

**EHB 1324** - S COMM AMD

By Committee on Law & Justice

**ADOPTED AND ENGROSSED 04/11/2023**

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

3 "NEW SECTION. **Sec. 1.** The legislature intends to:

4 (1) Give real effect to the juvenile justice system's express  
5 goals of rehabilitation and reintegration;

6 (2) Bring Washington in line with the majority of states, which  
7 do not consider prior juvenile offenses in sentencing range  
8 calculations for adults;

9 (3) Recognize the expansive body of scientific research on brain  
10 development, which shows that adolescent's perception, judgment, and  
11 decision making differs significantly from that of adults;

12 (4) Facilitate the provision of due process by granting the  
13 procedural protections of a criminal proceeding in any adjudication  
14 which may be used to determine the severity of a criminal sentence;  
15 and

16 (5) Recognize how grave disproportionality within the juvenile  
17 legal system may subsequently impact sentencing ranges in adult  
18 court.

19 **Sec. 2.** RCW 9.94A.525 and 2021 c 215 s 100 are each amended to  
20 read as follows:

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

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

25 (1) (a) A prior conviction is a conviction which exists before the  
26 date of sentencing for the offense for which the offender score is  
27 being computed. Convictions entered or sentenced on the same date as  
28 the conviction for which the offender score is being computed shall  
29 be deemed "other current offenses" within the meaning of RCW  
30 9.94A.589.

1 (b) For the purposes of this section, adjudications of guilt  
2 pursuant to Title 13 RCW which are not murder in the first or second  
3 degree or class A felony sex offenses may not be included in the  
4 offender score.

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

7 (b) Class B prior felony convictions other than sex offenses  
8 shall not be included in the offender score, if since the last date  
9 of release from confinement (including full-time residential  
10 treatment) pursuant to a felony conviction, if any, or entry of  
11 judgment and sentence, the offender had spent ten consecutive years  
12 in the community without committing any crime that subsequently  
13 results in a conviction.

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

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

28 (e) If the present conviction is felony driving while under the  
29 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or  
30 felony physical control of a vehicle while under the influence of  
31 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate  
32 crimes for the offense as defined by RCW 46.61.5055(14) shall be  
33 included in the offender score, and prior convictions for felony  
34 driving while under the influence of intoxicating liquor or any drug  
35 (RCW 46.61.502(6)) or felony physical control of a vehicle while  
36 under the influence of intoxicating liquor or any drug (RCW  
37 46.61.504(6)) shall always be included in the offender score. All  
38 other convictions of the defendant shall be scored according to this  
39 section.

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

7 (g) This subsection applies to both prior adult convictions and  
8 prior juvenile ((prior convictions)) adjudications.

9 (3) Out-of-state convictions for offenses shall be classified  
10 according to the comparable offense definitions and sentences  
11 provided by Washington law. Federal convictions for offenses shall be  
12 classified according to the comparable offense definitions and  
13 sentences provided by Washington law. Neither out-of-state or federal  
14 convictions which would have been presumptively adjudicated in  
15 juvenile court under Washington law may be included in the offender  
16 score unless they are comparable to murder in the first or second  
17 degree or a class A felony sex offense. If there is no clearly  
18 comparable offense under Washington law or the offense is one that is  
19 usually considered subject to exclusive federal jurisdiction, the  
20 offense shall be scored as a class C felony equivalent if it was a  
21 felony under the relevant federal statute.

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

25 (5) (a) In the case of multiple prior convictions, for the purpose  
26 of computing the offender score, count all convictions separately,  
27 except:

28 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),  
29 to encompass the same criminal conduct, shall be counted as one  
30 offense, the offense that yields the highest offender score. The  
31 current sentencing court shall determine with respect to other prior  
32 adult offenses for which sentences were served concurrently or prior  
33 juvenile offenses for which sentences were served consecutively,  
34 whether those offenses shall be counted as one offense or as separate  
35 offenses using the "same criminal conduct" analysis found in RCW  
36 9.94A.589(1) (a), and if the court finds that they shall be counted as  
37 one offense, then the offense that yields the highest offender score  
38 shall be used. The current sentencing court may presume that such  
39 other prior offenses were not the same criminal conduct from  
40 sentences imposed on separate dates, or in separate counties or

1 jurisdictions, or in separate complaints, indictments, or  
2 informations;

3 (ii) In the case of multiple prior convictions for offenses  
4 committed before July 1, 1986, for the purpose of computing the  
5 offender score, count all (~~adult~~) convictions or adjudications  
6 served concurrently as one offense (~~(, and count all juvenile~~  
7 ~~convictions entered on the same date as one offense)~~). Use the  
8 conviction for the offense that yields the highest offender score.

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

15 (6) If the present conviction is one of the anticipatory offenses  
16 of criminal attempt, solicitation, or conspiracy, count each prior  
17 conviction as if the present conviction were for a completed offense.  
18 When these convictions are used as criminal history, score them the  
19 same as a completed crime.

20 (7) If the present conviction is for a nonviolent offense and not  
21 covered by subsection (11), (12), or (13) of this section, count one  
22 point for each adult prior felony conviction and one point for each  
23 juvenile prior violent felony conviction (~~(and 1/2 point for each~~  
24 ~~juvenile prior nonviolent felony conviction)~~) which is scorable under  
25 subsection (1)(b) of this section.

26 (8) If the present conviction is for a violent offense and not  
27 covered in subsection (9), (10), (11), (12), or (13) of this section,  
28 count two points for each prior adult violent felony conviction and  
29 juvenile violent felony conviction which is scorable under subsection  
30 (1)(b) of this section, and one point for each prior adult nonviolent  
31 felony conviction (~~(, and 1/2 point for each prior juvenile nonviolent~~  
32 ~~felony conviction)~~).

33 (9) If the present conviction is for a serious violent offense,  
34 count three points for prior adult convictions and juvenile  
35 convictions which are scorable under subsection (1)(b) of this  
36 section for crimes in this category, two points for each prior adult  
37 and scorable juvenile violent conviction (not already counted), and  
38 one point for each prior adult nonviolent felony conviction (~~(, and~~  
39 ~~1/2 point for each prior juvenile nonviolent felony conviction)~~).

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

6 (11) If the present conviction is for a felony traffic offense  
7 count two points for each (~~adult or juvenile~~) prior conviction for  
8 Vehicular Homicide or Vehicular Assault; for each felony offense  
9 count one point for each adult prior conviction and 1/2 point for  
10 each juvenile prior conviction which is scorable under subsection  
11 (1)(b) of this section; for each serious traffic offense, other than  
12 those used for an enhancement pursuant to RCW 46.61.520(2), count one  
13 point for each adult prior conviction and 1/2 point for each juvenile  
14 prior conviction which is scorable under subsection (1)(b) of this  
15 section; count one point for each adult (~~and 1/2 point for each~~  
16 ~~juvenile~~) prior conviction for operation of a vessel while under the  
17 influence of intoxicating liquor or any drug.

18 (12) If the present conviction is for homicide by watercraft or  
19 assault by watercraft count two points for each adult (~~or juvenile~~)  
20 prior conviction for homicide by watercraft or assault by watercraft;  
21 for each felony offense count one point for each adult prior  
22 conviction and 1/2 point for each juvenile prior conviction which  
23 would be scorable under subsection (1)(b) of this section; count one  
24 point for each adult (~~and 1/2 point for each juvenile~~) prior  
25 conviction for driving under the influence of intoxicating liquor or  
26 any drug, actual physical control of a motor vehicle while under the  
27 influence of intoxicating liquor or any drug, or operation of a  
28 vessel while under the influence of intoxicating liquor or any drug.

29 (13) If the present conviction is for manufacture of  
30 methamphetamine count three points for each adult prior manufacture  
31 of methamphetamine conviction (~~and two points for each juvenile~~  
32 ~~manufacture of methamphetamine offense~~). If the present conviction  
33 is for a drug offense and the offender has a criminal history that  
34 includes a sex offense or serious violent offense, count three points  
35 for each adult prior felony drug offense conviction (~~and two points~~  
36 ~~for each juvenile drug offense~~). All other (~~adult and juvenile~~)  
37 felonies are scored as in subsection (8) of this section if the  
38 current drug offense is violent, or as in subsection (7) of this  
39 section if the current drug offense is nonviolent.

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

5 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
6 Escape 2, RCW 9A.76.120, count adult prior convictions as one point  
7 and juvenile prior convictions which are scorable under subsection  
8 (1)(b) of this section as 1/2 point.

9 (16) If the present conviction is for Burglary 2 or residential  
10 burglary, count priors as in subsection (7) of this section; however,  
11 count two points for each (~~adult and juvenile~~) prior Burglary 1  
12 conviction, and two points for each (~~adult~~) prior Burglary 2 or  
13 residential burglary conviction(~~, and one point for each juvenile~~  
14 ~~prior Burglary 2 or residential burglary conviction~~)).

15 (17) If the present conviction is for a sex offense, count priors  
16 as in subsections (7) through (11) and (13) through (16) of this  
17 section; however count three points for each adult prior sex offense  
18 conviction and juvenile prior class A felony sex offense  
19 (~~conviction~~) adjudication.

20 (18) If the present conviction is for failure to register as a  
21 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in  
22 subsections (7) through (11) and (13) through (16) of this section;  
23 however count three points for each adult prior sex offense  
24 conviction and juvenile prior sex offense conviction which is  
25 scorable under subsection (1)(b) of this section, excluding adult  
26 prior convictions for failure to register as a sex offender under RCW  
27 9A.44.130 or 9A.44.132, which shall count as one point.

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

32 (20) If the present conviction is for Theft of a Motor Vehicle,  
33 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without  
34 Permission 1, or Taking a Motor Vehicle Without Permission 2, count  
35 priors as in subsections (7) through (18) of this section; however  
36 count one point for prior convictions of Vehicle Prowling 2, and  
37 three points for each adult (~~and juvenile~~) prior Theft 1 (of a  
38 motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen  
39 Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of  
40 a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen

1 Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a  
2 Motor Vehicle Without Permission 2 conviction.

3 (21) If the present conviction is for a felony domestic violence  
4 offense where domestic violence as defined in RCW 9.94A.030 was  
5 pleaded and proven, count priors as in subsections (7) through (20)  
6 of this section; however, count points as follows:

7 (a) Count two points for each adult prior conviction where  
8 domestic violence as defined in RCW 9.94A.030 was pleaded and proven  
9 after August 1, 2011, for any of the following offenses: A felony  
10 violation of a no-contact or protection order (RCW 7.105.450 or  
11 former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),  
12 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),  
13 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful  
14 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2  
15 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW  
16 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or  
17 Arson 2 (RCW 9A.48.030);

18 (b) Count two points for each adult prior conviction where  
19 domestic violence as defined in RCW 9.94A.030 was pleaded and proven  
20 after July 23, 2017, for any of the following offenses: Assault of a  
21 child in the first degree, RCW 9A.36.120; Assault of a child in the  
22 second degree, RCW 9A.36.130; Assault of a child in the third degree,  
23 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW  
24 9A.42.020; or Criminal Mistreatment in the second degree, RCW  
25 9A.42.030; and

26 ~~(c) ((Count one point for each second and subsequent juvenile  
27 conviction where domestic violence as defined in RCW 9.94A.030 was  
28 pleaded and proven after August 1, 2011, for the offenses listed in  
29 (a) of this subsection; and~~

30 ~~(d))~~ Count one point for each adult prior conviction for a  
31 repetitive domestic violence offense as defined in RCW 9.94A.030,  
32 where domestic violence as defined in RCW 9.94A.030, was pleaded and  
33 proven after August 1, 2011.

34 (22) The fact that a prior conviction was not included in an  
35 offender's offender score or criminal history at a previous  
36 sentencing shall have no bearing on whether it is included in the  
37 criminal history or offender score for the current offense. Prior  
38 convictions that were not counted in the offender score or included  
39 in criminal history under repealed or previous versions of the  
40 sentencing reform act shall be included in criminal history and shall

1 count in the offender score if the current version of the sentencing  
2 reform act requires including or counting those convictions. Prior  
3 convictions that were not included in criminal history or in the  
4 offender score shall be included upon any resentencing to ensure  
5 imposition of an accurate sentence."

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**ADOPTED 04/11/2023**

6 On page 1, line 2 of the title, after "calculations;" strike the  
7 remainder of the title and insert "amending RCW 9.94A.525; and  
8 creating a new section."

--- END ---