

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2075**

54th Legislature  
1996 Regular Session

Passed by the House March 4, 1996  
Yeas 95 Nays 0

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**Speaker of the  
House of Representatives**

Passed by the Senate February 28, 1996  
Yeas 48 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2075** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2075**

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AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

**State of Washington                      54th Legislature                      1996 Regular Session**

**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 that the victim of the current offense was 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;

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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