

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5695

Chapter 235, Laws of 1998

55th Legislature
1998 Regular Session

CRIMES INVOLVING FIREARMS--INCREASING PENALTIES

EFFECTIVE DATE: 6/11/98

Passed by the Senate February 9, 1998
YEAS 42 NAYS 7

BRAD OWEN

President of the Senate

Passed by the House March 4, 1998
YEAS 96 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 30, 1998

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5695** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

March 30, 1998 - 3:14 p.m.

**Secretary of State
State of Washington**

1	XIII	14y4m	15y4m	16y2m	17y	17y11m	18y9m	20y5m	22y2m	25y7m	29y
2		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
3		220	234	244	254	265	275	295	316	357	397
4											
5	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
6		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
7		123	136	147	160	171	184	216	236	277	318
8											
9	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
10		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
11		102	114	125	136	147	158	194	211	245	280
12											
13	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
14		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
15		68	75	82	89	96	102	130	144	171	198
16											
17	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
18		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
19		41	48	54	61	68	75	102	116	144	171
20											
21	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
22		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
23		27	34	41	48	54	61	89	102	116	144
24											
25	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
26		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
27		20	27	34	41	48	54	75	89	102	116
28											
29	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
30		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
31		14	20	27	34	41	48	61	75	89	102
32											
33	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
34		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
35		12	14	17	20	29	43	54	68	82	96
36											
37	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
38		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
39		9	12	14	17	20	29	43	57	70	84

1											
2	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
3		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
4		3	8	12	12	16	22	29	43	57	68
5											
6	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
7		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
8		Days	6	9	12	14	18	22	29	43	57
9											
10	I			3m	4m	5m	8m	13m	16m	20m	2y2m
11		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
12		Days	Days	5	6	8	12	14	18	22	29
13											

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

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

24 (3) The following additional times shall be added to the
25 presumptive sentence for felony crimes committed after July 23, 1995,
26 if the offender or an accomplice was armed with a firearm as defined in
27 RCW 9.41.010 and the offender is being sentenced for one of the crimes
28 listed in this subsection as eligible for any firearm enhancements
29 based on the classification of the completed felony crime. If the
30 offender is being sentenced for more than one offense, the firearm
31 enhancement or enhancements must be added to the total period of
32 confinement for all offenses, regardless of which underlying offense is
33 subject to a firearm enhancement. If the offender or an accomplice was
34 armed with a firearm as defined in RCW 9.41.010 and the offender is
35 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
36 commit one of the crimes listed in this subsection as eligible for any
37 firearm enhancements, the following additional times shall be added to
38 the presumptive sentence determined under subsection (2) of this

1 section based on the felony crime of conviction as classified under RCW
2 9A.28.020:

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

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

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

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

19 (e) Notwithstanding any other provision of law, any and all
20 firearm enhancements under this section are mandatory, shall be served
21 in total confinement, and shall ((not)) run ((concurrently with any))
22 consecutively to all other sentencing provisions, including other
23 firearm or deadly weapon enhancements, for all offenses sentenced under
24 this chapter.

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

30 (g) If the presumptive sentence under this section exceeds the
31 statutory maximum for the offense, the statutory maximum sentence shall
32 be the presumptive sentence unless the offender is a persistent
33 offender as defined in RCW 9.94A.030. If the addition of a firearm
34 enhancement increases the sentence so that it would exceed the
35 statutory maximum for the offense, the portion of the sentence
36 representing the enhancement may not be reduced.

37 (4) The following additional times shall be added to the
38 presumptive sentence for felony crimes committed after July 23, 1995,
39 if the offender or an accomplice was armed with a deadly weapon as

1 defined in this chapter other than a firearm as defined in RCW 9.41.010
2 and the offender is being sentenced for one of the crimes listed in
3 this subsection as eligible for any deadly weapon enhancements based on
4 the classification of the completed felony crime. If the offender is
5 being sentenced for more than one offense, the deadly weapon
6 enhancement or enhancements must be added to the total period of
7 confinement for all offenses, regardless of which underlying offense is
8 subject to a deadly weapon enhancement. If the offender or an
9 accomplice was armed with a deadly weapon other than a firearm as
10 defined in RCW 9.41.010 and the offender is being sentenced for an
11 anticipatory offense under chapter 9A.28 RCW to commit one of the
12 crimes listed in this subsection as eligible for any deadly weapon
13 enhancements, the following additional times shall be added to the
14 presumptive sentence determined under subsection (2) of this section
15 based on the felony crime of conviction as classified under RCW
16 9A.28.020:

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

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

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

26 (d) If the offender is being sentenced under (a), (b), and/or (c)
27 of this subsection for any deadly weapon enhancements and the offender
28 has previously been sentenced for any deadly weapon enhancements after
29 July 23, 1995, under (a), (b), and/or (c) of this subsection or
30 subsection (3)(a), (b), and/or (c) of this section, or both, any and
31 all deadly weapon enhancements under this subsection shall be twice the
32 amount of the enhancement listed.

33 (e) Notwithstanding any other provision of law, any and all deadly
34 weapon enhancements under this section are mandatory, shall be served
35 in total confinement, and shall ((not)) run ((concurrently with any))
36 consecutively to all other sentencing provisions, including other
37 firearm or deadly weapon enhancements, for all offenses sentenced under
38 this chapter.

1 (f) The deadly weapon enhancements in this section shall apply to
2 all felony crimes except the following: Possession of a machine gun,
3 possessing a stolen firearm, drive-by shooting, theft of a firearm,
4 unlawful possession of a firearm in the first and second degree, and
5 use of a machine gun in a felony.

6 (g) If the presumptive sentence under this section exceeds the
7 statutory maximum for the offense, the statutory maximum sentence shall
8 be the presumptive sentence unless the offender is a persistent
9 offender as defined in RCW 9.94A.030. If the addition of a deadly
10 weapon enhancement increases the sentence so that it would exceed the
11 statutory maximum for the offense, the portion of the sentence
12 representing the enhancement may not be reduced.

13 (5) The following additional times shall be added to the
14 presumptive sentence if the offender or an accomplice committed the
15 offense while in a county jail or state correctional facility as that
16 term is defined in this chapter and the offender is being sentenced for
17 one of the crimes listed in this subsection. If the offender or an
18 accomplice committed one of the crimes listed in this subsection while
19 in a county jail or state correctional facility as that term is defined
20 in this chapter, and the offender is being sentenced for an
21 anticipatory offense under chapter 9A.28 RCW to commit one of the
22 crimes listed in this subsection, the following additional times shall
23 be added to the presumptive sentence determined under subsection (2) of
24 this section:

25 (a) Eighteen months for offenses committed under RCW
26 69.50.401(a)(1) (i) or (ii) or 69.50.410;

27 (b) Fifteen months for offenses committed under RCW
28 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

36 **Sec. 2.** RCW 9.94A.400 and 1996 c 199 s 3 are each amended to read
37 as follows:

1 (1)(a) Except as provided in (b) or (c) of this subsection,
2 whenever a person is to be sentenced for two or more current offenses,
3 the sentence range for each current offense shall be determined by
4 using all other current and prior convictions as if they were prior
5 convictions for the purpose of the offender score: PROVIDED, That if
6 the court enters a finding that some or all of the current offenses
7 encompass the same criminal conduct then those current offenses shall
8 be counted as one crime. Sentences imposed under this subsection shall
9 be served concurrently. Consecutive sentences may only be imposed
10 under the exceptional sentence provisions of RCW 9.94A.120 and
11 9.94A.390(2)((+f+)) (g) or any other provision of RCW 9.94A.390. "Same
12 criminal conduct," as used in this subsection, means two or more crimes
13 that require the same criminal intent, are committed at the same time
14 and place, and involve the same victim. This definition applies in
15 cases involving vehicular assault or vehicular homicide even if the
16 victims occupied the same vehicle.

17 (b) Whenever a person is convicted of two or more serious violent
18 offenses, as defined in RCW 9.94A.030, arising from separate and
19 distinct criminal conduct, the sentence range for the offense with the
20 highest seriousness level under RCW 9.94A.320 shall be determined using
21 the offender's prior convictions and other current convictions that are
22 not serious violent offenses in the offender score and the sentence
23 range for other serious violent offenses shall be determined by using
24 an offender score of zero. The sentence range for any offenses that
25 are not serious violent offenses shall be determined according to (a)
26 of this subsection. All sentences imposed under (b) of this subsection
27 shall be served consecutively to each other and concurrently with
28 sentences imposed under (a) of this subsection.

29 (c) If an offender is convicted under RCW 9.41.040 for unlawful
30 possession of a firearm in the first or second degree and for the
31 felony crimes of theft of a firearm or possession of a stolen firearm,
32 or both, then the offender shall serve consecutive sentences for each
33 conviction of the felony crimes listed in this subsection, and for each
34 firearm unlawfully possessed.

35 (2)(a) Except as provided in (b) of this subsection, whenever a
36 person while under sentence of felony commits another felony and is
37 sentenced to another term of confinement, the latter term shall not
38 begin until expiration of all prior terms.

1 (b) Whenever a second or later felony conviction results in
2 community supervision with conditions not currently in effect, under
3 the prior sentence or sentences of community supervision the court may
4 require that the conditions of community supervision contained in the
5 second or later sentence begin during the immediate term of community
6 supervision and continue throughout the duration of the consecutive
7 term of community supervision.

8 (3) Subject to subsections (1) and (2) of this section, whenever
9 a person is sentenced for a felony that was committed while the person
10 was not under sentence of a felony, the sentence shall run concurrently
11 with any felony sentence which has been imposed by any court in this or
12 another state or by a federal court subsequent to the commission of the
13 crime being sentenced unless the court pronouncing the current sentence
14 expressly orders that they be served consecutively.

15 (4) Whenever any person granted probation under RCW 9.95.210 or
16 9.92.060, or both, has the probationary sentence revoked and a prison
17 sentence imposed, that sentence shall run consecutively to any sentence
18 imposed pursuant to this chapter, unless the court pronouncing the
19 subsequent sentence expressly orders that they be served concurrently.

20 (5) However, in the case of consecutive sentences, all periods of
21 total confinement shall be served before any partial confinement,
22 community service, community supervision, or any other requirement or
23 conditions of any of the sentences. Except for exceptional sentences
24 as authorized under RCW 9.94A.120(2), if two or more sentences that run
25 consecutively include periods of community supervision, the aggregate
26 of the community supervision period shall not exceed twenty-four
27 months.

28 **Sec. 3.** RCW 9.94A.420 and 1983 c 115 s 13 are each amended to
29 read as follows:

30 If the presumptive sentence duration given in the sentencing grid
31 exceeds the statutory maximum sentence for the offense, the statutory
32 maximum sentence shall be the presumptive sentence. If the addition of
33 a firearm or deadly weapon enhancement increases the sentence so that
34 it would exceed the statutory maximum for the offense, the portion of
35 the sentence representing the enhancement may not be reduced.

Passed the Senate February 9, 1998.

Passed the House March 4, 1998.

Approved by the Governor March 30, 1998.

Filed in Office of Secretary of State March 30, 1998.