

2SSB 5610 - H COMM AMD

By Committee on Public Safety

1 Strike everything after the enacting clause and insert the
2 following:

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4 **"Sec. 1.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to
5 read as follows:

6 (1) The provisions of this section apply to the standard
7 sentence 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
15 standard sentence range for felony crimes committed after July 23,
16 1995, if the offender or an accomplice was armed with a firearm as
17 defined in RCW 9.41.010 and the offender is being sentenced for one
18 of the 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
27 in this subsection as eligible for any firearm enhancements, the

1 following additional times shall be added to the standard sentence
2 range determined under subsection (2) of this section based on the
3 felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

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

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

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

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

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

1 (g) If the standard sentence range under this section exceeds
2 the statutory maximum sentence for the offense, the statutory
3 maximum sentence shall be the presumptive sentence unless the
4 offender is a persistent offender. If the addition of a firearm
5 enhancement increases the sentence so that it would exceed the
6 statutory maximum for the offense, the portion of the sentence
7 representing the enhancement may not be reduced.

8 (4) The following additional times shall be added to the
9 standard sentence range for felony crimes committed after July 23,
10 1995, if the offender or an accomplice was armed with a deadly
11 weapon other than a firearm as defined in RCW 9.41.010 and the
12 offender is being sentenced for one of the crimes listed in this
13 subsection as eligible for any deadly weapon enhancements based on
14 the classification of the completed felony crime. If the offender is
15 being sentenced for more than one offense, the deadly weapon
16 enhancement or enhancements must be added to the total period of
17 confinement for all offenses, regardless of which underlying offense
18 is subject to a deadly weapon enhancement. If the offender or an
19 accomplice was armed with a deadly weapon other than a firearm as
20 defined in RCW 9.41.010 and the offender is being sentenced for an
21 anticipatory offense under chapter 9A.28 RCW to commit one of the
22 crimes listed in this subsection as eligible for any deadly weapon
23 enhancements, the following additional times shall be added to the
24 standard sentence range determined under subsection (2) of this
25 section based on the felony crime of conviction as classified under
26 RCW 9A.28.020:

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

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

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

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

11 (e) Notwithstanding any other provision of law, all deadly
12 weapon enhancements under this section are mandatory, shall be
13 served in total confinement, and shall run consecutively to all
14 other sentencing provisions, including other firearm or deadly
15 weapon enhancements, for all offenses sentenced under this chapter.
16 However, whether or not a mandatory minimum term has expired, an
17 offender serving a sentence under this subsection may be:

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

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

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

26 (g) If the standard sentence range under this section exceeds
27 the statutory maximum sentence for the offense, the statutory
28 maximum sentence shall be the presumptive sentence unless the
29 offender is a persistent offender. If the addition of a deadly
30 weapon enhancement increases the sentence so that it would exceed
31 the statutory maximum for the offense, the portion of the sentence
32 representing the enhancement may not be reduced.

33 (5) The following additional times shall be added to the
34 standard sentence range if the offender or an accomplice committed

1 the offense while in a county jail or state correctional facility
2 and the offender is being sentenced for one of the crimes listed in
3 this subsection. If the offender or an accomplice committed one of
4 the crimes listed in this subsection while in a county jail or state
5 correctional facility, 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
8 shall be added to the standard sentence range determined under
9 subsection (2) of this section:

10 (a) Eighteen months for offenses committed under RCW
11 69.50.401(2) (a) or (b) or 69.50.410;

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

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

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
17 part of that facility or county jail.

18 (6) An additional twenty-four months shall be added to the
19 standard sentence range for any ranked offense involving a violation
20 of chapter 69.50 RCW if the offense was also a violation of RCW
21 69.50.435 or 9.94A.827. All enhancements under this subsection shall
22 run consecutively to all other sentencing provisions, for all
23 offenses sentenced under this chapter.

24 (7) An additional two years shall be added to the standard
25 sentence range for vehicular homicide committed while under the
26 influence of intoxicating liquor or any drug as defined by RCW
27 46.61.502 for each prior offense as defined in RCW 46.61.5055.

28 Notwithstanding any other provision of law, all impaired driving
29 enhancements under this subsection are mandatory, shall be served in
30 total confinement, and shall run consecutively to all other
31 sentencing provisions, including other impaired driving
32 enhancements, for all offenses sentenced under this chapter.

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1 An offender serving a sentence under this subsection may be
2 granted an extraordinary medical placement when authorized under RCW
3 9.94A.728(1)(c).

4 (8)(a) The following additional times shall be added to the
5 standard sentence range for felony crimes committed on or after July
6 1, 2006, if the offense was committed with sexual motivation, as
7 that term is defined in RCW 9.94A.030. If the offender is being
8 sentenced for more than one offense, the sexual motivation
9 enhancement must be added to the total period of total confinement
10 for all offenses, regardless of which underlying offense is subject
11 to a sexual motivation enhancement. If the offender committed the
12 offense with sexual motivation and the offender is being sentenced
13 for an anticipatory offense under chapter 9A.28 RCW, the following
14 additional times shall be added to the standard sentence range
15 determined under subsection (2) of this section based on the felony
16 crime of conviction as classified under RCW 9A.28.020:

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

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

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

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

32 (b) Notwithstanding any other provision of law, all sexual
33 motivation enhancements under this subsection are mandatory, shall
34 be served in total confinement, and shall run consecutively to all

1 other sentencing provisions, including other sexual motivation
2 enhancements, for all offenses sentenced under this chapter.
3 However, whether or not a mandatory minimum term has expired, an
4 offender serving a sentence under this subsection may be:

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

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

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

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

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

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

23 (9) An additional one-year enhancement shall be added to the
24 standard sentence range for the felony crimes of RCW 9A.44.073,
25 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed
26 on or after July 22, 2007, if the offender engaged, agreed, or
27 offered to engage the victim in the sexual conduct in return for a
28 fee. If the offender is being sentenced for more than one offense,
29 the one-year enhancement must be added to the total period of total
30 confinement for all offenses, regardless of which underlying offense
31 is subject to the enhancement. If the offender is being sentenced
32 for an anticipatory offense for the felony crimes of RCW 9A.44.073,
33 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
34 offender attempted, solicited another, or conspired to engage,

1 agree, or offer to engage the victim in the sexual conduct in return
2 for a fee, an additional one-year enhancement shall be added to the
3 standard sentence range determined under subsection (2) of this
4 section. For purposes of this subsection, "sexual conduct" means
5 sexual intercourse or sexual contact, both as defined in chapter
6 9A.44 RCW.

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

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

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

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

30 (12) An additional twelve months shall be added to the standard
31 sentence range for an offense that is also a violation of RCW
32 9.94A.831.

33 (13) An additional twelve months shall be added to the standard
34 sentence range for vehicular homicide committed while under the

1 influence of intoxicating liquor or any drug as defined by RCW
2 46.61.520 or for vehicular assault committed while under the
3 influence of intoxicating liquor or any drug as defined by RCW
4 46.61.522, or for any felony driving under the influence (RCW
5 46.61.502(6)) or felony physical control under the influence (RCW
6 46.61.504(6)) for each child passenger under the age of sixteen who
7 is an occupant in the defendant's vehicle. These enhancements shall
8 be mandatory, shall be served in total confinement, and shall run
9 consecutively to all other sentencing provisions. If the addition of
10 a minor child enhancement increases the sentence so that it would
11 exceed the statutory maximum for the offense, the portion of the
12 sentence representing the enhancement may not be reduced.

13 (14) An additional twelve months shall be added to the standard
14 sentence range for an offense that is also a violation of RCW
15 9.94A.832.

16 (15) Regardless of the provisions of this section, if an offender
17 is being sentenced in adult court for a crime committed as a minor,
18 the court has complete discretion to impose a sentence below the
19 standard range and to reduce any applicable sentencing enhancement
20 under this section based on a consideration of mitigating
21 circumstances associated with youth. For the purposes of this
22 subsection, "minor" means a person under the age of eighteen years.

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24 **Sec. 2.** RCW 9.94A.535 and 2016 c 6 s 2 are each amended to read
25 as follows:

26 The court may impose a sentence outside the standard sentence
27 range for an offense if it finds, considering the purpose of this
28 chapter, that there are substantial and compelling reasons
29 justifying an exceptional sentence. Facts supporting aggravated
30 sentences, other than the fact of a prior conviction, shall be
31 determined pursuant to the provisions of RCW 9.94A.537.

32 Whenever a sentence outside the standard sentence range is
33 imposed, the court shall set forth the reasons for its decision in
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1 written findings of fact and conclusions of law. A sentence outside
2 the standard sentence range shall be a determinate sentence.

3 If the sentencing court finds that an exceptional sentence
4 outside the standard sentence range should be imposed, the sentence
5 is subject to review only as provided for in RCW 9.94A.585(4).

6 A departure from the standards in RCW 9.94A.589 (1) and (2)
7 governing whether sentences are to be served consecutively or
8 concurrently is an exceptional sentence subject to the limitations
9 in this section, and may be appealed by the offender or the state as
10 set forth in RCW 9.94A.585 (2) through (6).

11 (1) Mitigating Circumstances - Court to Consider

12 The court may impose an exceptional sentence below the standard
13 range if it finds that mitigating circumstances are established by a
14 preponderance of the evidence. The following are illustrative only
15 and are not intended to be exclusive reasons for exceptional
16 sentences.

17 (a) To a significant degree, the victim was an initiator,
18 willing participant, aggressor, or provoker of the incident.

19 (b) Before detection, the defendant compensated, or made a good
20 faith effort to compensate, the victim of the criminal conduct for
21 any damage or injury sustained.

22 (c) The defendant committed the crime under duress, coercion,
23 threat, or compulsion insufficient to constitute a complete defense
24 but which significantly affected his or her conduct.

25 (d) The defendant, with no apparent predisposition to do so, was
26 induced by others to participate in the crime.

27 (e) The defendant's capacity to appreciate the wrongfulness of
28 his or her conduct, or to conform his or her conduct to the
29 requirements of the law, was significantly impaired. Voluntary use
30 of drugs or alcohol is excluded.

31 (f) The offense was principally accomplished by another person
32 and the defendant manifested extreme caution or sincere concern for
33 the safety or well-being of the victim.

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1 (g) The operation of the multiple offense policy of RCW
2 9.94A.589 results in a presumptive sentence that is clearly
3 excessive in light of the purpose of this chapter, as expressed in
4 RCW 9.94A.010.

5 (h) The defendant or the defendant's children suffered a
6 continuing pattern of physical or sexual abuse by the victim of the
7 offense and the offense is a response to that abuse.

8 (i) The defendant was making a good faith effort to obtain or
9 provide medical assistance for someone who is experiencing a drug-
10 related overdose.

11 (j) The current offense involved domestic violence, as defined
12 in RCW 10.99.020, and the defendant suffered a continuing pattern of
13 coercion, control, or abuse by the victim of the offense and the
14 offense is a response to that coercion, control, or abuse.

15 (k) The defendant was convicted of vehicular homicide, by the
16 operation of a vehicle in a reckless manner and has committed no
17 other previous serious traffic offenses as defined in RCW 9.94A.030,
18 and the sentence is clearly excessive in light of the purpose of
19 this chapter, as expressed in RCW 9.94A.010.

20 (l) The defendant's age, sophistication, and role in the crime,
21 if the defendant is under adult court jurisdiction for a crime
22 committed as a minor. For the purposes of this subsection, "minor"
23 means a person under the age of eighteen years.

24 (2) Aggravating Circumstances - Considered and Imposed by the
25 Court

26 The trial court may impose an aggravated exceptional sentence
27 without a finding of fact by a jury under the following
28 circumstances:

29 (a) The defendant and the state both stipulate that justice is
30 best served by the imposition of an exceptional sentence outside the
31 standard range, and the court finds the exceptional sentence to be
32 consistent with and in furtherance of the interests of justice and
33 the purposes of the sentencing reform act.

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1 (b) The defendant's prior unscored misdemeanor or prior unscored
2 foreign criminal history results in a presumptive sentence that is
3 clearly too lenient in light of the purpose of this chapter, as
4 expressed in RCW 9.94A.010.

5 (c) The defendant has committed multiple current offenses and
6 the defendant's high offender score results in some of the current
7 offenses going unpunished.

8 (d) The failure to consider the defendant's prior criminal
9 history which was omitted from the offender score calculation
10 pursuant to RCW 9.94A.525 results in a presumptive sentence that is
11 clearly too lenient.

12 (3) Aggravating Circumstances - Considered by a Jury - Imposed
13 by the Court

14 Except for circumstances listed in subsection (2) of this
15 section, the following circumstances are an exclusive list of
16 factors that can support a sentence above the standard range. Such
17 facts should be determined by procedures specified in RCW 9.94A.537.

18 (a) The defendant's conduct during the commission of the current
19 offense manifested deliberate cruelty to the victim.

20 (b) The defendant knew or should have known that the victim of
21 the current offense was particularly vulnerable or incapable of
22 resistance.

23 (c) The current offense was a violent offense, and the defendant
24 knew that the victim of the current offense was pregnant.

25 (d) The current offense was a major economic offense or series
26 of offenses, so identified by a consideration of any of the
27 following factors:

28 (i) The current offense involved multiple victims or multiple
29 incidents per victim;

30 (ii) The current offense involved attempted or actual monetary
31 loss substantially greater than typical for the offense;

32 (iii) The current offense involved a high degree of
33 sophistication or planning or occurred over a lengthy period of
34 time; or

1 (iv) The defendant used his or her position of trust,
2 confidence, or fiduciary responsibility to facilitate the commission
3 of the current offense.

4 (e) The current offense was a major violation of the Uniform
5 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to
6 trafficking in controlled substances, which was more onerous than
7 the typical offense of its statutory definition: The presence of ANY
8 of the following may identify a current offense as a major VUCSA:

9 (i) The current offense involved at least three separate
10 transactions in which controlled substances were sold, transferred,
11 or possessed with intent to do so;

12 (ii) The current offense involved an attempted or actual sale or
13 transfer of controlled substances in quantities substantially larger
14 than for personal use;

15 (iii) The current offense involved the manufacture of controlled
16 substances for use by other parties;

17 (iv) The circumstances of the current offense reveal the
18 offender to have occupied a high position in the drug distribution
19 hierarchy;

20 (v) The current offense involved a high degree of sophistication
21 or planning, occurred over a lengthy period of time, or involved a
22 broad geographic area of disbursement; or

23 (vi) The offender used his or her position or status to
24 facilitate the commission of the current offense, including
25 positions of trust, confidence or fiduciary responsibility (e.g.,
26 pharmacist, physician, or other medical professional).

27 (f) The current offense included a finding of sexual motivation
28 pursuant to RCW 9.94A.835.

29 (g) The offense was part of an ongoing pattern of sexual abuse
30 of the same victim under the age of eighteen years manifested by
31 multiple incidents over a prolonged period of time.

32 (h) The current offense involved domestic violence, as defined
33 in RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one
34 or more of the following was present:

1 (i) The offense was part of an ongoing pattern of psychological,
2 physical, or sexual abuse of a victim or multiple victims manifested
3 by multiple incidents over a prolonged period of time;

4 (ii) The offense occurred within sight or sound of the victim's
5 or the offender's minor children under the age of eighteen years; or

6 (iii) The offender's conduct during the commission of the
7 current offense manifested deliberate cruelty or intimidation of the
8 victim.

9 (i) The offense resulted in the pregnancy of a child victim of
10 rape.

11 (j) The defendant knew that the victim of the current offense
12 was a youth who was not residing with a legal custodian and the
13 defendant established or promoted the relationship for the primary
14 purpose of victimization.

15 (k) The offense was committed with the intent to obstruct or
16 impair human or animal health care or agricultural or forestry
17 research or commercial production.

18 (l) The current offense is trafficking in the first degree or
19 trafficking in the second degree and any victim was a minor at the
20 time of the offense.

21 (m) The offense involved a high degree of sophistication or
22 planning.

23 (n) The defendant used his or her position of trust, confidence,
24 or fiduciary responsibility to facilitate the commission of the
25 current offense.

26 (o) The defendant committed a current sex offense, has a history
27 of sex offenses, and is not amenable to treatment.

28 (p) The offense involved an invasion of the victim's privacy.

29 (q) The defendant demonstrated or displayed an egregious lack of
30 remorse.

31 (r) The offense involved a destructive and foreseeable impact on
32 persons other than the victim.

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1 (s) The defendant committed the offense to obtain or maintain
2 his or her membership or to advance his or her position in the
3 hierarchy of an organization, association, or identifiable group.

4 (t) The defendant committed the current offense shortly after
5 being released from incarceration.

6 (u) The current offense is a burglary and the victim of the
7 burglary was present in the building or residence when the crime was
8 committed.

9 (v) The offense was committed against a law enforcement officer
10 who was performing his or her official duties at the time of the
11 offense, the offender knew that the victim was a law enforcement
12 officer, and the victim's status as a law enforcement officer is not
13 an element of the offense.

14 (w) The defendant committed the offense against a victim who was
15 acting as a good samaritan.

16 (x) The defendant committed the offense against a public
17 official or officer of the court in retaliation of the public
18 official's performance of his or her duty to the criminal justice
19 system.

20 (y) The victim's injuries substantially exceed the level of
21 bodily harm necessary to satisfy the elements of the offense. This
22 aggravator is not an exception to RCW 9.94A.530(2).

23 (z)(i)(A) The current offense is theft in the first degree,
24 theft in the second degree, possession of stolen property in the
25 first degree, or possession of stolen property in the second degree;
26 (B) the stolen property involved is metal property; and (C) the
27 property damage to the victim caused in the course of the theft of
28 metal property is more than three times the value of the stolen
29 metal property, or the theft of the metal property creates a public
30 hazard.

31 (ii) For purposes of this subsection, "metal property" means
32 commercial metal property, private metal property, or nonferrous
33 metal property, as defined in RCW 19.290.010.

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1 (aa) The defendant committed the offense with the intent to
2 directly or indirectly cause any benefit, aggrandizement, gain,
3 profit, or other advantage to or for a criminal street gang as
4 defined in RCW 9.94A.030, its reputation, influence, or membership.

5 (bb) The current offense involved paying to view, over the
6 internet in violation of RCW 9.68A.075, depictions of a minor
7 engaged in an act of sexually explicit conduct as defined in RCW
8 9.68A.011(4) (a) through (g).

9 (cc) The offense was intentionally committed because the
10 defendant perceived the victim to be homeless, as defined in RCW
11 9.94A.030.

12 (dd) The current offense involved a felony crime against
13 persons, except for assault in the third degree pursuant to RCW
14 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's
15 chamber, or any waiting area or corridor immediately adjacent to a
16 courtroom, jury room, or judge's chamber. This subsection shall
17 apply only: (i) During the times when a courtroom, jury room, or
18 judge's chamber is being used for judicial purposes during court
19 proceedings; and (ii) if signage was posted in compliance with RCW
20 2.28.200 at the time of the offense.

21 (ee) During the commission of the current offense, the defendant
22 was driving in the opposite direction of the normal flow of traffic
23 on a multiple lane highway, as defined by RCW 46.04.350, with a
24 posted speed limit of forty-five miles per hour or greater."

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26 Correct the title.

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EFFECT: Expands court discretion for reducing penalties for minors sentenced in adult court by specifying that the court has complete discretion to reduce the standard range and any applicable enhancement for a minor based on a consideration of mitigating circumstances associated with his or her youth (rather than only authorizing a reduction in consecutive enhancements when those enhancements would result in a clearly excessive sentence).

Defines "minor" as a person under the age of eighteen years.

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