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**SUBSTITUTE SENATE BILL 5905**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Long, Hargrove, Roach, Smith, Winsley, Schow, Swecker, Haugen, Quigley, Hale, Strannigan, McCaslin, Finkbeiner, West, Bauer, Rasmussen and Oke)

Read first time 03/01/95.

1 AN ACT Relating to persistent prison misbehavior; reenacting and  
2 amending RCW 9.94A.320; adding a new section to chapter 9.94 RCW; and  
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94 RCW  
6 to read as follows:

7 (1) An inmate of a state correctional institution who is serving a  
8 sentence for an offense committed on or after August 1, 1995, commits  
9 the crime of persistent prison misbehavior if the inmate:

10 (a) Has been found in formal prison disciplinary hearings held  
11 under RCW 72.09.130 to have committed one or more serious infractions;

12 (b) Has lost all of the potential earned early release time credits  
13 for his or her sentence as a result of those serious infractions; and

14 (c) Knowingly commits another serious infraction after all  
15 potential earned early release time credit has been lost.

16 (2) "Serious infraction" means misconduct that has been designated  
17 as a serious infraction by department of corrections rules adopted  
18 under RCW 72.09.130 and chapter 34.05 RCW.

1 (3) "State correctional institution" has the same meaning as in RCW  
2 9.94.049.

3 (4) The crime of persistent prison misbehavior is a class C felony  
4 punishable as provided in RCW 9A.20.021. The sentence imposed for this  
5 crime must be served consecutive to any sentence being served at the  
6 time the crime is committed.

7 **Sec. 2.** RCW 9.94A.320 and 1994 sp.s. c 7 s 510, 1994 c 275 s 20,  
8 and 1994 c 53 s 2 are each reenacted and amended to read as follows:

9 TABLE 2

10 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

11	XV	Aggravated Murder 1 (RCW 10.95.020)
12	XIV	Murder 1 (RCW 9A.32.030)
13		Homicide by abuse (RCW 9A.32.055)
14	XIII	Murder 2 (RCW 9A.32.050)
15	XII	Assault 1 (RCW 9A.36.011)
16		Assault of a Child 1 (RCW 9A.36.120)
17	XI	Rape 1 (RCW 9A.44.040)
18		Rape of a Child 1 (RCW 9A.44.073)
19	X	Kidnapping 1 (RCW 9A.40.020)
20		Rape 2 (RCW 9A.44.050)
21		Rape of a Child 2 (RCW 9A.44.076)
22		Child Molestation 1 (RCW 9A.44.083)
23		Damaging building, etc., by explosion with
24		threat to human being (RCW
25		70.74.280(1))
26		Over 18 and deliver heroin or narcotic
27		from Schedule I or II to someone
28		under 18 (RCW 69.50.406)
29		Leading Organized Crime (RCW
30		9A.82.060(1)(a))
31	IX	Assault of a Child 2 (RCW 9A.36.130)
32		Robbery 1 (RCW 9A.56.200)
33		Manslaughter 1 (RCW 9A.32.060)

1 Explosive devices prohibited (RCW  
2 70.74.180)  
3 Indecent Liberties (with forcible  
4 compulsion) (RCW 9A.44.100(1)(a))  
5 Endangering life and property by  
6 explosives with threat to human being  
7 (RCW 70.74.270)  
8 Over 18 and deliver narcotic from Schedule  
9 III, IV, or V or a nonnarcotic from  
10 Schedule I-V to someone under 18 and  
11 3 years junior (RCW 69.50.406)  
12 Controlled Substance Homicide (RCW  
13 69.50.415)  
14 Sexual Exploitation (RCW 9.68A.040)  
15 Inciting Criminal Profiteering (RCW  
16 9A.82.060(1)(b))  
17 Vehicular Homicide, by being under the  
18 influence of intoxicating liquor or  
19 any drug (RCW 46.61.520)  
20 VIII Arson 1 (RCW 9A.48.020)  
21 Promoting Prostitution 1 (RCW 9A.88.070)  
22 Selling for profit (controlled or  
23 counterfeit) any controlled substance  
24 (RCW 69.50.410)  
25 Manufacture, deliver, or possess with  
26 intent to deliver heroin or cocaine  
27 (RCW 69.50.401(a)(1)(i))  
28 Manufacture, deliver, or possess with  
29 intent to deliver methamphetamine  
30 (RCW 69.50.401(a)(1)(ii))  
31 Vehicular Homicide, by the operation of  
32 any vehicle in a reckless manner (RCW  
33 46.61.520)  
34 VII Burglary 1 (RCW 9A.52.020)  
35 Vehicular Homicide, by disregard for the  
36 safety of others (RCW 46.61.520)  
37 Introducing Contraband 1 (RCW 9A.76.140)

1 Indecent Liberties (without forcible  
2 compulsion) (RCW 9A.44.100(1) (b) and  
3 (c))  
4 Child Molestation 2 (RCW 9A.44.086)  
5 Dealing in depictions of minor engaged in  
6 sexually explicit conduct (RCW  
7 9.68A.050)  
8 Sending, bringing into state depictions of  
9 minor engaged in sexually explicit  
10 conduct (RCW 9.68A.060)  
11 Involving a minor in drug dealing (RCW  
12 69.50.401(f))

13 VI Bribery (RCW 9A.68.010)  
14 Manslaughter 2 (RCW 9A.32.070)  
15 Rape of a Child 3 (RCW 9A.44.079)  
16 Intimidating a Juror/Witness (RCW  
17 9A.72.110, 9A.72.130)  
18 Damaging building, etc., by explosion with  
19 no threat to human being (RCW  
20 70.74.280(2))  
21 Endangering life and property by  
22 explosives with no threat to human  
23 being (RCW 70.74.270)  
24 Incest 1 (RCW 9A.64.020(1))  
25 Manufacture, deliver, or possess with  
26 intent to deliver narcotics from  
27 Schedule I or II (except heroin or  
28 cocaine) (RCW 69.50.401(a)(1)(i))  
29 Intimidating a Judge (RCW 9A.72.160)  
30 Bail Jumping with Murder 1 (RCW  
31 9A.76.170(2)(a))

1 V Persistent prison misbehavior (RCW  
2 9.94.--- (section 1 of this act))  
3 Criminal Mistreatment 1 (RCW 9A.42.020)  
4 Theft of a Firearm (RCW 9A.56.300)  
5 Reckless Endangerment 1 (RCW 9A.36.045)  
6 Rape 3 (RCW 9A.44.060)  
7 Sexual Misconduct with a Minor 1 (RCW  
8 9A.44.093)  
9 Child Molestation 3 (RCW 9A.44.089)  
10 Kidnapping 2 (RCW 9A.40.030)  
11 Extortion 1 (RCW 9A.56.120)  
12 Incest 2 (RCW 9A.64.020(2))  
13 Perjury 1 (RCW 9A.72.020)  
14 Extortionate Extension of Credit (RCW  
15 9A.82.020)  
16 Advancing money or property for  
17 extortionate extension of credit (RCW  
18 9A.82.030)  
19 Extortionate Means to Collect Extensions  
20 of Credit (RCW 9A.82.040)  
21 Rendering Criminal Assistance 1 (RCW  
22 9A.76.070)  
23 Bail Jumping with class A Felony (RCW  
24 9A.76.170(2)(b))  
25 Sexually Violating Human Remains (RCW  
26 9A.44.105)  
27 Delivery of imitation controlled substance  
28 by person eighteen or over to person  
29 under eighteen (RCW 69.52.030(2))

30 IV Residential Burglary (RCW 9A.52.025)  
31 Theft of Livestock 1 (RCW 9A.56.080)  
32 Robbery 2 (RCW 9A.56.210)  
33 Assault 2 (RCW 9A.36.021)  
34 Escape 1 (RCW 9A.76.110)  
35 Arson 2 (RCW 9A.48.030)  
36 Bribing a Witness/Bribe Received by  
37 Witness (RCW 9A.72.090, 9A.72.100)  
38 Malicious Harassment (RCW 9A.36.080)  
39 Threats to Bomb (RCW 9.61.160)

1 Willful Failure to Return from Furlough  
2 (RCW 72.66.060)  
3 Hit and Run « Injury Accident (RCW  
4 46.52.020(4))  
5 Vehicular Assault (RCW 46.61.522)  
6 Manufacture, deliver, or possess with  
7 intent to deliver narcotics from  
8 Schedule III, IV, or V or  
9 nonnarcotics from Schedule I-V  
10 (except marijuana or  
11 methamphetamines) (RCW  
12 69.50.401(a)(1)(ii) through (iv))  
13 Influencing Outcome of Sporting Event (RCW  
14 9A.82.070)  
15 Use of Proceeds of Criminal Profiteering  
16 (RCW 9A.82.080 (1) and (2))  
17 Knowingly Trafficking in Stolen Property  
18 (RCW 9A.82.050(2))  
  
19 III Criminal Mistreatment 2 (RCW 9A.42.030)  
20 Extortion 2 (RCW 9A.56.130)  
21 Unlawful Imprisonment (RCW 9A.40.040)  
22 Assault 3 (RCW 9A.36.031)  
23 Assault of a Child 3 (RCW 9A.36.140)  
24 Custodial Assault (RCW 9A.36.100)  
25 Unlawful possession of firearm or pistol  
26 by felon (RCW 9.41.040)  
27 Harassment (RCW 9A.46.020)  
28 Promoting Prostitution 2 (RCW 9A.88.080)  
29 Willful Failure to Return from Work  
30 Release (RCW 72.65.070)  
31 Burglary 2 (RCW 9A.52.030)  
32 Introducing Contraband 2 (RCW 9A.76.150)  
33 Communication with a Minor for Immoral  
34 Purposes (RCW 9.68A.090)  
35 Patronizing a Juvenile Prostitute (RCW  
36 9.68A.100)  
37 Escape 2 (RCW 9A.76.120)  
38 Perjury 2 (RCW 9A.72.030)

1 Bail Jumping with class B or C Felony (RCW  
2 9A.76.170(2)(c))  
3 Intimidating a Public Servant (RCW  
4 9A.76.180)  
5 Tampering with a Witness (RCW 9A.72.120)  
6 Manufacture, deliver, or possess with  
7 intent to deliver marijuana (RCW  
8 69.50.401(a)(1)(ii))  
9 Delivery of a material in lieu of a  
10 controlled substance (RCW  
11 69.50.401(c))  
12 Manufacture, distribute, or possess with  
13 intent to distribute an imitation  
14 controlled substance (RCW  
15 69.52.030(1))  
16 Recklessly Trafficking in Stolen Property  
17 (RCW 9A.82.050(1))  
18 Theft of livestock 2 (RCW 9A.56.080)  
19 Securities Act violation (RCW 21.20.400)  
20 II Malicious Mischief 1 (RCW 9A.48.070)  
21 Possession of Stolen Property 1 (RCW  
22 9A.56.150)  
23 Theft 1 (RCW 9A.56.030)  
24 Possession of controlled substance that is  
25 either heroin or narcotics from  
26 Schedule I or II (RCW 69.50.401(d))  
27 Possession of phencyclidine (PCP) (RCW  
28 69.50.401(d))  
29 Create, deliver, or possess a counterfeit  
30 controlled substance (RCW  
31 69.50.401(b))  
32 Computer Trespass 1 (RCW 9A.52.110)  
33 Escape from Community Custody (RCW  
34 72.09.310)  
35 I Theft 2 (RCW 9A.56.040)  
36 Possession of Stolen Property 2 (RCW  
37 9A.56.160)  
38 Forgery (RCW 9A.60.020)

1 Taking Motor Vehicle Without Permission  
2 (RCW 9A.56.070)  
3 Vehicle Prowl 1 (RCW 9A.52.095)  
4 Attempting to Elude a Pursuing Police  
5 Vehicle (RCW 46.61.024)  
6 Malicious Mischief 2 (RCW 9A.48.080)  
7 Reckless Burning 1 (RCW 9A.48.040)  
8 Unlawful Issuance of Checks or Drafts (RCW  
9 9A.56.060)  
10 Unlawful Use of Food Stamps (RCW 9.91.140  
11 (2) and (3))  
12 False Verification for Welfare (RCW  
13 74.08.055)  
14 Forged Prescription (RCW 69.41.020)  
15 Forged Prescription for a Controlled  
16 Substance (RCW 69.50.403)  
17 Possess Controlled Substance that is a  
18 Narcotic from Schedule III, IV, or V  
19 or Non-narcotic from Schedule I-V  
20 (except phencyclidine) (RCW  
21 69.50.401(d))

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