
HOUSE BILL 3112

State of Washington 61st Legislature 2010 Regular Session

By Representatives Klippert, O'Brien, McCune, Wallace, and Roach

Read first time 01/25/10. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to assault of a law enforcement officer or other
2 employee of a law enforcement agency; amending RCW 9A.36.011,
3 9A.36.021, and 9.94A.533; and prescribing penalties.

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

5 **Sec. 1.** RCW 9A.36.011 and 1997 c 196 s 1 are each amended to read
6 as follows:

7 (1) A person is guilty of assault in the first degree if he or
8 she(~~(r)~~):

9 (a) With intent to inflict great bodily harm:

10 ~~((a))~~ (i) Assaults another with a firearm or any deadly weapon or
11 by any force or means likely to produce great bodily harm or death; or

12 ~~((b))~~ (ii) Administers, exposes, or transmits to or causes to be
13 taken by another, poison, the human immunodeficiency virus as defined
14 in chapter 70.24 RCW, or any other destructive or noxious substance; or

15 ~~((c))~~ (iii) Assaults another and inflicts great bodily harm; or
16 (b) Assaults a law enforcement officer or other employee of a law
17 enforcement agency with a deadly weapon who was performing his or her
18 official duties at the time of the assault.

19 (2) Assault in the first degree is a class A felony.

1 **Sec. 2.** RCW 9A.36.021 and 2007 c 79 s 2 are each amended to read
2 as follows:

3 (1) A person is guilty of assault in the second degree if he or
4 she, under circumstances not amounting to assault in the first degree:

5 (a) Intentionally assaults another and thereby recklessly inflicts
6 substantial bodily harm; or

7 (b) Intentionally and unlawfully causes substantial bodily harm to
8 an unborn quick child by intentionally and unlawfully inflicting any
9 injury upon the mother of such child; or

10 (c) Assaults another with a deadly weapon; or

11 (d) With intent to inflict bodily harm, administers to or causes to
12 be taken by another, poison or any other destructive or noxious
13 substance; or

14 (e) With intent to commit a felony, assaults another; or

15 (f) Knowingly inflicts bodily harm which by design causes such pain
16 or agony as to be the equivalent of that produced by torture; or

17 (g) Assaults another by strangulation; or

18 (h) With criminal negligence, causes bodily harm to a law
19 enforcement officer or other employee of a law enforcement agency who
20 was performing his or her official duties at the time of the assault by
21 means of a weapon or other instrument or thing likely to produce bodily
22 harm.

23 (2)(a) Except as provided in (b) of this subsection, assault in the
24 second degree is a class B felony.

25 (b) Assault in the second degree with a finding of sexual
26 motivation under RCW 9.94A.835 or 13.40.135 is a class A felony.

27 **Sec. 3.** RCW 9.94A.533 and 2009 c 141 s 2 are each amended to read
28 as follows:

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

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

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

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

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

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

27 (d) If the offender is being sentenced for any firearm enhancements
28 under (a), (b), and/or (c) of this subsection and the offender has
29 previously been sentenced for any deadly weapon enhancements after July
30 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
31 (4)(a), (b), and/or (c) of this section, or both, all firearm
32 enhancements under this subsection shall be twice the amount of the
33 enhancement listed;

34 (e) Notwithstanding any other provision of law, all firearm
35 enhancements under this section are mandatory, shall be served in total
36 confinement, and shall run consecutively to all other sentencing
37 provisions, including other firearm or deadly weapon enhancements, for
38 all offenses sentenced under this chapter. However, whether or not a

1 mandatory minimum term has expired, an offender serving a sentence
2 under this subsection may be granted an extraordinary medical placement
3 when authorized under RCW 9.94A.728(~~(+4)~~) (3);

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

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

16 (4) The following additional times shall be added to the standard
17 sentence range for felony crimes committed after July 23, 1995, if the
18 offender or an accomplice was armed with a deadly weapon other than a
19 firearm as defined in RCW 9.41.010 and the offender is being sentenced
20 for one of the crimes listed in this subsection as eligible for any
21 deadly weapon enhancements based on the classification of the completed
22 felony crime. If the offender is being sentenced for more than one
23 offense, the deadly weapon enhancement or enhancements must be added to
24 the total period of confinement for all offenses, regardless of which
25 underlying offense is subject to a deadly weapon enhancement. If the
26 offender or an accomplice was armed with a deadly weapon other than a
27 firearm as defined in RCW 9.41.010 and the offender is being sentenced
28 for an anticipatory offense under chapter 9A.28 RCW to commit one of
29 the crimes listed in this subsection as eligible for any deadly weapon
30 enhancements, the following additional times shall be added to the
31 standard sentence range determined under subsection (2) of this section
32 based on the felony crime of conviction as classified under RCW
33 9A.28.020:

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

37 (b) One year for any felony defined under any law as a class B

1 felony or with a statutory maximum sentence of ten years, or both, and
2 not covered under (f) of this subsection;

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

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

13 (e) Notwithstanding any other provision of law, all deadly weapon
14 enhancements under this section are mandatory, shall be served in total
15 confinement, and shall run consecutively to all other sentencing
16 provisions, including other firearm or deadly weapon enhancements, for
17 all offenses sentenced under this chapter. However, whether or not a
18 mandatory minimum term has expired, an offender serving a sentence
19 under this subsection may be granted an extraordinary medical placement
20 when authorized under RCW 9.94A.728(~~(+4)~~) (3);

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

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

33 (5) The following additional times shall be added to the standard
34 sentence range if the offender or an accomplice committed the offense
35 while in a county jail or state correctional facility and the offender
36 is being sentenced for one of the crimes listed in this subsection. If
37 the offender or an accomplice committed one of the crimes listed in
38 this subsection while in a county jail or state correctional facility,

1 and the offender is being sentenced for an anticipatory offense under
2 chapter 9A.28 RCW to commit one of the crimes listed in this
3 subsection, the following additional times shall be added to the
4 standard sentence range determined under subsection (2) of this
5 section:

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

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

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

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

14 (6) An additional twenty-four months shall be added to the standard
15 sentence range for any ranked offense involving a violation of chapter
16 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
17 (~~9.94A.605~~) 9.94A.827. All enhancements under this subsection shall
18 run consecutively to all other sentencing provisions, for all offenses
19 sentenced under this chapter.

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

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

37 (i) Two years for any felony defined under the law as a class A

1 felony or with a statutory maximum sentence of at least twenty years,
2 or both;

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

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

8 (iv) If the offender is being sentenced for any sexual motivation
9 enhancements under (i), (ii), and/or (iii) of this subsection and the
10 offender has previously been sentenced for any sexual motivation
11 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of
12 this subsection, all sexual motivation enhancements under this
13 subsection shall be twice the amount of the enhancement listed;

14 (b) Notwithstanding any other provision of law, all sexual
15 motivation enhancements under this subsection are mandatory, shall be
16 served in total confinement, and shall run consecutively to all other
17 sentencing provisions, including other sexual motivation enhancements,
18 for all offenses sentenced under this chapter. However, whether or not
19 a mandatory minimum term has expired, an offender serving a sentence
20 under this subsection may be granted an extraordinary medical placement
21 when authorized under RCW 9.94A.728(~~(+4)~~) (3);

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

24 (d) If the standard sentence range under this subsection exceeds
25 the statutory maximum sentence for the offense, the statutory maximum
26 sentence shall be the presumptive sentence unless the offender is a
27 persistent offender. If the addition of a sexual motivation
28 enhancement increases the sentence so that it would exceed the
29 statutory maximum for the offense, the portion of the sentence
30 representing the enhancement may not be reduced;

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

34 (f) Nothing in this subsection prevents a sentencing court from
35 imposing a sentence outside the standard sentence range pursuant to RCW
36 9.94A.535.

37 (9) An additional one-year enhancement shall be added to the
38 standard sentence range for the felony crimes of RCW 9A.44.073,

1 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
2 or after July 22, 2007, if the offender engaged, agreed, or offered to
3 engage the victim in the sexual conduct in return for a fee. If the
4 offender is being sentenced for more than one offense, the one-year
5 enhancement must be added to the total period of total confinement for
6 all offenses, regardless of which underlying offense is subject to the
7 enhancement. If the offender is being sentenced for an anticipatory
8 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,
9 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted,
10 solicited another, or conspired to engage, agree, or offer to engage
11 the victim in the sexual conduct in return for a fee, an additional
12 one-year enhancement shall be added to the standard sentence range
13 determined under subsection (2) of this section. For purposes of this
14 subsection, "sexual conduct" means sexual intercourse or sexual
15 contact, both as defined in chapter 9A.44 RCW.

16 (10)(a) For a person age eighteen or older convicted of any
17 criminal street gang-related felony offense for which the person
18 compensated, threatened, or solicited a minor in order to involve the
19 minor in the commission of the felony offense, the standard sentence
20 range is determined by locating the sentencing grid sentence range
21 defined by the appropriate offender score and the seriousness level of
22 the completed crime, and multiplying the range by one hundred twenty-
23 five percent. If the standard sentence range under this subsection
24 exceeds the statutory maximum sentence for the offense, the statutory
25 maximum sentence is the presumptive sentence unless the offender is a
26 persistent offender.

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

30 (c) The increased penalty specified in (a) of this subsection is
31 unavailable in the event that the prosecution gives notice that it will
32 seek an exceptional sentence based on an aggravating factor under RCW
33 9.94A.535.

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

1 (12) An additional twelve months shall be added to the standard
2 sentence range for an offense that is also a violation of RCW
3 9.94A.831.

4 (13) An additional thirty-six months shall be added to the standard
5 sentence range for a conviction of assault under RCW 9A.36.011 or
6 9A.36.021, if the victim was a law enforcement officer or other
7 employee of a law enforcement agency who was performing his or her
8 official duties at the time of the assault, and the offender or an
9 accomplice was armed with a deadly weapon as defined in RCW 9.41.010.
10 This enhancement shall run consecutively to all other sentencing
11 provisions, for all offenses sentenced under this chapter.

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