

HOUSE BILL 2524

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Ludwig, Vance, Riley, Bray, Roland, D. Sommers, Heavey, R. Meyers, Paris, Van Luven, Bowman, May, Broback, Wynne, Mitchell, Rasmussen, P. Johnson and Anderson

Read first time 01/20/92. Referred to Committee on Judiciary.

1 AN ACT Relating to sentencing persons for crimes committed while
2 armed with a firearm; amending RCW 9.94A.310, 9A.36.041, 9A.36.070,
3 9A.52.100, 9A.56.050, 9A.76.020, 9A.76.130, and 9.94A.370; and
4 prescribing penalties.

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

6 **Sec. 1.** RCW 9.94A.310 and 1991 c 32 s 2 are each amended to read
7 as follows:

8 (1) TABLE 1

9

10 Sentencing Grid

11 SERIOUSNESS

SCORE	OFFENDER SCORE										
										9 or	
	0	1	2	3	4	5	6	7	8	more	
4	.....									
5	XV Life Sentence without Parole/Death Penalty										
6	.....									
7	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
8		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
9		320	333	347	361	374	388	416	450	493	548
10	.....									
11	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
12		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
13		164	178	192	205	219	233	260	288	342	397
14	.....									
15	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
16		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
17		123	136	147	160	171	184	216	236	277	318
18	.....									
19	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
20		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
21		102	114	125	136	147	158	194	211	245	280
22	.....									
23	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
24		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
25		68	75	82	89	96	102	130	144	171	198
26	.....									
27	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
28		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
29		41	48	54	61	68	75	102	116	144	171
30	.....									

1	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
2		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
3		27	34	41	48	54	61	89	102	116	144
4	.....									
5	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
6		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
7		20	27	34	41	48	54	75	89	102	116
8	.....									
9	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
10		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
11		14	20	27	34	41	48	61	75	89	102
12	.....									
13	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
14		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
15		12	14	17	20	29	43	54	68	82	96
16	.....									
17	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
18		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
19		9	12	14	17	20	29	43	57	70	84
20	.....									
21	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
22		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
23		3	8	12	12	16	22	29	43	57	68
24	.....									
25	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
26		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
27		Days	6	9	12	14	18	22	29	43	57
28	.....									
29	I			3m	4m	5m	8m	13m	16m	20m	2y2m
30		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-

1 Days 5 6 8 12 14 18 22 29
2

3 NOTE: Numbers in the first horizontal row of each seriousness category
4 represent sentencing midpoints in years(y) and months(m). Numbers in
5 the second and third rows represent presumptive sentencing ranges in
6 months, or in days if so designated. 12+ equals one year and one day.

7 (2) For persons convicted of the anticipatory offenses of criminal
8 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
9 presumptive sentence is determined by locating the sentencing grid
10 sentence range defined by the appropriate offender score and the
11 seriousness level of the completed crime, and multiplying the range by
12 75 percent.

13 (3) The following additional times shall be added to the
14 presumptive sentence if the offender or an accomplice was armed with a
15 deadly weapon, other than a firearm, as defined in this chapter and the
16 offender is being sentenced for one of the crimes listed in this
17 subsection. If the offender or an accomplice was armed with a deadly
18 weapon, other than a firearm, and the offender is being sentenced for
19 an anticipatory offense under chapter 9A.28 RCW to commit one of the
20 crimes listed in this subsection, the following times shall be added to
21 the presumptive range determined under subsection (2) of this section:

22 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW
23 9A.56.200), or Kidnapping 1 (RCW 9A.40.020)

24 (b) 18 months for Burglary 1 (RCW 9A.52.020)

25 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Escape 1
26 (RCW 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building
27 other than a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW
28 9A.56.080), or any drug offense.

1 (4) If an offender or an accomplice was armed with a firearm during
2 the commission of a felony, including but not limited to a felony that
3 includes an element requiring the offender or an accomplice to be armed
4 with a firearm, the following additional times shall be added to the
5 presumptive sentence for the felony. If the offender or an accomplice
6 was armed with a firearm and the offender is being sentenced for an
7 anticipatory offense under chapter 9A.28 RCW, the following times shall
8 be added to the presumptive range determined under subsection (2) of
9 this section:

10 (a) For a first conviction for an offense committed while armed
11 with a firearm, 60 months;

12 (b) For a second conviction for an offense committed while armed
13 with a firearm, 90 months;

14 (c) For a third or subsequent conviction for an offense committed
15 while armed with a firearm, 120 months.

16 (5) If an offender or an accomplice was armed with a firearm and
17 fired upon a law enforcement officer while resisting arrest under RCW
18 9A.76.040, 120 months shall be added to the presumptive sentence.

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

1 (a) Eighteen months for offenses committed under RCW
2 69.50.401(a)(1)(i) or 69.50.410;

3 (b) Fifteen months for offenses committed under RCW
4 69.50.401(a)(1)(ii), (iii), and (iv);

5 (c) Twelve months for offenses committed under RCW 69.50.401(d).

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 ~~((+5))~~ (7) An additional twenty-four months shall be added to the
10 presumptive sentence for any ranked offense involving a violation of
11 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

12 **Sec. 2.** RCW 9A.36.041 and 1987 c 188 s 2 are each amended to read
13 as follows:

14 (1) A person is guilty of assault in the fourth degree if, under
15 circumstances not amounting to assault in the first, second, or third
16 degree, or custodial assault, he or she assaults another.

17 (2) Assault in the fourth degree, if committed while armed with a
18 firearm is a class C felony, otherwise it is a gross misdemeanor.

19 **Sec. 3.** RCW 9A.36.070 and 1975 1st ex.s. c 260 s 9A.36.070 are
20 each amended to read as follows:

21 (1) A person is guilty of coercion if by use of a threat he compels
22 or induces a person to engage in conduct which the latter has a legal
23 right to abstain from, or to abstain from conduct which he has a legal
24 right to engage in.

25 (2) "Threat" as used in this section means:

26 (a) To communicate, directly or indirectly, the intent immediately
27 to use force against any person who is present at the time; or

28 (b) Threats as defined in RCW 9A.04.110(25)(a), (b), or (c).

1 (3) Coercion, if committed while armed with a firearm, is a class
2 C felony, otherwise it is a gross misdemeanor.

3 **Sec. 4.** RCW 9A.52.100 and 1982 1st ex.s. c 47 s 14 are each
4 amended to read as follows:

5 (1) A person is guilty of vehicle prowling in the second degree if,
6 with intent to commit a crime against a person or property therein, he
7 enters or remains unlawfully in a vehicle other than a motor home, as
8 defined in RCW 46.04.305, or a vessel equipped for propulsion by
9 mechanical means or by sail which has a cabin equipped with permanently
10 installed sleeping quarters or cooking facilities.

11 (2) Vehicle prowling in the second degree, if committed while armed
12 with a firearm, is a class C felony, otherwise it is a gross
13 misdemeanor.

14 **Sec. 5.** RCW 9A.56.050 and 1975 1st ex.s. c 260 s 9A.56.050 are
15 each amended to read as follows:

16 (1) A person is guilty of theft in the third degree if he commits
17 theft of property or services which does not exceed two hundred and
18 fifty dollars in value.

19 (2) Theft in the third degree, if committed while armed with a
20 firearm, is a class C felony, otherwise it is a gross misdemeanor.

21 **Sec. 6.** RCW 9A.76.020 and 1975 1st ex.s. c 260 s 9A.76.020 are
22 each amended to read as follows:

23 ~~((Every))~~ (1) A person who, ~~((+1))~~ (a) without lawful excuse
24 ~~((shall))~~ refuses or knowingly fails to make or furnish ~~((any))~~ a
25 statement, report, or information lawfully required of ~~((him))~~ the
26 person by a public servant, or ~~((+2))~~ (b) in any such statement or
27 report ~~((shall))~~ makes ~~((any))~~ a knowingly untrue statement to a public

1 servant, or (~~((3) shall~~)) (c) knowingly hinders, delays, or obstructs
2 ~~((any))~~ a public servant in the discharge of his or her official powers
3 or duties; (~~shall be~~) is guilty of a misdemeanor.

4 (2) A person armed with a firearm who knowingly hinders, delays, or
5 obstructs a public servant in the discharge of his or her official
6 powers or duties is guilty of a class C felony.

7 **Sec. 7.** RCW 9A.76.130 and 1975 1st ex.s. c 260 s 9A.76.130 are
8 each amended to read as follows:

9 (1) A person is guilty of escape in the third degree if he or she
10 escapes from custody.

11 (2) Escape in the third degree, if committed while armed with a
12 firearm, is a class C felony, otherwise it is a gross misdemeanor.

13 **Sec. 8.** RCW 9.94A.370 and 1989 c 124 s 2 are each amended to read
14 as follows:

15 (1) The intersection of the column defined by the offender score
16 and the row defined by the offense seriousness score determines the
17 presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The
18 additional time for deadly weapon findings or for (~~those offenses~~)
19 other circumstances enumerated in RCW 9.94A.310(~~((4) that were~~
20 ~~committed in a state correctional facility or county jail))~~) (3) through
21 (7) shall be added to the entire presumptive sentence range. The court
22 may impose any sentence within the range that it deems appropriate.
23 All presumptive sentence ranges are expressed in terms of total
24 confinement.

25 (2) In determining any sentence, the trial court may rely on no
26 more information than is admitted by the plea agreement, or admitted,
27 acknowledged, or proved in a trial or at the time of sentencing.
28 Acknowledgement includes not objecting to information stated in the

1 presentence reports. Where the defendant disputes material facts, the
2 court must either not consider the fact or grant an evidentiary hearing
3 on the point. The facts shall be deemed proved at the hearing by a
4 preponderance of the evidence. Facts that establish the elements of a
5 more serious crime or additional crimes may not be used to go outside
6 the presumptive sentence range except upon stipulation or when
7 specifically provided for in RCW 9.94A.390(2) (c), (d), and (e).