imprisonment and fine; or (B) if
9 the crime involved two or more kilograms of the drug, then fined not
10 more than one hundred thousand dollars for the first two kilograms and
11 not more than fifty dollars for each gram in excess of two kilograms,
12 or both such imprisonment and fine. Three thousand dollars of the fine
13 may not be suspended. As collected, the first three thousand dollars
14 of the fine must be deposited with the law enforcement agency having
15 responsibility for cleanup of laboratories, sites, or substances used
16 in the manufacture of the methamphetamine. The fine moneys deposited
17 with that law enforcement agency must be used for such clean-up cost;

18 (iii) manufacture of methamphetamine, is guilty of a crime and upon
19 conviction may be imprisoned for not more than twenty years, or (A)
20 fined not more than twenty-five thousand dollars if the crime involved
21 less than two kilograms of the drug, or both such imprisonment and
22 fine; or (B) if the crime involved two or more kilograms of the drug,
23 then fined not more than one hundred thousand dollars for the first two
24 kilograms and not more than fifty dollars for each gram in excess of
25 two kilograms, or both such imprisonment and fine. Five thousand
26 dollars of the fine may not be suspended. As collected, the first five
27 thousand dollars of the fine must be deposited with the law enforcement
28 agency having responsibility for cleanup of laboratories, sites, or
29 substances used in the manufacture of the methamphetamine. The fine
30 moneys deposited with that law enforcement agency must be used for such
31 clean-up cost;

32 (iv) any other controlled substance classified in Schedule I, II,
33 or III, is guilty of a crime and upon conviction may be imprisoned for
34 not more than five years, fined not more than ten thousand dollars, or
35 both;

36 (~~(iv)~~) (v) a substance classified in Schedule IV, except
37 flunitrazepam, is guilty of a crime and upon conviction may be

1 imprisoned for not more than five years, fined not more than ten
2 thousand dollars, or both;

3 ~~((v))~~ (vi) a substance classified in Schedule V, is guilty of a
4 crime and upon conviction may be imprisoned for not more than five
5 years, fined not more than ten thousand dollars, or both.

6 (b) Except as authorized by this chapter, it is unlawful for any
7 person to create, deliver, or possess a counterfeit substance.

8 (1) Any person who violates this subsection with respect to:

9 (i) a counterfeit substance classified in Schedule I or II which is
10 a narcotic drug, or flunitrazepam classified in Schedule IV, is guilty
11 of a crime and upon conviction may be imprisoned for not more than ten
12 years, fined not more than twenty-five thousand dollars, or both;

13 (ii) a counterfeit substance which is methamphetamine, is guilty of
14 a crime and upon conviction may be imprisoned for not more than ten
15 years, fined not more than twenty-five thousand dollars, or both;

16 (iii) any other counterfeit substance classified in Schedule I, II,
17 or III, is guilty of a crime and upon conviction may be imprisoned for
18 not more than five years, fined not more than ten thousand dollars, or
19 both;

20 (iv) a counterfeit substance classified in Schedule IV, except
21 flunitrazepam, is guilty of a crime and upon conviction may be
22 imprisoned for not more than five years, fined not more than ten
23 thousand dollars, or both;

24 (v) a counterfeit substance classified in Schedule V, is guilty of
25 a crime and upon conviction may be imprisoned for not more than five
26 years, fined not more than ten thousand dollars, or both.

27 (c) It is unlawful, except as authorized in this chapter and
28 chapter 69.41 RCW, for any person to offer, arrange, or negotiate for
29 the sale, gift, delivery, dispensing, distribution, or administration
30 of a controlled substance to any person and then sell, give, deliver,
31 dispense, distribute, or administer to that person any other liquid,
32 substance, or material in lieu of such controlled substance. Any
33 person who violates this subsection is guilty of a crime and upon
34 conviction may be imprisoned for not more than five years, fined not
35 more than ten thousand dollars, or both.

36 (d) It is unlawful for any person to possess a controlled substance
37 unless the substance was obtained directly from, or pursuant to, a
38 valid prescription or order of a practitioner while acting in the

1 course of his or her professional practice, or except as otherwise
2 authorized by this chapter. Any person who violates this subsection is
3 guilty of a crime, and upon conviction may be imprisoned for not more
4 than five years, fined not more than ten thousand dollars, or both,
5 except as provided for in subsection (e) of this section.

6 (e) Except as provided for in subsection (a)(1)(~~(iii)~~) (iv) of
7 this section any person found guilty of possession of forty grams or
8 less of marihuana shall be guilty of a misdemeanor.

9 (f) It is unlawful to compensate, threaten, solicit, or in any
10 other manner involve a person under the age of eighteen years in a
11 transaction unlawfully to manufacture, sell, or deliver a controlled
12 substance. A violation of this subsection shall be punished as a class
13 C felony punishable in accordance with RCW 9A.20.021.

14 This section shall not apply to offenses defined and punishable
15 under the provisions of RCW 69.50.410.

16 **Sec. 2.** RCW 69.50.406 and 1998 c 290 s 2 are each amended to read
17 as follows:

18 (a) Any person eighteen years of age or over who violates RCW
19 69.50.401(a) by distributing a controlled substance listed in Schedules
20 I or II which is a narcotic drug or methamphetamine, or flunitrazepam
21 listed in Schedule IV, to a person under eighteen years of age is
22 punishable by the fine authorized by RCW 69.50.401(a)(1) (i) or (ii),
23 by a term of imprisonment of up to twice that authorized by RCW
24 69.50.401(a)(1) (i) or (ii), or by both.

25 (b) Any person eighteen years of age or over who violates RCW
26 69.50.401(a) by distributing any other controlled substance listed in
27 Schedules I, II, III, IV, and V to a person under eighteen years of age
28 who is at least three years his junior is punishable by the fine
29 authorized by RCW 69.50.401(a)(1) (~~(iii)~~) (iv), (~~(iv)~~) (v), or
30 (~~(v)~~) (vi), by a term of imprisonment up to twice that authorized by
31 RCW 69.50.401(a)(1) (~~(iii)~~) (iv), (~~(iv)~~) (v), or (~~(v)~~) (vi), or
32 both.

33 **Sec. 3.** RCW 69.50.415 and 1996 c 205 s 8 are each amended to read
34 as follows:

35 (a) A person who unlawfully delivers a controlled substance in
36 violation of RCW 69.50.401(a)(1) (i), (ii), or (~~(iii)~~) (iv) which

1 controlled substance is subsequently used by the person to whom it was
 2 delivered, resulting in the death of the user, is guilty of controlled
 3 substances homicide.

4 (b) Controlled substances homicide is a class B felony punishable
 5 according to RCW 9A.20.021.

6 **Sec. 4.** RCW 9.94A.510 and 2000 c 132 s 2 and 2000 c 28 s 11 are
 7 each reenacted and amended to read as follows:

8 (1)

9 TABLE 1
 10 Sentencing Grid

| SERIOUSNESS LEVEL | OFFENDER SCORE | | | | | | | | | |
|--|----------------|-------|-------|-------|--------|-------|-------|--------|--------|-----------|
| | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 or more |
| XVI Life Sentence without Parole/Death Penalty | | | | | | | | | | |
| XV | 23y4m | 24y4m | 25y4m | 26y4m | 27y4m | 28y4m | 30y4m | 32y10m | 36y | 40y |
| | 240- | 250- | 261- | 271- | 281- | 291- | 312- | 338- | 370- | 411- |
| | 320 | 333 | 347 | 361 | 374 | 388 | 416 | 450 | 493 | 548 |
| XIV | 14y4m | 15y4m | 16y2m | 17y | 17y11m | 18y9m | 20y5m | 22y2m | 25y7m | 29y |
| | 123- | 134- | 144- | 154- | 165- | 175- | 195- | 216- | 257- | 298- |
| | 220 | 234 | 244 | 254 | 265 | 275 | 295 | 316 | 357 | 397 |
| XIII | 12y | 13y | 14y | 15y | 16y | 17y | 19y | 21y | 25y | 29y |
| | 123- | 134- | 144- | 154- | 165- | 175- | 195- | 216- | 257- | 298- |
| | 164 | 178 | 192 | 205 | 219 | 233 | 260 | 288 | 342 | 397 |
| XII | 9y | 9y11m | 10y9m | 11y8m | 12y6m | 13y5m | 15y9m | 17y3m | 20y3m | 23y3m |
| | 93- | 102- | 111- | 120- | 129- | 138- | 162- | 178- | 209- | 240- |
| | 123 | 136 | 147 | 160 | 171 | 184 | 216 | 236 | 277 | 318 |
| XI | 7y6m | 8y4m | 9y2m | 9y11m | 10y9m | 11y7m | 14y2m | 15y5m | 17y11m | 20y5m |
| | 78- | 86- | 95- | 102- | 111- | 120- | 146- | 159- | 185- | 210- |
| | 102 | 114 | 125 | 136 | 147 | 158 | 194 | 211 | 245 | 280 |
| X | 5y | 5y6m | 6y | 6y6m | 7y | 7y6m | 9y6m | 10y6m | 12y6m | 14y6m |
| | 51- | 57- | 62- | 67- | 72- | 77- | 98- | 108- | 129- | 149- |
| | 68 | 75 | 82 | 89 | 96 | 102 | 130 | 144 | 171 | 198 |
| IX | 3y | 3y6m | 4y | 4y6m | 5y | 5y6m | 7y6m | 8y6m | 10y6m | 12y6m |
| | 31- | 36- | 41- | 46- | 51- | 57- | 77- | 87- | 108- | 129- |
| | 41 | 48 | 54 | 61 | 68 | 75 | 102 | 116 | 144 | 171 |
| VIII | 2y | 2y6m | 3y | 3y6m | 4y | 4y6m | 6y6m | 7y6m | 8y6m | 10y6m |
| | 21- | 26- | 31- | 36- | 41- | 46- | 67- | 77- | 87- | 108- |
| | 27 | 34 | 41 | 48 | 54 | 61 | 89 | 102 | 116 | 144 |
| VII | 18m | 2y | 2y6m | 3y | 3y6m | 4y | 5y6m | 6y6m | 7y6m | 8y6m |
| | 15- | 21- | 26- | 31- | 36- | 41- | 57- | 67- | 77- | 87- |
| | 20 | 27 | 34 | 41 | 48 | 54 | 75 | 89 | 102 | 116 |

| | | | | | | | | | | | |
|----|-----|------|------|------|------|------|------|------|------|------|------|
| 1 | VI | 13m | 18m | 2y | 2y6m | 3y | 3y6m | 4y6m | 5y6m | 6y6m | 7y6m |
| 2 | | 12+- | 15- | 21- | 26- | 31- | 36- | 46- | 57- | 67- | 77- |
| 3 | | 14 | 20 | 27 | 34 | 41 | 48 | 61 | 75 | 89 | 102 |
| 4 | V | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y | 5y | 6y | 7y |
| 5 | | 6- | 12+- | 13- | 15- | 22- | 33- | 41- | 51- | 62- | 72- |
| 6 | | 12 | 14 | 17 | 20 | 29 | 43 | 54 | 68 | 82 | 96 |
| 7 | IV | 6m | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y2m | 5y2m | 6y2m |
| 8 | | 3- | 6- | 12+- | 13- | 15- | 22- | 33- | 43- | 53- | 63- |
| 9 | | 9 | 12 | 14 | 17 | 20 | 29 | 43 | 57 | 70 | 84 |
| 10 | III | 2m | 5m | 8m | 11m | 14m | 20m | 2y2m | 3y2m | 4y2m | 5y |
| 11 | | 1- | 3- | 4- | 9- | 12+- | 17- | 22- | 33- | 43- | 51- |
| 12 | | 3 | 8 | 12 | 12 | 16 | 22 | 29 | 43 | 57 | 68 |
| 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 | I | | | 3m | 4m | 5m | 8m | 13m | 16m | 20m | 2y2m |
| 17 | | 0-60 | 0-90 | 2- | 2- | 3- | 4- | 12+- | 14- | 17- | 22- |
| 18 | | Days | Days | 5 | 6 | 8 | 12 | 14 | 18 | 22 | 29 |

19 Numbers in the first horizontal row of each seriousness category
20 represent sentencing midpoints in years(y) and months(m). Numbers in
21 the second and third rows represent standard sentence ranges in months,
22 or in days if so designated. 12+ equals one year and one day.

23 (2) For persons convicted of the anticipatory offenses of criminal
24 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
25 standard sentence range is determined by locating the sentencing grid
26 sentence range defined by the appropriate offender score and the
27 seriousness level of the completed crime, and multiplying the range by
28 75 percent.

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

1 firearm enhancements, the following additional times shall be added to
2 the standard sentence range determined under subsection (2) of this
3 section based on the felony crime of conviction as classified under RCW
4 9A.28.020:

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

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

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

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

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

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

34 (g) If the standard sentence range under this section exceeds the
35 statutory maximum sentence for the offense, the statutory maximum
36 sentence shall be the presumptive sentence unless the offender is a
37 persistent offender. If the addition of a firearm enhancement

1 increases the sentence so that it would exceed the statutory maximum
2 for the offense, the portion of the sentence representing the
3 enhancement may not be reduced.

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

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

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

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

31 (d) If the offender is being sentenced under (a), (b), and/or (c)
32 of this subsection for any deadly weapon enhancements and the offender
33 has previously been sentenced for any deadly weapon enhancements after
34 July 23, 1995, under (a), (b), and/or (c) of this subsection or
35 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
36 weapon enhancements under this subsection shall be twice the amount of
37 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.728(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 (iii) or 69.50.410;

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

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 a

1 state correctional facility or county jail shall be deemed to be part
2 of that facility or county jail.

3 (6) An additional twenty-four months shall be added to the standard
4 sentence range for any ranked offense involving a violation of chapter
5 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
6 9.94A.605.

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

11 **Sec. 5.** RCW 9.94A.533 and 2002 c 290 s 11 are each amended to read
12 as follows:

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

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

21 (3) The following additional times shall be added to the standard
22 sentence range for felony crimes committed after July 23, 1995, if the
23 offender or an accomplice was armed with a firearm as defined in RCW
24 9.41.010 and the offender is being sentenced for one of the crimes
25 listed in this subsection as eligible for any firearm enhancements
26 based on the classification of the completed felony crime. If the
27 offender is being sentenced for more than one offense, the firearm
28 enhancement or enhancements must be added to the total period of
29 confinement for all offenses, regardless of which underlying offense is
30 subject to a firearm enhancement. If the offender or an accomplice was
31 armed with a firearm as defined in RCW 9.41.010 and the offender is
32 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
33 commit one of the crimes listed in this subsection as eligible for any
34 firearm enhancements, the following additional times shall be added to
35 the standard sentence range determined under subsection (2) of this
36 section based on the felony crime of conviction as classified under RCW
37 9A.28.020:

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

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

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

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

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

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

30 (g) If the standard sentence range under this section exceeds the
31 statutory maximum sentence for the offense, the statutory maximum
32 sentence shall be the presumptive sentence unless the offender is a
33 persistent offender. If the addition of a firearm enhancement
34 increases the sentence so that it would exceed the statutory maximum
35 for the offense, the portion of the sentence representing the
36 enhancement may not be reduced.

37 (4) The following additional times shall be added to the standard
38 sentence range for felony crimes committed after July 23, 1995, if the

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

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

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

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

26 (d) If the offender is being sentenced under (a), (b), and/or (c)
27 of this subsection for any deadly weapon enhancements and the offender
28 has previously been sentenced for any deadly weapon enhancements after
29 July 23, 1995, under (a), (b), and/or (c) of this subsection or
30 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
31 weapon enhancements under this subsection shall be twice the amount of
32 the enhancement listed;

33 (e) Notwithstanding any other provision of law, all deadly weapon
34 enhancements under this section are mandatory, shall be served in total
35 confinement, and shall run consecutively to all other sentencing
36 provisions, including other firearm or deadly weapon enhancements, for
37 all offenses sentenced under this chapter. However, whether or not a

1 mandatory minimum term has expired, an offender serving a sentence
2 under this subsection may be granted an extraordinary medical placement
3 when authorized under RCW 9.94A.728(4);

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

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

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

27 (a) Eighteen months for offenses committed under RCW
28 69.50.401(a)(1) (i) ~~((or))~~, (ii), or (iii) or 69.50.410;

29 (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)
30 ~~((iii))~~ (iv), ~~(and)~~ (v), and (vi);

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

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

35 (6) An additional twenty-four months shall be added to the standard
36 sentence range for any ranked offense involving a violation of chapter
37 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
38 9.94A.605.

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

5 **Sec. 6.** RCW 9.94A.515 and 2002 c 340 s 2, 2002 c 324 s 2, 2002 c
6 290 s 2, 2002 c 253 s 4, 2002 c 229 s 2, 2002 c 134 s 2, and 2002 c 133
7 s 4 are each reenacted and amended to read as follows:

8 TABLE 2
9 CRIMES INCLUDED WITHIN
10 EACH SERIOUSNESS LEVEL

| | | |
|----|------|---------------------------------------|
| 11 | XVI | Aggravated Murder 1 (RCW |
| 12 | | 10.95.020) |
| 13 | XV | Homicide by abuse (RCW 9A.32.055) |
| 14 | | Malicious explosion 1 (RCW |
| 15 | | 70.74.280(1)) |
| 16 | | Murder 1 (RCW 9A.32.030) |
| 17 | XIV | Murder 2 (RCW 9A.32.050) |
| 18 | XIII | Malicious explosion 2 (RCW |
| 19 | | 70.74.280(2)) |
| 20 | | Malicious placement of an explosive 1 |
| 21 | | (RCW 70.74.270(1)) |
| 22 | XII | Assault 1 (RCW 9A.36.011) |
| 23 | | Assault of a Child 1 (RCW 9A.36.120) |
| 24 | | Malicious placement of an imitation |
| 25 | | device 1 (RCW 70.74.272(1)(a)) |
| 26 | | Rape 1 (RCW 9A.44.040) |
| 27 | | Rape of a Child 1 (RCW 9A.44.073) |
| 28 | XI | Manslaughter 1 (RCW 9A.32.060) |
| 29 | | Rape 2 (RCW 9A.44.050) |
| 30 | | Rape of a Child 2 (RCW 9A.44.076) |
| 31 | X | Child Molestation 1 (RCW 9A.44.083) |
| 32 | | Indecent Liberties (with forcible |
| 33 | | compulsion) (RCW |
| 34 | | 9A.44.100(1)(a)) |
| 35 | | Kidnapping 1 (RCW 9A.40.020) |

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW
4 70.74.280(3))
5 Manufacture of methamphetamine
6 (RCW 69.50.401(a)(1)(~~ii~~)) (iii)
7 Over 18 and deliver heroin,
8 methamphetamine, a narcotic
9 from Schedule I or II, or
10 flunitrazepam from Schedule IV
11 to someone under 18 (RCW
12 69.50.406)
13 Sexually Violent Predator Escape
14 (RCW 9A.76.115)
15 IX Assault of a Child 2 (RCW 9A.36.130)
16 Controlled Substance Homicide (RCW
17 69.50.415)
18 Explosive devices prohibited (RCW
19 70.74.180)
20 Hit and Run--Death (RCW
21 46.52.020(4)(a))
22 Homicide by Watercraft, by being
23 under the influence of intoxicating
24 liquor or any drug (RCW
25 79A.60.050)
26 Inciting Criminal Profiteering (RCW
27 9A.82.060(1)(b))
28 Malicious placement of an explosive 2
29 (RCW 70.74.270(2))
30 Over 18 and deliver narcotic from
31 Schedule III, IV, or V or a
32 nonnarcotic, except flunitrazepam
33 or methamphetamine, from
34 Schedule I-V to someone under 18
35 and 3 years junior (RCW
36 69.50.406)
37 Robbery 1 (RCW 9A.56.200)

1 Sexual Exploitation (RCW 9.68A.040)
2 Vehicular Homicide, by being under
3 the influence of intoxicating
4 liquor or any drug (RCW
5 46.61.520)
6 VIII Arson 1 (RCW 9A.48.020)
7 Deliver or possess with intent to
8 deliver methamphetamine (RCW
9 69.50.401(a)(1)(ii))
10 Homicide by Watercraft, by the
11 operation of any vessel in a
12 reckless manner (RCW
13 79A.60.050)
14 Manslaughter 2 (RCW 9A.32.070)
15 Manufacture, deliver, or possess with
16 intent to deliver amphetamine
17 (RCW 69.50.401(a)(1)(ii))
18 Manufacture, deliver, or possess with
19 intent to deliver heroin or cocaine
20 (when the offender has a criminal
21 history in this state or any other
22 state that includes a sex offense or
23 serious violent offense or the
24 Washington equivalent) (RCW
25 69.50.401(a)(1)(i))
26 Possession of Ephedrine or any of its
27 Salts or Isomers or Salts of
28 Isomers, Pseudoephedrine or any
29 of its Salts or Isomers or Salts of
30 Isomers, Pressurized Ammonia
31 Gas, or Pressurized Ammonia Gas
32 Solution with intent to
33 manufacture methamphetamine
34 (RCW 69.50.440)
35 Promoting Prostitution 1 (RCW
36 9A.88.070)

1 Selling for profit (controlled or
2 counterfeit) any controlled
3 substance (RCW 69.50.410)
4 Theft of Ammonia (RCW 69.55.010)
5 Vehicular Homicide, by the operation
6 of any vehicle in a reckless
7 manner (RCW 46.61.520)
8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor
13 engaged in sexually explicit
14 conduct (RCW 9.68A.050)
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Involving a minor in drug dealing
25 (RCW 69.50.401(f))
26 Malicious placement of an explosive 3
27 (RCW 70.74.270(3))
28 Manufacture, deliver, or possess with
29 intent to deliver heroin or cocaine
30 (except when the offender has a
31 criminal history in this state or
32 any other state that includes a sex
33 offense or serious violent offense
34 or the Washington equivalent)
35 (RCW 69.50.401(a)(1)(i))

1 Sending, bringing into state depictions
2 of minor engaged in sexually
3 explicit conduct (RCW
4 9.68A.060)
5 Unlawful Possession of a Firearm in
6 the first degree (RCW
7 9.41.040(1)(a))
8 Use of a Machine Gun in Commission
9 of a Felony (RCW 9.41.225)
10 Vehicular Homicide, by disregard for
11 the safety of others (RCW
12 46.61.520)
13 VI Bail Jumping with Murder 1 (RCW
14 9A.76.170(3)(a))
15 Bribery (RCW 9A.68.010)
16 Incest 1 (RCW 9A.64.020(1))
17 Intimidating a Judge (RCW
18 9A.72.160)
19 Intimidating a Juror/Witness (RCW
20 9A.72.110, 9A.72.130)
21 Malicious placement of an imitation
22 device 2 (RCW 70.74.272(1)(b))
23 Manufacture, deliver, or possess with
24 intent to deliver narcotics from
25 Schedule I or II (except heroin or
26 cocaine) or flunitrazepam from
27 Schedule IV (RCW
28 69.50.401(a)(1)(i))
29 Rape of a Child 3 (RCW 9A.44.079)
30 Theft of a Firearm (RCW 9A.56.300)
31 Unlawful Storage of Ammonia (RCW
32 69.55.020)
33 V Abandonment of dependent person 1
34 (RCW 9A.42.060)
35 Advancing money or property for
36 extortionate extension of credit
37 (RCW 9A.82.030)

1 Bail Jumping with class A Felony
2 (RCW 9A.76.170(3)(b))
3 Child Molestation 3 (RCW 9A.44.089)
4 Criminal Mistreatment 1 (RCW
5 9A.42.020)
6 Custodial Sexual Misconduct 1 (RCW
7 9A.44.160)
8 Delivery of imitation controlled
9 substance by person eighteen or
10 over to person under eighteen
11 (RCW 69.52.030(2))
12 Domestic Violence Court Order
13 Violation (RCW 10.99.040,
14 10.99.050, 26.09.300, 26.10.220,
15 26.26.138, 26.50.110, 26.52.070,
16 or 74.34.145)
17 Extortion 1 (RCW 9A.56.120)
18 Extortionate Extension of Credit
19 (RCW 9A.82.020)
20 Extortionate Means to Collect
21 Extensions of Credit (RCW
22 9A.82.040)
23 Incest 2 (RCW 9A.64.020(2))
24 Kidnapping 2 (RCW 9A.40.030)
25 Perjury 1 (RCW 9A.72.020)
26 Persistent prison misbehavior (RCW
27 9.94.070)
28 Possession of a Stolen Firearm (RCW
29 9A.56.310)
30 Rape 3 (RCW 9A.44.060)
31 Rendering Criminal Assistance 1
32 (RCW 9A.76.070)
33 Sexual Misconduct with a Minor 1
34 (RCW 9A.44.093)
35 Sexually Violating Human Remains
36 (RCW 9A.44.105)
37 Stalking (RCW 9A.46.110)

1 Taking Motor Vehicle Without
2 Permission 1 (RCW
3 9A.56.070(1))
4 IV Arson 2 (RCW 9A.48.030)
5 Assault 2 (RCW 9A.36.021)
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW
13 9A.68.060)
14 Counterfeiting (RCW 9.16.035(4))
15 Endangerment with a Controlled
16 Substance (RCW 9A.42.100)
17 Escape 1 (RCW 9A.76.110)
18 Hit and Run--Injury (RCW
19 46.52.020(4)(b))
20 Hit and Run with Vessel--Injury
21 Accident (RCW 79A.60.200(3))
22 Identity Theft 1 (RCW 9.35.020(2)(a))
23 Indecent Exposure to Person Under
24 Age Fourteen (subsequent sex
25 offense) (RCW 9A.88.010)
26 Influencing Outcome of Sporting
27 Event (RCW 9A.82.070)
28 Knowingly Trafficking in Stolen
29 Property (RCW 9A.82.050(2))
30 Malicious Harassment (RCW
31 9A.36.080)

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or
4 nonnarcotics from Schedule I-V
5 (except marijuana, amphetamine,
6 methamphetamines, or
7 flunitrazepam) (RCW
8 69.50.401(a)(1) ~~((iii))~~ (iv)
9 through ~~((v))~~ (vi))
10 Residential Burglary (RCW
11 9A.52.025)
12 Robbery 2 (RCW 9A.56.210)
13 Theft of Livestock 1 (RCW 9A.56.080)
14 Threats to Bomb (RCW 9.61.160)
15 Use of Proceeds of Criminal
16 Profiteering (RCW 9A.82.080 (1)
17 and (2))
18 Vehicular Assault, by being under the
19 influence of intoxicating liquor or
20 any drug, or by the operation or
21 driving of a vehicle in a reckless
22 manner (RCW 46.61.522)
23 Willful Failure to Return from
24 Furlough (RCW 72.66.060)
25 III Abandonment of dependent person 2
26 (RCW 9A.42.070)
27 Assault 3 (RCW 9A.36.031)
28 Assault of a Child 3 (RCW 9A.36.140)
29 Bail Jumping with class B or C Felony
30 (RCW 9A.76.170(3)(c))
31 Burglary 2 (RCW 9A.52.030)
32 Communication with a Minor for
33 Immoral Purposes (RCW
34 9.68A.090)
35 Criminal Gang Intimidation (RCW
36 9A.46.120)

1 Criminal Mistreatment 2 (RCW
2 9A.42.030)
3 Custodial Assault (RCW 9A.36.100)
4 Delivery of a material in lieu of a
5 controlled substance (RCW
6 69.50.401(c))
7 Escape 2 (RCW 9A.76.120)
8 Extortion 2 (RCW 9A.56.130)
9 Harassment (RCW 9A.46.020)
10 Intimidating a Public Servant (RCW
11 9A.76.180)
12 Introducing Contraband 2 (RCW
13 9A.76.150)
14 Maintaining a Dwelling or Place for
15 Controlled Substances (RCW
16 69.50.402(a)(6))
17 Malicious Injury to Railroad Property
18 (RCW 81.60.070)
19 Manufacture, deliver, or possess with
20 intent to deliver marijuana (RCW
21 69.50.401(a)(1)((~~iii~~)) (iv))
22 Manufacture, distribute, or possess
23 with intent to distribute an
24 imitation controlled substance
25 (RCW 69.52.030(1))
26 Patronizing a Juvenile Prostitute
27 (RCW 9.68A.100)
28 Perjury 2 (RCW 9A.72.030)
29 Possession of Incendiary Device (RCW
30 9.40.120)
31 Possession of Machine Gun or Short-
32 Barreled Shotgun or Rifle (RCW
33 9.41.190)
34 Promoting Prostitution 2 (RCW
35 9A.88.080)
36 Recklessly Trafficking in Stolen
37 Property (RCW 9A.82.050(1))

1 Securities Act violation (RCW
2 21.20.400)
3 Tampering with a Witness (RCW
4 9A.72.120)
5 Telephone Harassment (subsequent
6 conviction or threat of death)
7 (RCW 9.61.230)
8 Theft of Livestock 2 (RCW 9A.56.080)
9 Unlawful Imprisonment (RCW
10 9A.40.040)
11 Unlawful possession of firearm in the
12 second degree (RCW
13 9.41.040(1)(b))
14 Unlawful Use of Building for Drug
15 Purposes (RCW 69.53.010)
16 Vehicular Assault, by the operation or
17 driving of a vehicle with disregard
18 for the safety of others (RCW
19 46.61.522)
20 Willful Failure to Return from Work
21 Release (RCW 72.65.070)
22 II Computer Trespass 1 (RCW
23 9A.52.110)
24 Counterfeiting (RCW 9.16.035(3))
25 Create, deliver, or possess a counterfeit
26 controlled substance (RCW
27 69.50.401(b))
28 Escape from Community Custody
29 (RCW 72.09.310)
30 Health Care False Claims (RCW
31 48.80.030)
32 Identity Theft 2 (RCW 9.35.020(2)(b))
33 Improperly Obtaining Financial
34 Information (RCW 9.35.010)
35 Malicious Mischief 1 (RCW
36 9A.48.070)

1 Possession of controlled substance that
2 is either heroin or narcotics from
3 Schedule I or II or flunitrazepam
4 from Schedule IV (RCW
5 69.50.401(d))
6 Possession of phencyclidine (PCP)
7 (RCW 69.50.401(d))
8 Possession of Stolen Property 1 (RCW
9 9A.56.150)
10 Theft 1 (RCW 9A.56.030)
11 Theft of Rental, Leased, or Lease-
12 purchased Property (valued at one
13 thousand five hundred dollars or
14 more) (RCW 9A.56.096(4))
15 Trafficking in Insurance Claims (RCW
16 48.30A.015)
17 Unlawful Practice of Law (RCW
18 2.48.180)
19 Unlicensed Practice of a Profession or
20 Business (RCW 18.130.190(7))
21 I Attempting to Elude a Pursuing Police
22 Vehicle (RCW 46.61.024)
23 False Verification for Welfare (RCW
24 74.08.055)
25 Forged Prescription (RCW 69.41.020)
26 Forged Prescription for a Controlled
27 Substance (RCW 69.50.403)
28 Forgery (RCW 9A.60.020)
29 Malicious Mischief 2 (RCW
30 9A.48.080)
31 Possess Controlled Substance that is a
32 Narcotic from Schedule III, IV, or
33 V or Non-narcotic from Schedule
34 I-V (except phencyclidine or
35 flunitrazepam) (RCW
36 69.50.401(d))

1 Possession of Stolen Property 2 (RCW
 2 9A.56.160)
 3 Reckless Burning 1 (RCW 9A.48.040)
 4 Taking Motor Vehicle Without
 5 Permission 2 (RCW
 6 9A.56.070(2))
 7 Theft 2 (RCW 9A.56.040)
 8 Theft of Rental, Leased, or Lease-
 9 purchased Property (valued at two
 10 hundred fifty dollars or more but
 11 less than one thousand five
 12 hundred dollars) (RCW
 13 9A.56.096(4))
 14 Unlawful Issuance of Checks or Drafts
 15 (RCW 9A.56.060)
 16 Unlawful Use of Food Stamps (RCW
 17 9.91.140 (2) and (3))
 18 Vehicle Prowl 1 (RCW 9A.52.095)

19 **Sec. 7.** RCW 9.94A.518 and 2002 c 290 s 9 are each amended to read
 20 as follows:

21 TABLE 4
 22 DRUG OFFENSES
 23 INCLUDED WITHIN EACH
 24 SERIOUSNESS LEVEL
 25 III Any felony offense under chapter
 26 69.50 RCW with a deadly weapon
 27 special verdict under RCW
 28 9.94A.602
 29 Controlled Substance Homicide (RCW
 30 69.50.415)
 31 Delivery of imitation controlled
 32 substance by person eighteen or
 33 over to person under eighteen
 34 (RCW 69.52.030(2))

1 Involving a minor in drug dealing
2 (RCW 69.50.401(f))
3 Manufacture of methamphetamine
4 (RCW 69.50.401(a)(1)(~~(ii)~~) (iii))
5 Over 18 and deliver heroin,
6 methamphetamine, a narcotic
7 from Schedule I or II, or
8 flunitrazepam from Schedule IV
9 to someone under 18 (RCW
10 69.50.406)
11 Over 18 and deliver narcotic from
12 Schedule III, IV, or V or a
13 nonnarcotic, except flunitrazepam
14 or methamphetamine, from
15 Schedule I-V to someone under 18
16 and 3 years junior (RCW
17 69.50.406)
18 Possession of Ephedrine or any of its
19 Salts or Isomers or Salts of
20 Isomers, Pseudoephedrine or any
21 of its Salts or Isomers or Salts of
22 Isomers, ((or Anhydrous))
23 Pressurized Ammonia Gas, or
24 Pressurized Ammonia Gas
25 Solution with intent to
26 manufacture methamphetamine
27 (RCW 69.50.440)
28 Selling for profit (controlled or
29 counterfeit) any controlled
30 substance (RCW 69.50.410)
31 II Create, deliver, or possess a counterfeit
32 controlled substance (RCW
33 69.50.401(b))
34 Deliver or possess with intent to
35 deliver methamphetamine (RCW
36 69.50.401(a)(1)(ii))

1 Delivery of a material in lieu of a
2 controlled substance (RCW
3 69.50.401(c))
4 Maintaining a Dwelling or Place for
5 Controlled Substances (RCW
6 69.50.402(a)(6))
7 Manufacture, deliver, or possess with
8 intent to deliver amphetamine
9 (RCW 69.50.401(a)(1)(ii))
10 Manufacture, deliver, or possess with
11 intent to deliver narcotics from
12 Schedule I or II or flunitrazepam
13 from Schedule IV (RCW
14 69.50.401(a)(1)(i))
15 Manufacture, deliver, or possess with
16 intent to deliver narcotics from
17 Schedule III, IV, or V or
18 nonnarcotics from Schedule I-V
19 (except marijuana, amphetamine,
20 methamphetamines, or
21 flunitrazepam) (RCW
22 69.50.401(a)(1) (~~(iii)~~) (iv))
23 through (~~(v)~~) (vi))
24 Manufacture, distribute, or possess
25 with intent to distribute an
26 imitation controlled substance
27 (RCW 69.52.030(1))
28 I Forged Prescription (RCW 69.41.020)
29 Forged Prescription for a Controlled
30 Substance (RCW 69.50.403)
31 Manufacture, deliver, or possess with
32 intent to deliver marijuana (RCW
33 69.50.401(a)(1)(~~(iii)~~) (iv))
34 Possess Controlled Substance that is a
35 Narcotic from Schedule III, IV, or
36 V or Nonnarcotic from Schedule
37 I-V (RCW 69.50.401(d))

Possession of Controlled Substance
that is either heroin or narcotics
from Schedule I or II (RCW
69.50.401(d))
Unlawful Use of Building for Drug
Purposes (RCW 69.53.010)

Sec. 8. RCW 9.94A.610 and 1996 c 205 s 4 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community placement, work release placement, furlough, or escape about a specific inmate convicted of a serious drug offense to the following if such notice has been requested in writing about a specific inmate convicted of a serious drug offense:

(a) Any witnesses who testified against the inmate in any court proceedings involving the serious drug offense; and

(b) Any person specified in writing by the prosecuting attorney. Information regarding witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

(2) If an inmate convicted of a serious drug offense escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses who are entitled to notice under this section. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

1 (4) The department of corrections shall send the notices required
 2 by this section to the last address provided to the department by the
 3 requesting party. The requesting party shall furnish the department
 4 with a current address.

5 (5) For purposes of this section, "serious drug offense" means an
 6 offense under RCW 69.50.401(a)(1) (i) ~~((\oplus))~~, (ii), or (iii) or
 7 (b)(1)(i) or (ii).

8 **Sec. 9.** RCW 13.40.0357 and 2002 c 324 s 3 and 2002 c 175 s 20 are
 9 each reenacted and amended to read as follows:

10 **DESCRIPTION AND OFFENSE CATEGORY**

| | | JUVENILE DISPOSITION |
|---|--|----------------------|
| JUVENILE | | CATEGORY FOR |
| DISPOSITION | | ATTEMPT, BAILJUMP, |
| OFFENSE | | CONSPIRACY, OR |
| CATEGORY | DESCRIPTION (RCW CITATION) | 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 |
| E | Tampering with Fire Alarm Apparatus | |
| | (9.40.100) | E |
| A | Possession of Incendiary Device (9.40.120) | B+ |
| Assault and Other Crimes Involving | | |
| Physical Harm | | |
| A | Assault 1 (9A.36.011) | B+ |
| B+ | Assault 2 (9A.36.021) | C+ |
| C+ | Assault 3 (9A.36.031) | D+ |
| D+ | Assault 4 (9A.36.041) | E |

| | | | |
|----|----|---|----|
| 1 | B+ | Drive-By Shooting (9A.36.045) | C+ |
| 2 | D+ | Reckless Endangerment (9A.36.050) | E |
| 3 | C+ | Promoting Suicide Attempt (9A.36.060) | D+ |
| 4 | D+ | Coercion (9A.36.070) | E |
| 5 | C+ | Custodial Assault (9A.36.100) | D+ |
| 6 | | Burglary and Trespass | |
| 7 | B+ | Burglary 1 (9A.52.020) | C+ |
| 8 | B | Residential Burglary (9A.52.025) | C |
| 9 | B | Burglary 2 (9A.52.030) | C |
| 10 | D | Burglary Tools (Possession of) (9A.52.060) | E |
| 11 | D | Criminal Trespass 1 (9A.52.070) | E |
| 12 | E | Criminal Trespass 2 (9A.52.080) | E |
| 13 | C | Vehicle Prowling 1 (9A.52.095) | D |
| 14 | D | Vehicle Prowling 2 (9A.52.100) | E |
| 15 | | Drugs | |
| 16 | E | Possession/Consumption of Alcohol | |
| 17 | | (66.44.270) | E |
| 18 | C | Illegally Obtaining Legend Drug | |
| 19 | | (69.41.020) | D |
| 20 | C+ | Sale, Delivery, Possession of Legend Drug | |
| 21 | | with Intent to Sell (69.41.030) | D+ |
| 22 | E | Possession of Legend Drug (69.41.030) | E |
| 23 | B+ | Violation of Uniform Controlled | |
| 24 | | Substances Act - Narcotic, | |
| 25 | | Methamphetamine, or Flunitrazepam Sale | |
| 26 | | (69.50.401(a)(1) (i) (i) , (ii), or (iii)) | B+ |
| 27 | C | Violation of Uniform Controlled | |
| 28 | | Substances Act - Nonnarcotic Sale | |
| 29 | | (69.50.401(a)(1) (iii)) (iv) | C |
| 30 | E | Possession of Marihuana <40 grams | |
| 31 | | (69.50.401(e)) | E |
| 32 | C | Fraudulently Obtaining Controlled | |
| 33 | | Substance (69.50.403) | C |
| 34 | C+ | Sale of Controlled Substance for Profit | |
| 35 | | (69.50.410) | C+ |
| 36 | E | Unlawful Inhalation (9.47A.020) | E |

| | | | |
|----|----|---|----|
| 1 | B | Violation of Uniform Controlled | |
| 2 | | Substances Act - Narcotic, | |
| 3 | | Methamphetamine, or Flunitrazepam | |
| 4 | | Counterfeit Substances (69.50.401(b)(1) (i) | |
| 5 | | or (ii)) | B |
| 6 | C | Violation of Uniform Controlled | |
| 7 | | Substances Act - Nonnarcotic Counterfeit | |
| 8 | | Substances (69.50.401(b)(1) (iii), (iv), (v)) | C |
| 9 | C | Violation of Uniform Controlled | |
| 10 | | Substances Act - Possession of a Controlled | |
| 11 | | Substance (69.50.401(d)) | C |
| 12 | C | Violation of Uniform Controlled | |
| 13 | | Substances Act - Possession of a Controlled | |
| 14 | | Substance (69.50.401(c)) | C |
| 15 | | Firearms and Weapons | |
| 16 | B | Theft of Firearm (9A.56.300) | C |
| 17 | B | Possession of Stolen Firearm (9A.56.310) | C |
| 18 | E | Carrying Loaded Pistol Without Permit | |
| 19 | | (9.41.050) | E |
| 20 | C | Possession of Firearms by Minor (<18) | |
| 21 | | (9.41.040(1)(b)(iii)) | C |
| 22 | D+ | Possession of Dangerous Weapon | |
| 23 | | (9.41.250) | E |
| 24 | D | Intimidating Another Person by use of | |
| 25 | | Weapon (9.41.270) | E |
| 26 | | Homicide | |
| 27 | A+ | Murder 1 (9A.32.030) | A |
| 28 | A+ | Murder 2 (9A.32.050) | B+ |
| 29 | B+ | Manslaughter 1 (9A.32.060) | C+ |
| 30 | C+ | Manslaughter 2 (9A.32.070) | D+ |
| 31 | B+ | Vehicular Homicide (46.61.520) | C+ |
| 32 | | Kidnapping | |
| 33 | A | Kidnap 1 (9A.40.020) | B+ |
| 34 | B+ | Kidnap 2 (9A.40.030) | C+ |
| 35 | C+ | Unlawful Imprisonment (9A.40.040) | D+ |
| 36 | | Obstructing Governmental Operation | |

| | | | |
|----|----|--|----|
| 1 | D | Obstructing a Law Enforcement Officer (9A.76.020) | E |
| 2 | | | |
| 3 | E | Resisting Arrest (9A.76.040) | E |
| 4 | B | Introducing Contraband 1 (9A.76.140) | C |
| 5 | C | Introducing Contraband 2 (9A.76.150) | D |
| 6 | E | Introducing Contraband 3 (9A.76.160) | E |
| 7 | B+ | Intimidating a Public Servant (9A.76.180) | C+ |
| 8 | B+ | Intimidating a Witness (9A.72.110) | C+ |
| 9 | | Public Disturbance | |
| 10 | C+ | Riot with Weapon (9A.84.010) | D+ |
| 11 | D+ | Riot Without Weapon (9A.84.010) | E |
| 12 | E | Failure to Disperse (9A.84.020) | E |
| 13 | E | Disorderly Conduct (9A.84.030) | E |
| 14 | | Sex Crimes | |
| 15 | A | Rape 1 (9A.44.040) | B+ |
| 16 | A- | Rape 2 (9A.44.050) | B+ |
| 17 | C+ | Rape 3 (9A.44.060) | D+ |
| 18 | A- | Rape of a Child 1 (9A.44.073) | B+ |
| 19 | B+ | Rape of a Child 2 (9A.44.076) | C+ |
| 20 | B | Incest 1 (9A.64.020(1)) | C |
| 21 | C | Incest 2 (9A.64.020(2)) | D |
| 22 | D+ | Indecent Exposure (Victim <14) | |
| 23 | | (9A.88.010) | E |
| 24 | E | Indecent Exposure (Victim 14 or over) | |
| 25 | | (9A.88.010) | E |
| 26 | B+ | Promoting Prostitution 1 (9A.88.070) | C+ |
| 27 | C+ | Promoting Prostitution 2 (9A.88.080) | D+ |
| 28 | E | O & A (Prostitution) (9A.88.030) | E |
| 29 | B+ | Indecent Liberties (9A.44.100) | C+ |
| 30 | A- | Child Molestation 1 (9A.44.083) | B+ |
| 31 | B | Child Molestation 2 (9A.44.086) | C+ |
| 32 | | Theft, Robbery, Extortion, and Forgery | |
| 33 | B | Theft 1 (9A.56.030) | C |
| 34 | C | Theft 2 (9A.56.040) | D |
| 35 | D | Theft 3 (9A.56.050) | E |
| 36 | B | Theft of Livestock (9A.56.080) | C |

| | | | |
|----|----|---|----|
| 1 | C | Forgery (9A.60.020) | D |
| 2 | A | Robbery 1 (9A.56.200) | B+ |
| 3 | B+ | Robbery 2 (9A.56.210) | C+ |
| 4 | B+ | Extortion 1 (9A.56.120) | C+ |
| 5 | C+ | Extortion 2 (9A.56.130) | D+ |
| 6 | C | Identity Theft 1 (9.35.020(2)(a)) | D |
| 7 | D | Identity Theft 2 (9.35.020(2)(b)) | E |
| 8 | D | Improperly Obtaining Financial | |
| 9 | | Information (9.35.010) | E |
| 10 | B | Possession of Stolen Property 1 | |
| 11 | | (9A.56.150) | C |
| 12 | C | Possession of Stolen Property 2 | |
| 13 | | (9A.56.160) | D |
| 14 | D | Possession of Stolen Property 3 | |
| 15 | | (9A.56.170) | E |
| 16 | C | Taking Motor Vehicle Without Permission | |
| 17 | | 1 and 2 (9A.56.070 (1) and (2)) | D |
| 18 | | Motor Vehicle Related Crimes | |
| 19 | E | Driving Without a License (46.20.005) | E |
| 20 | B+ | Hit and Run - Death (46.52.020(4)(a)) | C+ |
| 21 | C | Hit and Run - Injury (46.52.020(4)(b)) | D |
| 22 | D | Hit and Run-Attended (46.52.020(5)) | E |
| 23 | E | Hit and Run-Unattended (46.52.010) | E |
| 24 | C | Vehicular Assault (46.61.522) | D |
| 25 | C | Attempting to Elude Pursuing Police | |
| 26 | | Vehicle (46.61.024) | D |
| 27 | E | Reckless Driving (46.61.500) | E |
| 28 | D | Driving While Under the Influence | |
| 29 | | (46.61.502 and 46.61.504) | E |
| 30 | | Other | |
| 31 | B | Bomb Threat (9.61.160) | C |
| 32 | C | Escape 1 ¹ (9A.76.110) | C |
| 33 | C | Escape 2 ¹ (9A.76.120) | C |
| 34 | D | Escape 3 (9A.76.130) | E |
| 35 | E | Obscene, Harassing, Etc., Phone Calls | |
| 36 | | (9.61.230) | E |

| | | | |
|----|---|--|----|
| 1 | A | Other Offense Equivalent to an Adult Class | |
| 2 | | A Felony | B+ |
| 3 | B | Other Offense Equivalent to an Adult Class | |
| 4 | | B Felony | C |
| 5 | C | Other Offense Equivalent to an Adult Class | |
| 6 | | C Felony | D |
| 7 | D | Other Offense Equivalent to an Adult | |
| 8 | | Gross Misdemeanor | E |
| 9 | E | Other Offense Equivalent to an Adult | |
| 10 | | Misdemeanor | E |
| 11 | V | Violation of Order of Restitution, | |
| 12 | | Community Supervision, or Confinement | |
| 13 | | (13.40.200) ² | V |

14 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
 15 and the standard range is established as follows:

16 1st escape or attempted escape during 12-month period - 4 weeks
 17 confinement

18 2nd escape or attempted escape during 12-month period - 8 weeks
 19 confinement

20 3rd and subsequent escape or attempted escape during 12-month
 21 period - 12 weeks confinement

22 ²If the court finds that a respondent has violated terms of an order,
 23 it may impose a penalty of up to 30 days of confinement.

24 **JUVENILE SENTENCING STANDARDS**

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

| | | | | |
|----|--|---------------------------|-------|---------|
| 27 | OPTION A | | | |
| 28 | JUVENILE OFFENDER SENTENCING GRID | | | |
| 29 | STANDARD RANGE | | | |
| 30 | ----- | | | |
| 31 | A+ | 180 WEEKS TO AGE 21 YEARS | | |
| 32 | ----- | | | |
| 33 | A | 103 WEEKS TO 129 WEEKS | | |
| 34 | ----- | | | |
| 35 | A- | 15-36 | 52-65 | 80-100 |
| 36 | | WEEKS | WEEKS | WEEKS |
| | | EXCEPT | | 103-129 |
| | | | | WEEKS |

| | | | | | | | | |
|----|----------|-----------|------------------|--------------------------------------|-------------|-------------|---|---------|
| 1 | | 30-40 | | | | | | |
| 2 | | WEEKS FOR | | | | | | |
| 3 | | 15-17 | | | | | | |
| 4 | | YEAR OLDS | | | | | | |
| 5 | | | | | | | | |
| 6 | Current | B+ | 15-36 | 52-65 | 80-100 | 103-129 | | |
| 7 | Offense | | WEEKS | WEEKS | WEEKS | WEEKS | | |
| 8 | Category | | | | | | | |
| 9 | | B | LOCAL | | | 52-65 | | |
| 10 | | | SANCTIONS (LS) | 15-36 WEEKS | | WEEKS | | |
| 11 | | | | | | | | |
| 12 | | C+ | LS | | | | | |
| 13 | | | | | 15-36 WEEKS | | | |
| 14 | | | | | | | | |
| 15 | | C | LS | | | 15-36 WEEKS | | |
| 16 | | | | | | | | |
| 17 | | | Local Sanctions: | | | | | |
| 18 | | | 0 to 30 Days | | | | | |
| 19 | | D+ | LS | 0 to 12 Months Community Supervision | | | | |
| 20 | | | | 0 to 150 Hours Community Restitution | | | | |
| 21 | | D | LS | \$0 to \$500 Fine | | | | |
| 22 | | | | | | | | |
| 23 | | E | LS | | | | | |
| 24 | | | | | | | | |
| 25 | | | | 0 | 1 | 2 | 3 | 4 |
| 26 | | | | | | | | or more |
| | | | | PRIOR ADJUDICATIONS | | | | |

27 NOTE: References in the grid to days or weeks mean periods of
 28 confinement.

29 (1) The vertical axis of the grid is the current offense category.
 30 The current offense category is determined by the offense of
 31 adjudication.

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

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

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

42 (5) A current offense that is a violation is equivalent to an

1 offense category of E. However, a disposition for a violation shall
2 not include confinement.

3 OR

4 OPTION B

5 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

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

10 OR

11 OPTION C

12 MANIFEST INJUSTICE

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

16 NEW SECTION. **Sec. 10.** Sections 4 and 6 of this act expire July 1,
17 2004.

18 NEW SECTION. **Sec. 11.** Sections 5 and 7 of this act take effect
19 July 1, 2004.

--- END ---