

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1030

60th Legislature
2008 Regular Session

Passed by the House March 8, 2008
Yeas 93 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 6, 2008
Yeas 48 Nays 1

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1030** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1030

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Committee on Public Safety & Emergency Preparedness
(originally sponsored by Representatives Takko, Lovick, Simpson,
Haler, Blake, Campbell, Ross, Skinner, Newhouse, Conway, Morrell,
Chandler, McDonald, Rodne, Kristiansen, Wallace, Moeller, VanDeWege,
McCune, Williams, Bailey, Warnick, Upthegrove, Alexander and Pearson)

READ FIRST TIME 02/05/07.

1 AN ACT Relating to the penalty for attempting to elude a police
2 vehicle; amending RCW 9.94A.533; adding a new section to chapter 9.94A
3 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** This act may be known and cited as the
6 Guillermo "Bobby" Aguilar and Edgar F. Trevino-Mendoza public safety
7 act of 2008.

8 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.94A RCW
9 to read as follows:

10 (1) The prosecuting attorney may file a special allegation of
11 endangerment by eluding in every criminal case involving a charge of
12 attempting to elude a police vehicle under RCW 46.61.024, when
13 sufficient admissible evidence exists, to show that one or more persons
14 other than the defendant or the pursuing law enforcement officer were
15 threatened with physical injury or harm by the actions of the person
16 committing the crime of attempting to elude a police vehicle.

17 (2) In a criminal case in which there has been a special
18 allegation, the state shall prove beyond a reasonable doubt that the

1 accused committed the crime while endangering one or more persons other
2 than the defendant or the pursuing law enforcement officer. The court
3 shall make a finding of fact of whether or not one or more persons
4 other than the defendant or the pursuing law enforcement officer were
5 endangered at the time of the commission of the crime, or if a jury
6 trial is had, the jury shall, if it finds the defendant guilty, also
7 find a special verdict as to whether or not one or more persons other
8 than the defendant or the pursuing law enforcement officer were
9 endangered during the commission of the crime.

10 **Sec. 3.** RCW 9.94A.533 and 2007 c 368 s 9 are each amended to read
11 as follows:

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

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

20 (3) The following additional times shall be added to the standard
21 sentence range for felony crimes committed after July 23, 1995, if the
22 offender or an accomplice was armed with a firearm as defined in RCW
23 9.41.010 and the offender is being sentenced for one of the crimes
24 listed in this subsection as eligible for any firearm enhancements
25 based on the classification of the completed felony crime. If the
26 offender is being sentenced for more than one offense, the firearm
27 enhancement or enhancements must be added to the total period of
28 confinement for all offenses, regardless of which underlying offense is
29 subject to a firearm enhancement. If the offender or an accomplice was
30 armed with a firearm as defined in RCW 9.41.010 and the offender is
31 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
32 commit one of the crimes listed in this subsection as eligible for any
33 firearm enhancements, the following additional times shall be added to
34 the standard sentence range determined under subsection (2) of this
35 section based on the felony crime of conviction as classified under RCW
36 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, and
6 not covered under (f) of this subsection;

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

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

17 (e) Notwithstanding any other provision of law, all firearm
18 enhancements under this section are mandatory, shall be served in total
19 confinement, and shall run consecutively to all other sentencing
20 provisions, including other firearm or deadly weapon enhancements, for
21 all offenses sentenced under this chapter. However, whether or not a
22 mandatory minimum term has expired, an offender serving a sentence
23 under this subsection may be granted an extraordinary medical placement
24 when authorized under RCW 9.94A.728(4);

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

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

37 (4) The following additional times shall be added to the standard
38 sentence range for felony crimes committed after July 23, 1995, if the

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

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

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

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

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

33 (e) Notwithstanding any other provision of law, all deadly weapon
34 enhancements under this section are mandatory, shall be served in total
35 confinement, and shall run consecutively to all other sentencing
36 provisions, including other firearm or deadly weapon enhancements, for
37 all offenses sentenced under this chapter. However, whether or not a

1 mandatory minimum term has expired, an offender serving a sentence
2 under this subsection may be granted an extraordinary medical placement
3 when authorized under RCW 9.94A.728(4);

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

35 (6) An additional twenty-four months shall be added to the standard
36 sentence range for any ranked offense involving a violation of chapter
37 69.50 RCW if the offense was also a violation of RCW 69.50.435 or

1 9.94A.605. All enhancements under this subsection shall run
2 consecutively to all other sentencing provisions, for all offenses
3 sentenced under this chapter.

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

8 (8)(a) The following additional times shall be added to the
9 standard sentence range for felony crimes committed on or after July 1,
10 2006, if the offense was committed with sexual motivation, as that term
11 is defined in RCW 9.94A.030. If the offender is being sentenced for
12 more than one offense, the sexual motivation enhancement must be added
13 to the total period of total confinement for all offenses, regardless
14 of which underlying offense is subject to a sexual motivation
15 enhancement. If the offender committed the offense with sexual
16 motivation and the offender is being sentenced for an anticipatory
17 offense under chapter 9A.28 RCW, the following additional times shall
18 be added to the standard sentence range determined under subsection (2)
19 of this section based on the felony crime of conviction as classified
20 under RCW 9A.28.020:

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

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

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

29 (iv) If the offender is being sentenced for any sexual motivation
30 enhancements under (i), (ii), and/or (iii) of this subsection and the
31 offender has previously been sentenced for any sexual motivation
32 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of
33 this subsection, all sexual motivation enhancements under this
34 subsection shall be twice the amount of the enhancement listed;

35 (b) Notwithstanding any other provision of law, all sexual
36 motivation enhancements under this subsection are mandatory, shall be
37 served in total confinement, and shall run consecutively to all other
38 sentencing provisions, including other sexual motivation enhancements,

1 for all offenses sentenced under this chapter. However, whether or not
2 a mandatory minimum term has expired, an offender serving a sentence
3 under this subsection may be granted an extraordinary medical placement
4 when authorized under RCW 9.94A.728(4);

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

7 (d) If the standard sentence range under this subsection exceeds
8 the statutory maximum sentence for the offense, the statutory maximum
9 sentence shall be the presumptive sentence unless the offender is a
10 persistent offender. If the addition of a sexual motivation
11 enhancement increases the sentence so that it would exceed the
12 statutory maximum for the offense, the portion of the sentence
13 representing the enhancement may not be reduced;

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

17 (f) Nothing in this subsection prevents a sentencing court from
18 imposing a sentence outside the standard sentence range pursuant to RCW
19 9.94A.535.

20 (9) An additional one-year enhancement shall be added to the
21 standard sentence range for the felony crimes of RCW 9A.44.073,
22 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
23 or after July 22, 2007, if the offender engaged, agreed, or offered to
24 engage the victim in the sexual conduct in return for a fee. If the
25 offender is being sentenced for more than one offense, the one-year
26 enhancement must be added to the total period of total confinement for
27 all offenses, regardless of which underlying offense is subject to the
28 enhancement. If the offender is being sentenced for an anticipatory
29 offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079,
30 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted,
31 solicited another, or conspired to engage, agree, or offer to engage
32 the victim in (~~the~~) the sexual conduct in return for a fee, an
33 additional one-year enhancement shall be added to the standard sentence
34 range determined under subsection (2) of this section. For purposes of
35 this subsection, "sexual conduct" means sexual intercourse or sexual
36 contact, both as defined in chapter 9A.44 RCW.

37 (10) An additional twelve months and one day shall be added to the
38 standard sentence range for a conviction of attempting to elude a

1 police vehicle as defined by RCW 46.61.024, if the conviction included
2 a finding by special allegation of endangering one or more persons
3 under section 2 of this act.

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