
HOUSE BILL 2602

State of Washington 56th Legislature 2000 Regular Session

By Representatives Morris, Cooper, Reardon and O'Brien

Read first time . Referred to Committee on .

1 AN ACT Relating to enhancing the penalties for crimes against law
2 enforcement officers; amending RCW 9.94A.390, 9A.36.031, 9A.48.070, and
3 9A.48.080; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.390 and 1999 c 330 s 1 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 defendant knew that the victim of the current offense was
29 a law enforcement officer.

30 (d) The current offense was a violent offense, and the defendant
31 knew that the victim of the current offense was pregnant.

32 (~~(d)~~) (e) The current offense was a major economic offense or
33 series of offenses, so identified by a consideration of any of the
34 following factors:

35 (i) The current offense involved multiple victims or multiple
36 incidents per victim;

37 (ii) The current offense involved attempted or actual monetary loss
38 substantially greater than typical for the offense;

1 (iii) The current offense involved a high degree of sophistication
2 or planning or occurred over a lengthy period of time; or

3 (iv) The defendant used his or her position of trust, confidence,
4 or fiduciary responsibility to facilitate the commission of the current
5 offense.

6 ~~((e))~~ (f) The current offense was a major violation of the
7 Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related
8 to trafficking in controlled substances, which was more onerous than
9 the typical offense of its statutory definition: The presence of ANY
10 of the following may identify a current offense as a major VUCSA:

11 (i) The current offense involved at least three separate
12 transactions in which controlled substances were sold, transferred, or
13 possessed with intent to do so;

14 (ii) The current offense involved an attempted or actual sale or
15 transfer of controlled substances in quantities substantially larger
16 than for personal use;

17 (iii) The current offense involved the manufacture of controlled
18 substances for use by other parties;

19 (iv) The circumstances of the current offense reveal the offender
20 to have occupied a high position in the drug distribution hierarchy;

21 (v) The current offense involved a high degree of sophistication or
22 planning or occurred over a lengthy period of time or involved a broad
23 geographic area of disbursement; or

24 (vi) The offender used his or her position or status to facilitate
25 the commission of the current offense, including positions of trust,
26 confidence or fiduciary responsibility (e.g., pharmacist, physician, or
27 other medical professional).

28 ~~((f))~~ (g) The current offense included a finding of sexual
29 motivation pursuant to RCW 9.94A.127.

30 ~~((g))~~ (h) The offense was part of an ongoing pattern of sexual
31 abuse of the same victim under the age of eighteen years manifested by
32 multiple incidents over a prolonged period of time.

33 ~~((h))~~ (i) The current offense involved domestic violence, as
34 defined in RCW 10.99.020 and one or more of the following was present:

35 (i) The offense was part of an ongoing pattern of psychological,
36 physical, or sexual abuse of the victim manifested by multiple
37 incidents over a prolonged period of time;

38 (ii) The offense occurred within sight or sound of the victim's or
39 the offender's minor children under the age of eighteen years; or

1 (iii) The offender's conduct during the commission of the current
2 offense manifested deliberate cruelty or intimidation of the victim.

3 (~~(i)~~) (j) The operation of the multiple offense policy of RCW
4 9.94A.400 results in a presumptive sentence that is clearly too lenient
5 in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

6 (~~(j)~~) (k) The defendant's prior unscored misdemeanor or prior
7 unscored foreign criminal history results in a presumptive sentence
8 that is clearly too lenient in light of the purpose of this chapter as
9 expressed in RCW 9.94A.010.

10 (~~(k)~~) (l) The offense resulted in the pregnancy of a child victim
11 of rape.

12 (~~(l)~~) (m) The defendant knew that the victim of the current
13 offense was a youth who was not residing with a legal custodian and the
14 defendant established or promoted the relationship for the primary
15 purpose of victimization.

16 **Sec. 2.** RCW 9A.36.031 and 1999 c 328 s 1 are each amended to read
17 as follows:

18 (1) A person is guilty of assault in the third degree if he or she,
19 under circumstances not amounting to assault in the first or second
20 degree:

21 (a) With intent to prevent or resist the execution of any lawful
22 process or mandate of any court officer or the lawful apprehension or
23 detention of himself or another person, assaults another; or

24 (b) Assaults a person employed as a transit operator or driver, the
25 immediate supervisor of a transit operator or driver, a mechanic, or a
26 security officer, by a public or private transit company or a
27 contracted transit service provider, while that person is performing
28 his or her official duties at the time of the assault; or

29 (c) Assaults a school bus driver, the immediate supervisor of a
30 driver, a mechanic, or a security officer, employed by a school
31 district transportation service or a private company under contract for
32 transportation services with a school district, while the person is
33 performing his or her official duties at the time of the assault; or

34 (d) With criminal negligence, causes bodily harm to another person
35 by means of a weapon or other instrument or thing likely to produce
36 bodily harm; or

37 (e) Assaults a fire fighter or other employee of a fire department,
38 county fire marshal's office, county fire prevention bureau, or fire

1 protection district who was performing his or her official duties at
2 the time of the assault; or

3 (f) With criminal negligence, causes bodily harm accompanied by
4 substantial pain that extends for a period sufficient to cause
5 considerable suffering; or

6 (g) Assaults a law enforcement officer or other employee of a law
7 enforcement agency who was performing his or her official duties at the
8 time of the assault; or

9 (h) Assaults a person knowing the person is a law enforcement
10 officer; or

11 (i) Assaults a nurse, physician, or health care provider who was
12 performing his or her nursing or health care duties at the time of the
13 assault. For purposes of this subsection: "Nurse" means a person
14 licensed under chapter 18.79 RCW; "physician" means a person licensed
15 under chapter 18.57 or 18.71 RCW; and "health care provider" means a
16 person certified under chapter 18.71 or 18.73 RCW who performs
17 emergency medical services or a person regulated under Title 18 RCW and
18 employed by, or contracting with, a hospital licensed under chapter
19 70.41 RCW.

20 (2) Assault in the third degree is a class C felony.

21 **Sec. 3.** RCW 9A.48.070 and 1983 1st ex.s. c 4 s 1 are each amended
22 to read as follows:

23 (1) A person is guilty of malicious mischief in the first degree if
24 he knowingly and maliciously:

25 (a) Causes physical damage to the property of another in an amount
26 exceeding one thousand five hundred dollars, except as provided in (b)
27 of this subsection;

28 (b) Causes physical damage to the property of another person,
29 knowing the person is a law enforcement officer, in an amount exceeding
30 two hundred fifty dollars;

31 (c) Causes an interruption or impairment of service rendered to the
32 public by physically damaging or tampering with an emergency vehicle or
33 property of the state, a political subdivision thereof, or a public
34 utility or mode of public transportation, power, or communication; or

35 ~~((e))~~ (d) Causes an impairment of the safety, efficiency, or
36 operation of an aircraft by physically damaging or tampering with the
37 aircraft or aircraft equipment, fuel, lubricant, or parts.

38 (2) Malicious mischief in the first degree is a class B felony.

1 **Sec. 4.** RCW 9A.48.080 and 1994 c 261 s 17 are each amended to read
2 as follows:

3 (1) A person is guilty of malicious mischief in the second degree
4 if he or she knowingly and maliciously:

5 (a) Causes physical damage to the property of another in an amount
6 exceeding two hundred fifty dollars(~~(or~~
7 ~~(b))~~), except as provided in (b) of this subsection;

8 (b) Causes physical damage to the property of another person,
9 knowing the person is a law enforcement officer, in an amount less than
10 two hundred fifty dollars; or

11 (c) Creates a substantial risk of interruption or impairment of
12 service rendered to the public, by physically damaging or tampering
13 with an emergency vehicle or property of the state, a political
14 subdivision thereof, or a public utility or mode of public
15 transportation, power, or communication.

16 (2) Malicious mischief in the second degree is a class C felony.

--- END ---