

CERTIFICATION OF ENROLLMENT

SENATE BILL 5711

Chapter 116, Laws of 2007

60th Legislature
2007 Regular Session

OFFENDER SCORE--INTOXICATING LIQUOR--DRUGS

EFFECTIVE DATE: 07/01/07

Passed by the Senate March 10, 2007
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 4, 2007
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 18, 2007, 11:04 a.m.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5711** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 18, 2007

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 5711

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senators Parlette, Delvin and Shin

Read first time 01/29/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to the offender score for offenses concerning the
2 influence of intoxicating liquor or any drug; reenacting and amending
3 RCW 9.94A.525; providing an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 9.94A.525 and 2006 c 128 s 6 and 2006 c 73 s 7 are
6 each reenacted and amended to read as follows:

7 The offender score is measured on the horizontal axis of the
8 sentencing grid. The offender score rules are as follows:

9 The offender score is the sum of points accrued under this section
10 rounded down to the nearest whole number.

11 (1) A prior conviction is a conviction which exists before the date
12 of sentencing for the offense for which the offender score is being
13 computed. Convictions entered or sentenced on the same date as the
14 conviction for which the offender score is being computed shall be
15 deemed "other current offenses" within the meaning of RCW 9.94A.589.

16 (2)(a) Class A and sex prior felony convictions shall always be
17 included in the offender score.

18 (b) Class B prior felony convictions other than sex offenses shall
19 not be included in the offender score, if since the last date of

1 release from confinement (including full-time residential treatment)
2 pursuant to a felony conviction, if any, or entry of judgment and
3 sentence, the offender had spent ten consecutive years in the community
4 without committing any crime that subsequently results in a conviction.

5 (c) Except as provided in (e) of this subsection, class C prior
6 felony convictions other than sex offenses shall not be included in the
7 offender score if, since the last date of release from confinement
8 (including full-time residential treatment) pursuant to a felony
9 conviction, if any, or entry of judgment and sentence, the offender had
10 spent five consecutive years in the community without committing any
11 crime that subsequently results in a conviction.

12 (d) Except as provided in (e) of this subsection, serious traffic
13 convictions shall not be included in the offender score if, since the
14 last date of release from confinement (including full-time residential
15 treatment) pursuant to a felony conviction, if any, or entry of
16 judgment and sentence, the offender spent five years in the community
17 without committing any crime that subsequently results in a conviction.

18 (e) If the present conviction is felony driving while under the
19 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
20 felony physical control of a vehicle while under the influence of
21 intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions
22 of felony driving while under the influence of intoxicating liquor or
23 any drug, felony physical control of a vehicle while under the
24 influence of intoxicating liquor or any drug, and serious traffic
25 offenses shall be included in the offender score if: (i) The prior
26 convictions were committed within five years since the last date of
27 release from confinement (including full-time residential treatment) or
28 entry of judgment and sentence; or (ii) the prior convictions would be
29 considered "prior offenses within ten years" as defined in RCW
30 46.61.5055.

31 (f) This subsection applies to both adult and juvenile prior
32 convictions.

33 (3) Out-of-state convictions for offenses shall be classified
34 according to the comparable offense definitions and sentences provided
35 by Washington law. Federal convictions for offenses shall be
36 classified according to the comparable offense definitions and
37 sentences provided by Washington law. If there is no clearly
38 comparable offense under Washington law or the offense is one that is

1 usually considered subject to exclusive federal jurisdiction, the
2 offense shall be scored as a class C felony equivalent if it was a
3 felony under the relevant federal statute.

4 (4) Score prior convictions for felony anticipatory offenses
5 (attempts, criminal solicitations, and criminal conspiracies) the same
6 as if they were convictions for completed offenses.

7 (5)(a) In the case of multiple prior convictions, for the purpose
8 of computing the offender score, count all convictions separately,
9 except:

10 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to
11 encompass the same criminal conduct, shall be counted as one offense,
12 the offense that yields the highest offender score. The current
13 sentencing court shall determine with respect to other prior adult
14 offenses for which sentences were served concurrently or prior juvenile
15 offenses for which sentences were served consecutively, whether those
16 offenses shall be counted as one offense or as separate offenses using
17 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and
18 if the court finds that they shall be counted as one offense, then the
19 offense that yields the highest offender score shall be used. The
20 current sentencing court may presume that such other prior offenses
21 were not the same criminal conduct from sentences imposed on separate
22 dates, or in separate counties or jurisdictions, or in separate
23 complaints, indictments, or informations;

24 (ii) In the case of multiple prior convictions for offenses
25 committed before July 1, 1986, for the purpose of computing the
26 offender score, count all adult convictions served concurrently as one
27 offense, and count all juvenile convictions entered on the same date as
28 one offense. Use the conviction for the offense that yields the
29 highest offender score.

30 (b) As used in this subsection (5), "served concurrently" means
31 that: (i) The latter sentence was imposed with specific reference to
32 the former; (ii) the concurrent relationship of the sentences was
33 judicially imposed; and (iii) the concurrent timing of the sentences
34 was not the result of a probation or parole revocation on the former
35 offense.

36 (6) If the present conviction is one of the anticipatory offenses
37 of criminal attempt, solicitation, or conspiracy, count each prior

1 conviction as if the present conviction were for a completed offense.
2 When these convictions are used as criminal history, score them the
3 same as a completed crime.

4 (7) If the present conviction is for a nonviolent offense and not
5 covered by subsection (11) ~~((~~9~~))~~, (12), or (13) of this section, count
6 one point for each adult prior felony conviction and one point for each
7 juvenile prior violent felony conviction and 1/2 point for each
8 juvenile prior nonviolent felony conviction.

9 (8) If the present conviction is for a violent offense and not
10 covered in subsection (9), (10), (11), ~~((~~9~~))~~, (12), or (13) of this
11 section, count two points for each prior adult and juvenile violent
12 felony conviction, one point for each prior adult nonviolent felony
13 conviction, and 1/2 point for each prior juvenile nonviolent felony
14 conviction.

15 (9) If the present conviction is for a serious violent offense,
16 count three points for prior adult and juvenile convictions for crimes
17 in this category, two points for each prior adult and juvenile violent
18 conviction (not already counted), one point for each prior adult
19 nonviolent felony conviction, and 1/2 point for each prior juvenile
20 nonviolent felony conviction.

21 (10) If the present conviction is for Burglary 1, count prior
22 convictions as in subsection (8) of this section; however count two
23 points for each prior adult Burglary 2 or residential burglary
24 conviction, and one point for each prior juvenile Burglary 2 or
25 residential burglary conviction.

26 (11) If the present conviction is for a felony traffic offense
27 count two points for each adult or juvenile prior conviction for
28 Vehicular Homicide or Vehicular Assault; for each felony offense count
29 one point for each adult and 1/2 point for each juvenile prior
30 conviction; for each serious traffic offense, other than those used for
31 an enhancement pursuant to RCW 46.61.520(2), count one point for each
32 adult and 1/2 point for each juvenile prior conviction; count one point
33 for each adult and 1/2 point for each juvenile prior conviction for
34 operation of a vessel while under the influence of intoxicating liquor
35 or any drug.

36 (12) If the present conviction is for homicide by watercraft or
37 assault by watercraft count two points for each adult or juvenile prior
38 conviction for homicide by watercraft or assault by watercraft; for

1 each felony offense count one point for each adult and 1/2 point for
2 each juvenile prior conviction; count one point for each adult and 1/2
3 point for each juvenile prior conviction for driving under the
4 influence of intoxicating liquor or any drug, actual physical control
5 of a motor vehicle while under the influence of intoxicating liquor or
6 any drug, or operation of a vessel while under the influence of
7 intoxicating liquor or any drug.

8 (13) If the present conviction is for manufacture of
9 methamphetamine count three points for each adult prior manufacture of
10 methamphetamine conviction and two points for each juvenile manufacture
11 of methamphetamine offense. If the present conviction is for a drug
12 offense and the offender has a criminal history that includes a sex
13 offense or serious violent offense, count three points for each adult
14 prior felony drug offense conviction and two points for each juvenile
15 drug offense. All other adult and juvenile felonies are scored as in
16 subsection (8) of this section if the current drug offense is violent,
17 or as in subsection (7) of this section if the current drug offense is
18 nonviolent.

19 ((+13+)) (14) If the present conviction is for Escape from
20 Community Custody, RCW 72.09.310, count only prior escape convictions
21 in the offender score. Count adult prior escape convictions as one
22 point and juvenile prior escape convictions as 1/2 point.

23 ((+14+)) (15) If the present conviction is for Escape 1, RCW
24 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as
25 one point and juvenile prior convictions as 1/2 point.

26 ((+15+)) (16) If the present conviction is for Burglary 2 or
27 residential burglary, count priors as in subsection (7) of this
28 section; however, count two points for each adult and juvenile prior
29 Burglary 1 conviction, two points for each adult prior Burglary 2 or
30 residential burglary conviction, and one point for each juvenile prior
31 Burglary 2 or residential burglary conviction.

32 ((+16+)) (17) If the present conviction is for a sex offense, count
33 priors as in subsections (7) through ((+15+)) (11) and (13) through
34 (16) of this section; however count three points for each adult and
35 juvenile prior sex offense conviction.

36 ((+17+)) (18) If the present conviction is for failure to register
37 as a sex offender under RCW 9A.44.130(10), count priors as in
38 subsections (7) through ((+15+)) (11) and (13) through (16) of this

1 section; however count three points for each adult and juvenile prior
2 sex offense conviction, excluding prior convictions for failure to
3 register as a sex offender under RCW 9A.44.130(10), which shall count
4 as one point.

5 ~~((18))~~ (19) If the present conviction is for an offense committed
6 while the offender was under community placement, add one point.

7 ~~((19))~~ (20) The fact that a prior conviction was not included in
8 an offender's offender score or criminal history at a previous
9 sentencing shall have no bearing on whether it is included in the
10 criminal history or offender score for the current offense.
11 Accordingly, prior convictions that were not counted in the offender
12 score or included in criminal history under repealed or previous
13 versions of the sentencing reform act shall be included in criminal
14 history and shall count in the offender score if the current version of
15 the sentencing reform act requires including or counting those
16 convictions.

17 NEW SECTION. **Sec. 2.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 July 1, 2007.

Passed by the Senate March 10, 2007.
Passed by the House April 4, 2007.
Approved by the Governor April 18, 2007.
Filed in Office of Secretary of State April 18, 2007.