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HOUSE BILL 2075

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State of Washington

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1995 Regular Session

By Representatives Costa, Lambert, Voloria, Ballasiotes, Scott, Chappell, Patterson, Kessler, Sommers, Appelwick, Romero, Morris and Tokuda

Read first time 03/08/95. Referred to Committee on Law & Justice.

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 1990 c 3 s 603 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 conduct or to conform his conduct to the requirements of the law, was  
11 significantly impaired (voluntary use of drugs or alcohol is excluded).

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

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

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

21 (2) Aggravating Circumstances

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

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

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

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

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

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

37 (iii) The current offense involved a high degree of sophistication  
38 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; ~~((e))~~

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; ~~((e))~~

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

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

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

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

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

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

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

35 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
36 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect immediately.

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