

SENATE BILL 6084

State of Washington 54th Legislature 1995 2nd Special Session

By Senators Kohl, Long, Prentice, Franklin, Pelz, Wojahn and Smith

Read first time 05/24/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to luring; amending RCW 9.94A.310; reenacting and
2 amending RCW 9.94A.320; and prescribing penalties.

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

4 Sec. 1. RCW 9.94A.310 and 1995 c 129 s 2 (Initiative Measure No.
5 159) are each amended to read as follows:

6 FIREARM AND OTHER DEADLY WEAPON ENHANCEMENTS INCREASED.

7 (1)

TABLE 1

Sentencing Grid

9 SERIOUSNESS

10 SCORE

OFFENDER SCORE

11 9 or
12 0 1 2 3 4 5 6 7 8 more

13
14 XV Life Sentence without Parole/Death Penalty

15											
16	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
17		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
18		320	333	347	361	374	388	416	450	493	548

1											
2	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
3		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
4		164	178	192	205	219	233	260	288	342	397
5											
6	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
7		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
8		123	136	147	160	171	184	216	236	277	318
9											
10	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
11		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
12		102	114	125	136	147	158	194	211	245	280
13											
14	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
15		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
16		68	75	82	89	96	102	130	144	171	198
17											
18	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
19		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
20		41	48	54	61	68	75	102	116	144	171
21											
22	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
23		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
24		27	34	41	48	54	61	89	102	116	144
25											
26	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
27		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
28		20	27	34	41	48	54	75	89	102	116
29											
30	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
31		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
32		14	20	27	34	41	48	61	75	89	102
33											
34	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
35		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
36		12	14	17	20	29	43	54	68	82	96
37											

1	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
2		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
3		9	12	14	17	20	29	43	57	70	84
4	<hr/>										
5	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
6		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
7		3	8	12	12	16	22	29	43	57	68
8	<hr/>										
9	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
10		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
11		Days	6	9	12	14	18	22	29	43	57
12	<hr/>										
13	I			3m	4m	5m	8m	13m	16m	20m	2y2m
14		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
15		Days	Days	5	6	8	12	14	18	22	29
16	<hr/>										

17 NOTE: Numbers in the first horizontal row of each seriousness category
18 represent sentencing midpoints in years(y) and months(m). Numbers in
19 the second and third rows represent presumptive sentencing ranges in
20 months, or in days if so designated. 12+ equals one year and one day.

21 (2) For persons convicted of the anticipatory offenses of criminal
22 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
23 presumptive sentence is determined by locating the sentencing grid
24 sentence range defined by the appropriate offender score and the
25 seriousness level of the completed crime, and multiplying the range by
26 75 percent.

27 (3) The following additional times shall be added to the
28 presumptive sentence for felony crimes committed after July 23, 1995,
29 if the offender or an accomplice was armed with a firearm as defined in
30 RCW 9.41.010 and the offender is being sentenced for one of the crimes
31 listed in this subsection as eligible for any firearm enhancements
32 based on the classification of the completed felony crime. If the
33 offender or an accomplice was armed with a firearm as defined in RCW
34 9.41.010 and the offender is being sentenced for an anticipatory
35 offense under chapter 9A.28 RCW to commit one of the crimes listed in
36 this subsection as eligible for any firearm enhancements, the following
37 additional times shall be added to the presumptive sentence determined
38 under subsection (2) of this section based on the felony crime of
39 conviction as classified under RCW 9A.28.020:

1 (a) Five years for any felony defined under any law as a class A
2 felony or with a maximum sentence of at least twenty years, or both,
3 and not covered under (f) of this subsection.

4 (b) Three years for any felony defined under any law as a class B
5 felony or with a maximum sentence of ten years, or both, and not
6 covered under (f) of this subsection.

7 (c) Eighteen months for any felony defined under any law as a class
8 C felony or with a maximum sentence of five years, or both, and not
9 covered under (f) of this subsection.

10 (d) If the offender is being sentenced for any firearm enhancements
11 under (a), (b), and/or (c) of this subsection and the offender has
12 previously been sentenced for any deadly weapon enhancements after July
13 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
14 (4) (a), (b), and/or (c) of this section, or both, any and all firearm
15 enhancements under this subsection shall be twice the amount of the
16 enhancement listed.

17 (e) Notwithstanding any other provision of law, any and all firearm
18 enhancements under this section are mandatory, shall be served in total
19 confinement, and shall not run concurrently with any other sentencing
20 provisions.

21 (f) The firearm enhancements in this section shall apply to all
22 felony crimes except the following: Possession of a machine gun,
23 possessing a stolen firearm, reckless endangerment in the first degree,
24 theft of a firearm, unlawful possession of a firearm in the first and
25 second degree, and use of a machine gun in a felony.

26 (g) If the presumptive sentence under this section exceeds the
27 statutory maximum for the offense, the statutory maximum sentence shall
28 be the presumptive sentence unless the offender is a persistent
29 offender as defined in RCW 9.94A.030.

30 (4) The following additional times shall be added to the
31 presumptive sentence for felony crimes committed after July 23, 1995,
32 if the offender or an accomplice was armed with a deadly weapon as
33 defined in this chapter other than a firearm as defined in RCW 9.41.010
34 and the offender is being sentenced for one of the crimes listed in
35 this subsection as eligible for any deadly weapon enhancements based on
36 the classification of the completed felony crime. If the offender or
37 an accomplice was armed with a deadly weapon other than a firearm as
38 defined in RCW 9.41.010 and the offender is being sentenced for an
39 anticipatory offense under chapter 9A.28 RCW to commit one of the

1 crimes listed in this subsection as eligible for any deadly weapon
2 enhancements, the following additional times shall be added to the
3 presumptive sentence determined under subsection (2) of this section
4 based on the felony crime of conviction as classified under RCW
5 9A.28.020:

6 (a) Two years for any felony defined under any law as a class A
7 felony or with a maximum sentence of at least twenty years, or both,
8 and not covered under (f) of this subsection.

9 (b) One year for any felony defined under any law as a class B
10 felony or with a maximum sentence of ten years, or both, and not
11 covered under (f) of this subsection.

12 (c) Six months for any felony defined under any law as a class C
13 felony or with a maximum sentence of five years, or both, and not
14 covered under (f) of this subsection.

15 (d) If the offender is being sentenced under (a), (b), and/or (c)
16 of this subsection for any deadly weapon enhancements and the offender
17 has previously been sentenced for any deadly weapon enhancements after
18 July 23, 1995, under (a), (b), and/or (c) of this subsection or
19 subsection (3) (a), (b), and/or (c) of this section, or both, any and
20 all deadly weapon enhancements under this subsection shall be twice the
21 amount of the enhancement listed.

22 (e) Notwithstanding any other provision of law, any and all deadly
23 weapon enhancements under this section are mandatory, shall be served
24 in total confinement, and shall not run concurrently with any other
25 sentencing provisions.

26 (f) The deadly weapon enhancements in this section shall apply to
27 all felony crimes except the following: Possession of a machine gun,
28 possessing a stolen firearm, reckless endangerment in the first degree,
29 theft of a firearm, unlawful possession of a firearm in the first and
30 second degree, and use of a machine gun in a felony.

31 (g) If the presumptive sentence under this section exceeds the
32 statutory maximum for the offense, the statutory maximum sentence shall
33 be the presumptive sentence unless the offender is a persistent
34 offender as defined in RCW 9.94A.030.

35 (5) The following additional times shall be added to the
36 presumptive sentence if the offender or an accomplice committed the
37 offense while in a county jail or state correctional facility as that
38 term is defined in this chapter and the offender is being sentenced for
39 one of the crimes listed in this subsection. If the offender or an

1 accomplice committed one of the crimes listed in this subsection while
2 in a county jail or state correctional facility as that term is defined
3 in this chapter, and the offender is being sentenced for an
4 anticipatory offense under chapter 9A.28 RCW to commit one of the
5 crimes listed in this subsection, the following additional times shall
6 be added to the presumptive sentence determined under subsection (2) of
7 this section:

8 (a) Eighteen months for offenses committed under RCW
9 69.50.401(a)(1)(i) or 69.50.410;

10 (b) Fifteen months for offenses committed under RCW
11 69.50.401(a)(1)(ii), (iii), and (iv);

12 (c) Twelve months for offenses committed under RCW 69.50.401(d).

13 For the purposes of this subsection, all of the real property of a
14 state correctional facility or county jail shall be deemed to be part
15 of that facility or county jail.

16 (6) An additional twenty-four months shall be added to the
17 presumptive sentence for any ranked offense involving a violation of
18 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

19 (7)(a) An additional six months shall be added to the presumptive
20 sentence for luring if the person committing the offense uses any
21 matter that is harmful to minors in the commission of the offense.

22 (b) For purposes of this subsection:

23 (i) "Community" means the state-wide community.

24 (ii) "Harmful to minors" means any matter:

25 (A) That the average adult person, applying contemporary community
26 standards, would find, when considered as a whole, appeals to the
27 prurient interest of minors; and

28 (B) That explicitly depicts or describes, by prevailing standards
29 in the adult community with respect to what is suitable for minors,
30 patently offensive representations or descriptions of:

31 (I) Ultimate sexual acts, normal or perverted, actual or simulated;
32 or

33 (II) Masturbation, fellatio, cunnilingus, bestiality, excretory
34 functions, lewd exhibition of the genitals or genital area, sexually
35 explicit conduct, sexual excitement, or sexually explicit nudity; or

36 (III) Sexual acts that are violent or destructive, including but
37 not limited to human or animal mutilation, dismemberment, rape, or
38 torture; and

1 (C) That, when considered as a whole, and in the context in which
2 it is used, lacks serious literary, artistic, political, or scientific
3 value for minors.

4 (iii) "Knowledge" means knowledge as defined in RCW
5 9A.08.010(1)(b).

6 (iv) "Matter" means a motion picture film, a publication, a sexual
7 device, or any combination thereof.

8 (v) "Minor" means a person under the age of sixteen.

9 (vi) "Motion picture film" means any:

10 (A) Film or plate negative;

11 (B) Film or plate positive;

12 (C) Film designed to be projected on a screen for exhibition;

13 (D) Film, glass slides, or transparencies, either in negative or
14 positive form, designed for exhibition by projection on a screen;

15 (E) Video tape; or

16 (F) Any other medium used to electronically transmit or reproduce
17 images on a screen.

18 (vii) "Person" means any individual, partnership, firm,
19 association, corporation, or other legal entity.

20 (viii) "Person with a developmental disability" means a person with
21 a developmental disability as defined in RCW 71A.10.020.

22 (ix) "Publication" means any book, magazine, article, pamphlet,
23 writing, printing illustration, picture, telephonic communication, or
24 coin-operated machine.

25 (x) "Sexual device" means any artificial device primarily designed,
26 promoted, or marketed to physically stimulate or manipulate the human
27 genitals.

28 **Sec. 2.** RCW 9.94A.320 and 1995 c 385 s 2, 1995 c 285 s 28, and
29 1995 c 129 s 3 (Initiative Measure No. 159) are each reenacted and
30 amended to read as follows:

31 TABLE 2

32 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

33 XV Aggravated Murder 1 (RCW 10.95.020)

34 XIV Murder 1 (RCW 9A.32.030)

35 Homicide by abuse (RCW 9A.32.055)

36 XIII Murder 2 (RCW 9A.32.050)

1 XII Assault 1 (RCW 9A.36.011)
2 Assault of a Child 1 (RCW 9A.36.120)
3 XI Rape 1 (RCW 9A.44.040)
4 Rape of a Child 1 (RCW 9A.44.073)
5 X Kidnapping 1 (RCW 9A.40.020)
6 Rape 2 (RCW 9A.44.050)
7 Rape of a Child 2 (RCW 9A.44.076)
8 Child Molestation 1 (RCW 9A.44.083)
9 Damaging building, etc., by explosion with threat
10 to human being (RCW 70.74.280(1))
11 Over 18 and deliver heroin or narcotic from
12 Schedule I or II to someone under 18 (RCW
13 69.50.406)
14 Leading Organized Crime (RCW 9A.82.060(1)(a))
15 IX Assault of a Child 2 (RCW 9A.36.130)
16 Robbery 1 (RCW 9A.56.200)
17 Manslaughter 1 (RCW 9A.32.060)
18 Explosive devices prohibited (RCW 70.74.180)
19 Indecent Liberties (with forcible compulsion) (RCW
20 9A.44.100(1)(a))
21 Endangering life and property by explosives with
22 threat to human being (RCW 70.74.270)
23 Over 18 and deliver narcotic from Schedule III, IV,
24 or V or a nonnarcotic from Schedule I-V to
25 someone under 18 and 3 years junior (RCW
26 69.50.406)
27 Controlled Substance Homicide (RCW 69.50.415)
28 Sexual Exploitation (RCW 9.68A.040)
29 Inciting Criminal Profiteering (RCW
30 9A.82.060(1)(b))
31 Vehicular Homicide, by being under the influence of
32 intoxicating liquor or any drug (RCW 46.61.520)
33 VIII Arson 1 (RCW 9A.48.020)
34 Promoting Prostitution 1 (RCW 9A.88.070)
35 Selling for profit (controlled or counterfeit) any
36 controlled substance (RCW 69.50.410)

1 Manufacture, deliver, or possess with intent to
2 deliver heroin or cocaine (RCW
3 69.50.401(a)(1)(i))
4 Manufacture, deliver, or possess with intent to
5 deliver methamphetamine (RCW
6 69.50.401(a)(1)(ii))
7 Vehicular Homicide, by the operation of any vehicle
8 in a reckless manner (RCW 46.61.520)
9 VII Burglary 1 (RCW 9A.52.020)
10 Vehicular Homicide, by disregard for the safety of
11 others (RCW 46.61.520)
12 Introducing Contraband 1 (RCW 9A.76.140)
13 Indecent Liberties (without forcible compulsion)
14 (RCW 9A.44.100(1) (b) and (c))
15 Child Molestation 2 (RCW 9A.44.086)
16 Dealing in depictions of minor engaged in sexually
17 explicit conduct (RCW 9.68A.050)
18 Sending, bringing into state depictions of minor
19 engaged in sexually explicit conduct (RCW
20 9.68A.060)
21 Involving a minor in drug dealing (RCW
22 69.50.401(f))
23 Reckless Endangerment 1 (RCW 9A.36.045)
24 Unlawful Possession of a Firearm in the first
25 degree (RCW 9.41.040(1)(a))
26 VI Bribery (RCW 9A.68.010)
27 Manslaughter 2 (RCW 9A.32.070)
28 Rape of a Child 3 (RCW 9A.44.079)
29 Intimidating a Juror/Witness (RCW 9A.72.110,
30 9A.72.130)
31 Damaging building, etc., by explosion with no
32 threat to human being (RCW 70.74.280(2))
33 Endangering life and property by explosives with no
34 threat to human being (RCW 70.74.270)
35 Incest 1 (RCW 9A.64.020(1))
36 Manufacture, deliver, or possess with intent to
37 deliver narcotics from Schedule I or II (except
38 heroin or cocaine) (RCW 69.50.401(a)(1)(i))

1 Intimidating a Judge (RCW 9A.72.160)
2 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
3 Theft of a Firearm (RCW 9A.56.300)
4 V Persistent prison misbehavior (RCW 9.94.---
5 (section 1, chapter 385, Laws of 1995))
6 Criminal Mistreatment 1 (RCW 9A.42.020)
7 Theft of a Firearm (RCW 9A.56.300)
8 Reckless Endangerment 1 (RCW 9A.36.045)
9 Rape 3 (RCW 9A.44.060)
10 Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
11 Child Molestation 3 (RCW 9A.44.089)
12 Kidnapping 2 (RCW 9A.40.030)
13 Extortion 1 (RCW 9A.56.120)
14 Incest 2 (RCW 9A.64.020(2))
15 Perjury 1 (RCW 9A.72.020)
16 Extortionate Extension of Credit (RCW 9A.82.020)
17 Advancing money or property for extortionate
18 extension of credit (RCW 9A.82.030)
19 Extortionate Means to Collect Extensions of Credit
20 (RCW 9A.82.040)
21 Rendering Criminal Assistance 1 (RCW 9A.76.070)
22 Bail Jumping with class A Felony (RCW
23 9A.76.170(2)(b))
24 Sexually Violating Human Remains (RCW 9A.44.105)
25 Delivery of imitation controlled substance by
26 person eighteen or over to person under eighteen
27 (RCW 69.52.030(2))
28 Possession of a Stolen Firearm (RCW 9A.56.---
29 (section 13, chapter 129, Laws of 1995))
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 Commercial Bribery (RCW 9A.68.--- (section 29,
37 chapter 285, Laws of 1995))
38 Bribing a Witness/Bribe Received by Witness (RCW
39 9A.72.090, 9A.72.100)

1 Malicious Harassment (RCW 9A.36.080)
2 Threats to Bomb (RCW 9.61.160)
3 Willful Failure to Return from Furlough (RCW
4 72.66.060)
5 Hit and Run « Injury Accident (RCW 46.52.020(4))
6 Vehicular Assault (RCW 46.61.522)
7 Manufacture, deliver, or possess with intent to
8 deliver narcotics from Schedule III, IV, or V or
9 nonnarcotics from Schedule I-V (except marijuana
10 or methamphetamines) (RCW 69.50.401(a)(1)(ii)
11 through (iv))
12 Influencing Outcome of Sporting Event (RCW
13 9A.82.070)
14 Use of Proceeds of Criminal Profiteering (RCW
15 9A.82.080 (1) and (2))
16 Knowingly Trafficking in Stolen Property (RCW
17 9A.82.050(2))
18 III Criminal Mistreatment 2 (RCW 9A.42.030)
19 Extortion 2 (RCW 9A.56.130)
20 Unlawful Imprisonment (RCW 9A.40.040)
21 Assault 3 (RCW 9A.36.031)
22 Assault of a Child 3 (RCW 9A.36.140)
23 Luring (RCW 9A.40.090)
24 Custodial Assault (RCW 9A.36.100)
25 Unlawful possession of firearm in the second degree
26 (RCW 9.41.040(1)(b))
27 Harassment (RCW 9A.46.020)
28 Promoting Prostitution 2 (RCW 9A.88.080)
29 Willful Failure to Return from Work Release (RCW
30 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 Purposes
34 (RCW 9.68A.090)
35 Patronizing a Juvenile Prostitute (RCW 9.68A.100)
36 Escape 2 (RCW 9A.76.120)
37 Perjury 2 (RCW 9A.72.030)
38 Bail Jumping with class B or C Felony (RCW
39 9A.76.170(2)(c))

1 Intimidating a Public Servant (RCW 9A.76.180)
2 Tampering with a Witness (RCW 9A.72.120)
3 Manufacture, deliver, or possess with intent to
4 deliver marijuana (RCW 69.50.401(a)(1)(ii))
5 Delivery of a material in lieu of a controlled
6 substance (RCW 69.50.401(c))
7 Manufacture, distribute, or possess with intent to
8 distribute an imitation controlled substance
9 (RCW 69.52.030(1))
10 Recklessly Trafficking in Stolen Property (RCW
11 9A.82.050(1))
12 Theft of livestock 2 (RCW 9A.56.080)
13 Securities Act violation (RCW 21.20.400)
14 II Unlawful Practice of Law (RCW 2.48.180)
15 Malicious Mischief 1 (RCW 9A.48.070)
16 Possession of Stolen Property 1 (RCW 9A.56.150)
17 Theft 1 (RCW 9A.56.030)
18 Trafficking in Insurance Claims (section 3, chapter
19 285, Laws of 1995)
20 Unlicensed Practice of a Profession or Business
21 (RCW 18.130.190(7))
22 Health Care False Claims (RCW 48.80.030)
23 Possession of controlled substance that is either
24 heroin or narcotics from Schedule I or II (RCW
25 69.50.401(d))
26 Possession of phencyclidine (PCP) (RCW
27 69.50.401(d))
28 Create, deliver, or possess a counterfeit
29 controlled substance (RCW 69.50.401(b))
30 Computer Trespass 1 (RCW 9A.52.110)
31 Escape from Community Custody (RCW 72.09.310)
32 I Theft 2 (RCW 9A.56.040)
33 Possession of Stolen Property 2 (RCW 9A.56.160)
34 Forgery (RCW 9A.60.020)
35 Taking Motor Vehicle Without Permission (RCW
36 9A.56.070)
37 Vehicle Prowl 1 (RCW 9A.52.095)
38 Attempting to Elude a Pursuing Police Vehicle (RCW
39 46.61.024)

1 Malicious Mischief 2 (RCW 9A.48.080)
2 Reckless Burning 1 (RCW 9A.48.040)
3 Unlawful Issuance of Checks or Drafts (RCW
4 9A.56.060)
5 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and
6 (3))
7 False Verification for Welfare (RCW 74.08.055)
8 Forged Prescription (RCW 69.41.020)
9 Forged Prescription for a Controlled Substance (RCW
10 69.50.403)
11 Possess Controlled Substance that is a Narcotic
12 from Schedule III, IV, or V or Non-narcotic from
13 Schedule I-V (except phencyclidine) (RCW
14 69.50.401(d))

--- END ---