
HOUSE BILL 2355

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By Representatives Campbell, Carrell, Smith, Sheldon, Pelesky and D. Schmidt

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1 AN ACT Relating to plea agreements; and amending RCW 9.94A.080,
2 9.94A.090, 9.94A.103, and 9.94A.105.

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

4 **Sec. 1.** RCW 9.94A.080 and 1995 c 288 s 1 are each amended to read
5 as follows:

6 The prosecutor and the attorney for the defendant, or the defendant
7 when acting pro se, may engage in discussions with a view toward
8 reaching an agreement that, upon the entering of a plea to a charged
9 offense or to a lesser or related offense, the prosecutor will do any
10 of the following:

11 (1) Move for dismissal of other charges or counts;

12 (2) Recommend a particular sentence within the sentence range
13 applicable to the offense or offenses to which the offender pled
14 guilty;

15 (3) Recommend a particular sentence outside of the sentence range;

16 (4) Agree to file a particular charge or count;

17 (5) Agree not to file other charges or counts; ~~((or))~~

18 (6) Agree to file a less serious charge than could be filed under
19 recommended prosecuting standards contained in RCW 9.94A.440; or

1 (7) Make any other promise to the defendant, except that in no
2 instance may the prosecutor agree not to allege prior convictions.

3 In a case involving a crime against persons as defined in RCW
4 9.94A.440, the prosecutor shall make reasonable efforts to inform the
5 victim of the violent offense of the nature of and reasons for the plea
6 agreement, including all offenses the prosecutor has agreed not to
7 file, and ascertain any objections or comments the victim has to the
8 plea agreement.

9 The court shall not participate in any discussions under this
10 section.

11 If a plea agreement is reached, the prosecutor must prepare a
12 written agreement stating with specificity what promises, as enumerated
13 in subsections (1) through (7) of this section, the prosecutor made
14 under the agreement. The prosecutor must submit this written agreement
15 to the court for the court's review under RCW 9.94A.090. If the court
16 accepts the plea agreement, the written document must be included in
17 any presentencing documents presented to the sentencing judge. Upon
18 sentencing, the written agreement must be forwarded to the sentencing
19 guidelines commission with the judgment and sentence when required by
20 RCW 9.94A.103 and 9.94A.105.

21 **Sec. 2.** RCW 9.94A.090 and 1995 c 288 s 2 are each amended to read
22 as follows:

23 (1) If a plea agreement has been reached by the prosecutor and the
24 defendant pursuant to RCW 9.94A.080, they shall at the time of the
25 defendant's plea state to the court, in a written document as provided
26 in RCW 9.94A.080 and on the record, the nature of the agreement and the
27 reasons for the agreement. The prosecutor shall inform the court on
28 the record whether the victim or victims of all crimes against persons,
29 as defined in RCW 9.94A.440, covered by the plea agreement have
30 expressed any objections to or comments on the nature of and reasons
31 for the plea agreement. The court, at the time of the plea, shall
32 determine if the agreement is consistent with the interests of justice
33 and with the prosecuting standards. If the court determines it is not
34 consistent with the interests of justice and with the prosecuting
35 standards, the court shall, on the record, inform the defendant and the
36 prosecutor that they are not bound by the agreement and that the
37 defendant may withdraw the defendant's plea of guilty, if one has been
38 made, and enter a plea of not guilty.

1 (2) The sentencing judge is not bound by any recommendations
2 contained in an allowed plea agreement and the defendant shall be so
3 informed at the time of plea.

4 **Sec. 3.** RCW 9.94A.103 and 1995 c 129 s 5 (Initiative Measure No.
5 159) are each amended to read as follows:

6 Any ~~((and—all))~~ recommended sentencing agreements or plea
7 agreements and the sentences for any ~~((and—all))~~ felony crimes shall be
8 made and retained as public records if the felony crime involves:

9 (1) Any violent offense as defined in this chapter;

10 (2) Any most serious offense as defined in this chapter;

11 (3) Any felony with a deadly weapon special verdict under RCW
12 9.94A.125;

13 (4) Any felony with any deadly weapon enhancements under RCW
14 9.94A.310 (3) or (4), or both; ~~((and/or))~~ or

15 (5) The felony crimes of possession of a machine gun, possessing a
16 stolen firearm, reckless endangerment in the first degree, theft of a
17 firearm, unlawful possession of a firearm in the first or second
18 degree, ~~((and/or))~~ or use of a machine gun in a felony.

19 This section applies to sentencing agreements and sentences entered
20 on felonies or misdemeanor convictions if the original charge filed was
21 an offense specified in subsections (1) through (5) of this section but
22 was amended under a plea agreement or if the prosecutor agreed in a
23 plea agreement not to file one of the offenses specified in subsections
24 (1) through (5) of this section. When a written plea agreement has
25 been prepared under RCW 9.94A.080, that agreement must be retained as
26 a public record under this section.

27 **Sec. 4.** RCW 9.94A.105 and 1995 c 129 s 6 (Initiative Measure No.
28 159) are each amended to read as follows:

29 (1) A current, newly created or reworked judgment and sentence
30 document for each felony sentencing shall record any ~~((and—all))~~
31 recommended sentencing agreements or plea agreements and the sentences
32 for any ~~((and—all))~~ felony crimes kept as public records under RCW
33 9.94A.103 shall contain the clearly printed name and legal signature of
34 the sentencing judge. This requirement also applies to misdemeanor
35 convictions retained as public records under RCW 9.94A.103. The
36 judgment and sentence document as defined in this section shall also
37 provide additional space for the sentencing judge's reasons for going

1 either above or below the presumptive sentence range for any and all
2 felony crimes covered as public records under RCW 9.94A.103. Both the
3 sentencing judge and the prosecuting attorney's office shall each
4 retain or receive a completed copy of each sentencing document as
5 defined in this section for their own records.

6 (2) The sentencing guidelines commission shall be sent a completed
7 copy of the judgment and sentence document and any written plea
8 agreements prepared under RCW 9.94A.080 and retained under RCW
9 9.94A.103 upon conviction for each felony and misdemeanor sentencing
10 under subsection (1) of this section and shall compile a yearly and
11 cumulative judicial record of each sentencing judge in regards to his
12 or her sentencing practices for any ~~((and all))~~ felony and misdemeanor
13 crimes involving:

14 (a) Any violent offense as defined in this chapter;

15 (b) Any most serious offense as defined in this chapter;

16 (c) Any felony with any deadly weapon special verdict under RCW
17 9.94A.125;

18 (d) Any felony with any deadly weapon enhancements under RCW
19 9.94A.310 (3) or (4), or both; ~~((and/or))~~ or

20 (e) The felony crimes of possession of a machine gun, possessing a
21 stolen firearm, reckless endangerment in the first degree, theft of a
22 firearm, unlawful possession of a firearm in the first or second
23 degree, ~~((and/or))~~ or use of a machine gun in a felony.

24 (3) The sentencing guidelines commission shall compare each
25 individual judge's sentencing practices to the standard or presumptive
26 sentence range for any ~~((and all))~~ felony crimes listed in subsection
27 (2) of this section for the appropriate offense level as defined in RCW
28 9.94A.320, offender score as defined in RCW 9.94A.360, and any
29 applicable deadly weapon enhancements as defined in RCW 9.94A.310 (3)
30 or (4), or both. These comparative records shall be retained and made
31 available to the public for review in a current, newly created or
32 reworked official published document by the sentencing guidelines
33 commission.

34 (4) Any ~~((and all))~~ felony sentences which are either above or
35 below the standard or presumptive sentence range in subsection (3) of
36 this section shall also mark whether the prosecuting attorney in the
37 case also recommended a similar sentence, if any, which was either
38 above or below the presumptive sentence range and shall also indicate
39 if the sentence was in conjunction with an approved alternative

1 sentencing option including a first-time offender waiver, sex offender
2 sentencing alternative, or other prescribed sentencing option.

3 (5) If any completed judgment and sentence document and written
4 plea agreement prepared under RCW 9.94A.080 as defined in subsection
5 (1) of this section is not sent to the sentencing guidelines commission
6 as required in subsection (2) of this section, the sentencing
7 guidelines commission shall have the authority and shall undertake
8 reasonable and necessary steps to assure that all past, current, and
9 future sentencing documents as defined in subsection (1) of this
10 section are received by the sentencing guidelines commission.

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