
HOUSE BILL 1087

State of Washington

65th Legislature

2017 Regular Session

By Representatives Appleton and Macri

Read first time 01/11/17. Referred to Committee on Public Safety.

1 AN ACT Relating to reducing the penalty for possession of
2 controlled substances; amending RCW 69.50.4013, 9.94A.518, 69.50.315,
3 69.50.505, and 13.40.0357; repealing RCW 69.50.4014; and prescribing
4 penalties.

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

6 **Sec. 1.** RCW 69.50.4013 and 2015 2nd sp.s. c 4 s 503 are each
7 amended to read as follows:

8 (1) It is unlawful for any person to possess a controlled
9 substance unless the substance was obtained directly from, or
10 pursuant to, a valid prescription or order of a practitioner while
11 acting in the course of his or her professional practice, or except
12 as otherwise authorized by this chapter.

13 (2) (~~Except as provided in RCW 69.50.4014,~~) Any person who
14 violates this section is guilty of a (~~class C felony~~) misdemeanor
15 punishable under chapter 9A.20 RCW.

16 (3)(a) The possession, by a person twenty-one years of age or
17 older, of useable marijuana, marijuana concentrates, or marijuana-
18 infused products in amounts that do not exceed those set forth in RCW
19 69.50.360(3) is not a violation of this section, this chapter, or any
20 other provision of Washington state law.

1 (b) The possession of marijuana, useable marijuana, marijuana
2 concentrates, and marijuana-infused products being physically
3 transported or delivered within the state, in amounts not exceeding
4 those that may be established under RCW 69.50.385(3), by a licensed
5 employee of a common carrier when performing the duties authorized in
6 accordance with RCW 69.50.382 and 69.50.385, is not a violation of
7 this section, this chapter, or any other provision of Washington
8 state law.

9 (4) No person under twenty-one years of age may possess,
10 manufacture, sell, or distribute marijuana, marijuana-infused
11 products, or marijuana concentrates, regardless of THC concentration.
12 This does not include qualifying patients with a valid authorization.

13 (5) The possession by a qualifying patient or designated provider
14 of marijuana concentrates, useable marijuana, marijuana-infused
15 products, or plants in accordance with chapter 69.51A RCW is not a
16 violation of this section, this chapter, or any other provision of
17 Washington state law.

18 **Sec. 2.** RCW 9.94A.518 and 2003 c 53 s 57 are each amended to
19 read as follows:

20 TABLE 4

21 DRUG OFFENSES

22 INCLUDED WITHIN EACH

23 SERIOUSNESS LEVEL

- 24 III Any felony offense under chapter
25 69.50 RCW with a deadly weapon
26 special verdict under RCW
27 ((9.94A.602)) 9.94A.825
28 Controlled Substance Homicide (RCW
29 69.50.415)
30 Delivery of imitation controlled
31 substance by person eighteen or over to
32 person under eighteen (RCW
33 69.52.030(2))
34 Involving a minor in drug dealing
35 (RCW 69.50.4015)
36 Manufacture of methamphetamine
37 (RCW 69.50.401(2)(b))

1 Over 18 and deliver heroin,
2 methamphetamine, a narcotic from
3 Schedule I or II, or flunitrazepam from
4 Schedule IV to someone under 18
5 (RCW 69.50.406)

6 Over 18 and deliver narcotic from
7 Schedule III, IV, or V or a nonnarcotic,
8 except flunitrazepam or
9 methamphetamine, from Schedule I-V
10 to someone under 18 and 3 years junior
11 (RCW 69.50.406)

12 Possession of Ephedrine,
13 Pseudoephedrine, or Anhydrous
14 Ammonia with intent to manufacture
15 methamphetamine (RCW 69.50.440)

16 Selling for profit (controlled or
17 counterfeit) any controlled substance
18 (RCW 69.50.410)

19 II Create, deliver, or possess a counterfeit
20 controlled substance (RCW
21 69.50.4011)

22 Deliver or possess with intent to
23 deliver methamphetamine (RCW
24 69.50.401(2)(b))

25 Delivery of a material in lieu of a
26 controlled substance (RCW
27 69.50.4012)

28 Maintaining a Dwelling or Place for
29 Controlled Substances (RCW
30 69.50.402(1)(f))

31 Manufacture, deliver, or possess with
32 intent to deliver amphetamine (RCW
33 69.50.401(2)(b))

34 Manufacture, deliver, or possess with
35 intent to deliver narcotics from
36 Schedule I or II or flunitrazepam from
37 Schedule IV (RCW 69.50.401(2)(a))

1 Manufacture, deliver, or possess with
2 intent to deliver narcotics from
3 Schedule III, IV, or V or nonnarcotics
4 from Schedule I-V (except marijuana,
5 amphetamine, methamphetamines, or
6 flunitrazepam) (RCW 69.50.401(2) (c)
7 through (e))
8 Manufacture, distribute, or possess
9 with intent to distribute an imitation
10 controlled substance (RCW
11 69.52.030(1))
12 I Forged Prescription (RCW 69.41.020)
13 Forged Prescription for a Controlled
14 Substance (RCW 69.50.403)
15 Manufacture, deliver, or possess with
16 intent to deliver marijuana (RCW
17 69.50.401(2)(c))
18 ~~((Possess Controlled Substance that is~~
19 ~~a Narcotic from Schedule III, IV, or V~~
20 ~~or Nonnarcotic from Schedule I-V~~
21 ~~(RCW 69.50.4013))~~
22 ~~Possession of Controlled Substance~~
23 ~~that is either heroin or narcotics from~~
24 ~~Schedule I or II (RCW 69.50.4013))~~
25 Unlawful Use of Building for Drug
26 Purposes (RCW 69.53.010)

27 **Sec. 3.** RCW 69.50.315 and 2015 c 205 s 4 are each amended to
28 read as follows:

29 (1) A person acting in good faith who seeks medical assistance
30 for someone experiencing a drug-related overdose shall not be charged
31 or prosecuted for possession of a controlled substance pursuant to
32 RCW 69.50.4013(~~(, or penalized under RCW 69.50.4014,)~~) if the
33 evidence for the charge of possession of a controlled substance was
34 obtained as a result of the person seeking medical assistance.

35 (2) A person who experiences a drug-related overdose and is in
36 need of medical assistance shall not be charged or prosecuted for
37 possession of a controlled substance pursuant to RCW 69.50.4013(~~(, or~~

1 ~~penalized under RCW 69.50.4014,~~) if the evidence for the charge of
2 possession of a controlled substance was obtained as a result of the
3 overdose and the need for medical assistance.

4 (3) The protection in this section from prosecution for
5 possession crimes under RCW 69.50.4013 shall not be grounds for
6 suppression of evidence in other criminal charges.

7 **Sec. 4.** RCW 69.50.505 and 2013 c 3 s 25 are each amended to read
8 as follows:

9 (1) The following are subject to seizure and forfeiture and no
10 property right exists in them:

11 (a) All controlled substances which have been manufactured,
12 distributed, dispensed, acquired, or possessed in violation of this
13 chapter or chapter 69.41 or 69.52 RCW, and all hazardous chemicals,
14 as defined in RCW 64.44.010, used or intended to be used in the
15 manufacture of controlled substances;

16 (b) All raw materials, products, and equipment of any kind which
17 are used, or intended for use, in manufacturing, compounding,
18 processing, delivering, importing, or exporting any controlled
19 substance in violation of this chapter or chapter 69.41 or 69.52 RCW;

20 (c) All property which is used, or intended for use, as a
21 container for property described in (a) or (b) of this subsection;

22 (d) All conveyances, including aircraft, vehicles, or vessels,
23 which are used, or intended for use, in any manner to facilitate the
24 sale, delivery, or receipt of property described in (a) or (b) of
25 this subsection, except that:

26 (i) No conveyance used by any person as a common carrier in the
27 transaction of business as a common carrier is subject to forfeiture
28 under this section unless it appears that the owner or other person
29 in charge of the conveyance is a consenting party or privy to a
30 violation of this chapter or chapter 69.41 or 69.52 RCW;

31 (ii) No conveyance is subject to forfeiture under this section by
32 reason of any act or omission established by the owner thereof to
33 have been committed or omitted without the owner's knowledge or
34 consent;

35 (iii) No conveyance is subject to forfeiture under this section
36 if used in the receipt of only (~~an amount~~) forty grams or less of
37 marijuana for which possession constitutes a misdemeanor under RCW
38 (~~(69.50.4014)~~) 69.50.4013;

1 (iv) A forfeiture of a conveyance encumbered by a bona fide
2 security interest is subject to the interest of the secured party if
3 the secured party neither had knowledge of nor consented to the act
4 or omission; and

5 (v) When the owner of a conveyance has been arrested under this
6 chapter or chapter 69.41 or 69.52 RCW the conveyance in which the
7 person is arrested may not be subject to forfeiture unless it is
8 seized or process is issued for its seizure within ten days of the
9 owner's arrest;

10 (e) All books, records, and research products and materials,
11 including formulas, microfilm, tapes, and data which are used, or
12 intended for use, in violation of this chapter or chapter 69.41 or
13 69.52 RCW;

14 (f) All drug paraphernalia ((21)) other than paraphernalia
15 possessed, sold, or used solely to facilitate marijuana-related
16 activities that are not violations of this chapter;

17 (g) All moneys, negotiable instruments, securities, or other
18 tangible or intangible property of value furnished or intended to be
19 furnished by any person in exchange for a controlled substance in
20 violation of this chapter or chapter 69.41 or 69.52 RCW, all tangible
21 or intangible personal property, proceeds, or assets acquired in
22 whole or in part with proceeds traceable to an exchange or series of
23 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
24 and all moneys, negotiable instruments, and securities used or
25 intended to be used to facilitate any violation of this chapter or
26 chapter 69.41 or 69.52 RCW. A forfeiture of money, negotiable
27 instruments, securities, or other tangible or intangible property
28 encumbered by a bona fide security interest is subject to the
29 interest of the secured party if, at the time the security interest
30 was created, the secured party neither had knowledge of nor consented
31 to the act or omission. No personal property may be forfeited under
32 this subsection (1)(g), to the extent of the interest of an owner, by
33 reason of any act or omission which that owner establishes was
34 committed or omitted without the owner's knowledge or consent; and

35 (h) All real property, including any right, title, and interest
36 in the whole of any lot or tract of land, and any appurtenances or
37 improvements which are being used with the knowledge of the owner for
38 the manufacturing, compounding, processing, delivery, importing, or
39 exporting of any controlled substance, or which have been acquired in
40 whole or in part with proceeds traceable to an exchange or series of

1 exchanges in violation of this chapter or chapter 69.41 or 69.52 RCW,
2 if such activity is not less than a class C felony and a substantial
3 nexus exists between the commercial production or sale of the
4 controlled substance and the real property. However:

5 (i) No property may be forfeited pursuant to this subsection
6 (1)(h), to the extent of the interest of an owner, by reason of any
7 act or omission committed or omitted without the owner's knowledge or
8 consent;

9 (ii) The bona fide gift of a controlled substance, legend drug,
10 or imitation controlled substance shall not result in the forfeiture
11 of real property;

12 (iii) The possession of marijuana shall not result in the
13 forfeiture of real property unless the marijuana is possessed for
14 commercial purposes that are unlawful under Washington state law, the
15 amount possessed is five or more plants or one pound or more of
16 marijuana, and a substantial nexus exists between the possession of
17 marijuana and the real property. In such a case, the intent of the
18 offender shall be determined by the preponderance of the evidence,
19 including the offender's prior criminal history, the amount of
20 marijuana possessed by the offender, the sophistication of the
21 activity or equipment used by the offender, whether the offender was
22 licensed to produce, process, or sell marijuana, or was an employee
23 of a licensed producer, processor, or retailer, and other evidence
24 which demonstrates the offender's intent to engage in unlawful
25 commercial activity;

26 (iv) The unlawful sale of marijuana or a legend drug shall not
27 result in the forfeiture of real property unless the sale was forty
28 grams or more in the case of marijuana or one hundred dollars or more
29 in the case of a legend drug, and a substantial nexus exists between
30 the unlawful sale and the real property; and

31 (v) A forfeiture of real property encumbered by a bona fide
32 security interest is subject to the interest of the secured party if
33 the secured party, at the time the security interest was created,
34 neither had knowledge of nor consented to the act or omission.

35 (2) Real or personal property subject to forfeiture under this
36 chapter may be seized by any (~~board~~) commission inspector or law
37 enforcement officer of this state upon process issued by any superior
38 court having jurisdiction over the property. Seizure of real property
39 shall include the filing of a lis pendens by the seizing agency. Real
40 property seized under this section shall not be transferred or

1 otherwise conveyed until ninety days after seizure or until a
2 judgment of forfeiture is entered, whichever is later: PROVIDED, That
3 real property seized under this section may be transferred or
4 conveyed to any person or entity who acquires title by foreclosure or
5 deed in lieu of foreclosure of a security interest. Seizure of
6 personal property without process may be made if:

7 (a) The seizure is incident to an arrest or a search under a
8 search warrant or an inspection under an administrative inspection
9 warrant;

10 (b) The property subject to seizure has been the subject of a
11 prior judgment in favor of the state in a criminal injunction or
12 forfeiture proceeding based upon this chapter;

13 (c) A ((~~board~~)) commission inspector or law enforcement officer
14 has probable cause to believe that the property is directly or
15 indirectly dangerous to health or safety; or

16 (d) The ((~~board~~)) commission inspector or law enforcement officer
17 has probable cause to believe that the property was used or is
18 intended to be used in violation of this chapter.

19 (3) In the event of seizure pursuant to subsection (2) of this
20 section, proceedings for forfeiture shall be deemed commenced by the
21 seizure. The law enforcement agency under whose authority the seizure
22 was made shall cause notice to be served within fifteen days
23 following the seizure on the owner of the property seized and the
24 person in charge thereof and any person having any known right or
25 interest therein, including any community property interest, of the
26 seizure and intended forfeiture of the seized property. Service of
27 notice of seizure of real property shall be made according to the
28 rules of civil procedure. However, the state may not obtain a default
29 judgment with respect to real property against a party who is served
30 by substituted service absent an affidavit stating that a good faith
31 effort has been made to ascertain if the defaulted party is
32 incarcerated within the state, and that there is no present basis to
33 believe that the party is incarcerated within the state. Notice of
34 seizure in the case of property subject to a security interest that
35 has been perfected by filing a financing statement in accordance with
36 chapter 62A.9A RCW, or a certificate of title, shall be made by
37 service upon the secured party or the secured party's assignee at the
38 address shown on the financing statement or the certificate of title.
39 The notice of seizure in other cases may be served by any method
40 authorized by law or court rule including but not limited to service

1 by certified mail with return receipt requested. Service by mail
2 shall be deemed complete upon mailing within the fifteen day period
3 following the seizure.

4 (4) If no person notifies the seizing law enforcement agency in
5 writing of the person's claim of ownership or right to possession of
6 items specified in subsection (1)(d), (g), or (h) of this section
7 within forty-five days of the service of notice from the seizing
8 agency in the case of personal property and ninety days in the case
9 of real property, the item seized shall be deemed forfeited. The
10 community property interest in real property of a person whose spouse
11 or domestic partner committed a violation giving rise to seizure of
12 the real property may not be forfeited if the person did not
13 participate in the violation.

14 (5) If any person notifies the seizing law enforcement agency in
15 writing of the person's claim of ownership or right to possession of
16 items specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h)
17 of this section within forty-five days of the service of notice from
18 the seizing agency in the case of personal property and ninety days
19 in the case of real property, the person or persons shall be afforded
20 a reasonable opportunity to be heard as to the claim or right. The
21 notice of claim may be served by any method authorized by law or
22 court rule including, but not limited to, service by first-class
23 mail. Service by mail shall be deemed complete upon mailing within
24 the forty-five day period following service of the notice of seizure
25 in the case of personal property and within the ninety-day period
26 following service of the notice of seizure in the case of real
27 property. The hearing shall be before the chief law enforcement
28 officer of the seizing agency or the chief law enforcement officer's
29 designee, except where the seizing agency is a state agency as
30 defined in RCW 34.12.020(4), the hearing shall be before the chief
31 law enforcement officer of the seizing agency or an administrative
32 law judge appointed under chapter 34.12 RCW, except that any person
33 asserting a claim or right may remove the matter to a court of
34 competent jurisdiction. Removal of any matter involving personal
35 property may only be accomplished according to the rules of civil
36 procedure. The person seeking removal of the matter must serve
37 process against the state, county, political subdivision, or
38 municipality that operates the seizing agency, and any other party of
39 interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-
40 five days after the person seeking removal has notified the seizing

1 law enforcement agency of the person's claim of ownership or right to
2 possession. The court to which the matter is to be removed shall be
3 the district court when the aggregate value of personal property is
4 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
5 before the seizing agency and any appeal therefrom shall be under
6 Title 34 RCW. In all cases, the burden of proof is upon the law
7 enforcement agency to establish, by a preponderance of the evidence,
8 that the property is subject to forfeiture.

9 The seizing law enforcement agency shall promptly return the
10 article or articles to the claimant upon a determination by the
11 administrative law judge or court that the claimant is the present
12 lawful owner or is lawfully entitled to possession thereof of items
13 specified in subsection (1)(b), (c), (d), (e), (f), (g), or (h) of
14 this section.

15 (6) In any proceeding to forfeit property under this title, where
16 the claimant substantially prevails, the claimant is entitled to
17 reasonable attorneys' fees reasonably incurred by the claimant. In
18 addition, in a court hearing between two or more claimants to the
19 article or articles involved, the prevailing party is entitled to a
20 judgment for costs and reasonable attorneys' fees.

21 (7) When property is forfeited under this chapter the ~~((board))~~
22 commission or seizing law enforcement agency may:

23 (a) Retain it for official use or upon application by any law
24 enforcement agency of this state release such property to such agency
25 for the exclusive use of enforcing the provisions of this chapter;

26 (b) Sell that which is not required to be destroyed by law and
27 which is not harmful to the public;

28 (c) Request the appropriate sheriff or director of public safety
29 to take custody of the property and remove it for disposition in
30 accordance with law; or

31 (d) Forward it to the drug enforcement administration for
32 disposition.

33 (8)(a) When property is forfeited, the seizing agency shall keep
34 a record indicating the identity of the prior owner, if known, a
35 description of the property, the disposition of the property, the
36 value of the property at the time of seizure, and the amount of
37 proceeds realized from disposition of the property.

38 (b) Each seizing agency shall retain records of forfeited
39 property for at least seven years.

1 (c) Each seizing agency shall file a report including a copy of
2 the records of forfeited property with the state treasurer each
3 calendar quarter.

4 (d) The quarterly report need not include a record of forfeited
5 property that is still being held for use as evidence during the
6 investigation or prosecution of a case or during the appeal from a
7 conviction.

8 (9)(a) By January 31st of each year, each seizing agency shall
9 remit to the state treasurer an amount equal to ten percent of the
10 net proceeds of any property forfeited during the preceding calendar
11 year. Money remitted shall be deposited in the state general fund.

12 (b) The net proceeds of forfeited property is the value of the
13 forfeitable interest in the property after deducting the cost of
14 satisfying any bona fide security interest to which the property is
15 subject at the time of seizure; and in the case of sold property,
16 after deducting the cost of sale, including reasonable fees or
17 commissions paid to independent selling agents, and the cost of any
18 valid landlord's claim for damages under subsection (15) of this
19 section.

20 (c) The value of sold forfeited property is the sale price. The
21 value of retained forfeited property is the fair market value of the
22 property at the time of seizure, determined when possible by
23 reference to an applicable commonly used index, such as the index
24 used by the department of licensing for valuation of motor vehicles.
25 A seizing agency may use, but need not use, an independent qualified
26 appraiser to determine the value of retained property. If an
27 appraiser is used, the value of the property appraised is net of the
28 cost of the appraisal. The value of destroyed property and retained
29 firearms or illegal property is zero.

30 (10) Forfeited property and net proceeds not required to be paid
31 to the state treasurer shall be retained by the seizing law
32 enforcement agency exclusively for the expansion and improvement of
33 controlled substances related law enforcement activity. Money
34 retained under this section may not be used to supplant preexisting
35 funding sources.

36 (11) Controlled substances listed in Schedule I, II, III, IV, and
37 V that are possessed, transferred, sold, or offered for sale in
38 violation of this chapter are contraband and shall be seized and
39 summarily forfeited to the state. Controlled substances listed in
40 Schedule I, II, III, IV, and V, which are seized or come into the

1 possession of the ((beard)) commission, the owners of which are
2 unknown, are contraband and shall be summarily forfeited to the
3 ((beard)) commission.

4 (12) Species of plants from which controlled substances in
5 Schedules I and II may be derived which have been planted or
6 cultivated in violation of this chapter, or of which the owners or
7 cultivators are unknown, or which are wild growths, may be seized and
8 summarily forfeited to the ((beard)) commission.

9 (13) The failure, upon demand by a ((beard)) commission inspector
10 or law enforcement officer, of the person in occupancy or in control
11 of land or premises upon which the species of plants are growing or
12 being stored to produce an appropriate registration or proof that he
13 or she is the holder thereof constitutes authority for the seizure
14 and forfeiture of the plants.

15 (14) Upon the entry of an order of forfeiture of real property,
16 the court shall forward a copy of the order to the assessor of the
17 county in which the property is located. Orders for the forfeiture of
18 real property shall be entered by the superior court, subject to
19 court rules. Such an order shall be filed by the seizing agency in
20 the county auditor's records in the county in which the real property
21 is located.

22 (15)(a) A landlord may assert a claim against proceeds from the
23 sale of assets seized and forfeited under subsection (7)(b) of this
24 section, only if:

25 (i) A law enforcement officer, while acting in his or her
26 official capacity, directly caused damage to the complaining
27 landlord's property while executing a search of a tenant's residence;
28 and

29 (ii) The landlord has applied any funds remaining in the tenant's
30 deposit, to which the landlord has a right under chapter 59.18 RCW,
31 to cover the damage directly caused by a law enforcement officer
32 prior to asserting a claim under the provisions of this section;

33 (A) Only if the funds applied under (a)(ii) of this subsection
34 are insufficient to satisfy the damage directly caused by a law
35 enforcement officer, may the landlord seek compensation for the
36 damage by filing a claim against the governmental entity under whose
37 authority the law enforcement agency operates within thirty days
38 after the search;

39 (B) Only if the governmental entity denies or fails to respond to
40 the landlord's claim within sixty days of the date of filing, may the

1 landlord collect damages under this subsection by filing within
2 thirty days of denial or the expiration of the sixty-day period,
3 whichever occurs first, a claim with the seizing law enforcement
4 agency. The seizing law enforcement agency must notify the landlord
5 of the status of the claim by the end of the thirty-day period.
6 Nothing in this section requires the claim to be paid by the end of
7 the sixty-day or thirty-day period.

8 (b) For any claim filed under (a)(ii) of this subsection, the law
9 enforcement agency shall pay the claim unless the agency provides
10 substantial proof that the landlord either:

11 (i) Knew or consented to actions of the tenant in violation of
12 this chapter or chapter 69.41 or 69.52 RCW; or

13 (ii) Failed to respond to a notification of the illegal activity,
14 provided by a law enforcement agency under RCW 59.18.075, within
15 seven days of receipt of notification of the illegal activity.

16 (16) The landlord's claim for damages under subsection (15) of
17 this section may not include a claim for loss of business and is
18 limited to:

19 (a) Damage to tangible property and clean-up costs;

20 (b) The lesser of the cost of repair or fair market value of the
21 damage directly caused by a law enforcement officer;

22 (c) The proceeds from the sale of the specific tenant's property
23 seized and forfeited under subsection (7)(b) of this section; and

24 (d) The proceeds available after the seizing law enforcement
25 agency satisfies any bona fide security interest in the tenant's
26 property and costs related to sale of the tenant's property as
27 provided by subsection (9)(b) of this section.

28 (17) Subsections (15) and (16) of this section do not limit any
29 other rights a landlord may have against a tenant to collect for
30 damages. However, if a law enforcement agency satisfies a landlord's
31 claim under subsection (15) of this section, the rights the landlord
32 has against the tenant for damages directly caused by a law
33 enforcement officer under the terms of the landlord and tenant's
34 contract are subrogated to the law enforcement agency.

35 **Sec. 5.** RCW 13.40.0357 and 2016 c 106 s 2 are each amended to
36 read as follows:

37 **DESCRIPTION AND OFFENSE CATEGORY**

1		JUVENILE DISPOSITION	
2	JUVENILE		CATEGORY FOR
3	DISPOSITION		ATTEMPT, BAILJUMP,
4	OFFENSE		CONSPIRACY, OR
5	CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
6		
7	Arson and Malicious Mischief		
8	A	Arson 1 (9A.48.020)	B+
9	B	Arson 2 (9A.48.030)	C
10	C	Reckless Burning 1 (9A.48.040)	D
11	D	Reckless Burning 2 (9A.48.050)	E
12	B	Malicious Mischief 1 (9A.48.070)	C
13	C	Malicious Mischief 2 (9A.48.080)	D
14	D	Malicious Mischief 3 (9A.48.090)	E
15	E	Tampering with Fire Alarm Apparatus	
16		(9.40.100)	E
17	E	Tampering with Fire Alarm Apparatus with	
18		Intent to Commit Arson (9.40.105)	E
19	A	Possession of Incendiary Device (9.40.120)	B+
20	Assault and Other Crimes Involving		
21	Physical Harm		
22	A	Assault 1 (9A.36.011)	B+
23	B+	Assault 2 (9A.36.021)	C+
24	C+	Assault 3 (9A.36.031)	D+
25	D+	Assault 4 (9A.36.041)	E
26	B+	Drive-By Shooting (9A.36.045)	C+
27	D+	Reckless Endangerment (9A.36.050)	E
28	C+	Promoting Suicide Attempt (9A.36.060)	D+
29	D+	Coercion (9A.36.070)	E
30	C+	Custodial Assault (9A.36.100)	D+
31	Burglary and Trespass		
32	B+	Burglary 1 (9A.52.020)	C+
33	B	Residential Burglary (9A.52.025)	C
34	B	Burglary 2 (9A.52.030)	C
35	D	Burglary Tools (Possession of) (9A.52.060)	E
36	D	Criminal Trespass 1 (9A.52.070)	E

1	E	Criminal Trespass 2 (9A.52.080)	E
2	C	Mineral Trespass (78.44.330)	C
3	C	Vehicle Prowling 1 (9A.52.095)	D
4	D	Vehicle Prowling 2 (9A.52.100)	E
5		Drugs	
6	E	Possession/Consumption of Alcohol	
7		(66.44.270)	E
8	C	Illegally Obtaining Legend Drug	
9		(69.41.020)	D
10	C+	Sale, Delivery, Possession of Legend Drug	
11		with Intent to Sell (69.41.030(2)(a))	D+
12	E	Possession of Legend Drug	
13		(69.41.030(2)(b))	E
14	B+	Violation of Uniform Controlled	
15		Substances Act - Narcotic,	
16		Methamphetamine, or Flunitrazepam Sale	
17		(69.50.401(2) (a) or (b))	B+
18	C	Violation of Uniform Controlled	
19		Substances Act - Nonnarcotic Sale	
20		(69.50.401(2)(c))	C
21	(E)	Possession of Marijuana <40 grams	
22		(69.50.4014)	E))
23	C	Fraudulently Obtaining Controlled	
24		Substance (69.50.403)	C
25	C+	Sale of Controlled Substance for Profit	
26		(69.50.410)	C+
27	E	Unlawful Inhalation (9.47A.020)	E
28	B	Violation of Uniform Controlled	
29		Substances Act - Narcotic,	
30		Methamphetamine, or Flunitrazepam	
31		Counterfeit Substances (69.50.4011(2) (a)	
32		or (b))	B
33	C	Violation of Uniform Controlled	
34		Substances Act - Nonnarcotic Counterfeit	
35		Substances (69.50.4011(2) (c), (d), or (e))	C

1		((C)) <u>E</u> Violation of Uniform Controlled	
2		Substances Act - Possession of a Controlled	((C))
3		Substance (69.50.4013)	<u>E</u>
4	C	Violation of Uniform Controlled	
5		Substances Act - Possession of a Controlled	
6		Substance (69.50.4012)	C
7		Firearms and Weapons	
8	B	Theft of Firearm (9A.56.300)	C
9	B	Possession of Stolen Firearm (9A.56.310)	C
10	E	Carrying Loaded Pistol Without Permit	
11		(9.41.050)	E
12	C	Possession of Firearms by Minor (<18)	
13		(9.41.040)(2)(a) (iv))	C
14	D+	Possession of Dangerous Weapon	
15		(9.41.250)	E
16	D	Intimidating Another Person by use of	
17		Weapon (9.41.270)	E
18		Homicide	
19	A+	Murder 1 (9A.32.030)	A
20	A+	Murder 2 (9A.32.050)	B+
21	B+	Manslaughter 1 (9A.32.060)	C+
22	C+	Manslaughter 2 (9A.32.070)	D+
23	B+	Vehicular Homicide (46.61.520)	C+
24		Kidnapping	
25	A	Kidnap 1 (9A.40.020)	B+
26	B+	Kidnap 2 (9A.40.030)	C+
27	C+	Unlawful Imprisonment (9A.40.040)	D+
28		Obstructing Governmental Operation	
29	D	Obstructing a Law Enforcement Officer	
30		(9A.76.020)	E
31	E	Resisting Arrest (9A.76.040)	E
32	B	Introducing Contraband 1 (9A.76.140)	C
33	C	Introducing Contraband 2 (9A.76.150)	D
34	E	Introducing Contraband 3 (9A.76.160)	E
35	B+	Intimidating a Public Servant (9A.76.180)	C+
36	B+	Intimidating a Witness (9A.72.110)	C+

1		Public Disturbance	
2	C+	Criminal Mischief with Weapon	
3		(9A.84.010(2)(b))	D+
4	D+	Criminal Mischief Without Weapon	
5		(9A.84.010(2)(a))	E
6	E	Failure to Disperse (9A.84.020)	E
7	E	Disorderly Conduct (9A.84.030)	E
8		Sex Crimes	
9	A	Rape 1 (9A.44.040)	B+
10	A-	Rape 2 (9A.44.050)	B+
11	C+	Rape 3 (9A.44.060)	D+
12	A-	Rape of a Child 1 (9A.44.073)	B+
13	B+	Rape of a Child 2 (9A.44.076)	C+
14	B	Incest 1 (9A.64.020(1))	C
15	C	Incest 2 (9A.64.020(2))	D
16	D+	Indecent Exposure (Victim <14)	
17		(9A.88.010)	E
18	E	Indecent Exposure (Victim 14 or over)	
19		(9A.88.010)	E
20	B+	Promoting Prostitution 1 (9A.88.070)	C+
21	C+	Promoting Prostitution 2 (9A.88.080)	D+
22	E	O & A (Prostitution) (9A.88.030)	E
23	B+	Indecent Liberties (9A.44.100)	C+
24	A-	Child Molestation 1 (9A.44.083)	B+
25	B	Child Molestation 2 (9A.44.086)	C+
26	C	Failure to Register as a Sex Offender	
27		(9A.44.132)	D
28		Theft, Robbery, Extortion, and Forgery	
29	B	Theft 1 (9A.56.030)	C
30	C	Theft 2 (9A.56.040)	D
31	D	Theft 3 (9A.56.050)	E
32	B	Theft of Livestock 1 and 2 (9A.56.080 and	
33		9A.56.083)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+

1	B+	Extortion 1 (9A.56.120)	C+
2	C+	Extortion 2 (9A.56.130)	D+
3	C	Identity Theft 1 (9.35.020(2))	D
4	D	Identity Theft 2 (9.35.020(3))	E
5	D	Improperly Obtaining Financial	
6		Information (9.35.010)	E
7	B	Possession of a Stolen Vehicle (9A.56.068)	C
8	B	Possession of Stolen Property 1	
9		(9A.56.150)	C
10	C	Possession of Stolen Property 2	
11		(9A.56.160)	D
12	D	Possession of Stolen Property 3	
13		(9A.56.170)	E
14	B	Taking Motor Vehicle Without Permission	
15		1 (9A.56.070)	C
16	C	Taking Motor Vehicle Without Permission	
17		2 (9A.56.075)	D
18	B	Theft of a Motor Vehicle (9A.56.065)	C
19		Motor Vehicle Related Crimes	
20	E	Driving Without a License (46.20.005)	E
21	B+	Hit and Run - Death (46.52.020(4)(a))	C+
22	C	Hit and Run - Injury (46.52.020(4)(b))	D
23	D	Hit and Run-Attended (46.52.020(5))	E
24	E	Hit and Run-Unattended (46.52.010)	E
25	C	Vehicular Assault (46.61.522)	D
26	C	Attempting to Elude Pursuing Police	
27		Vehicle (46.61.024)	D
28	E	Reckless Driving (46.61.500)	E
29	D	Driving While Under the Influence	
30		(46.61.502 and 46.61.504)	E
31	B+	Felony Driving While Under the Influence	
32		(46.61.502(6))	B
33	B+	Felony Physical Control of a Vehicle While	
34		Under the Influence (46.61.504(6))	B
35		Other	
36	B	Animal Cruelty 1 (16.52.205)	C

1	B	Bomb Threat (9.61.160)	C
2	C	Escape 1 ¹ (9A.76.110)	C
3	C	Escape 2 ¹ (9A.76.120)	C
4	D	Escape 3 (9A.76.130)	E
5	E	Obscene, Harassing, Etc., Phone Calls	
6		(9.61.230)	E
7	A	Other Offense Equivalent to an Adult Class	
8		A Felony	B+
9	B	Other Offense Equivalent to an Adult Class	
10		B Felony	C
11	C	Other Offense Equivalent to an Adult Class	
12		C Felony	D
13	D	Other Offense Equivalent to an Adult Gross	
14		Misdemeanor	E
15	E	Other Offense Equivalent to an Adult	
16		Misdemeanor	E
17	V	Violation of Order of Restitution,	
18		Community Supervision, or Confinement	
19		(13.40.200) ²	V

20 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
21 and the standard range is established as follows:

22 1st escape or attempted escape during 12-month period - 4 weeks
23 confinement

24 2nd escape or attempted escape during 12-month period - 8 weeks
25 confinement

26 3rd and subsequent escape or attempted escape during 12-month
27 period - 12 weeks confinement

28 ²If the court finds that a respondent has violated terms of an order,
29 it may impose a penalty of up to 30 days of confinement.

30 **JUVENILE SENTENCING STANDARDS**

31 This schedule must be used for juvenile offenders. The court may
32 select sentencing option A, B, C, or D.

33 **OPTION A**

34 **JUVENILE OFFENDER SENTENCING GRID**

35 **STANDARD RANGE**

1	A+	180 weeks to age 21 for all category A+ offenses					
2	A	103-129 weeks for all category A offenses					
3	A-	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
4		Except 30-40 weeks					
5		for 15 to 17 year olds					
6	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
7	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
8	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
9		C	LS	LS	LS	LS	15-36 weeks
10		D+	LS	LS	LS	LS	LS
11		D	LS	LS	LS	LS	LS
12		E	LS	LS	LS	LS	LS
13	PRIOR		0	1	2	3	4 or more
14	ADJUDICATIONS						

15 NOTE: References in the grid to days or weeks mean periods of
16 confinement. "LS" means "local sanctions" as defined in RCW
17 13.40.020.

18 (1) The vertical axis of the grid is the current offense
19 category. The current offense category is determined by the offense
20 of adjudication.

21 (2) The horizontal axis of the grid is the number of prior
22 adjudications included in the juvenile's criminal history. Each prior
23 felony adjudication shall count as one point. Each prior violation,
24 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
25 point. Fractional points shall be rounded down.

26 (3) The standard range disposition for each offense is determined
27 by the intersection of the column defined by the prior adjudications
28 and the row defined by the current offense category.

29 (4) RCW 13.40.180 applies if the offender is being sentenced for
30 more than one offense.

31 (5) A current offense that is a violation is equivalent to an
32 offense category of E. However, a disposition for a violation shall
33 not include confinement.

34 OR

35 OPTION B

SUSPENDED DISPOSITION ALTERNATIVE

(1) If the offender is subject to a standard range disposition involving confinement by the department, the court may impose the standard range and suspend the disposition on condition that the offender comply with one or more local sanctions and any educational or treatment requirement. The treatment programs provided to the offender must be either research-based best practice programs as identified by the Washington state institute for public policy or the joint legislative audit and review committee, or for chemical dependency treatment programs or services, they must be evidence-based or research-based best practice programs. For the purposes of this subsection:

(a) "Evidence-based" means a program or practice that has had multiple site random controlled trials across heterogeneous populations demonstrating that the program or practice is effective for the population; and

(b) "Research-based" means a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

(2) If the offender fails to comply with the suspended disposition, the court may impose sanctions pursuant to RCW 13.40.200 or may revoke the suspended disposition and order the disposition's execution.

(3) An offender is ineligible for the suspended disposition option under this section if the offender is:

(a) Adjudicated of an A+ offense;

(b) Fourteen years of age or older and is adjudicated of one or more of the following offenses:

(i) A class A offense, or an attempt, conspiracy, or solicitation to commit a class A offense;

(ii) Manslaughter in the first degree (RCW 9A.32.060); or

(iii) Assault in the second degree (RCW 9A.36.021), extortion in the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential burglary (RCW 9A.52.025), burglary in the second degree (RCW 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a witness (RCW 9A.72.110), violation of the uniform controlled substances act (RCW 69.50.401 (2)(a) and (b)), or

1 manslaughter 2 (RCW 9A.32.070), when the offense includes infliction
2 of bodily harm upon another or when during the commission or
3 immediate withdrawal from the offense the respondent was armed with a
4 deadly weapon;

5 (c) Ordered to serve a disposition for a firearm violation under
6 RCW 13.40.193; or

7 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

8 **OR**

9 **OPTION C**

10 **CHEMICAL DEPENDENCY/MENTAL HEALTH DISPOSITION ALTERNATIVE**

11 If the juvenile offender is subject to a standard range
12 disposition of local sanctions or 15 to 36 weeks of confinement and
13 has not committed an A- or B+ offense, the court may impose a
14 disposition under RCW 13.40.160(4) and 13.40.165.

15 **OR**

16 **OPTION D**

17 **MANIFEST INJUSTICE**

18 If the court determines that a disposition under option A, B, or C
19 would effectuate a manifest injustice, the court shall impose a
20 disposition outside the standard range under RCW 13.40.160(2).

21 NEW SECTION. **Sec. 6.** RCW 69.50.4014 (Possession of forty grams
22 or less of marihuana—Penalty) and 2015 2nd sp.s. c 4 s 505 and 2003 c
23 53 s 335 are each repealed.

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