
SUBSTITUTE HOUSE BILL 2075

State of Washington

54th Legislature

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By House Committee on Law & Justice (originally sponsored by Representatives Costa, Lambert, Veloria, Ballasiotes, Scott, Chappell, Patterson, Kessler, H. Sommers, Appelwick, Romero, Morris and Tokuda)

Read first time 02-02-96.

1 AN ACT Relating to the finding of aggravating circumstances for the
2 commission of violent offenses against pregnant women; amending RCW
3 9.94A.390; and declaring an emergency.

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

5 **Sec. 1.** RCW 9.94A.390 and 1995 c 316 s 2 are each amended to read
6 as follows:

7 If the sentencing court finds that an exceptional sentence outside
8 the standard range should be imposed in accordance with RCW
9 9.94A.120(2), the sentence is subject to review only as provided for in
10 RCW 9.94A.210(4).

11 The following are illustrative factors which the court may consider
12 in the exercise of its discretion to impose an exceptional sentence.
13 The following are illustrative only and are not intended to be
14 exclusive reasons for exceptional sentences.

15 (1) Mitigating Circumstances

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

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

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

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

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

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

16 (g) The operation of the multiple offense policy of RCW 9.94A.400
17 results in a presumptive sentence that is clearly excessive in light of
18 the purpose of this chapter, as expressed in RCW 9.94A.010.

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

22 (2) Aggravating Circumstances

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

25 (b) The defendant knew or should have known that the victim of the
26 current offense was particularly vulnerable or incapable of resistance
27 due to extreme youth, advanced age, disability, or ill health.

28 (c) The current offense was a violent offense and the defendant
29 knew or should have known that the victim of the current offense was
30 pregnant.

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

34 (i) The current offense involved multiple victims or multiple
35 incidents per victim;

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

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

1 (iv) The defendant used his or her position of trust, confidence,
2 or fiduciary responsibility to facilitate the commission of the current
3 offense.

4 (~~(d)~~) (e) The current offense was a major violation of the
5 Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related
6 to trafficking in controlled substances, which was more onerous than
7 the typical offense of its statutory definition: The presence of ANY
8 of the following may identify a current offense as a major VUCSA:

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

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

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

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

19 (v) The current offense involved a high degree of sophistication or
20 planning or occurred over a lengthy period of time or involved a broad
21 geographic area of disbursement; or

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

26 (~~(e)~~) (f) The current offense included a finding of sexual
27 motivation pursuant to RCW 9.94A.127.

28 (~~(f)~~) (g) The offense was part of an ongoing pattern of sexual
29 abuse of the same victim under the age of eighteen years manifested by
30 multiple incidents over a prolonged period of time.

31 (~~(g)~~) (h) The operation of the multiple offense policy of RCW
32 9.94A.400 results in a presumptive sentence that is clearly too lenient
33 in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

34 (~~(h)~~) (i) The defendant's prior unscored misdemeanor or prior
35 unscored foreign criminal history results in a presumptive sentence
36 that is clearly too lenient in light of the purpose of this chapter as
37 expressed in RCW 9.94A.010.

1 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect immediately.

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