

SHB 1705 - H AMD **916**

By Representative Corry

SCOPE AND OBJECT 02/10/2022

1 On page 14, after line 4, insert the following:

2

3 "Sec. 8. RCW 9.94A.533 and 2020 c 330 s 1 are each amended to read
4 as follows:

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

1 range determined under subsection (2) of this section based on the
2 felony crime of conviction as classified under RCW 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
5 years, or both, and not covered under (f) of this subsection;

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

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

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

19 (e) Notwithstanding any other provision of law, all firearm
20 enhancements under this section are mandatory, shall be served in
21 total confinement, and shall run consecutively to all other
22 sentencing provisions, including other firearm or deadly weapon
23 enhancements, for all offenses sentenced under this chapter.

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

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

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

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

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

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

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

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

33

34

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

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

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

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

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

21 (f) The deadly weapon enhancements in this section shall apply
22 to all felony crimes except the following: Possession of a machine
23 gun or bump-fire stock, possessing a stolen firearm, drive-by
24 shooting, theft of a firearm, unlawful possession of a firearm in
25 the first and second degree, and use of a machine gun or bump-fire
26 stock in a felony;

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

34

1 (5) The following additional times shall be added to the
2 standard sentence range if the offender or an accomplice committed
3 the offense while in a county jail or state correctional facility
4 and the offender is being sentenced for one of the crimes listed in
5 this subsection. If the offender or an accomplice committed one of
6 the crimes listed in this subsection while in a county jail or state
7 correctional facility, and the offender is being sentenced for an
8 anticipatory offense under chapter 9A.28 RCW to commit one of the
9 crimes listed in this subsection, the following additional times
10 shall be added to the standard sentence range determined under
11 subsection (2) of this section:

12 (a) Eighteen months for offenses committed under RCW
13 69.50.401(2) (a) or (b) or 69.50.410;

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

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

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

20 (6) An additional twenty-four months shall be added to the
21 standard sentence range for any ranked offense involving a violation
22 of chapter 69.50 RCW if the offense was also a violation of RCW
23 69.50.435 or 9.94A.827. All enhancements under this subsection shall
24 run consecutively to all other sentencing provisions, for all
25 offenses sentenced under this chapter.

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

30 Notwithstanding any other provision of law, all impaired driving
31 enhancements under this subsection are mandatory, shall be served in
32 total confinement, and shall run consecutively to all other
33 sentencing provisions, including other impaired driving
34 enhancements, for all offenses sentenced under this chapter.

1 An offender serving a sentence under this subsection may be
2 granted an extraordinary medical placement when authorized under RCW
3 9.94A.728(1)(c).

4 (8)(a) The following additional times shall be added to the
5 standard sentence range for felony crimes committed on or after July
6 1, 2006, if the offense was committed with sexual motivation, as
7 that term is defined in RCW 9.94A.030. If the offender is being
8 sentenced for more than one offense, the sexual motivation
9 enhancement must be added to the total period of total confinement
10 for all offenses, regardless of which underlying offense is subject
11 to a sexual motivation enhancement. If the offender committed the
12 offense with sexual motivation and the offender is being sentenced
13 for an anticipatory offense under chapter 9A.28 RCW, the following
14 additional times shall be added to the standard sentence range
15 determined under subsection (2) of this section based on the felony
16 crime of conviction as classified under RCW 9A.28.020:

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

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

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

25 (iv) If the offender is being sentenced for any sexual
26 motivation enhancements under (a)(i), (ii), and/or (iii) of this
27 subsection and the offender has previously been sentenced for any
28 sexual motivation enhancements on or after July 1, 2006, under (a)
29 (i), (ii), and/or (iii) of this subsection, all sexual motivation
30 enhancements under this subsection shall be twice the amount of the
31 enhancement listed;

32 (b) Notwithstanding any other provision of law, all sexual
33 motivation enhancements under this subsection are mandatory, shall
34 be served in total confinement, and shall run consecutively to all

1 other sentencing provisions, including other sexual motivation
2 enhancements, for all offenses sentenced under this chapter.
3 However, whether or not a mandatory minimum term has expired, an
4 offender serving a sentence under this subsection may be:

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

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

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

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

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

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

23 (9) An additional one-year enhancement shall be added to the
24 standard sentence range for the felony crimes of RCW 9A.44.073, 9A.
25 44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
26 or after July 22, 2007, if the offender engaged, agreed, or offered
27 to engage the victim in the sexual conduct in return for a fee. If
28 the offender is being sentenced for more than one offense, the
29 one-year enhancement must be added to the total period of total
30 confinement for all offenses, regardless of which underlying offense
31 is subject to the enhancement. If the offender is being sentenced
32 for an anticipatory offense for the felony crimes of RCW 9A.44.073,
33 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
34 offender attempted, solicited another, or conspired to engage,

1 agree, or offer to engage the victim in the sexual conduct in return
2 for a fee, an additional one-year enhancement shall be added to the
3 standard sentence range determined under subsection (2) of this
4 section. For purposes of this subsection, "sexual conduct" means
5 sexual intercourse or sexual contact, both as defined in chapter 9A.
6 44 RCW.

7 (10)(a) For a person age eighteen or older convicted of any
8 criminal street gang-related felony offense for which the person
9 compensated, threatened, or solicited a minor in order to involve
10 the minor in the commission of the felony offense, the standard
11 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
14 by one hundred twenty-five percent. If the standard sentence range
15 under this subsection exceeds the statutory maximum sentence for the
16 offense, the statutory maximum sentence is the presumptive sentence
17 unless the offender is a persistent offender.

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

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

25 (11) An additional twelve months and one day shall be added to
26 the standard sentence range for a conviction of attempting to elude
27 a police vehicle as defined by RCW 46.61.024, if the conviction
28 included a finding by special allegation of endangering one or more
29 persons under RCW 9.94A.834.

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

33 (13) An additional twelve months shall be added to the standard
34 sentence range for vehicular homicide committed while under the

1 influence of intoxicating liquor or any drug as defined by RCW
2 46.61.520 or for vehicular assault committed while under the
3 influence of intoxicating liquor or any drug as defined by RCW
4 46.61.522, or for any felony driving under the influence (RCW
5 46.61.502(6)) or felony physical control under the influence (RCW
6 46.61.504(6)) for each child passenger under the age of sixteen who
7 is an occupant in the defendant's vehicle. These enhancements shall
8 be mandatory, shall be served in total confinement, and shall run
9 consecutively to all other sentencing provisions, including other
10 minor child enhancements, for all offenses sentenced under this
11 chapter. If the addition of a minor child enhancement increases the
12 sentence so that it would exceed the statutory maximum for the
13 offense, the portion of the sentence representing the enhancement
14 shall be mandatory, shall be served in total confinement, and shall
15 run consecutively to all other sentencing provisions.

16 (14) An additional twelve months shall be added to the standard
17 sentence range for an offense that is also a violation of RCW 9.94A.
18 832.

19 (15) An additional twelve months shall be added to the standard
20 sentence range for a violent offense that involved the use of an
21 untraceable firearm as defined by RCW 9.41.010.

22 (16) Regardless of any provisions in this section, if a person
23 is being sentenced in adult court for a crime committed under age
24 eighteen, the court has full discretion to depart from mandatory
25 sentencing enhancements and to take the particular circumstances
26 surrounding the defendant's youth into account.

27
28 NEW SECTION. Sec. 9. A new section is added to chapter 9.94A RCW
29 to read as follows:

30 (1) In a prosecution of a violent offense, the prosecution may
31 file a special allegation that the offense involved the use of an
32 untraceable firearm as defined in RCW 9.41.010.

33 (2) The state has the burden of proving a special allegation made
34 under this section beyond a reasonable doubt. If a jury is had, the

1 jury shall, if it finds the defendant guilty, also find a special
2 verdict as to whether the offense involved the use of an untraceable
3 firearm. If no jury is had, the court shall make a finding of fact as
4 to whether offense involved the use of an untraceable firearm."

5
6 Renumber the remaining sections consecutively and correct any
7 internal references accordingly. Correct the title.

8

EFFECT: Amends the underlying bill to authorize a twelve-
month sentencing enhancement for violent offenses that involved the
use of an untraceable firearm.

--- END ---