
SUBSTITUTE HOUSE BILL 1591

State of Washington 65th Legislature 2017 Regular Session

By House Public Safety (originally sponsored by Representatives Klippert and Hayes)

READ FIRST TIME 02/13/17.

1 AN ACT Relating to increasing the punishment for vehicular
2 assault; amending RCW 9.94A.525; and prescribing penalties.

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

4 **Sec. 1.** RCW 9.94A.525 and 2013 2nd sp.s. c 35 s 8 are each
5 amended to read as follows:

6 The offender score is measured on the horizontal axis of the
7 sentencing grid. The offender score rules are as follows:

8 The offender score is the sum of points accrued under this
9 section rounded down to the nearest whole number.

10 (1) A prior conviction is a conviction which exists before the
11 date of sentencing for the offense for which the offender score is
12 being computed. Convictions entered or sentenced on the same date as
13 the conviction for which the offender score is being computed shall
14 be deemed "other current offenses" within the meaning of RCW
15 9.94A.589.

16 (2)(a) Class A and sex prior felony convictions shall always be
17 included in the offender score.

18 (b) Class B prior felony convictions other than sex offenses
19 shall not be included in the offender score, if since the last date
20 of release from confinement (including full-time residential
21 treatment) pursuant to a felony conviction, if any, or entry of

1 judgment and sentence, the offender had spent ten consecutive years
2 in the community without committing any crime that subsequently
3 results in a conviction.

4 (c) Except as provided in (e) of this subsection, class C prior
5 felony convictions other than sex offenses shall not be included in
6 the offender score if, since the last date of release from
7 confinement (including full-time residential treatment) pursuant to a
8 felony conviction, if any, or entry of judgment and sentence, the
9 offender had spent five consecutive years in the community without
10 committing any crime that subsequently results in a conviction.

11 (d) Except as provided in (e) of this subsection, serious traffic
12 convictions shall not be included in the offender score if, since the
13 last date of release from confinement (including full-time
14 residential treatment) pursuant to a conviction, if any, or entry of
15 judgment and sentence, the offender spent five years in the community
16 without committing any crime that subsequently results in a
17 conviction.

18 (e) If the present conviction is felony driving while under the
19 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
20 felony physical control of a vehicle while under the influence of
21 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
22 crimes for the offense as defined by RCW 46.61.5055(14) shall be
23 included in the offender score, and prior convictions for felony
24 driving while under the influence of intoxicating liquor or any drug
25 (RCW 46.61.502(6)) or felony physical control of a vehicle while
26 under the influence of intoxicating liquor or any drug (RCW
27 46.61.504(6)) shall always be included in the offender score. All
28 other convictions of the defendant shall be scored according to this
29 section.

30 (f) Prior convictions for a repetitive domestic violence offense,
31 as defined in RCW 9.94A.030, shall not be included in the offender
32 score if, since the last date of release from confinement or entry of
33 judgment and sentence, the offender had spent ten consecutive years
34 in the community without committing any crime that subsequently
35 results in a conviction.

36 (g) This subsection applies to both adult and juvenile prior
37 convictions.

38 (3) Out-of-state convictions for offenses shall be classified
39 according to the comparable offense definitions and sentences
40 provided by Washington law. Federal convictions for offenses shall be

1 classified according to the comparable offense definitions and
2 sentences provided by Washington law. If there is no clearly
3 comparable offense under Washington law or the offense is one that is
4 usually considered subject to exclusive federal jurisdiction, the
5 offense shall be scored as a class C felony equivalent if it was a
6 felony under the relevant federal statute.

7 (4) Score prior convictions for felony anticipatory offenses
8 (attempts, criminal solicitations, and criminal conspiracies) the
9 same as if they were convictions for completed offenses.

10 (5)(a) In the case of multiple prior convictions, for the purpose
11 of computing the offender score, count all convictions separately,
12 except:

13 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a),
14 to encompass the same criminal conduct, shall be counted as one
15 offense, the offense that yields the highest offender score. The
16 current sentencing court shall determine with respect to other prior
17 adult offenses for which sentences were served concurrently or prior
18 juvenile offenses for which sentences were served consecutively,
19 whether those offenses shall be counted as one offense or as separate
20 offenses using the "same criminal conduct" analysis found in RCW
21 9.94A.589(1)(a), and if the court finds that they shall be counted as
22 one offense, then the offense that yields the highest offender score
23 shall be used. The current sentencing court may presume that such
24 other prior offenses were not the same criminal conduct from
25 sentences imposed on separate dates, or in separate counties or
26 jurisdictions, or in separate complaints, indictments, or
27 informations;

28 (ii) In the case of multiple prior convictions for offenses
29 committed before July 1, 1986, for the purpose of computing the
30 offender score, count all adult convictions served concurrently as
31 one offense, and count all juvenile convictions entered on the same
32 date as one offense. Use the conviction for the offense that yields
33 the highest offender score.

34 (b) As used in this subsection (5), "served concurrently" means
35 that: (i) The latter sentence was imposed with specific reference to
36 the former; (ii) the concurrent relationship of the sentences was
37 judicially imposed; and (iii) the concurrent timing of the sentences
38 was not the result of a probation or parole revocation on the former
39 offense.

1 (6) If the present conviction is one of the anticipatory offenses
2 of criminal attempt, solicitation, or conspiracy, count each prior
3 conviction as if the present conviction were for a completed offense.
4 When these convictions are used as criminal history, score them the
5 same as a completed crime.

6 (7) If the present conviction is for a nonviolent offense and not
7 covered by subsection (11), (12), or (13) of this section, count one
8 point for each adult prior felony conviction and one point for each
9 juvenile prior violent felony conviction and 1/2 point for each
10 juvenile prior nonviolent felony conviction.

11 (8) If the present conviction is for a violent offense and not
12 covered in subsection (9), (10), (11), (12), or (13) of this section,
13 count two points for each prior adult and juvenile violent felony
14 conviction, one point for each prior adult nonviolent felony
15 conviction, and 1/2 point for each prior juvenile nonviolent felony
16 conviction.

17 (9) If the present conviction is for a serious violent offense,
18 count three points for prior adult and juvenile convictions for
19 crimes in this category, two points for each prior adult and juvenile
20 violent conviction (not already counted), one point for each prior
21 adult nonviolent felony conviction, and 1/2 point for each prior
22 juvenile nonviolent felony conviction.

23 (10) If the present conviction is for Burglary 1, count prior
24 convictions as in subsection (8) of this section; however count two
25 points for each prior adult Burglary 2 or residential burglary
26 conviction, and one point for each prior juvenile Burglary 2 or
27 residential burglary conviction.

28 (11)(a) Except as provided in (b) of this subsection, if the
29 present conviction is for a felony traffic offense count two points
30 for each adult or juvenile prior conviction for Vehicular Homicide or
31 Vehicular Assault; for each felony offense count one point for each
32 adult and 1/2 point for each juvenile prior conviction; for each
33 serious traffic offense, other than those used for an enhancement
34 pursuant to RCW 46.61.520(2), count one point for each adult and 1/2
35 point for each juvenile prior conviction; count one point for each
36 adult and 1/2 point for each juvenile prior conviction for operation
37 of a vessel while under the influence of intoxicating liquor or any
38 drug.

39 (b) If the present conviction is for Vehicular Assault while
40 driving under the influence of intoxicating liquor or any drug under

1 RCW 46.61.522(1)(b), count three points for each adult or juvenile
2 prior conviction for Vehicular Homicide or Vehicular Assault, count
3 one point for each adult and 1/2 point for each juvenile prior
4 conviction of a felony offense, count one point for each adult and
5 1/2 point for each juvenile prior conviction of a serious traffic
6 offense, and count one point for each adult and 1/2 point for each
7 juvenile prior conviction for operation of a vessel while under the
8 influence of intoxicating liquor or any drug.

9 (12) If the present conviction is for homicide by watercraft or
10 assault by watercraft count two points for each adult or juvenile
11 prior conviction for homicide by watercraft or assault by watercraft;
12 for each felony offense count one point for each adult and 1/2 point
13 for each juvenile prior conviction; count one point for each adult
14 and 1/2 point for each juvenile prior conviction for driving under
15 the influence of intoxicating liquor or any drug, actual physical
16 control of a motor vehicle while under the influence of intoxicating
17 liquor or any drug, or operation of a vessel while under the
18 influence of intoxicating liquor or any drug.

19 (13) If the present conviction is for manufacture of
20 methamphetamine count three points for each adult prior manufacture
21 of methamphetamine conviction and two points for each juvenile
22 manufacture of methamphetamine offense. If the present conviction is
23 for a drug offense and the offender has a criminal history that
24 includes a sex offense or serious violent offense, count three points
25 for each adult prior felony drug offense conviction and two points
26 for each juvenile drug offense. All other adult and juvenile felonies
27 are scored as in subsection (8) of this section if the current drug
28 offense is violent, or as in subsection (7) of this section if the
29 current drug offense is nonviolent.

30 (14) If the present conviction is for Escape from Community
31 Custody, RCW 72.09.310, count only prior escape convictions in the
32 offender score. Count adult prior escape convictions as one point and
33 juvenile prior escape convictions as 1/2 point.

34 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
35 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
36 and juvenile prior convictions as 1/2 point.

37 (16) If the present conviction is for Burglary 2 or residential
38 burglary, count priors as in subsection (7) of this section; however,
39 count two points for each adult and juvenile prior Burglary 1
40 conviction, two points for each adult prior Burglary 2 or residential

1 burglary conviction, and one point for each juvenile prior Burglary 2
2 or residential burglary conviction.

3 (17) If the present conviction is for a sex offense, count priors
4 as in subsections (7) through (11) and (13) through (16) of this
5 section; however count three points for each adult and juvenile prior
6 sex offense conviction.

7 (18) If the present conviction is for failure to register as a
8 sex offender under RCW (~~(9A.44.130-01)~~) 9A.44.132, count priors as in
9 subsections (7) through (11) and (13) through (16) of this section;
10 however count three points for each adult and juvenile prior sex
11 offense conviction, excluding prior convictions for failure to
12 register as a sex offender under RCW (~~(9A.44.130-01)~~) 9A.44.132,
13 which shall count as one point.

14 (19) If the present conviction is for an offense committed while
15 the offender was under community custody, add one point. For purposes
16 of this subsection, community custody includes community placement or
17 postrelease supervision, as defined in chapter 9.94B RCW.

18 (20) If the present conviction is for Theft of a Motor Vehicle,
19 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
20 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
21 priors as in subsections (7) through (18) of this section; however
22 count one point for prior convictions of Vehicle Prowling 2, and
23 three points for each adult and juvenile prior Theft 1 (of a motor
24 vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property
25 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor
26 vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle,
27 Taking a Motor Vehicle Without Permission 1, or Taking a Motor
28 Vehicle Without Permission 2 conviction.

29 (21) If the present conviction is for a felony domestic violence
30 offense where domestic violence as defined in RCW 9.94A.030 was
31 (~~(plead-[pleaded])~~) pleaded and proven, count priors as in
32 subsections (7) through (20) of this section; however, count points
33 as follows:

34 (a) Count two points for each adult prior conviction where
35 domestic violence as defined in RCW 9.94A.030 was (~~(plead-[pleaded])~~)
36 pleaded and proven after August 1, 2011, for the following offenses:
37 A violation of a no-contact order that is a felony offense, a
38 violation of a protection order that is a felony offense, a felony
39 domestic violence harassment offense, a felony domestic violence
40 stalking offense, a domestic violence Burglary 1 offense, a domestic

1 violence Kidnapping 1 offense, a domestic violence Kidnapping 2
2 offense, a domestic violence unlawful imprisonment offense, a
3 domestic violence Robbery 1 offense, a domestic violence Robbery 2
4 offense, a domestic violence Assault 1 offense, a domestic violence
5 Assault 2 offense, a domestic violence Assault 3 offense, a domestic
6 violence Arson 1 offense, or a domestic violence Arson 2 offense;

7 (b) Count one point for each second and subsequent juvenile
8 conviction where domestic violence as defined in RCW 9.94A.030 was
9 (~~plead~~~~pled~~) pleaded and proven after August 1, 2011, for the
10 offenses listed in (a) of this subsection; and

11 (c) Count one point for each adult prior conviction for a
12 repetitive domestic violence offense as defined in RCW 9.94A.030,
13 where domestic violence as defined in RCW 9.94A.030, was (~~plead~~
14 ~~pled~~) pleaded and proven after August 1, 2011.

15 (22) The fact that a prior conviction was not included in an
16 offender's offender score or criminal history at a previous
17 sentencing shall have no bearing on whether it is included in the
18 criminal history or offender score for the current offense. Prior
19 convictions that were not counted in the offender score or included
20 in criminal history under repealed or previous versions of the
21 sentencing reform act shall be included in criminal history and shall
22 count in the offender score if the current version of the sentencing
23 reform act requires including or counting those convictions. Prior
24 convictions that were not included in criminal history or in the
25 offender score shall be included upon any resentencing to ensure
26 imposition of an accurate sentence.

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