

SSB 6620 - S AMD 908  
By Senator Rivers

1 On page 28, after line 10, insert the following:

2 **"Part VII - Mandatory Minimum Sentences for the Use of a Firearm**

3 **Sec. 24.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to  
4 read as follows:

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

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

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

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

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

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

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

17 ~~(e) Notwithstanding any other provision of law, all firearm~~  
18 ~~enhancements under this section are mandatory, shall be served in~~  
19 ~~total confinement, and shall run consecutively to all other~~  
20 ~~sentencing provisions, including other firearm or deadly weapon~~  
21 ~~enhancements, for all offenses sentenced under this chapter. However,~~  
22 ~~whether or not a mandatory minimum term has expired, an offender~~  
23 ~~-serving a sentence under this subsection may be:~~

24 ~~(i) Granted an extraordinary medical placement when authorized~~  
25 ~~under RCW 9.94A.728(1)(c); or~~

26 ~~(ii) Released under the provisions of RCW 9.94A.730;~~

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

32 ~~(g) If the standard sentence range under this section exceeds the~~  
33 ~~statutory maximum sentence for the offense, the statutory maximum~~  
34 ~~sentence shall be the presumptive sentence unless the offender is a~~  
35 ~~persistent offender. If the addition of a firearm enhancement~~  
36 ~~increases the sentence so that it would exceed the statutory maximum~~  
37 ~~for the offense, the portion of the sentence representing the~~  
38 ~~enhancement may not be reduced.~~

39 ~~(4))~~ The following additional times shall be added to the  
40 standard sentence range for felony crimes committed after July 23,

1 1995, if the offender or an accomplice was armed with a deadly weapon  
2 other than a firearm as defined in RCW 9.41.010 and the offender is  
3 being sentenced for one of the crimes listed in this subsection as  
4 eligible for any deadly weapon enhancements based on the  
5 classification of the completed felony crime. If the offender is  
6 being sentenced for more than one offense, the deadly weapon  
7 enhancement or enhancements must be added to the total period of  
8 confinement for all offenses, regardless of which underlying offense  
9 is subject to a deadly weapon enhancement. If the offender or an  
10 accomplice was armed with a deadly weapon other than a firearm as  
11 defined in RCW 9.41.010 and the offender is being sentenced for an  
12 anticipatory offense under chapter 9A.28 RCW to commit one of the  
13 crimes listed in this subsection as eligible for any deadly weapon  
14 enhancements, the following additional times shall be added to the  
15 standard sentence range determined under subsection (2) of this  
16 section based on the felony crime of conviction as classified under  
17 RCW 9A.28.020:

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

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

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

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

34 (e) Notwithstanding any other provision of law, all deadly weapon  
35 enhancements under this section are mandatory, shall be served in  
36 total confinement, and shall run consecutively to all other  
37 sentencing provisions, including other firearm or deadly weapon  
38 enhancements, for all offenses sentenced under this chapter. However,  
39 whether or not a mandatory minimum term has expired, an offender  
40 serving a sentence under this subsection may be:

1 (i) Granted an extraordinary medical placement when authorized  
2 under RCW 9.94A.728(1)(c); or

3 (ii) Released under the provisions of RCW 9.94A.730;

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

9 (g) If the standard sentence range under this section exceeds the  
10 statutory maximum sentence for the offense, the statutory maximum  
11 sentence shall be the presumptive sentence unless the offender is a  
12 persistent offender. If the addition of a deadly weapon enhancement  
13 increases the sentence so that it would exceed the statutory maximum  
14 for the offense, the portion of the sentence representing the  
15 enhancement may not be reduced.

16 (~~(+5)~~) (4) The following additional times shall be added to the  
17 standard sentence range if the offender or an accomplice committed  
18 the offense while in a county jail or state correctional facility and  
19 the offender is being sentenced for one of the crimes listed in this  
20 subsection. If the offender or an accomplice committed one of the  
21 crimes listed in this subsection while in a county jail or state  
22 correctional facility, and the offender is being sentenced for an  
23 anticipatory offense under chapter 9A.28 RCW to commit one of the  
24 crimes listed in this subsection, the following additional times  
25 shall be added to the standard sentence range determined under  
26 subsection (2) of this section:

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

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

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

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

35 (~~(+6)~~) (5) An additional twenty-four months shall be added to  
36 the standard sentence range for any ranked offense involving a  
37 violation of chapter 69.50 RCW if the offense was also a violation of  
38 RCW 69.50.435 or 9.94A.827. All enhancements under this subsection  
39 shall run consecutively to all other sentencing provisions, for all  
40 offenses sentenced under this chapter.

1       (~~(7)~~) (6) An additional two years shall be added to the  
2 standard sentence range for vehicular homicide committed while under  
3 the influence of intoxicating liquor or any drug as defined by RCW  
4 46.61.502 for each prior offense as defined in RCW 46.61.5055.

5       Notwithstanding any other provision of law, all impaired driving  
6 enhancements under this subsection are mandatory, shall be served in  
7 total confinement, and shall run consecutively to all other  
8 sentencing provisions, including other impaired driving enhancements,  
9 for all offenses sentenced under this chapter.

10       An offender serving a sentence under this subsection may be  
11 granted an extraordinary medical placement when authorized under RCW  
12 9.94A.728(1)(c).

13       (~~(8)~~) (7)(a) The following additional times shall be added to  
14 the standard sentence range for felony crimes committed on or after  
15 July 1, 2006, if the offense was committed with sexual motivation, as  
16 that term is defined in RCW 9.94A.030. If the offender is being  
17 sentenced for more than one offense, the sexual motivation  
18 enhancement must be added to the total period of total confinement  
19 for all offenses, regardless of which underlying offense is subject  
20 to a sexual motivation enhancement. If the offender committed the  
21 offense with sexual motivation and the offender is being sentenced  
22 for an anticipatory offense under chapter 9A.28 RCW, the following  
23 additional times shall be added to the standard sentence range  
24 determined under subsection (2) of this section based on the felony  
25 crime of conviction as classified under RCW 9A.28.020:

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

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

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

34       (iv) If the offender is being sentenced for any sexual motivation  
35 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
36 the offender has previously been sentenced for any sexual motivation  
37 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
38 (iii) of this subsection, all sexual motivation enhancements under  
39 this subsection shall be twice the amount of the enhancement listed;

1 (b) Notwithstanding any other provision of law, all sexual  
2 motivation enhancements under this subsection are mandatory, shall be  
3 served in total confinement, and shall run consecutively to all other  
4 sentencing provisions, including other sexual motivation  
5 enhancements, for all offenses sentenced under this chapter. However,  
6 whether or not a mandatory minimum term has expired, an offender  
7 serving a sentence under this subsection may be:

8 (i) Granted an extraordinary medical placement when authorized  
9 under RCW 9.94A.728(1)(c); or

10 (ii) Released under the provisions of RCW 9.94A.730;

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

13 (d) If the standard sentence range under this subsection exceeds  
14 the statutory maximum sentence for the offense, the statutory maximum  
15 sentence shall be the presumptive sentence unless the offender is a  
16 persistent offender. If the addition of a sexual motivation  
17 enhancement increases the sentence so that it would exceed the  
18 statutory maximum for the offense, the portion of the sentence  
19 representing the enhancement may not be reduced;

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

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

26 ~~((+9))~~ (8) An additional one-year enhancement shall be added to  
27 the standard sentence range for the felony crimes of RCW 9A.44.073,  
28 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
29 or after July 22, 2007, if the offender engaged, agreed, or offered  
30 to engage the victim in the sexual conduct in return for a fee. If  
31 the offender is being sentenced for more than one offense, the  
32 one-year enhancement must be added to the total period of total  
33 confinement for all offenses, regardless of which underlying offense  
34 is subject to the enhancement. If the offender is being sentenced for  
35 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
36 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
37 offender attempted, solicited another, or conspired to engage, agree,  
38 or offer to engage the victim in the sexual conduct in return for a  
39 fee, an additional one-year enhancement shall be added to the  
40 standard sentence range determined under subsection (2) of this

1 section. For purposes of this subsection, "sexual conduct" means  
2 sexual intercourse or sexual contact, both as defined in chapter  
3 9A.44 RCW.

4 ~~((+10))~~ (9)(a) For a person age eighteen or older convicted of  
5 any criminal street gang-related felony offense for which the person  
6 compensated, threatened, or solicited a minor in order to involve the  
7 minor in the commission of the felony offense, the standard sentence  
8 range is determined by locating the sentencing grid sentence range  
9 defined by the appropriate offender score and the seriousness level  
10 of the completed crime, and multiplying the range by one hundred  
11 twenty-five percent. If the standard sentence range under this  
12 subsection exceeds the statutory maximum sentence for the offense,  
13 the statutory maximum sentence is the presumptive sentence unless the  
14 offender is a persistent offender.

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

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

22 ~~((+11))~~ (10) An additional twelve months and one day shall be  
23 added to the standard sentence range for a conviction of attempting  
24 to elude a police vehicle as defined by RCW 46.61.024, if the  
25 conviction included a finding by special allegation of endangering  
26 one or more persons under RCW 9.94A.834.

27 ~~((+12))~~ (11) An additional twelve months shall be added to the  
28 standard sentence range for an offense that is also a violation of  
29 RCW 9.94A.831.

30 ~~((+13))~~ (12) An additional twelve months shall be added to the  
31 standard sentence range for vehicular homicide committed while under  
32 the influence of intoxicating liquor or any drug as defined by RCW  
33 46.61.520 or for vehicular assault committed while under the  
34 influence of intoxicating liquor or any drug as defined by RCW  
35 46.61.522, or for any felony driving under the influence (RCW  
36 46.61.502(6)) or felony physical control under the influence (RCW  
37 46.61.504(6)) for each child passenger under the age of sixteen who  
38 is an occupant in the defendant's vehicle. These enhancements shall  
39 be mandatory, shall be served in total confinement, and shall run  
40 consecutively to all other sentencing provisions. If the addition of

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

4 ~~((14))~~ (13) An additional twelve months shall be added to the  
5 standard sentence range for an offense that is also a violation of  
6 RCW 9.94A.832.

7 **Sec. 25.** RCW 9.94A.540 and 2014 c 130 s 2 are each amended to  
8 read as follows:

9 (1) Except to the extent provided in subsection ~~((3))~~ (4) of  
10 this section, the following minimum terms of total confinement are  
11 mandatory and shall not be varied or modified under RCW 9.94A.535:

12 (a) An offender convicted of the crime of murder in the first  
13 degree shall be sentenced to a term of total confinement not less  
14 than twenty years.

15 (b) An offender convicted of the crime of assault in the first  
16 degree or assault of a child in the first degree where the offender  
17 used force or means likely to result in death or intended to kill the  
18 victim shall be sentenced to a term of total confinement not less  
19 than five years.

20 (c) An offender convicted of the crime of rape in the first  
21 degree shall be sentenced to a term of total confinement not less  
22 than five years.

23 (d) An offender convicted of the crime of sexually violent  
24 predator escape shall be sentenced to a minimum term of total  
25 confinement not less than sixty months.

26 (e) An offender convicted of the crime of aggravated first degree  
27 murder for a murder that was committed prior to the offender's  
28 eighteenth birthday shall be sentenced to a term of total confinement  
29 not less than twenty-five years.

30 (2) An offender convicted of a felony or an attempt to commit a  
31 felony after the effective date of this section shall be sentenced to  
32 the following minimum terms of total confinement if the offender was  
33 armed with a firearm as defined in RCW 9.41.010, regardless of  
34 whether the use of a weapon is an element of the felony:

35 (a) Ten years if the offender possessed a firearm during the  
36 commission of the felony;

37 (b) Twenty years if the offender discharged the firearm resulting  
38 in injury to a person during the commission of the felony; or

1 (c) Life if the offender discharged the firearm resulting in  
2 death to a person during the commission of the felony and the  
3 offender was over the age of eighteen at the time the felony was  
4 committed.

5 (3) During such minimum terms of total confinement, no offender  
6 subject to the provisions of this section is eligible for community  
7 custody, earned release time, furlough, home detention, partial  
8 confinement, work crew, work release, or any other form of early  
9 release authorized under RCW 9.94A.728, or any other form of  
10 authorized leave of absence from the correctional facility while not  
11 in the direct custody of a corrections officer. The provisions of  
12 this subsection shall not apply: (a) In the case of an offender in  
13 need of emergency medical treatment; (b) for the purpose of  
14 commitment to an inpatient treatment facility in the case of an  
15 offender convicted of the crime of rape in the first degree; or (c)  
16 for an extraordinary medical placement when authorized under RCW  
17 9.94A.728(~~(+3)~~) (1)(c).

18 (~~(+3)~~) (4)(a) Subsection (1)(a) through (d) of this section  
19 shall not be applied in sentencing of juveniles tried as adults  
20 pursuant to RCW 13.04.030(1)(e)(i).

21 (b) This subsection (~~(+3)~~) (4) applies only to crimes committed  
22 on or after July 24, 2005."

23 Renumber the remaining section consecutively and correct any  
24 internal references accordingly.

**SSB 6620 - S AMD 908**  
By Senator Rivers

25 On page 1, line 10 of the title, after "rifles;" strike "and" and  
26 after "funds;" insert "and mandatory minimum sentences for the use of  
27 a firearm;"

28 On page 1, line 12 of the title, after "9.41.124," strike "and"  
29 and after "9.41.240" insert ", 9.94A.533, and 9.94A.540"

--- END ---