
HOUSE BILL 1555

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Kirby, Orwall, Miloscia, Blake, and Smith

Read first time 01/25/11. Referred to Committee on Judiciary.

1 AN ACT Relating to vehicular homicide sentences; amending RCW
2 9.94A.589; reenacting and amending RCW 9.94A.515; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 9.94A.589 and 2002 c 175 s 7 are each amended to read
6 as follows:

7 (1)(a) Except as provided in (b) (~~(c)~~), (c), or (d) of this
8 subsection, whenever a person is to be sentenced for two or more
9 current offenses, the sentence range for each current offense shall be
10 determined by using all other current and prior convictions as if they
11 were prior convictions for the purpose of the offender score:
12 PROVIDED, That if the court enters a finding that some or all of the
13 current offenses encompass the same criminal conduct then those current
14 offenses shall be counted as one crime. Sentences imposed under this
15 subsection shall be served concurrently. Consecutive sentences may
16 only be imposed under the exceptional sentence provisions of RCW
17 9.94A.535. "Same criminal conduct," as used in this subsection, means
18 two or more crimes that require the same criminal intent, are committed

1 at the same time and place, and involve the same victim. This
2 definition applies in cases involving vehicular assault or vehicular
3 homicide even if the victims occupied the same vehicle.

4 (b) Whenever a person is convicted of two or more serious violent
5 offenses arising from separate and distinct criminal conduct, the
6 standard sentence range for the offense with the highest seriousness
7 level under RCW 9.94A.515 shall be determined using the offender's
8 prior convictions and other current convictions that are not serious
9 violent offenses in the offender score and the standard sentence range
10 for other serious violent offenses shall be determined by using an
11 offender score of zero. The standard sentence range for any offenses
12 that are not serious violent offenses shall be determined according to
13 (a) of this subsection. All sentences imposed under ~~((b) of)~~ this
14 subsection (1)(b) shall be served consecutively to each other and
15 concurrently with sentences imposed under (a) of this subsection.

16 (c) If an offender is convicted under RCW 9.41.040 for unlawful
17 possession of a firearm in the first or second degree and for the
18 felony crimes of theft of a firearm or possession of a stolen firearm,
19 or both, the standard sentence range for each of these current offenses
20 shall be determined by using all other current and prior convictions,
21 except other current convictions for the felony crimes listed in this
22 subsection (1)(c), as if they were prior convictions. The offender
23 shall serve consecutive sentences for each conviction of the felony
24 crimes listed in this subsection (1)(c), and for each firearm
25 unlawfully possessed.

26 (d) Whenever a person is convicted of two or more counts of
27 vehicular homicide, the standard sentence range for the first count
28 shall be determined using the offender's prior convictions and other
29 current convictions that are not vehicular homicide in the offender
30 score and the standard sentence range for other counts of vehicular
31 homicide shall be determined by using an offender score of zero. The
32 standard sentence range for any offenses that are not vehicular
33 homicide shall be determined according to (a) of this subsection. All
34 sentences imposed under this subsection (1)(d) shall be served
35 consecutively to each other and concurrently with sentences imposed
36 under (a) of this subsection.

37 (2)(a) Except as provided in (b) of this subsection, whenever a

1 person while under sentence for conviction of a felony commits another
2 felony and is sentenced to another term of confinement, the latter term
3 shall not begin until expiration of all prior terms.

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

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

19 (4) Whenever any person granted probation under RCW 9.95.210 or
20 9.92.060, or both, has the probationary sentence revoked and a prison
21 sentence imposed, that sentence shall run consecutively to any sentence
22 imposed pursuant to this chapter, unless the court pronouncing the
23 subsequent sentence expressly orders that they be served concurrently.

24 (5) In the case of consecutive sentences, all periods of total
25 confinement shall be served before any partial confinement, community
26 restitution, community supervision, or any other requirement or
27 conditions of any of the sentences. Except for exceptional sentences
28 as authorized under RCW 9.94A.535, if two or more sentences that run
29 consecutively include periods of community supervision, the aggregate
30 of the community supervision period shall not exceed twenty-four
31 months.

32 **Sec. 2.** RCW 9.94A.515 and 2010 c 289 s 11 and 2010 c 227 s 9 are
33 each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

| | |
|------|--|
| XVI | Aggravated Murder 1 (RCW 10.95.020) |
| XV | Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030) |
| XIV | Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1)) |
| XIII | Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1)) |
| XII | Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2)) |
| XI | Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) <u>Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)</u> <u>Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)</u> |
| X | Child Molestation 1 (RCW 9A.44.083) Criminal Mistreatment 1 (RCW 9A.42.020) |

1 Indecent Liberties (with forcible
2 compulsion) (RCW
3 9A.44.100(1)(a))
4 Kidnapping 1 (RCW 9A.40.020)
5 Leading Organized Crime (RCW
6 9A.82.060(1)(a))
7 Malicious explosion 3 (RCW
8 70.74.280(3))
9 Sexually Violent Predator Escape
10 (RCW 9A.76.115)
11 IX Abandonment of Dependent Person 1
12 (RCW 9A.42.060)
13 Assault of a Child 2 (RCW 9A.36.130)
14 Explosive devices prohibited (RCW
15 70.74.180)
16 Hit and Run--Death (RCW
17 46.52.020(4)(a))
18 Homicide by Watercraft, by being
19 under the influence of intoxicating
20 liquor or any drug (RCW
21 79A.60.050)
22 Inciting Criminal Profiteering (RCW
23 9A.82.060(1)(b))
24 Malicious placement of an explosive 2
25 (RCW 70.74.270(2))
26 Robbery 1 (RCW 9A.56.200)
27 Sexual Exploitation (RCW 9.68A.040)
28 ~~((Vehicular Homicide, by being under
29 the influence of intoxicating liquor
30 or any drug (RCW 46.61.520)))~~
31 VIII Arson 1 (RCW 9A.48.020)
32 Commercial Sexual Abuse of a Minor
33 (RCW 9.68A.100)
34 Homicide by Watercraft, by the
35 operation of any vessel in a
36 reckless manner (RCW
37 79A.60.050)

1 Manslaughter 2 (RCW 9A.32.070)
2 Promoting Prostitution 1 (RCW
3 9A.88.070)
4 Theft of Ammonia (RCW 69.55.010)
5 ~~((Vehicular Homicide, by the operation
6 of any vehicle in a reckless
7 manner (RCW 46.61.520)))~~
8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor engaged
13 in sexually explicit conduct 1
14 (RCW 9.68A.050(1))
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Malicious placement of an explosive 3
25 (RCW 70.74.270(3))
26 Negligently Causing Death By Use of a
27 Signal Preemption Device (RCW
28 46.37.675)
29 Sending, bringing into state depictions
30 of minor engaged in sexually
31 explicit conduct 1 (RCW
32 9.68A.060(1))
33 Unlawful Possession of a Firearm in
34 the first degree (RCW 9.41.040(1))
35 Use of a Machine Gun in Commission
36 of a Felony (RCW 9.41.225)

1 Vehicular Homicide, by disregard for
2 the safety of others (RCW
3 46.61.520)

4 VI Bail Jumping with Murder 1 (RCW
5 9A.76.170(3)(a))
6 Bribery (RCW 9A.68.010)
7 Incest 1 (RCW 9A.64.020(1))
8 Intimidating a Judge (RCW 9A.72.160)
9 Intimidating a Juror/Witness (RCW
10 9A.72.110, 9A.72.130)
11 Malicious placement of an imitation
12 device 2 (RCW 70.74.272(1)(b))
13 Possession of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.070(1))
16 Rape of a Child 3 (RCW 9A.44.079)
17 Theft of a Firearm (RCW 9A.56.300)
18 Unlawful Storage of Ammonia (RCW
19 69.55.020)

20 V Abandonment of Dependent Person 2
21 (RCW 9A.42.070)
22 Advancing money or property for
23 extortionate extension of credit
24 (RCW 9A.82.030)
25 Bail Jumping with class A Felony
26 (RCW 9A.76.170(3)(b))
27 Child Molestation 3 (RCW 9A.44.089)
28 Criminal Mistreatment 2 (RCW
29 9A.42.030)
30 Custodial Sexual Misconduct 1 (RCW
31 9A.44.160)
32 Dealing in Depictions of Minor
33 Engaged in Sexually Explicit
34 Conduct 2 (RCW 9.68A.050(2))

1 Domestic Violence Court Order
2 Violation (RCW 10.99.040,
3 10.99.050, 26.09.300, 26.10.220,
4 26.26.138, 26.50.110, 26.52.070,
5 or 74.34.145)
6 Driving While Under the Influence
7 (RCW 46.61.502(6))
8 Extortion 1 (RCW 9A.56.120)
9 Extortionate Extension of Credit (RCW
10 9A.82.020)
11 Extortionate Means to Collect
12 Extensions of Credit (RCW
13 9A.82.040)
14 Incest 2 (RCW 9A.64.020(2))
15 Kidnapping 2 (RCW 9A.40.030)
16 Perjury 1 (RCW 9A.72.020)
17 Persistent prison misbehavior (RCW
18 9.94.070)
19 Physical Control of a Vehicle While
20 Under the Influence (RCW
21 46.61.504(6))
22 Possession of a Stolen Firearm (RCW
23 9A.56.310)
24 Rape 3 (RCW 9A.44.060)
25 Rendering Criminal Assistance 1
26 (RCW 9A.76.070)
27 Sending, Bringing into State Depictions
28 of Minor Engaged in Sexually
29 Explicit Conduct 2 (RCW
30 9.68A.060(2))
31 Sexual Misconduct with a Minor 1
32 (RCW 9A.44.093)
33 Sexually Violating Human Remains
34 (RCW 9A.44.105)
35 Stalking (RCW 9A.46.110)
36 Taking Motor Vehicle Without
37 Permission 1 (RCW 9A.56.070)

1 IV Arson 2 (RCW 9A.48.030)
2 Assault 2 (RCW 9A.36.021)
3 Assault 3 (of a Peace Officer with a
4 Projectile Stun Gun) (RCW
5 9A.36.031(1)(h))
6 Assault by Watercraft (RCW
7 79A.60.060)
8 Bribing a Witness/Bribe Received by
9 Witness (RCW 9A.72.090,
10 9A.72.100)
11 Cheating 1 (RCW 9.46.1961)
12 Commercial Bribery (RCW 9A.68.060)
13 Counterfeiting (RCW 9.16.035(4))
14 Endangerment with a Controlled
15 Substance (RCW 9A.42.100)
16 Escape 1 (RCW 9A.76.110)
17 Hit and Run--Injury (RCW
18 46.52.020(4)(b))
19 Hit and Run with Vessel--Injury
20 Accident (RCW 79A.60.200(3))
21 Identity Theft 1 (RCW 9.35.020(2))
22 Indecent Exposure to Person Under
23 Age Fourteen (subsequent sex
24 offense) (RCW 9A.88.010)
25 Influencing Outcome of Sporting Event
26 (RCW 9A.82.070)
27 Malicious Harassment (RCW
28 9A.36.080)
29 Possession of Depictions of a Minor
30 Engaged in Sexually Explicit
31 Conduct 2 (RCW 9.68(~~A~~))
32 (A).070(2))
33 Residential Burglary (RCW
34 9A.52.025)
35 Robbery 2 (RCW 9A.56.210)
36 Theft of Livestock 1 (RCW 9A.56.080)
37 Threats to Bomb (RCW 9.61.160)

1 Trafficking in Stolen Property 1 (RCW
2 9A.82.050)
3 Unlawful factoring of a credit card or
4 payment card transaction (RCW
5 9A.56.290(4)(b))
6 Unlawful transaction of health
7 coverage as a health care service
8 contractor (RCW 48.44.016(3))
9 Unlawful transaction of health
10 coverage as a health maintenance
11 organization (RCW 48.46.033(3))
12 Unlawful transaction of insurance
13 business (RCW 48.15.023(3))
14 Unlicensed practice as an insurance
15 professional (RCW 48.17.063(2))
16 Use of Proceeds of Criminal
17 Profiteering (RCW 9A.82.080 (1)
18 and (2))
19 Vehicular Assault, by being under the
20 influence of intoxicating liquor or
21 any drug, or by the operation or
22 driving of a vehicle in a reckless
23 manner (RCW 46.61.522)
24 Viewing of Depictions of a Minor
25 Engaged in Sexually Explicit
26 Conduct 1 (RCW 9.68A.075(1))
27 Willful Failure to Return from
28 Furlough (RCW 72.66.060)
29 III Animal Cruelty 1 (Sexual Conduct or
30 Contact) (RCW 16.52.205(3))
31 Assault 3 (Except Assault 3 of a Peace
32 Officer With a Projectile Stun
33 Gun) (RCW 9A.36.031 except
34 subsection (1)(h))
35 Assault of a Child 3 (RCW 9A.36.140)
36 Bail Jumping with class B or C Felony
37 (RCW 9A.76.170(3)(c))

1 Burglary 2 (RCW 9A.52.030)
2 Communication with a Minor for
3 Immoral Purposes (RCW
4 9.68A.090)
5 Criminal Gang Intimidation (RCW
6 9A.46.120)
7 Custodial Assault (RCW 9A.36.100)
8 Cyberstalking (subsequent conviction
9 or threat of death) (RCW
10 9.61.260(3))
11 Escape 2 (RCW 9A.76.120)
12 Extortion 2 (RCW 9A.56.130)
13 Harassment (RCW 9A.46.020)
14 Intimidating a Public Servant (RCW
15 9A.76.180)
16 Introducing Contraband 2 (RCW
17 9A.76.150)
18 Malicious Injury to Railroad Property
19 (RCW 81.60.070)
20 Mortgage Fraud (RCW 19.144.080)
21 Negligently Causing Substantial Bodily
22 Harm By Use of a Signal
23 Preemption Device (RCW
24 46.37.674)
25 Organized Retail Theft 1 (RCW
26 9A.56.350(2))
27 Perjury 2 (RCW 9A.72.030)
28 Possession of Incendiary Device (RCW
29 9.40.120)
30 Possession of Machine Gun or Short-
31 Barreled Shotgun or Rifle (RCW
32 9.41.190)
33 Promoting Prostitution 2 (RCW
34 9A.88.080)
35 Retail Theft with Extenuating
36 Circumstances 1 (RCW
37 9A.56.360(2))

1 Securities Act violation (RCW
2 21.20.400)
3 Tampering with a Witness (RCW
4 9A.72.120)
5 Telephone Harassment (subsequent
6 conviction or threat of death)
7 (RCW 9.61.230(2))
8 Theft of Livestock 2 (RCW 9A.56.083)
9 Theft with the Intent to Resell 1 (RCW
10 9A.56.340(2))
11 Trafficking in Stolen Property 2 (RCW
12 9A.82.055)
13 Unlawful Imprisonment (RCW
14 9A.40.040)
15 Unlawful possession of firearm in the
16 second degree (RCW 9.41.040(2))
17 Vehicular Assault, by the operation or
18 driving of a vehicle with disregard
19 for the safety of others (RCW
20 46.61.522)
21 Willful Failure to Return from Work
22 Release (RCW 72.65.070)
23 II Computer Trespass 1 (RCW
24 9A.52.110)
25 Counterfeiting (RCW 9.16.035(3))
26 Escape from Community Custody
27 (RCW 72.09.310)
28 Failure to Register as a Sex Offender
29 (second or subsequent offense)
30 (RCW ((9A.44.130(11)(a)))
31 9A.44.132)
32 Health Care False Claims (RCW
33 48.80.030)
34 Identity Theft 2 (RCW 9.35.020(3))
35 Improperly Obtaining Financial
36 Information (RCW 9.35.010)

1 Malicious Mischief 1 (RCW
2 9A.48.070)
3 Organized Retail Theft 2 (RCW
4 9A.56.350(3))
5 Possession of Stolen Property 1 (RCW
6 9A.56.150)
7 Possession of a Stolen Vehicle (RCW
8 9A.56.068)
9 Retail Theft with Extenuating
10 Circumstances 2 (RCW
11 9A.56.360(3))
12 Theft 1 (RCW 9A.56.030)
13 Theft of a Motor Vehicle (RCW
14 9A.56.065)
15 Theft of Rental, Leased, or Lease-
16 purchased Property (valued at one
17 thousand five hundred dollars or
18 more) (RCW 9A.56.096(5)(a))
19 Theft with the Intent to Resell 2 (RCW
20 9A.56.340(3))
21 Trafficking in Insurance Claims (RCW
22 48.30A.015)
23 Unlawful factoring of a credit card or
24 payment card transaction (RCW
25 9A.56.290(4)(a))
26 Unlawful Practice of Law (RCW
27 2.48.180)
28 Unlicensed Practice of a Profession or
29 Business (RCW 18.130.190(7))
30 Voyeurism (RCW 9A.44.115)
31 I Attempting to Elude a Pursuing Police
32 Vehicle (RCW 46.61.024)
33 False Verification for Welfare (RCW
34 74.08.055)
35 Forgery (RCW 9A.60.020)

1 Fraudulent Creation or Revocation of a
2 Mental Health Advance Directive
3 (RCW 9A.60.060)
4 Malicious Mischief 2 (RCW
5 9A.48.080)
6 Mineral Trespass (RCW 78.44.330)
7 Possession of Stolen Property 2 (RCW
8 9A.56.160)
9 Reckless Burning 1 (RCW 9A.48.040)
10 Taking Motor Vehicle Without
11 Permission 2 (RCW 9A.56.075)
12 Theft 2 (RCW 9A.56.040)
13 Theft of Rental, Leased, or Lease-
14 purchased Property (valued at two
15 hundred fifty dollars or more but
16 less than one thousand five
17 hundred dollars) (RCW
18 9A.56.096(5)(b))
19 Transaction of insurance business
20 beyond the scope of licensure
21 (RCW 48.17.063)
22 Unlawful Issuance of Checks or Drafts
23 (RCW 9A.56.060)
24 Unlawful Possession of Fictitious
25 Identification (RCW 9A.56.320)
26 Unlawful Possession of Instruments of
27 Financial Fraud (RCW 9A.56.320)
28 Unlawful Possession of Payment
29 Instruments (RCW 9A.56.320)
30 Unlawful Possession of a Personal
31 Identification Device (RCW
32 9A.56.320)
33 Unlawful Production of Payment
34 Instruments (RCW 9A.56.320)
35 Unlawful Trafficking in Food Stamps
36 (RCW 9.91.142)

1 Unlawful Use of Food Stamps (RCW
2 9.91.144)
3 Vehicle Prowl 1 (RCW 9A.52.095)

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