
HOUSE BILL 1413

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By Representatives Hackney, Berg, Simmons, Davis, Fitzgibbon, Peterson, Ormsby, Harris-Talley, and Pollet

Read first time 01/28/21. Referred to Committee on Public Safety.

1 AN ACT Relating to the scoring of prior juvenile offenses in
2 sentencing range calculations; amending RCW 9.94A.525; adding a new
3 section to chapter 9.94A RCW; creating a new section; and providing
4 an expiration date.

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

6 NEW SECTION. **Sec. 1.** The legislature intends to:

7 (1) Give real effect to the juvenile justice system's express
8 goals of rehabilitation and reintegration;

9 (2) Bring Washington in line with the majority of states, which
10 do not consider prior juvenile offenses in sentencing range
11 calculations for adults;

12 (3) Recognize the expansive body of scientific research on brain
13 development, which shows that adolescent's perception, judgment, and
14 decision making differs significantly from that of adults;

15 (4) Facilitate the provision of due process by granting the
16 procedural protections of a criminal proceeding in any adjudication
17 which may be used to determine the severity of a criminal sentence;
18 and

19 (5) Recognize how grave disproportionality within the juvenile
20 legal system may subsequently impact sentencing ranges in adult
21 court.

1 **Sec. 2.** RCW 9.94A.525 and 2017 c 272 s 3 are each amended to
2 read as follows:

3 The offender score is measured on the horizontal axis of the
4 sentencing grid. The offender score rules are as follows:

5 The offender score is the sum of points accrued under this
6 section rounded down to the nearest whole number.

7 (1) (a) A prior conviction is a conviction which exists before the
8 date of sentencing for the offense for which the offender score is
9 being computed. Convictions entered or sentenced on the same date as
10 the conviction for which the offender score is being computed shall
11 be deemed "other current offenses" within the meaning of RCW
12 9.94A.589.

13 (b) For the purposes of this section, adjudications of guilt
14 pursuant to Title 13 RCW may not be included in the offender score,
15 RCW 9.94A.030 notwithstanding.

16 (2) (a) Class A and sex prior felony convictions shall always be
17 included in the offender score.

18 (b) Class B prior felony convictions other than sex offenses
19 shall not be included in the offender score, if since the last date
20 of release from confinement (including full-time residential
21 treatment) pursuant to a felony conviction, if any, or entry of
22 judgment and sentence, the offender had spent ten consecutive years
23 in the community without committing any crime that subsequently
24 results in a conviction.

25 (c) Except as provided in (e) of this subsection, class C prior
26 felony convictions other than sex offenses shall not be included in
27 the offender score if, since the last date of release from
28 confinement (including full-time residential treatment) pursuant to a
29 felony conviction, if any, or entry of judgment and sentence, the
30 offender had spent five consecutive years in the community without
31 committing any crime that subsequently results in a conviction.

32 (d) Except as provided in (e) of this subsection, serious traffic
33 convictions shall not be included in the offender score if, since the
34 last date of release from confinement (including full-time
35 residential treatment) pursuant to a conviction, if any, or entry of
36 judgment and sentence, the offender spent five years in the community
37 without committing any crime that subsequently results in a
38 conviction.

39 (e) If the present conviction is felony driving while under the
40 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or

1 felony physical control of a vehicle while under the influence of
2 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
3 crimes for the offense as defined by RCW 46.61.5055(14) shall be
4 included in the offender score, and prior convictions for felony
5 driving while under the influence of intoxicating liquor or any drug
6 (RCW 46.61.502(6)) or felony physical control of a vehicle while
7 under the influence of intoxicating liquor or any drug (RCW
8 46.61.504(6)) shall always be included in the offender score. All
9 other convictions of the defendant shall be scored according to this
10 section.

11 (f) Prior convictions for a repetitive domestic violence offense,
12 as defined in RCW 9.94A.030, shall not be included in the offender
13 score if, since the last date of release from confinement or entry of
14 judgment and sentence, the offender had spent ten consecutive years
15 in the community without committing any crime that subsequently
16 results in a conviction.

17 ~~((g) This subsection applies to both adult and juvenile prior
18 convictions.))~~

19 (3) Out-of-state convictions for offenses shall be classified
20 according to the comparable offense definitions and sentences
21 provided by Washington law. Federal convictions for offenses shall be
22 classified according to the comparable offense definitions and
23 sentences provided by Washington law. Neither out-of-state
24 adjudications or convictions for juvenile offenses, nor federal
25 convictions for juvenile offenses may be included in the offender
26 score. If there is no clearly comparable offense under Washington law
27 or the offense is one that is usually considered subject to exclusive
28 federal jurisdiction, the offense shall be scored as a class C felony
29 equivalent if it was a felony under the relevant federal statute.

30 (4) Score prior convictions for felony anticipatory offenses
31 (attempts, criminal solicitations, and criminal conspiracies) the
32 same as if they were convictions for completed offenses.

33 (5) (a) In the case of multiple prior convictions, for the purpose
34 of computing the offender score, count all convictions separately,
35 except:

36 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),
37 to encompass the same criminal conduct, shall be counted as one
38 offense, the offense that yields the highest offender score. The
39 current sentencing court shall determine with respect to other prior
40 ~~((adult))~~ offenses for which sentences were served concurrently ~~((or~~

1 ~~prior juvenile offenses for which sentences were served~~
2 ~~consecutively~~), whether those offenses shall be counted as one
3 offense or as separate offenses using the "same criminal conduct"
4 analysis found in RCW 9.94A.589(1)(a), and if the court finds that
5 they shall be counted as one offense, then the offense that yields
6 the highest offender score shall be used. The current sentencing
7 court may presume that such other prior offenses were not the same
8 criminal conduct from sentences imposed on separate dates, or in
9 separate counties or jurisdictions, or in separate complaints,
10 indictments, or informations;

11 (ii) In the case of multiple prior convictions for offenses
12 committed before July 1, 1986, for the purpose of computing the
13 offender score, count all (~~adult~~) convictions served concurrently
14 as one offense (~~, and count all juvenile convictions entered on the~~
15 ~~same date as one offense~~). Use the conviction for the offense that
16 yields the highest offender score.

17 (b) As used in this subsection (5), "served concurrently" means
18 that: (i) The latter sentence was imposed with specific reference to
19 the former; (ii) the concurrent relationship of the sentences was
20 judicially imposed; and (iii) the concurrent timing of the sentences
21 was not the result of a probation or parole revocation on the former
22 offense.

23 (6) If the present conviction is one of the anticipatory offenses
24 of criminal attempt, solicitation, or conspiracy, count each prior
25 conviction as if the present conviction were for a completed offense.
26 When these convictions are used as criminal history, score them the
27 same as a completed crime.

28 (7) If the present conviction is for a nonviolent offense and not
29 covered by subsection (11), (12), or (13) of this section, count one
30 point for each (~~adult~~) prior felony conviction (~~and one point for~~
31 ~~each juvenile prior violent felony conviction and 1/2 point for each~~
32 ~~juvenile prior nonviolent felony conviction~~).

33 (8) If the present conviction is for a violent offense and not
34 covered in subsection (9), (10), (11), (12), or (13) of this section,
35 count two points for each prior (~~adult and juvenile~~) violent felony
36 conviction, and one point for each prior (~~adult~~) nonviolent felony
37 conviction (~~, and 1/2 point for each prior juvenile nonviolent felony~~
38 ~~conviction~~).

39 (9) If the present conviction is for a serious violent offense,
40 count three points for prior (~~adult and juvenile~~) convictions for

1 crimes in this category, two points for each prior (~~adult and~~
2 ~~juvenile~~) violent conviction (not already counted), and one point
3 for each prior (~~adult~~) nonviolent felony conviction (~~, and 1/2~~
4 ~~point for each prior juvenile nonviolent felony conviction~~)).

5 (10) If the present conviction is for Burglary 1, count prior
6 convictions as in subsection (8) of this section; however count two
7 points for each prior (~~adult~~) Burglary 2 or residential burglary
8 conviction (~~, and one point for each prior juvenile Burglary 2 or~~
9 ~~residential burglary conviction~~)).

10 (11) If the present conviction is for a felony traffic offense
11 count two points for each (~~adult or juvenile~~) prior conviction for
12 Vehicular Homicide or Vehicular Assault; for each felony offense
13 count one point for each (~~adult and 1/2 point for each juvenile~~)
14 prior conviction; for each serious traffic offense, other than those
15 used for an enhancement pursuant to RCW 46.61.520(2), count one point
16 for each (~~adult and 1/2 point for each juvenile~~) prior conviction;
17 count one point for each (~~adult and 1/2 point for each juvenile~~)
18 prior conviction for operation of a vessel while under the influence
19 of intoxicating liquor or any drug.

20 (12) If the present conviction is for homicide by watercraft or
21 assault by watercraft count two points for each (~~adult or juvenile~~)
22 prior conviction for homicide by watercraft or assault by watercraft;
23 for each felony offense count one point for each (~~adult and 1/2~~
24 ~~point for each juvenile~~) prior conviction; count one point for each
25 (~~adult and 1/2 point for each juvenile~~) prior conviction for
26 driving under the influence of intoxicating liquor or any drug,
27 actual physical control of a motor vehicle while under the influence
28 of intoxicating liquor or any drug, or operation of a vessel while
29 under the influence of intoxicating liquor or any drug.

30 (13) If the present conviction is for manufacture of
31 methamphetamine count three points for each (~~adult~~) prior
32 manufacture of methamphetamine conviction (~~and two points for each~~
33 ~~juvenile manufacture of methamphetamine offense~~). If the present
34 conviction is for a drug offense and the offender has a criminal
35 history that includes a sex offense or serious violent offense, count
36 three points for each (~~adult~~) prior felony drug offense conviction
37 (~~and two points for each juvenile drug offense~~). All other (~~adult~~
38 ~~and juvenile~~) felonies are scored as in subsection (8) of this
39 section if the current drug offense is violent, or as in subsection
40 (7) of this section if the current drug offense is nonviolent.

1 (14) If the present conviction is for Escape from Community
2 Custody, RCW 72.09.310, count only prior escape convictions in the
3 offender score. Count ~~((adult))~~ prior escape convictions as one point
4 ~~((and juvenile prior escape convictions as 1/2 point))~~.

5 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
6 Escape 2, RCW 9A.76.120, count ~~((adult))~~ prior convictions as one
7 point ~~((and juvenile prior convictions as 1/2 point))~~.

8 (16) If the present conviction is for Burglary 2 or residential
9 burglary, count priors as in subsection (7) of this section; however,
10 count two points for each ~~((adult and juvenile))~~ prior Burglary 1
11 conviction, and two points for each ~~((adult))~~ prior Burglary 2 or
12 residential burglary conviction~~((, and one point for each juvenile
13 prior Burglary 2 or residential burglary conviction))~~.

14 (17) If the present conviction is for a sex offense, count priors
15 as in subsections (7) through (11) and (13) through (16) of this
16 section; however count three points for each ~~((adult and juvenile))~~
17 prior sex offense conviction.

18 (18) If the present conviction is for failure to register as a
19 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in
20 subsections (7) through (11) and (13) through (16) of this section;
21 however count three points for each ~~((adult and juvenile))~~ prior sex
22 offense conviction, excluding prior convictions for failure to
23 register as a sex offender under RCW 9A.44.130 or 9A.44.132, which
24 shall count as one point.

25 (19) If the present conviction is for an offense committed while
26 the offender was under community custody, add one point. For purposes
27 of this subsection, community custody includes community placement or
28 postrelease supervision, as defined in chapter 9.94B RCW.

29 (20) If the present conviction is for Theft of a Motor Vehicle,
30 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
31 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
32 priors as in subsections (7) through (18) of this section; however
33 count one point for prior convictions of Vehicle Prowling 2, and
34 three points for each ~~((adult and juvenile))~~ prior Theft 1 (of a
35 motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen
36 Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of
37 a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen
38 Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a
39 Motor Vehicle Without Permission 2 conviction.

1 (21) If the present conviction is for a felony domestic violence
2 offense where domestic violence as defined in RCW 9.94A.030 was
3 pleaded and proven, count priors as in subsections (7) through (20)
4 of this section; however, count points as follows:

5 (a) Count two points for each (~~adult~~) prior conviction where
6 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
7 after August 1, 2011, for any of the following offenses: A felony
8 violation of a no-contact or protection order RCW 26.50.110, felony
9 Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW
10 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW
11 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW
12 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210),
13 Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW
14 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

15 (b) Count two points for each (~~adult~~) prior conviction where
16 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
17 after July 23, 2017, for any of the following offenses: Assault of a
18 child in the first degree, RCW 9A.36.120; Assault of a child in the
19 second degree, RCW 9A.36.130; Assault of a child in the third degree,
20 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
21 9A.42.020; or Criminal Mistreatment in the second degree, RCW
22 9A.42.030;

23 ~~((c) Count one point for each second and subsequent juvenile
24 conviction where domestic violence as defined in RCW 9.94A.030 was
25 pleaded and proven after August 1, 2011, for the offenses listed in
26 (a) of this subsection;)) and~~

27 ~~((d))~~ (c) Count one point for each (~~adult~~) prior conviction
28 for a repetitive domestic violence offense as defined in RCW
29 9.94A.030, where domestic violence as defined in RCW 9.94A.030, was
30 pleaded and proven after August 1, 2011.

31 (22) The fact that a prior conviction was not included in an
32 offender's offender score or criminal history at a previous
33 sentencing shall have no bearing on whether it is included in the
34 criminal history or offender score for the current offense. Prior
35 convictions that were not counted in the offender score or included
36 in criminal history under repealed or previous versions of the
37 sentencing reform act shall be included in criminal history and shall
38 count in the offender score if the current version of the sentencing
39 reform act requires including or counting those convictions. Prior
40 convictions that were not included in criminal history or in the

1 offender score shall be included upon any resentencing to ensure
2 imposition of an accurate sentence.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A
4 RCW to read as follows:

5 (1) Any offender sentenced for an offense committed prior to the
6 effective date of this section, and whose offender score for that
7 offense was increased due to any juvenile adjudications, is entitled
8 to a resentencing hearing upon the offender's motion for relief from
9 sentence to the original sentencing court.

10 (2) The sentencing court shall grant the motion if it finds that
11 the previous offender score was increased due to any juvenile
12 adjudications and shall immediately set an expedited date for
13 resentencing. At resentencing, the court shall sentence the offender
14 as if any juvenile adjudications were not part of the offender score
15 at the time the original sentence was imposed.

16 (3) This section expires July 1, 2025.

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