

SSB 5488 - H COMM AMD

By Committee on Public Safety

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read
4 as follows:

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

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

13 (3) The following additional times shall be added to the standard
14 sentence range for felony crimes committed after July 23, 1995, if
15 the offender or an accomplice was armed with a firearm as defined in
16 RCW 9.41.010 and the offender is being sentenced for one of the
17 crimes listed in this subsection as eligible for any firearm
18 enhancements based on the classification of the completed felony
19 crime. If the offender is being sentenced for more than one offense,
20 the firearm enhancement or enhancements must be added to the total
21 period of confinement for all offenses, regardless of which
22 underlying offense is subject to a firearm enhancement. 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 an anticipatory
25 offense under chapter 9A.28 RCW to commit one of the crimes listed in
26 this subsection as eligible for any firearm enhancements, the
27 following additional times shall be added to the standard sentence
28 range determined under subsection (2) of this section based on the
29 felony crime of conviction as classified under RCW 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,
6 and not covered under (f) of this subsection;

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

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

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

24 (i) Granted an extraordinary medical placement when authorized
25 under RCW 9.94A.728(1)(c); or

26 (ii) Released under the provisions of RCW 9.94A.730;

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

33 (g) If the standard sentence range under this section exceeds the
34 statutory maximum sentence for the offense, the statutory maximum
35 sentence shall be the presumptive sentence unless the offender is a
36 persistent offender. If the addition of a firearm enhancement
37 increases the sentence so that it would exceed the statutory maximum
38 for the offense, the portion of the sentence representing the
39 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
3 the offender or an accomplice was armed with a deadly weapon other
4 than a firearm as defined in RCW 9.41.010 and the offender is being
5 sentenced for one of the crimes listed in this subsection as eligible
6 for any deadly weapon enhancements based on the classification of the
7 completed felony crime. If the offender is being sentenced for more
8 than one offense, the deadly weapon enhancement or enhancements must
9 be added to the total period of confinement for all offenses,
10 regardless of which underlying offense is subject to a deadly weapon
11 enhancement. If the offender or an accomplice was armed with a deadly
12 weapon other than a firearm as defined in RCW 9.41.010 and the
13 offender is being sentenced for an anticipatory offense under chapter
14 9A.28 RCW to commit one of the crimes listed in this subsection as
15 eligible for any deadly weapon enhancements, the following additional
16 times shall be added to the standard sentence range determined under
17 subsection (2) of this section based on the felony crime of
18 conviction as classified under RCW 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,
24 and 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,
27 and 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
30 offender has previously been sentenced for any deadly weapon
31 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
32 subsection or subsection (3)(a), (b), and/or (c) of this section, or
33 both, all deadly weapon enhancements under this subsection shall be
34 twice the amount of 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
37 total confinement, and shall run consecutively to all other
38 sentencing provisions, including other firearm or deadly weapon
39 enhancements, for all offenses sentenced under this chapter. However,

1 whether or not a mandatory minimum term has expired, an offender
2 serving a sentence under this subsection may be:

3 (i) Granted an extraordinary medical placement when authorized
4 under RCW 9.94A.728(1)(c); or

5 (ii) Released under the provisions of RCW 9.94A.730;

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

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

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

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

31 (a) or (b) or 69.50.410;

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

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

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

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

38 (6) An additional twenty-four months shall be added to the
39 standard sentence range for any ranked offense involving a violation
40 of chapter 69.50 RCW if the offense was also a violation of RCW

1 69.50.435 or 9.94A.827. All enhancements under this subsection shall
2 run consecutively to all other sentencing provisions, for all
3 offenses sentenced under this chapter.

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

8 Notwithstanding any other provision of law, all impaired driving
9 enhancements under this subsection are mandatory, shall be served in
10 total confinement, and shall run consecutively to all other
11 sentencing provisions, including other impaired driving enhancements,
12 for all offenses sentenced under this chapter.

13 An offender serving a sentence under this subsection may be
14 granted an extraordinary medical placement when authorized under RCW
15 9.94A.728(1)(c).

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

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

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

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

37 (iv) If the offender is being sentenced for any sexual motivation
38 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
39 the offender has previously been sentenced for any sexual motivation
40 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or

1 (iii) of this subsection, all sexual motivation enhancements under
2 this subsection shall be twice the amount of the enhancement listed;

3 (b) Notwithstanding any other provision of law, all sexual
4 motivation enhancements under this subsection are mandatory, shall be
5 served in total confinement, and shall run consecutively to all other
6 sentencing provisions, including other sexual motivation
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:

10 (i) Granted an extraordinary medical placement when authorized
11 under RCW 9.94A.728(1)(c); or

12 (ii) Released under the provisions of RCW 9.94A.730;

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
34 one-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.

29 (12) An additional twelve months shall be added to the standard
30 sentence range for an offense that is also a violation of RCW
31 9.94A.831.

32 (13) An additional twelve months shall be added to the standard
33 sentence range for vehicular homicide committed while under the
34 influence of intoxicating liquor or any drug as defined by RCW
35 46.61.520 or for vehicular assault committed while under the
36 influence of intoxicating liquor or any drug as defined by RCW
37 46.61.522, or for any felony driving under the influence (RCW
38 46.61.502(6)) or felony physical control under the influence (RCW
39 46.61.504(6)) for each child passenger under the age of sixteen who
40 is an occupant in the defendant's vehicle. These enhancements shall

1 be mandatory, shall be served in total confinement, and shall run
2 consecutively to all other sentencing provisions. If the addition of
3 a minor child enhancement increases the sentence so that it would
4 exceed the statutory maximum for the offense, the portion of the
5 sentence representing the enhancement may not be reduced.

6 (14) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.832.

9 (15) Regardless of any provisions in this section, if a person is
10 being sentenced in adult court for a crime committed under age
11 eighteen, the court has full discretion to depart from mandatory
12 sentencing enhancements and to take the particular circumstances
13 surrounding the defendant's youth into account.

14 **Sec. 2.** RCW 9.94A.535 and 2016 c 6 s 2 are each amended to read
15 as follows:

16 The court may impose a sentence outside the standard sentence
17 range for an offense if it finds, considering the purpose of this
18 chapter, that there are substantial and compelling reasons justifying
19 an exceptional sentence. Facts supporting aggravated sentences, other
20 than the fact of a prior conviction, shall be determined pursuant to
21 the provisions of RCW 9.94A.537.

22 Whenever a sentence outside the standard sentence range is
23 imposed, the court shall set forth the reasons for its decision in
24 written findings of fact and conclusions of law. A sentence outside
25 the standard sentence range shall be a determinate sentence.

26 If the sentencing court finds that an exceptional sentence
27 outside the standard sentence range should be imposed, the sentence
28 is subject to review only as provided for in RCW 9.94A.585(4).

29 A departure from the standards in RCW 9.94A.589 (1) and (2)
30 governing whether sentences are to be served consecutively or
31 concurrently is an exceptional sentence subject to the limitations in
32 this section, and may be appealed by the offender or the state as set
33 forth in RCW 9.94A.585 (2) through (6).

34 (1) Mitigating Circumstances - Court to Consider

35 The court may impose an exceptional sentence below the standard
36 range if it finds that mitigating circumstances are established by a
37 preponderance of the evidence. The following are illustrative only
38 and are not intended to be exclusive reasons for exceptional
39 sentences.

1 (a) To a significant degree, the victim was an initiator, willing
2 participant, aggressor, or provoker of the incident.

3 (b) Before detection, the defendant compensated, or made a good
4 faith effort to compensate, the victim of the criminal conduct for
5 any damage or injury sustained.

6 (c) The defendant committed the crime under duress, coercion,
7 threat, or compulsion insufficient to constitute a complete defense
8 but which significantly affected his or her conduct.

9 (d) The defendant, with no apparent predisposition to do so, was
10 induced by others to participate in the crime.

11 (e) The defendant's capacity to appreciate the wrongfulness of
12 his or her conduct, or to conform his or her conduct to the
13 requirements of the law, was significantly impaired. Voluntary use of
14 drugs or alcohol is excluded.

15 (f) The offense was principally accomplished by another person
16 and the defendant manifested extreme caution or sincere concern for
17 the safety or well-being of the victim.

18 (g) The operation of the multiple offense policy of RCW 9.94A.589
19 results in a presumptive sentence that is clearly excessive in light
20 of the purpose of this chapter, as expressed in RCW 9.94A.010.

21 (h) The defendant or the defendant's children suffered a
22 continuing pattern of physical or sexual abuse by the victim of the
23 offense and the offense is a response to that abuse.

24 (i) The defendant was making a good faith effort to obtain or
25 provide medical assistance for someone who is experiencing a drug-
26 related overdose.

27 (j) The current offense involved domestic violence, as defined in
28 RCW 10.99.020, and the defendant suffered a continuing pattern of
29 coercion, control, or abuse by the victim of the offense and the
30 offense is a response to that coercion, control, or abuse.

31 (k) The defendant was convicted of vehicular homicide, by the
32 operation of a vehicle in a reckless manner and has committed no
33 other previous serious traffic offenses as defined in RCW 9.94A.030,
34 and the sentence is clearly excessive in light of the purpose of this
35 chapter, as expressed in RCW 9.94A.010.

36 (l) The defendant is less culpable because of youthfulness at the
37 time of the offense, which is demonstrated by age, susceptibility to
38 peer pressure, lack of sophistication or maturity, or other factors
39 not shown in a fully developed adult.

1 (2) Aggravating Circumstances - Considered and Imposed by the
2 Court

3 The trial court may impose an aggravated exceptional sentence
4 without a finding of fact by a jury under the following
5 circumstances:

6 (a) The defendant and the state both stipulate that justice is
7 best served by the imposition of an exceptional sentence outside the
8 standard range, and the court finds the exceptional sentence to be
9 consistent with and in furtherance of the interests of justice and
10 the purposes of the sentencing reform act.

11 (b) The defendant's prior unscored misdemeanor or prior unscored
12 foreign criminal history results in a presumptive sentence that is
13 clearly too lenient in light of the purpose of this chapter, as
14 expressed in RCW 9.94A.010.

15 (c) The defendant has committed multiple current offenses and the
16 defendant's high offender score results in some of the current
17 offenses going unpunished.

18 (d) The failure to consider the defendant's prior criminal
19 history which was omitted from the offender score calculation
20 pursuant to RCW 9.94A.525 results in a presumptive sentence that is
21 clearly too lenient.

22 (3) Aggravating Circumstances - Considered by a Jury - Imposed by
23 the Court

24 Except for circumstances listed in subsection (2) of this
25 section, the following circumstances are an exclusive list of factors
26 that can support a sentence above the standard range. Such facts
27 should be determined by procedures specified in RCW 9.94A.537.

28 (a) The defendant's conduct during the commission of the current
29 offense manifested deliberate cruelty to the victim.

30 (b) The defendant knew or should have known that the victim of
31 the current offense was particularly vulnerable or incapable of
32 resistance.

33 (c) The current offense was a violent offense, and the defendant
34 knew that the victim of the current offense was pregnant.

35 (d) The current offense was a major economic offense or series of
36 offenses, so identified by a consideration of any of the following
37 factors:

38 (i) The current offense involved multiple victims or multiple
39 incidents per victim;

1 (ii) The current offense involved attempted or actual monetary
2 loss substantially greater than typical for the offense;

3 (iii) The current offense involved a high degree of
4 sophistication or planning or occurred over a lengthy period of time;
5 or

6 (iv) The defendant used his or her position of trust, confidence,
7 or fiduciary responsibility to facilitate the commission of the
8 current offense.

9 (e) The current offense was a major violation of the Uniform
10 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
11 trafficking in controlled substances, which was more onerous than the
12 typical offense of its statutory definition: The presence of ANY of
13 the following may identify a current offense as a major VUCSA:

14 (i) The current offense involved at least three separate
15 transactions in which controlled substances were sold, transferred,
16 or possessed with intent to do so;

17 (ii) The current offense involved an attempted or actual sale or
18 transfer of controlled substances in quantities substantially larger
19 than for personal use;

20 (iii) The current offense involved the manufacture of controlled
21 substances for use by other parties;

22 (iv) The circumstances of the current offense reveal the offender
23 to have occupied a high position in the drug distribution hierarchy;

24 (v) The current offense involved a high degree of sophistication
25 or planning, occurred over a lengthy period of time, or involved a
26 broad geographic area of disbursement; or

27 (vi) The offender used his or her position or status to
28 facilitate the commission of the current offense, including positions
29 of trust, confidence or fiduciary responsibility (e.g., pharmacist,
30 physician, or other medical professional).

31 (f) The current offense included a finding of sexual motivation
32 pursuant to RCW 9.94A.835.

33 (g) The offense was part of an ongoing pattern of sexual abuse of
34 the same victim under the age of eighteen years manifested by
35 multiple incidents over a prolonged period of time.

36 (h) The current offense involved domestic violence, as defined in
37 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or
38 more of the following was present:

1 (i) The offense was part of an ongoing pattern of psychological,
2 physical, or sexual abuse of a victim or multiple victims manifested
3 by multiple incidents over a prolonged period of time;

4 (ii) The offense occurred within sight or sound of the victim's
5 or the offender's minor children under the age of eighteen years; or

6 (iii) The offender's conduct during the commission of the current
7 offense manifested deliberate cruelty or intimidation of the victim.

8 (i) The offense resulted in the pregnancy of a child victim of
9 rape.

10 (j) The defendant knew that the victim of the current offense was
11 a youth who was not residing with a legal custodian and the defendant
12 established or promoted the relationship for the primary purpose of
13 victimization.

14 (k) The offense was committed with the intent to obstruct or
15 impair human or animal health care or agricultural or forestry
16 research or commercial production.

17 (l) The current offense is trafficking in the first degree or
18 trafficking in the second degree and any victim was a minor at the
19 time of the offense.

20 (m) The offense involved a high degree of sophistication or
21 planning.

22 (n) The defendant used his or her position of trust, confidence,
23 or fiduciary responsibility to facilitate the commission of the
24 current offense.

25 (o) The defendant committed a current sex offense, has a history
26 of sex offenses, and is not amenable to treatment.

27 (p) The offense involved an invasion of the victim's privacy.

28 (q) The defendant demonstrated or displayed an egregious lack of
29 remorse.

30 (r) The offense involved a destructive and foreseeable impact on
31 persons other than the victim.

32 (s) The defendant committed the offense to obtain or maintain his
33 or her membership or to advance his or her position in the hierarchy
34 of an organization, association, or identifiable group.

35 (t) The defendant committed the current offense shortly after
36 being released from incarceration.

37 (u) The current offense is a burglary and the victim of the
38 burglary was present in the building or residence when the crime was
39 committed.

1 (v) The offense was committed against a law enforcement officer
2 who was performing his or her official duties at the time of the
3 offense, the offender knew that the victim was a law enforcement
4 officer, and the victim's status as a law enforcement officer is not
5 an element of the offense.

6 (w) The defendant committed the offense against a victim who was
7 acting as a good samaritan.

8 (x) The defendant committed the offense against a public official
9 or officer of the court in retaliation of the public official's
10 performance of his or her duty to the criminal justice system.

11 (y) The victim's injuries substantially exceed the level of
12 bodily harm necessary to satisfy the elements of the offense. This
13 aggravator is not an exception to RCW 9.94A.530(2).

14 (z) (i) (A) The current offense is theft in the first degree, theft
15 in the second degree, possession of stolen property in the first
16 degree, or possession of stolen property in the second degree; (B)
17 the stolen property involved is metal property; and (C) the property
18 damage to the victim caused in the course of the theft of metal
19 property is more than three times the value of the stolen metal
20 property, or the theft of the metal property creates a public hazard.

21 (ii) For purposes of this subsection, "metal property" means
22 commercial metal property, private metal property, or nonferrous
23 metal property, as defined in RCW 19.290.010.

24 (aa) The defendant committed the offense with the intent to
25 directly or indirectly cause any benefit, aggrandizement, gain,
26 profit, or other advantage to or for a criminal street gang as
27 defined in RCW 9.94A.030, its reputation, influence, or membership.

28 (bb) The current offense involved paying to view, over the
29 internet in violation of RCW 9.68A.075, depictions of a minor engaged
30 in an act of sexually explicit conduct as defined in RCW 9.68A.011(4)

31 (a) through (g).

32 (cc) The offense was intentionally committed because the
33 defendant perceived the victim to be homeless, as defined in RCW
34 9.94A.030.

35 (dd) The current offense involved a felony crime against persons,
36 except for assault in the third degree pursuant to RCW
37 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's
38 chamber, or any waiting area or corridor immediately adjacent to a
39 courtroom, jury room, or judge's chamber. This subsection shall apply
40 only: (i) During the times when a courtroom, jury room, or judge's

1 chamber is being used for judicial purposes during court proceedings;
2 and (ii) if signage was posted in compliance with RCW 2.28.200 at the
3 time of the offense.

4 (ee) During the commission of the current offense, the defendant
5 was driving in the opposite direction of the normal flow of traffic
6 on a multiple lane highway, as defined by RCW 46.04.350, with a
7 posted speed limit of forty-five miles per hour or greater."

8 Correct the title.

EFFECT: Allows a judge to impose a sentence below the standard range when he or she finds that the defendant is less culpable because of youthfulness at the time of the offense, which is demonstrated by age, susceptibility to peer pressure, lack of sophistication or maturity, or other factors not shown in a fully developed adult (rather than when he or she finds that the defendant's age, lack of sophistication, susceptibility to peer pressure, or other factors relating to the defendant's youthfulness render the defendant less culpable than if the offense had been committed by a fully developed adult).

Modifies the provision pertaining to sentencing enhancements by:

(1) Removing certain cross-references to clarify that the court discretion to reduce mandatory sentencing enhancements for persons under age 18 applies to all enhancements in the applicable section (rather than only certain enhancements required to be served consecutively); and

(2) Replacing a reference to "minor" with "a person under age 18," distinguishing the section from the conflicting chapter definition of "minor."

--- END ---