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HOUSE BILL 1330

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State of Washington                      64th Legislature                      2015 Regular Session

By Representatives Kochmar, Orwall, Holy, Haler, and Hayes

Read first time 01/19/15. Referred to Committee on Public Safety.

1            AN ACT Relating to the enhancement for attempting to elude a  
2 police vehicle; amending RCW 9.94A.533; and creating a new section.

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

4            **Sec. 1.** RCW 9.94A.533 and 2013 c 270 s 2 are each amended to  
5 read as follows:

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

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

14            (3) The following additional times shall be added to the standard  
15 sentence range for felony crimes committed after July 23, 1995, if  
16 the offender or an accomplice was armed with a firearm as defined in  
17 RCW 9.41.010 and the offender is being sentenced for one of the  
18 crimes listed in this subsection as eligible for any firearm  
19 enhancements based on the classification of the completed felony  
20 crime. If the offender is being sentenced for more than one offense,  
21 the firearm enhancement or enhancements must be added to the total

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

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

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

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

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

26 (e) Notwithstanding any other provision of law, all firearm  
27 enhancements under this section are mandatory, shall be served in  
28 total confinement, and shall run consecutively to all other  
29 sentencing provisions, including other firearm or deadly weapon  
30 enhancements, for all offenses sentenced under this chapter. However,  
31 whether or not a mandatory minimum term has expired, an offender  
32 serving a sentence under this subsection may be granted an  
33 extraordinary medical placement when authorized under RCW  
34 9.94A.728(3);

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

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

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

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

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

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

35 (d) If the offender is being sentenced under (a), (b), and/or (c)  
36 of this subsection for any deadly weapon enhancements and the  
37 offender has previously been sentenced for any deadly weapon  
38 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
39 subsection or subsection (3)(a), (b), and/or (c) of this section, or

1 both, all deadly weapon enhancements under this subsection shall be  
2 twice the amount of the enhancement listed;

3 (e) Notwithstanding any other provision of law, all deadly weapon  
4 enhancements under this section are mandatory, shall be served in  
5 total confinement, and shall run consecutively to all other  
6 sentencing provisions, including other firearm or deadly weapon  
7 enhancements, for all offenses sentenced under this chapter. However,  
8 whether or not a mandatory minimum term has expired, an offender  
9 serving a sentence under this subsection may be granted an  
10 extraordinary medical placement when authorized under RCW  
11 9.94A.728(3);

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

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

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

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

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

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

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

4 (6) An additional twenty-four months shall be added to the  
5 standard sentence range for any ranked offense involving a violation  
6 of chapter 69.50 RCW if the offense was also a violation of RCW  
7 69.50.435 or 9.94A.827. All enhancements under this subsection shall  
8 run consecutively to all other sentencing provisions, for all  
9 offenses sentenced under this chapter.

10 (7) An additional two years shall be added to the standard  
11 sentence range for vehicular homicide committed while under the  
12 influence of intoxicating liquor or any drug as defined by RCW  
13 46.61.502 for each prior offense as defined in RCW 46.61.5055. All  
14 enhancements under this subsection shall be mandatory, shall be  
15 served in total confinement, and shall run consecutively to all other  
16 sentencing provisions.

17 (8)(a) The following additional times shall be added to the  
18 standard sentence range for felony crimes committed on or after July  
19 1, 2006, if the offense was committed with sexual motivation, as that  
20 term is defined in RCW 9.94A.030. If the offender is being sentenced  
21 for more than one offense, the sexual motivation enhancement must be  
22 added to the total period of total confinement for all offenses,  
23 regardless of which underlying offense is subject to a sexual  
24 motivation enhancement. If the offender committed the offense with  
25 sexual motivation and the offender is being sentenced for an  
26 anticipatory offense under chapter 9A.28 RCW, the following  
27 additional times shall be added to the standard sentence range  
28 determined under subsection (2) of this section based on the felony  
29 crime of conviction as classified under RCW 9A.28.020:

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

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

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

38 (iv) If the offender is being sentenced for any sexual motivation  
39 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
40 the offender has previously been sentenced for any sexual motivation

1 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
2 (iii) of this subsection, all sexual motivation enhancements under  
3 this subsection shall be twice the amount of the enhancement listed;

4 (b) Notwithstanding any other provision of law, all sexual  
5 motivation enhancements under this subsection are mandatory, shall be  
6 served in total confinement, and shall run consecutively to all other  
7 sentencing provisions, including other sexual motivation  
8 enhancements, for all offenses sentenced under this chapter. However,  
9 whether or not a mandatory minimum term has expired, an offender  
10 serving a sentence under this subsection may be granted an  
11 extraordinary medical placement when authorized under RCW  
12 9.94A.728(3);

13 (c) The sexual motivation enhancements in this subsection apply  
14 to all felony crimes;

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

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

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

28 (9) An additional one-year enhancement shall be added to the  
29 standard sentence range for the felony crimes of RCW 9A.44.073,  
30 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
31 or after July 22, 2007, if the offender engaged, agreed, or offered  
32 to engage the victim in the sexual conduct in return for a fee. If  
33 the offender is being sentenced for more than one offense, the one-  
34 year enhancement must be added to the total period of total  
35 confinement for all offenses, regardless of which underlying offense  
36 is subject to the enhancement. If the offender is being sentenced for  
37 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
38 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
39 offender attempted, solicited another, or conspired to engage, agree,  
40 or offer to engage the victim in the sexual conduct in return for a

1 fee, an additional one-year enhancement shall be added to the  
2 standard sentence range determined under subsection (2) of this  
3 section. For purposes of this subsection, "sexual conduct" means  
4 sexual intercourse or sexual contact, both as defined in chapter  
5 9A.44 RCW.

6 (10)(a) For a person age eighteen or older convicted of any  
7 criminal street gang-related felony offense for which the person  
8 compensated, threatened, or solicited a minor in order to involve the  
9 minor in the commission of the felony offense, the standard sentence  
10 range is determined by locating the sentencing grid sentence range  
11 defined by the appropriate offender score and the seriousness level  
12 of the completed crime, and multiplying the range by one hundred  
13 twenty-five percent. If the standard sentence range under this  
14 subsection exceeds the statutory maximum sentence for the offense,  
15 the statutory maximum sentence is the presumptive sentence unless the  
16 offender is a persistent offender.

17 (b) This subsection does not apply to any criminal street gang-  
18 related felony offense for which involving a minor in the commission  
19 of the felony offense is an element of the offense.

20 (c) The increased penalty specified in (a) of this subsection is  
21 unavailable in the event that the prosecution gives notice that it  
22 will seek an exceptional sentence based on an aggravating factor  
23 under RCW 9.94A.535.

24 (11) An additional twelve months and one day shall be added to  
25 the standard sentence range for a conviction of attempting to elude a  
26 police vehicle as defined by RCW 46.61.024, if the conviction  
27 included a finding by special allegation of endangering one or more  
28 persons under RCW 9.94A.834. The enhancement under this subsection  
29 shall be mandatory for a second or subsequent finding, shall be  
30 served in total confinement, and shall run consecutively with all  
31 other sentencing provisions.

32 (12) An additional twelve months shall be added to the standard  
33 sentence range for an offense that is also a violation of RCW  
34 9.94A.831.

35 (13) An additional twelve months shall be added to the standard  
36 sentence range for vehicular homicide committed while under the  
37 influence of intoxicating liquor or any drug as defined by RCW  
38 46.61.520 or for vehicular assault committed while under the  
39 influence of intoxicating liquor or any drug as defined by RCW  
40 46.61.522, or for any felony driving under the influence (RCW

1 46.61.502(6)) or felony physical control under the influence (RCW  
2 46.61.504(6)) for each child passenger under the age of sixteen who  
3 is an occupant in the defendant's vehicle. These enhancements shall  
4 be mandatory, shall be served in total confinement, and shall run  
5 consecutively to all other sentencing provisions. If the addition of  
6 a minor child enhancement increases the sentence so that it would  
7 exceed the statutory maximum for the offense, the portion of the  
8 sentence representing the enhancement may not be reduced.

9 (14) An additional twelve months shall be added to the standard  
10 sentence range for an offense that is also a violation of RCW  
11 9.94A.832.

12 NEW SECTION. **Sec. 2.** If specific funding for the purposes of  
13 this act, referencing this act by bill or chapter number, is not  
14 provided by June 30, 2015, in the omnibus appropriations act, this  
15 act is null and void.

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