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HOUSE BILL 2795

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Wallace, O'Brien, and Sells

Read first time 01/16/08. Referred to Committee on Public Safety & Emergency Preparedness.

1            AN ACT Relating to committing certain crimes in conjunction with  
2 committing a drug violation or for intending to commit a drug crime;  
3 amending RCW 9.94A.533; and prescribing penalties.

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

5            **Sec. 1.** RCW 9.94A.533 and 2007 c 368 s 9 are each amended to read  
6 as follows:

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

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

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

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

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

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

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

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

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

37 (f) The firearm enhancements in this section shall apply to all  
38 felony crimes except the following: Possession of a machine gun,

1 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
2 unlawful possession of a firearm in the first and second degree, and  
3 use of a machine gun in a felony;

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

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

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

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

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

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

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

16 (f) The deadly weapon enhancements in this section shall apply to  
17 all felony crimes except the following: 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 and second degree, and  
20 use of a machine gun in a felony;

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

28 (5) The following additional times shall be added to the standard  
29 sentence range if the offender or an accomplice committed the offense  
30 while in a county jail or state correctional facility and the offender  
31 is being sentenced for one of the crimes listed in this subsection. If  
32 the offender or an accomplice committed one of the crimes listed in  
33 this subsection while in a county jail or state correctional facility,  
34 and the offender is being sentenced for an anticipatory offense under  
35 chapter 9A.28 RCW to commit one of the crimes listed in this  
36 subsection, the following additional times shall be added to the  
37 standard sentence range determined under subsection (2) of this  
38 section:

- 1 (a) Eighteen months for offenses committed under RCW 69.50.401(2)  
2 (a) or (b) or 69.50.410;  
3 (b) Fifteen months for offenses committed under RCW 69.50.401(2)  
4 (c), (d), or (e);  
5 (c) Twelve months for offenses committed under RCW 69.50.4013.

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

9 (6) An additional twenty-four months shall be added to the standard  
10 sentence range for any ranked offense involving a violation of chapter  
11 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
12 9.94A.605. All enhancements under this subsection shall run  
13 consecutively to all other sentencing provisions, for all offenses  
14 sentenced under this chapter.

15 (7) An additional two years shall be added to the standard sentence  
16 range for the crime of forgery under RCW 9A.60.020, possession of  
17 stolen property 1 under RCW 9A.56.150, possession of stolen property 2  
18 under RCW 9A.56.160, financial fraud under RCW 9A.56.320, identity  
19 theft 1 under RCW 9.35.020(2), identity theft 2 under RCW 9.35.020(3),  
20 theft 1 under RCW 9A.56.030, theft 2 under RCW 9A.56.040, robbery 1  
21 under RCW 9A.56.200, robbery 2 under RCW 9A.56.210, theft of a motor  
22 vehicle under RCW 9A.56.065, or possession of a stolen vehicle under  
23 RCW 9A.56.068, if the offense was also a violation of chapter 69.41 or  
24 69.50 RCW, or does so for the purpose or with the intent to obtain  
25 controlled substances. All enhancements under this subsection shall  
26 run consecutively to all other sentencing provisions, for all offenses  
27 sentenced under this chapter.

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

32 ((+8)) (9)(a) The following additional times shall be added to the  
33 standard sentence range for felony crimes committed on or after July 1,  
34 2006, if the offense was committed with sexual motivation, as that term  
35 is defined in RCW 9.94A.030. If the offender is being sentenced for  
36 more than one offense, the sexual motivation enhancement must be added  
37 to the total period of total confinement for all offenses, regardless  
38 of which underlying offense is subject to a sexual motivation

1 enhancement. If the offender committed the offense with sexual  
2 motivation and the offender is being sentenced for an anticipatory  
3 offense under chapter 9A.28 RCW, the following additional times shall  
4 be added to the standard sentence range determined under subsection (2)  
5 of this section based on the felony crime of conviction as classified  
6 under RCW 9A.28.020:

7 (i) Two years for any felony defined under the law as a class A  
8 felony or with a statutory maximum sentence of at least twenty years,  
9 or both;

10 (ii) Eighteen months for any felony defined under any law as a  
11 class B felony or with a statutory maximum sentence of ten years, or  
12 both;

13 (iii) One year for any felony defined under any law as a class C  
14 felony or with a statutory maximum sentence of five years, or both;

15 (iv) If the offender is being sentenced for any sexual motivation  
16 enhancements under (i), (ii), and/or (iii) of this subsection and the  
17 offender has previously been sentenced for any sexual motivation  
18 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of  
19 this subsection, all sexual motivation enhancements under this  
20 subsection shall be twice the amount of the enhancement listed;

21 (b) Notwithstanding any other provision of law, all sexual  
22 motivation enhancements under this subsection are mandatory, shall be  
23 served in total confinement, and shall run consecutively to all other  
24 sentencing provisions, including other sexual motivation enhancements,  
25 for all offenses sentenced under this chapter. However, whether or not  
26 a 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 (c) The sexual motivation enhancements in this subsection apply to  
30 all felony crimes;

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

1 (e) The portion of the total confinement sentence which the  
2 offender must serve under this subsection shall be calculated before  
3 any earned early release time is credited to the offender;

4 (f) Nothing in this subsection prevents a sentencing court from  
5 imposing a sentence outside the standard sentence range pursuant to RCW  
6 9.94A.535.

7 (~~(9)~~) (10) An additional one-year enhancement shall be added to  
8 the standard sentence range for the felony crimes of RCW 9A.44.073,  
9 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
10 or after July 22, 2007, if the offender engaged, agreed, or offered to  
11 engage the victim in the sexual conduct in return for a fee. If the  
12 offender is being sentenced for more than one offense, the one-year  
13 enhancement must be added to the total period of total confinement for  
14 all offenses, regardless of which underlying offense is subject to the  
15 enhancement. If the offender is being sentenced for an anticipatory  
16 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,  
17 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted,  
18 solicited another, or conspired to engage, agree, or offer to engage  
19 the victim in (~~(the)~~) the sexual conduct in return for a fee, an  
20 additional one-year enhancement shall be added to the standard sentence  
21 range determined under subsection (2) of this section. For purposes of  
22 this subsection, "sexual conduct" means sexual intercourse or sexual  
23 contact, both as defined in chapter 9A.44 RCW.

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