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HOUSE BILL 3025

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State of Washington

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By Representatives McCune, Pearson, Dunn, Ahern, McDonald, Campbell, Holmquist and Roach

Read first time 01/18/2006. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to protecting good samaritans; amending RCW  
2 9.94A.533; adding a new section to chapter 9.94A RCW; and prescribing  
3 penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW  
6 to read as follows:

7 (1) In a prosecution for assault in the first degree, assault in  
8 the second degree, assault in the third degree, indecent liberties,  
9 manslaughter in the first degree, manslaughter in the second degree,  
10 murder in the second degree, rape in the first degree, rape in the  
11 second degree, rape in the third degree, robbery in the first degree,  
12 or robbery in the second degree, the prosecutor may file a special  
13 allegation that the victim of the crime stopped his or her vehicle  
14 while traveling on a public road to provide roadside assistance to the  
15 perpetrator of the crime, and the crime occurred while the victim was  
16 providing such assistance.

17 (2) Once a special allegation has been made under this section, the  
18 state has the burden to prove beyond a reasonable doubt that the victim  
19 of the crime stopped his or her vehicle while traveling on a public

1 road to provide roadside assistance to the perpetrator of the crime,  
2 and the crime occurred while the victim was providing such assistance.  
3 If a jury is had, the jury shall, if it finds the defendant guilty,  
4 also find a special verdict as to whether the victim of the crime  
5 stopped his or her vehicle while traveling on a public road to provide  
6 roadside assistance to the perpetrator of the crime, and the crime  
7 occurred while the victim was providing such assistance. If no jury is  
8 had, the court shall make a finding of fact as to whether the victim of  
9 the crime stopped his or her vehicle while traveling on a public road  
10 to provide roadside assistance to the perpetrator of the crime, and the  
11 crime occurred while the victim was providing such assistance.

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

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

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

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

1 section based on the felony crime of conviction as classified under RCW  
2 9A.28.020:

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

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

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

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

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

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

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

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

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

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

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

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

35 (e) Notwithstanding any other provision of law, all deadly weapon  
36 enhancements under this section are mandatory, shall be served in total  
37 confinement, and shall run consecutively to all other sentencing  
38 provisions, including other firearm or deadly weapon enhancements, for

1 all offenses sentenced under this chapter. However, whether or not a  
2 mandatory minimum term has expired, an offender serving a sentence  
3 under this subsection may be granted an extraordinary medical placement  
4 when authorized under RCW 9.94A.728(4);

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

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

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

28 (a) Eighteen months for offenses committed under RCW 69.50.401(2)

29 (a) or (b) or 69.50.410;

30 (b) Fifteen months for offenses committed under RCW 69.50.401(2)

31 (c), (d), or (e);

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

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

36 (6) An additional twenty-four months shall be added to the standard  
37 sentence range for any ranked offense involving a violation of chapter

1 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
2 9.94A.605.

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

7 (8) The following additional times shall be added to the standard  
8 sentence range if there has been a finding under section 1 of this act  
9 that the victim of the crime stopped his or her vehicle while traveling  
10 on a public road to provide roadside assistance to the perpetrator of  
11 the crime, and the crime occurred while the victim was providing such  
12 assistance:

13 (a) Eighteen months for assault in the first degree, assault in the  
14 second degree with a finding of sexual motivation, indecent liberties  
15 with forcible compulsion, manslaughter in the first degree, murder in  
16 the second degree, rape in the first degree, rape in the second degree,  
17 or robbery in the first degree;

18 (b) Twelve months for assault in the second degree with no finding  
19 of sexual motivation, indecent liberties without forcible compulsion,  
20 manslaughter in the second degree, or robbery in the second degree;

21 (c) Six months for assault in the third degree or rape in the third  
22 degree.

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