
HOUSE BILL 1186

State of Washington

55th Legislature

1997 Regular Session

By Representatives Hickel, Mitchell, Ballasiotes, Dickerson, Robertson, Blalock, Benson, Quall, Sheahan, Delvin, Lisk, Carrell, Cairnes, McDonald, Johnson and DeBolt

Read first time 01/16/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to criminal law; amending RCW 9A.76.050, 9A.76.070,
2 9A.76.080, 9.94A.040, and 9.94A.310; adding a new section to chapter
3 9A.36 RCW; creating a new section; repealing RCW 9A.76.060; and
4 prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.36 RCW
7 to read as follows:

8 (1) A person is guilty of failing to give reasonable assistance if:

9 (a) He or she knows that another person has suffered or is about to
10 suffer substantial bodily harm and is in need of assistance;

11 (b) He or she could give reasonable assistance to the person in
12 need without danger to himself or herself and without interference with
13 an important duty owed to a third party;

14 (c) He or she fails to give reasonable assistance to the person in
15 need; and

16 (d) Reasonable assistance is not being given by another to the
17 person in need.

1 (2) Acts that satisfy the duty to give reasonable assistance
2 include, but are not limited to, summoning emergency police, fire, or
3 medical assistance.

4 (3) Except as provided in RCW 9A.76.050, a violation of subsection
5 (1) of this section is a misdemeanor.

6 (4) A person who gives reasonable assistance as required by
7 subsection (1) of this section is immune from civil liability on the
8 same basis as is a person who provides emergency care or transportation
9 under RCW 4.24.300.

10 **Sec. 2.** RCW 9A.76.050 and 1982 1st ex.s. c 47 s 20 are each
11 amended to read as follows:

12 As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person
13 "renders criminal assistance" if, with intent to prevent, hinder, or
14 delay the apprehension or prosecution of another person who he or she
15 knows has committed a crime or juvenile offense or is being sought by
16 law enforcement officials for the commission of a crime or juvenile
17 offense or has escaped from a detention facility, he or she:

18 (1) Harbors or conceals such person; or

19 (2) Warns such person of impending discovery or apprehension; or

20 (3) Provides such person with money, transportation, disguise, or
21 other means of avoiding discovery or apprehension; or

22 (4) Prevents or obstructs, by use of force, deception, or threat,
23 anyone from performing an act that might aid in the discovery or
24 apprehension of such person; or

25 (5) Conceals, alters, or destroys any physical evidence that might
26 aid in the discovery or apprehension of such person; or

27 (6) Provides such person with a weapon; or

28 (7) Violates section 1 of this act by failing to give reasonable
29 assistance to a victim of such person's crime or juvenile offense.

30 **Sec. 3.** RCW 9A.76.070 and 1982 1st ex.s. c 47 s 21 are each
31 amended to read as follows:

32 (1) A person is guilty of rendering criminal assistance in the
33 first degree if he or she renders criminal assistance to a person who
34 has committed or is being sought for murder in the first degree or any
35 class A felony or equivalent juvenile offense.

36 (2) Rendering criminal assistance in the first degree is((+)

1 ~~(a) A gross misdemeanor if it is established by a preponderance of~~
2 ~~the evidence that the actor is a relative as defined in RCW 9A.76.060;~~
3 ~~(b)) a class C felony ((in all other cases)).~~

4 **Sec. 4.** RCW 9A.76.080 and 1982 1st ex.s. c 47 s 22 are each
5 amended to read as follows:

6 (1) A person is guilty of rendering criminal assistance in the
7 second degree if he or she renders criminal assistance to a person who
8 has committed or is being sought for a class B or class C felony or an
9 equivalent juvenile offense or to someone being sought for violation of
10 parole, probation, or community supervision.

11 (2) Rendering criminal assistance in the second degree is(÷

12 ~~(a) A misdemeanor if it is established by a preponderance of the~~
13 ~~evidence that the actor is a relative as defined in RCW 9A.76.060;~~
14 ~~(b)) a gross misdemeanor ((in all other cases)).~~

15 **Sec. 5.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read
16 as follows:

17 (1) A sentencing guidelines commission is established as an agency
18 of state government.

19 (2) The legislature finds that the commission, having accomplished
20 its original statutory directive to implement this chapter, and having
21 expertise in sentencing practice and policies, shall:

22 (a) Evaluate state sentencing policy, to include whether the
23 sentencing ranges and standards are consistent with and further:

24 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

25 (ii) The intent of the legislature to emphasize confinement for the
26 violent offender and alternatives to confinement for the nonviolent
27 offender.

28 The commission shall provide the governor and the legislature with
29 its evaluation and recommendations under this subsection not later than
30 December 1, 1996, and every two years thereafter;

31 (b) Recommend to the legislature revisions or modifications to the
32 standard sentence ranges, state sentencing policy, prosecuting
33 standards, and other standards. If implementation of the revisions or
34 modifications would result in exceeding the capacity of correctional
35 facilities, then the commission shall accompany its recommendation with
36 an additional list of standard sentence ranges which are consistent
37 with correction capacity;

1 (c) Study the existing criminal code and from time to time make
2 recommendations to the legislature for modification;

3 (d)(i) Serve as a clearinghouse and information center for the
4 collection, preparation, analysis, and dissemination of information on
5 state and local adult and juvenile sentencing practices; (ii) develop
6 and maintain a computerized adult and juvenile sentencing information
7 system by individual superior court judge consisting of offender,
8 offense, history, and sentence information entered from judgment and
9 sentence forms for all adult felons; and (iii) conduct ongoing research
10 regarding adult and juvenile sentencing guidelines, use of total
11 confinement and alternatives to total confinement, plea bargaining, and
12 other matters relating to the improvement of the adult criminal justice
13 system and the juvenile justice system;

14 (e) Assume the powers and duties of the juvenile disposition
15 standards commission after June 30, 1996;

16 (f) Evaluate the effectiveness of existing disposition standards
17 and related statutes in implementing policies set forth in RCW
18 13.40.010 generally, specifically review the guidelines relating to the
19 confinement of minor and first offenders as well as the use of
20 diversion, and review the application of current and proposed juvenile
21 sentencing standards and guidelines for potential adverse impacts on
22 the sentencing outcomes of racial and ethnic minority youth;

23 (g) Solicit the comments and suggestions of the juvenile justice
24 community concerning disposition standards, and make recommendations to
25 the legislature regarding revisions or modifications of the standards
26 in accordance with RCW 9.94A.045. The evaluations shall be submitted
27 to the legislature on December 1 of each odd-numbered year. The
28 department of social and health services shall provide the commission
29 with available data concerning the implementation of the disposition
30 standards and related statutes and their effect on the performance of
31 the department's responsibilities relating to juvenile offenders, and
32 with recommendations for modification of the disposition standards.
33 The office of the administrator for the courts shall provide the
34 commission with available data on diversion and dispositions of
35 juvenile offenders under chapter 13.40 RCW; and

36 (h) Not later than December 1, 1997, and at least every two years
37 thereafter, based on available information, report to the governor and
38 the legislature on:

39 (i) Racial disproportionality in juvenile and adult sentencing;

1 (ii) The capacity of state and local juvenile and adult facilities
2 and resources; and

3 (iii) Recidivism information on adult and juvenile offenders.

4 (3) Each of the commission's recommended standard sentence ranges
5 shall include one or more of the following: Total confinement, partial
6 confinement, community supervision, community service, and a fine.

7 (4) The standard sentence ranges of total and partial confinement
8 under this chapter are subject to the following limitations:

9 (a) If the maximum term in the range is one year or less, the
10 minimum term in the range shall be no less than one-third of the
11 maximum term in the range, except that if the maximum term in the range
12 is ninety days or less, the minimum term may be less than one-third of
13 the maximum;

14 (b) If the maximum term in the range is greater than one year, the
15 minimum term in the range shall be no less than seventy-five percent of
16 the maximum term in the range, except that for second degree murder in
17 seriousness category XIII under RCW 9.94A.310, the minimum term in the
18 range shall be no less than fifty percent of the maximum term in the
19 range; and

20 (c) The maximum term of confinement in a range may not exceed the
21 statutory maximum for the crime as provided in RCW 9A.20.021.

22 (5) The commission shall exercise its duties under this section in
23 conformity with chapter 34.05 RCW.

24 **Sec. 6.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read
25 as follows:

26 (1) TABLE 1

27 Sentencing Grid

28 SERIOUSNESS

29 SCORE

OFFENDER SCORE

30 9 or
31 0 1 2 3 4 5 6 7 8 more

32
33 XV Life Sentence without Parole/Death Penalty

34
35 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y
36 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

1		320	333	347	361	374	388	416	450	493	548
2											
3	XIII	((12y 13y 14y 15y 16y 17y 19y 21y 25y 29y))									
4		<u>15y1m 15y11m 16y10m 17y8m 18y7m 19y5m 21y1m 23y1m 26y1m 29y6m</u>									
5		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
6		((164 178 192 205 219 233 260 288 342 397))									
7		<u>239</u>	<u>249</u>	<u>260</u>	<u>270</u>	<u>280</u>	<u>290</u>	<u>311</u>	<u>337</u>	<u>369</u>	<u>410</u>
8											
9	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
10		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
11		123	136	147	160	171	184	216	236	277	318
12											
13	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
14		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
15		102	114	125	136	147	158	194	211	245	280
16											
17	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
18		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
19		68	75	82	89	96	102	130	144	171	198
20											
21	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
22		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
23		41	48	54	61	68	75	102	116	144	171
24											
25	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
26		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
27		27	34	41	48	54	61	89	102	116	144
28											
29	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
30		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
31		20	27	34	41	48	54	75	89	102	116
32											
33	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
34		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
35		14	20	27	34	41	48	61	75	89	102
36											
37	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
38		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
39		12	14	17	20	29	43	54	68	82	96

1											
2	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
3		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
4		9	12	14	17	20	29	43	57	70	84
5											
6	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
7		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
8		3	8	12	12	16	22	29	43	57	68
9											
10	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
11		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
12		Days	6	9	12	14	18	22	29	43	57
13											
14	I			3m	4m	5m	8m	13m	16m	20m	2y2m
15		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
16		Days	Days	5	6	8	12	14	18	22	29
17											

18 NOTE: Numbers in the first horizontal row of each seriousness category
 19 represent sentencing midpoints in years(y) and months(m). Numbers in
 20 the second and third rows represent presumptive sentencing ranges in
 21 months, or in days if so designated. 12+ equals one year and one day.

22 (2) For persons convicted of the anticipatory offenses of criminal
 23 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
 24 presumptive sentence is determined by locating the sentencing grid
 25 sentence range defined by the appropriate offender score and the
 26 seriousness level of the completed crime, and multiplying the range by
 27 75 percent.

28 (3) The following additional times shall be added to the
 29 presumptive sentence for felony crimes committed after July 23, 1995,
 30 if the offender or an accomplice was armed with a firearm as defined in
 31 RCW 9.41.010 and the offender is being sentenced for one of the crimes
 32 listed in this subsection as eligible for any firearm enhancements
 33 based on the classification of the completed felony crime. If the
 34 offender or an accomplice was armed with a firearm as defined in RCW
 35 9.41.010 and the offender is being sentenced for an anticipatory
 36 offense under chapter 9A.28 RCW to commit one of the crimes listed in
 37 this subsection as eligible for any firearm enhancements, the following
 38 additional times shall be added to the presumptive sentence determined

1 under subsection (2) of this section based on the felony crime of
2 conviction as classified under RCW 9A.28.020:

3 (a) Five years for any felony defined under any law as a class A
4 felony or with a maximum sentence of at least twenty years, or both,
5 and not covered under (f) of this subsection.

6 (b) Three years for any felony defined under any law as a class B
7 felony or with a maximum sentence of ten years, or both, and not
8 covered under (f) of this subsection.

9 (c) Eighteen months for any felony defined under any law as a
10 class C felony or with a maximum sentence of five years, or both, and
11 not covered under (f) of this subsection.

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

19 (e) Notwithstanding any other provision of law, any and all
20 firearm enhancements under this section are mandatory, shall be served
21 in total confinement, and shall not run concurrently with any other
22 sentencing provisions.

23 (f) The firearm enhancements in this section shall apply to all
24 felony crimes except the following: Possession of a machine gun,
25 possessing a stolen firearm, reckless endangerment in the first degree,
26 theft of a firearm, unlawful possession of a firearm in the first and
27 second degree, and use of a machine gun in a felony.

28 (g) If the presumptive sentence under this section exceeds the
29 statutory maximum for the offense, the statutory maximum sentence shall
30 be the presumptive sentence unless the offender is a persistent
31 offender as defined in RCW 9.94A.030.

32 (4) The following additional times shall be added to the
33 presumptive sentence for felony crimes committed after July 23, 1995,
34 if the offender or an accomplice was armed with a deadly weapon as
35 defined in this chapter other than a firearm as defined in RCW 9.41.010
36 and the offender is being sentenced for one of the crimes listed in
37 this subsection as eligible for any deadly weapon enhancements based on
38 the classification of the completed felony crime. If the offender or
39 an accomplice was armed with a deadly weapon other than a firearm as

1 defined in RCW 9.41.010 and the offender is being sentenced for an
2 anticipatory offense under chapter 9A.28 RCW to commit one of the
3 crimes listed in this subsection as eligible for any deadly weapon
4 enhancements, the following additional times shall be added to the
5 presumptive sentence determined under subsection (2) of this section
6 based on the felony crime of conviction as classified under RCW
7 9A.28.020:

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

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

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

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

24 (e) Notwithstanding any other provision of law, any and all deadly
25 weapon enhancements under this section are mandatory, shall be served
26 in total confinement, and shall not run concurrently with any other
27 sentencing provisions.

28 (f) The deadly weapon enhancements in this section shall apply to
29 all felony crimes except the following: Possession of a machine gun,
30 possessing a stolen firearm, reckless endangerment in the first degree,
31 theft of a firearm, unlawful possession of a firearm in the first and
32 second degree, and use of a machine gun in a felony.

33 (g) If the presumptive sentence under this section exceeds the
34 statutory maximum for the offense, the statutory maximum sentence shall
35 be the presumptive sentence unless the offender is a persistent
36 offender as defined in RCW 9.94A.030.

37 (5) The following additional times shall be added to the
38 presumptive sentence if the offender or an accomplice committed the
39 offense while in a county jail or state correctional facility as that

1 term is defined in this chapter and the offender is being sentenced for
2 one of the crimes listed in this subsection. If the offender or an
3 accomplice committed one of the crimes listed in this subsection while
4 in a county jail or state correctional facility as that term is defined
5 in this chapter, and the offender is being sentenced for an
6 anticipatory offense under chapter 9A.28 RCW to commit one of the
7 crimes listed in this subsection, the following additional times shall
8 be added to the presumptive sentence determined under subsection (2) of
9 this section:

10 (a) Eighteen months for offenses committed under RCW
11 69.50.401(a)(1) (i) or (ii) or 69.50.410;

12 (b) Fifteen months for offenses committed under RCW
13 69.50.401(a)(1) (iii), (iv), and (v);

14 (c) Twelve months for offenses committed under RCW 69.50.401(d).

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

18 (6) An additional twenty-four months shall be added to the
19 presumptive sentence for any ranked offense involving a violation of
20 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

21 NEW SECTION. **Sec. 7.** RCW 9A.76.060 and 1975 1st ex.s. c 260 s
22 9A.76.060 are each repealed.

23 NEW SECTION. **Sec. 8.** This act shall be known as the Joey Levick
24 act.

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