
HOUSE BILL 2281

State of Washington 64th Legislature 2015 2nd Special Session

By Representative Klippert

Read first time 06/27/15. Referred to Committee on Public Safety.

1 AN ACT Relating to increasing the punishment for vehicular
2 homicide; amending RCW 46.61.520 and 9.94A.533; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 46.61.520 and 1998 c 211 s 2 are each amended to
6 read as follows:

7 (1) When the death of any person ensues within three years as a
8 proximate result of injury proximately caused by the driving of any
9 vehicle by any person, the driver is guilty of vehicular homicide if
10 the driver was operating a motor vehicle:

11 (a) While under the influence of intoxicating liquor or any drug,
12 as defined by RCW 46.61.502; or

13 (b) In a reckless manner; or

14 (c) With disregard for the safety of others.

15 (2) Vehicular homicide is a class A felony punishable under
16 chapter 9A.20 RCW, except that, for a conviction under subsection
17 (1)(a) of this section, an additional ~~((two))~~ ten years shall be
18 added to the sentence for each prior ~~((offense as defined in RCW~~
19 ~~46.61.5055))~~ vehicular homicide conviction pursuant to subsection
20 (1)(a) of this section. Notwithstanding any other provision of law,
21 the additional ten years imposed under this section are mandatory,

1 shall be served in total confinement, and shall run consecutively to
2 all other sentencing provisions for all offenses sentenced under this
3 chapter.

4 **Sec. 2.** RCW 9.94A.533 and 2013 c 270 s 2 are each amended to
5 read as follows:

6 (1) The provisions of this section apply to the standard sentence
7 ranges determined by RCW 9.94A.510 or 9.94A.517.

8 (2) For persons convicted of the anticipatory offenses of
9 criminal attempt, solicitation, or conspiracy under chapter 9A.28
10 RCW, the standard sentence range is determined by locating the
11 sentencing grid sentence range defined by the appropriate offender
12 score and the seriousness level of the completed crime, and
13 multiplying the range by seventy-five percent.

14 (3) The following additional times shall be added to the standard
15 sentence range for felony crimes committed after July 23, 1995, if
16 the offender or an accomplice was armed with a firearm as defined in
17 RCW 9.41.010 and the offender is being sentenced for one of the
18 crimes listed in this subsection as eligible for any firearm
19 enhancements based on the classification of the completed felony
20 crime. If the offender is being sentenced for more than one offense,
21 the firearm enhancement or enhancements must be added to the total
22 period of confinement for all offenses, regardless of which
23 underlying offense is subject to a firearm enhancement. If the
24 offender or an accomplice was armed with a firearm as defined in RCW
25 9.41.010 and the offender is being sentenced for an anticipatory
26 offense under chapter 9A.28 RCW to commit one of the crimes listed in
27 this subsection as eligible for any firearm enhancements, the
28 following additional times shall be added to the standard sentence
29 range determined under subsection (2) of this section based on the
30 felony crime of conviction as classified under RCW 9A.28.020:

31 (a) Five years for any felony defined under any law as a class A
32 felony or with a statutory maximum sentence of at least twenty years,
33 or both, and not covered under (f) of this subsection;

34 (b) Three years for any felony defined under any law as a class B
35 felony or with a statutory maximum sentence of ten years, or both,
36 and not covered under (f) of this subsection;

37 (c) Eighteen months for any felony defined under any law as a
38 class C felony or with a statutory maximum sentence of five years, or
39 both, and not covered under (f) of this subsection;

1 (d) If the offender is being sentenced for any firearm
2 enhancements under (a), (b), and/or (c) of this subsection and the
3 offender has previously been sentenced for any deadly weapon
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
5 subsection or subsection (4)(a), (b), and/or (c) of this section, or
6 both, all firearm enhancements under this subsection shall be twice
7 the amount of the enhancement listed;

8 (e) Notwithstanding any other provision of law, all firearm
9 enhancements under this section are mandatory, shall be served in
10 total confinement, and shall run consecutively to all other
11 sentencing provisions, including other firearm or deadly weapon
12 enhancements, for all offenses sentenced under this chapter. However,
13 whether or not a mandatory minimum term has expired, an offender
14 serving a sentence under this subsection may be granted an
15 extraordinary medical placement when authorized under RCW
16 9.94A.728(3);

17 (f) The firearm enhancements in this section shall apply to all
18 felony crimes except the following: Possession of a machine gun,
19 possessing a stolen firearm, drive-by shooting, theft of a firearm,
20 unlawful possession of a firearm in the first and second degree, and
21 use of a machine gun in a felony;

22 (g) If the standard sentence range under this section exceeds the
23 statutory maximum sentence for the offense, the statutory maximum
24 sentence shall be the presumptive sentence unless the offender is a
25 persistent offender. If the addition of a firearm enhancement
26 increases the sentence so that it would exceed the statutory maximum
27 for the offense, the portion of the sentence representing the
28 enhancement may not be reduced.

29 (4) The following additional times shall be added to the standard
30 sentence range for felony crimes committed after July 23, 1995, if
31 the offender or an accomplice was armed with a deadly weapon other
32 than a firearm as defined in RCW 9.41.010 and the offender is being
33 sentenced for one of the crimes listed in this subsection as eligible
34 for any deadly weapon enhancements based on the classification of the
35 completed felony crime. If the offender is being sentenced for more
36 than one offense, the deadly weapon enhancement or enhancements must
37 be added to the total period of confinement for all offenses,
38 regardless of which underlying offense is subject to a deadly weapon
39 enhancement. If the offender or an accomplice was armed with a deadly
40 weapon other than a firearm as defined in RCW 9.41.010 and the

1 offender is being sentenced for an anticipatory offense under chapter
2 9A.28 RCW to commit one of the crimes listed in this subsection as
3 eligible for any deadly weapon enhancements, the following additional
4 times shall be added to the standard sentence range determined under
5 subsection (2) of this section based on the felony crime of
6 conviction as classified under RCW 9A.28.020:

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

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

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

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

23 (e) Notwithstanding any other provision of law, all deadly weapon
24 enhancements under this section are mandatory, shall be served in
25 total confinement, and shall run consecutively to all other
26 sentencing provisions, including other firearm or deadly weapon
27 enhancements, for all offenses sentenced under this chapter. However,
28 whether or not a mandatory minimum term has expired, an offender
29 serving a sentence under this subsection may be granted an
30 extraordinary medical placement when authorized under RCW
31 9.94A.728(3);

32 (f) The deadly weapon enhancements in this section shall apply to
33 all felony crimes except the following: Possession of a machine gun,
34 possessing a stolen firearm, drive-by shooting, theft of a firearm,
35 unlawful possession of a firearm in the first and second degree, and
36 use of a machine gun in a felony;

37 (g) If the standard sentence range under this section exceeds the
38 statutory maximum sentence for the offense, the statutory maximum
39 sentence shall be the presumptive sentence unless the offender is a
40 persistent offender. If the addition of a deadly weapon enhancement

1 increases the sentence so that it would exceed the statutory maximum
2 for the offense, the portion of the sentence representing the
3 enhancement may not be reduced.

4 (5) The following additional times shall be added to the standard
5 sentence range if the offender or an accomplice committed the offense
6 while in a county jail or state correctional facility and the
7 offender is being sentenced for one of the crimes listed in this
8 subsection. If the offender or an accomplice committed one of the
9 crimes listed in this subsection while in a county jail or state
10 correctional facility, 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, the following additional times
13 shall be added to the standard sentence range determined under
14 subsection (2) of this section:

15 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
16 (a) or (b) or 69.50.410;

17 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
18 (c), (d), or (e);

19 (c) Twelve months for offenses committed under RCW 69.50.4013.

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

23 (6) An additional twenty-four months shall be added to the
24 standard sentence range for any ranked offense involving a violation
25 of chapter 69.50 RCW if the offense was also a violation of RCW
26 69.50.435 or 9.94A.827. All enhancements under this subsection shall
27 run consecutively to all other sentencing provisions, for all
28 offenses sentenced under this chapter.

29 (7) An additional ~~((two))~~ ten years shall be added to the
30 standard sentence range for vehicular homicide committed while under
31 the influence of intoxicating liquor or any drug as defined by RCW
32 46.61.502 for each prior ~~((offense as defined in RCW 46.61.5055))~~
33 vehicular homicide conviction pursuant to RCW 46.61.520(1)(a). All
34 enhancements under this subsection shall be mandatory, shall be
35 served in total confinement, and shall run consecutively to all other
36 sentencing provisions.

37 (8)(a) The following additional times shall be added to the
38 standard sentence range for felony crimes committed on or after July
39 1, 2006, if the offense was committed with sexual motivation, as that
40 term is defined in RCW 9.94A.030. If the offender is being sentenced

1 for more than one offense, the sexual motivation enhancement must be
2 added to the total period of total confinement for all offenses,
3 regardless of which underlying offense is subject to a sexual
4 motivation enhancement. If the offender committed the offense with
5 sexual motivation and the offender is being sentenced for an
6 anticipatory offense under chapter 9A.28 RCW, the following
7 additional times shall be added to the standard sentence range
8 determined under subsection (2) of this section based on the felony
9 crime of conviction as classified under RCW 9A.28.020:

10 (i) Two years for any felony defined under the law as a class A
11 felony or with a statutory maximum sentence of at least twenty years,
12 or both;

13 (ii) Eighteen months for any felony defined under any law as a
14 class B felony or with a statutory maximum sentence of ten years, or
15 both;

16 (iii) One year for any felony defined under any law as a class C
17 felony or with a statutory maximum sentence of five years, or both;

18 (iv) If the offender is being sentenced for any sexual motivation
19 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
20 the offender has previously been sentenced for any sexual motivation
21 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
22 (iii) of this subsection, all sexual motivation enhancements under
23 this subsection shall be twice the amount of the enhancement listed;

24 (b) Notwithstanding any other provision of law, all sexual
25 motivation enhancements under this subsection are mandatory, shall be
26 served in total confinement, and shall run consecutively to all other
27 sentencing provisions, including other sexual motivation
28 enhancements, for all offenses sentenced under this chapter. However,
29 whether or not a mandatory minimum term has expired, an offender
30 serving a sentence under this subsection may be granted an
31 extraordinary medical placement when authorized under RCW
32 9.94A.728(3);

33 (c) The sexual motivation enhancements in this subsection apply
34 to all felony crimes;

35 (d) If the standard sentence range under this subsection exceeds
36 the statutory maximum sentence for the offense, the statutory maximum
37 sentence shall be the presumptive sentence unless the offender is a
38 persistent offender. If the addition of a sexual motivation
39 enhancement increases the sentence so that it would exceed the

1 statutory maximum for the offense, the portion of the sentence
2 representing the enhancement may not be reduced;

3 (e) The portion of the total confinement sentence which the
4 offender must serve under this subsection shall be calculated before
5 any earned early release time is credited to the offender;

6 (f) Nothing in this subsection prevents a sentencing court from
7 imposing a sentence outside the standard sentence range pursuant to
8 RCW 9.94A.535.

9 (9) An additional one-year enhancement shall be added to the
10 standard sentence range for the felony crimes of RCW 9A.44.073,
11 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
12 or after July 22, 2007, if the offender engaged, agreed, or offered
13 to engage the victim in the sexual conduct in return for a fee. If
14 the offender is being sentenced for more than one offense, the one-
15 year enhancement must be added to the total period of total
16 confinement for all offenses, regardless of which underlying offense
17 is subject to the enhancement. If the offender is being sentenced for
18 an anticipatory offense for the felony crimes of RCW 9A.44.073,
19 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
20 offender attempted, solicited another, or conspired to engage, agree,
21 or offer to engage the victim in the sexual conduct in return for a
22 fee, an additional one-year enhancement shall be added to the
23 standard sentence range determined under subsection (2) of this
24 section. For purposes of this subsection, "sexual conduct" means
25 sexual intercourse or sexual contact, both as defined in chapter
26 9A.44 RCW.

27 (10)(a) For a person age eighteen or older convicted of any
28 criminal street gang-related felony offense for which the person
29 compensated, threatened, or solicited a minor in order to involve the
30 minor in the commission of the felony offense, the standard sentence
31 range is determined by locating the sentencing grid sentence range
32 defined by the appropriate offender score and the seriousness level
33 of the completed crime, and multiplying the range by one hundred
34 twenty-five percent. If the standard sentence range under this
35 subsection exceeds the statutory maximum sentence for the offense,
36 the statutory maximum sentence is the presumptive sentence unless the
37 offender is a persistent offender.

38 (b) This subsection does not apply to any criminal street gang-
39 related felony offense for which involving a minor in the commission
40 of the felony offense is an element of the offense.

1 (c) The increased penalty specified in (a) of this subsection is
2 unavailable in the event that the prosecution gives notice that it
3 will seek an exceptional sentence based on an aggravating factor
4 under RCW 9.94A.535.

5 (11) An additional twelve months and one day shall be added to
6 the standard sentence range for a conviction of attempting to elude a
7 police vehicle as defined by RCW 46.61.024, if the conviction
8 included a finding by special allegation of endangering one or more
9 persons under RCW 9.94A.834.

10 (12) An additional twelve months shall be added to the standard
11 sentence range for an offense that is also a violation of RCW
12 9.94A.831.

13 (13) An additional twelve months shall be added to the standard
14 sentence range for vehicular homicide committed while under the
15 influence of intoxicating liquor or any drug as defined by RCW
16 46.61.520 or for vehicular assault committed while under the
17 influence of intoxicating liquor or any drug as defined by RCW
18 46.61.522, or for any felony driving under the influence (RCW
19 46.61.502(6)) or felony physical control under the influence (RCW
20 46.61.504(6)) for each child passenger under the age of sixteen who
21 is an occupant in the defendant's vehicle. These enhancements shall
22 be mandatory, shall be served in total confinement, and shall run
23 consecutively to all other sentencing provisions. If the addition of
24 a minor child enhancement increases the sentence so that it would
25 exceed the statutory maximum for the offense, the portion of the
26 sentence representing the enhancement may not be reduced.

27 (14) An additional twelve months shall be added to the standard
28 sentence range for an offense that is also a violation of RCW
29 9.94A.832.

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