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**SECOND SUBSTITUTE HOUSE BILL 2001**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Simmons, Farivar, Reed, Ormsby, Peterson, Macri, Street, Stearns, Santos, and Pollet)

READ FIRST TIME 02/05/24.

1 AN ACT Relating to providing judicial discretion to modify  
2 sentences in the interests of justice; amending RCW 10.73.100 and  
3 9.94A.535; adding a new section to chapter 9.94A RCW; and creating  
4 new sections.

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

6 NEW SECTION. **Sec. 1.** This act shall be known and may be cited  
7 as the judicial discretion act.

8 NEW SECTION. **Sec. 2.** (1) The legislature finds that long-term  
9 incarceration disproportionately impacts poor communities and  
10 communities of color. The legislature further finds that an expansive  
11 body of research demonstrates that lengthy sentences can increase,  
12 rather than reduce, recidivism. The legislature further finds that  
13 the potential to reduce a sentence encourages incarcerated  
14 individuals to engage in good behavior and to take advantage of  
15 rehabilitative programming. The legislature further finds that  
16 because the cost of long-term incarceration is substantial and the  
17 state must use its resources responsibly, providing judges the  
18 opportunity to modify lengthy sentences in the interests of justice  
19 will result in significant cost savings to the state.

1 (2) Therefore, the legislature intends to authorize sentencing  
2 courts to review lengthy sentences upon a showing that a person's  
3 original sentence no longer serves the interests of justice.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A  
5 RCW to read as follows:

6 (1) Except as provided in subsection (18) of this section, and  
7 notwithstanding any other provision of this chapter, any person under  
8 a term of partial or total confinement or subject to conditions of  
9 supervision by the department for a felony conviction may petition  
10 the sentencing court or the sentencing court's successor for a  
11 modification of sentence if the original sentence no longer serves  
12 the interests of justice and the person meets any of the following  
13 criteria:

14 (a) If the person is serving a sentence for a felony offense  
15 committed at 18 years of age or older, the person is eligible to  
16 petition after serving at least 10 years of their sentence;

17 (b) If the person is serving a sentence for a felony offense  
18 committed at 17 years of age or younger, the person is eligible to  
19 petition after serving at least seven years of their sentence; or

20 (c) If the petitioner does not meet the criteria under (a) or (b)  
21 of this subsection, the person is eligible to petition with the  
22 consent of the prosecuting attorney.

23 (2) A person eligible to file a petition for modification of  
24 sentence pursuant to subsection (1)(a) or (b) of this section may  
25 file the petition no earlier than 180 days prior to the date on which  
26 the person will have served 10 years in confinement, or, if the  
27 person is serving a sentence for an offense committed at 17 years of  
28 age or younger, no earlier than 180 days prior to the date on which  
29 the person will have served seven years in confinement.

30 (3) The petitioner must file the petition in writing with the  
31 sentencing court in the judicial district in which the original  
32 sentence was imposed and serve the prosecuting attorney. The petition  
33 may include affidavits, declarations, letters, prison records, or  
34 other written or electronic materials. The petition must include a  
35 statement by the petitioner and supporting documentation  
36 demonstrating that they meet one or more of the following  
37 requirements for a hearing:

1 (a) The petitioner has demonstrated positive, engaged, and  
2 productive behavior while in the custody of the department that  
3 indicates substantial rehabilitation;

4 (b) The petitioner has otherwise demonstrated a minimal risk of  
5 reoffense, which may include, but is not limited to, a demonstration  
6 of medical frailty; or

7 (c) The petitioner has presented evidence of some significant  
8 material fact not related to the crime and not in existence at the  
9 time of conviction, and such fact is relevant to the necessity of the  
10 current terms of sentence.

11 (4) The department shall assist the petitioner or the  
12 petitioner's counsel in compiling the petitioner's disciplinary  
13 record and record of rehabilitation to submit with the petition.

14 (5) If the court determines by a preponderance of the evidence  
15 that the petitioner meets one or more of the criteria under  
16 subsection (3) of this section, the court shall grant a hearing to  
17 consider the petition, which must be heard within 120 days. The  
18 hearing may be continued upon motion of the petitioner or the  
19 prosecuting attorney for good cause. In setting any hearing to  
20 consider a petition pursuant to this section, the court shall  
21 prioritize the scheduling of hearings for petitioners who are  
22 currently subject to total confinement.

23 (6)(a) At the hearing to consider the petition, the court may  
24 grant the petition and modify the petitioner's original sentence if  
25 the court finds that the sentence no longer advances the interests of  
26 justice, provided that any new sentence imposed shall not be greater  
27 than the original sentence, and provided that any new sentence  
28 imposed shall be subject to the following restrictions:

29 (i) If the petitioner's original sentence is an indeterminate  
30 sentence imposed under RCW 9.94A.507, the court may modify the  
31 minimum term of the sentence but may not modify the maximum term of  
32 the sentence or order the petitioner's release from custody;

33 (ii) If the petitioner's original sentence includes a mandatory  
34 minimum term imposed pursuant to RCW 9.94A.540, the court may not  
35 modify the sentence below the mandatory minimum term required by law;  
36 and

37 (iii) The soonest allowable release date from total confinement  
38 for any petitioner resentenced pursuant to this section may be no  
39 sooner than six months after the date of the hearing to consider the  
40 petition.

1 (b) In addition to the mitigating factors provided under RCW  
2 9.94A.535(1), the court may consider the following nonexhaustive list  
3 of factors when determining whether to modify the petitioner's  
4 sentence:

5 (i) The petitioner's disciplinary record and record of  
6 rehabilitation while incarcerated;

7 (ii) Evidence that reflects whether age, time served, and  
8 diminished physical condition, if any, have reduced the petitioner's  
9 risk for future violence;

10 (iii) Evidence regarding the petitioner's circumstances at the  
11 time of the offense, or regarding the petitioner's level of  
12 culpability for the offense;

13 (iv) Evidence that reflects changed circumstances since imposing  
14 the petitioner's original sentence such that the sentence no longer  
15 serves the interests of justice;

16 (v) Evidence of some significant material fact, not related to  
17 the offense and not in existence at the time of conviction, that is  
18 relevant to the necessity of the current terms of sentence; and

19 (vi) Demonstration of an extraordinary adverse impact of the  
20 petitioner's release on the victim or survivors of the victim of the  
21 crime for which the petitioner is presently incarcerated, with  
22 special consideration given to the impact of release on any victims  
23 of sex offenses or domestic violence offenses committed by the  
24 petitioner against an intimate partner.

25 (7) When modifying a sentence pursuant to this section:

26 (a) The court may impose an exceptional sentence below the  
27 standard range based on evidence of significant rehabilitation since  
28 the offense or any other applicable factors; and

29 (b) If the petitioner's original sentence included one or more  
30 mandatory enhancements that were imposed under RCW 9.94A.533, the  
31 court may impose a sentence below the mandatory minimum enhancement  
32 term.

33 (8) If the court denies a petition filed pursuant to this section  
34 and declines to set a hearing, or grants a hearing but declines to  
35 modify the petitioner's sentence at the hearing, the petitioner may,  
36 upon a showing of a change in circumstances, file a new petition no  
37 earlier than three years after the date the court denied the previous  
38 petition or declined to modify the petitioner's sentence, unless the  
39 court authorizes the petitioner to file a new petition at an earlier  
40 date. If the court denies the petition or declines to modify the

1 petitioner's sentence, the court shall state the basis for its  
2 decision on the record. The petitioner may appeal the denial of a  
3 hearing or an order entered pursuant to a resentencing hearing,  
4 provided, however, that denying a petition filed pursuant to this  
5 section shall not reopen the petitioner's conviction or sentence to  
6 any other challenges that would otherwise be barred.

7 (9) (a) The prosecuting attorney shall make reasonable efforts to  
8 notify victims and survivors of victims of any petition for  
9 modification of sentence filed pursuant to this section and the date  
10 of any hearing to consider the petition.

11 (b) For purposes of (a) of this subsection, the prosecuting  
12 attorney shall make reasonable efforts to notify victims and  
13 survivors of victims of any offense for which the petitioner is  
14 seeking a modification of sentence, and victims of any sex offense or  
15 domestic violence offense committed against an intimate partner  
16 victim for which the petitioner was previously convicted.

17 (10) (a) The office of crime victims advocacy shall create a  
18 flexible fund to serve victims and survivors of victims impacted by  
19 this act. The office may contract for administration of this fund.  
20 The flexible fund may be used for purposes including, but not limited  
21 to:

22 (i) Relocation assistance related to a change in safety planning  
23 associated with the petitioner's resentencing;

24 (ii) Traveling to and from court for resentencing hearings; and

25 (iii) Out-of-pocket expenses for psychotherapy associated with  
26 the committed offense or resentencing.

27 (b) The office of crime victims advocacy shall contract with  
28 prosecuting attorney's offices to offer victim advocacy services for  
29 victims impacted by this act. Such victim advocacy services must  
30 include:

31 (i) Legal advocacy to understand the resentencing process and how  
32 a victim can exercise their rights;

33 (ii) Safety planning;

34 (iii) Options to participate in a restorative justice program  
35 with the petitioner; and

36 (iv) Case management to address needs that may arise as a result  
37 of resentencing.

38 (c) The office of crime victims advocacy shall contract with an  
39 entity with expertise in victim services to provide training for  
40 victim advocates embedded within prosecutor's offices regarding

1 safety planning and other case management services that victims  
2 impacted by this act may require.

3 (11) The court shall provide an opportunity for victims and  
4 survivors of victims of any crimes for which the petitioner has been  
5 convicted to present a statement personally or by representation at  
6 the hearing. The prosecuting attorney and the court shall comply with  
7 the requirements set forth in chapter 7.69 RCW.

8 (12) The court shall not permit any person to waive the right to  
9 petition pursuant to this section. Any agreement to waive the right  
10 to petition pursuant to this section shall be void.

11 (13) The time limit for collateral attacks established under RCW  
12 10.73.090 does not apply to any petition filed pursuant to this  
13 section.

14 (14)(a) Any incarcerated individual who is eligible to file a  
15 petition pursuant to this section, who the court has determined meets  
16 the criteria described under subsection (3) of this section, and who  
17 is unable to afford counsel, shall be entitled to have counsel  
18 appointed, at no cost to the individual, to represent the individual  
19 for the petition and proceedings under this section, unless the  
20 individual expressly waives the right to counsel after being fully  
21 advised of this right by the court.

22 (b) The office of public defense shall develop a triage plan to  
23 prioritize representation of incarcerated persons who file a petition  
24 pursuant to this section and:

25 (i) Were sentenced for crimes committed at 24 years of age or  
26 younger;

27 (ii) Are now over age 60 or suffering from a serious medical  
28 condition; or

29 (iii) Have served greater than 20 years in custody.

30 (15) Any person who files a pro se petition and subsequently  
31 retains or is appointed counsel shall be entitled to amend such  
32 petition at least once as of right with the assistance of counsel.  
33 Subsequent amendments may be permitted by leave of court.

34 (16) The department shall provide written notice of this section  
35 to any incarcerated individual sentenced to a term of confinement of  
36 more than 10 years, and the applicable sentencing court, prosecuting  
37 attorney, and public defense agency for the judicial district in  
38 which the individual was sentenced, within the following time frames:

39 (a) For any incarcerated individual serving an applicable  
40 sentence for a felony offense committed at 18 years of age or older,

1 the department shall provide written notice of this section no later  
2 than 180 days before the date on which the person's 10th year of  
3 confinement begins; and

4 (b) For any incarcerated individual serving an applicable  
5 sentence for a felony offense committed at 17 years of age or  
6 younger, the department shall provide written notice of this section  
7 no later than 180 days before the date on which the person's seventh  
8 year of confinement begins.

9 (17) When any person granted a modified sentence pursuant to this  
10 section is within six months of his or her expected release date from  
11 total confinement, the department of corrections must prepare and  
12 make available an individual reentry plan under chapter 72.09 RCW and  
13 the resources necessary for the person to complete the plan.

14 (18) A person may not petition for a modification of sentence  
15 pursuant to this section if the person's original sentence was  
16 imposed under RCW 9.94A.570 or 10.95.030.

17 **Sec. 4.** RCW 10.73.100 and 1989 c 395 s 2 are each amended to  
18 read as follows:

19 The time limit specified in RCW 10.73.090 does not apply to a  
20 petition or motion that is based solely on one or more of the  
21 following grounds:

22 (1) Newly discovered evidence, if the defendant acted with  
23 reasonable diligence in discovering the evidence and filing the  
24 petition or motion;

25 (2) The statute that the defendant was convicted of violating was  
26 unconstitutional on its face or as applied to the defendant's  
27 conduct;

28 (3) The conviction was barred by double jeopardy under Amendment  
29 V of the United States Constitution or Article I, section 9 of the  
30 state Constitution;

31 (4) The defendant (~~(pled)~~) pleaded not guilty and the evidence  
32 introduced at trial was insufficient to support the conviction;

33 (5) The sentence imposed was in excess of the court's  
34 jurisdiction; (~~(ex)~~)

35 (6) A petition for a modification of sentence pursuant to section  
36 3 of this act; or

37 (7) There has been a significant change in the law, whether  
38 substantive or procedural, which is material to the conviction,  
39 sentence, or other order entered in a criminal or civil proceeding

1 instituted by the state or local government, and either the  
2 legislature has expressly provided that the change in the law is to  
3 be applied retroactively, or a court, in interpreting a change in the  
4 law that lacks express legislative intent regarding retroactive  
5 application, determines that sufficient reasons exist to require  
6 retroactive application of the changed legal standard.

7 **Sec. 5.** RCW 9.94A.535 and 2019 c 219 s 1 are each amended to  
8 read as follows:

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

15 Whenever a sentence outside the standard sentence range is  
16 imposed, the court shall set forth the reasons for its decision in  
17 written findings of fact and conclusions of law. A sentence outside  
18 the standard sentence range shall be a determinate sentence.

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

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

27 (1) Mitigating Circumstances - Court to Consider

28 The court may impose an exceptional sentence below the standard  
29 range if it finds that mitigating circumstances are established by a  
30 preponderance of the evidence. The following are illustrative only  
31 and are not intended to be exclusive reasons for exceptional  
32 sentences.

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

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



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

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

6 (e) The defendant's capacity to appreciate the wrongfulness of  
7 his or her conduct, or to conform his or her conduct to the  
8 requirements of the law, was significantly impaired. Voluntary use of  
9 drugs or alcohol is excluded.

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

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

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

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

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

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

31 (l) The defendant petitions the court for modification of  
32 sentence pursuant to section 3 of this act, and the court considers  
33 the nonexhaustive list of additional factors provided under section  
34 3(6)(b) of this act at a hearing on the petition.

35 (2) Aggravating Circumstances - Considered and Imposed by the  
36 Court

37 The trial court may impose an aggravated exceptional sentence  
38 without a finding of fact by a jury under the following  
39 circumstances:

1 (a) The defendant and the state both stipulate that justice is  
2 best served by the imposition of an exceptional sentence outside the  
3 standard range, and the court finds the exceptional sentence to be  
4 consistent with and in furtherance of the interests of justice and  
5 the purposes of the sentencing reform act.

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

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

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

17 (3) Aggravating Circumstances - Considered by a Jury - Imposed by  
18 the Court

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

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

25 (b) The defendant knew or should have known that the victim of  
26 the current offense was particularly vulnerable or incapable of  
27 resistance.

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

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

33 (i) The current offense involved multiple victims or multiple  
34 incidents per victim;

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

37 (iii) The current offense involved a high degree of  
38 sophistication or planning or occurred over a lengthy period of time;  
39 or

1 (iv) The defendant used his or her position of trust, confidence,  
2 or fiduciary responsibility to facilitate the commission of the  
3 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 the  
7 typical offense of its statutory definition: The presence of ANY of  
8 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 offender  
18 to have occupied a high position in the drug distribution hierarchy;

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

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

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

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

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

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

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

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

- 1 (i) The offense resulted in the pregnancy of a child victim of  
2 rape.
- 3 (j) The defendant knew that the victim of the current offense was  
4 a youth who was not residing with a legal custodian and the defendant  
5 established or promoted the relationship for the primary purpose of  
6 victimization.
- 7 (k) The offense was committed with the intent to obstruct or  
8 impair human or animal health care or agricultural or forestry  
9 research or commercial production.
- 10 (l) The current offense is trafficking in the first degree or  
11 trafficking in the second degree and any victim was a minor at the  
12 time of the offense.
- 13 (m) The offense involved a high degree of sophistication or  
14 planning.
- 15 (n) The defendant used his or her position of trust, confidence,  
16 or fiduciary responsibility to facilitate the commission of the  
17 current offense.
- 18 (o) The defendant committed a current sex offense, has a history  
19 of sex offenses, and is not amenable to treatment.
- 20 (p) The offense involved an invasion of the victim's privacy.
- 21 (q) The defendant demonstrated or displayed an egregious lack of  
22 remorse.
- 23 (r) The offense involved a destructive and foreseeable impact on  
24 persons other than the victim.
- 25 (s) The defendant committed the offense to obtain or maintain his  
26 or her membership or to advance his or her position in the hierarchy  
27 of an organization, association, or identifiable group.
- 28 (t) The defendant committed the current offense shortly after  
29 being released from incarceration.
- 30 (u) The current offense is a burglary and the victim of the  
31 burglary was present in the building or residence when the crime was  
32 committed.
- 33 (v) The offense was committed against a law enforcement officer  
34 who was performing his or her official duties at the time of the  
35 offense, the offender knew that the victim was a law enforcement  
36 officer, and the victim's status as a law enforcement officer is not  
37 an element of the offense.
- 38 (w) The defendant committed the offense against a victim who was  
39 acting as a good samaritan.

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

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

7 (z) (i) (A) The current offense is theft in the first degree, theft  
8 in the second degree, possession of stolen property in the first  
9 degree, or possession of stolen property in the second degree; (B)  
10 the stolen property involved is metal property; and (C) the property  
11 damage to the victim caused in the course of the theft of metal  
12 property is more than three times the value of the stolen metal  
13 property, or the theft of the metal property creates a public hazard.

14 (ii) For purposes of this subsection, "metal property" means  
15 commercial metal property, private metal property, or nonferrous  
16 metal property, as defined in RCW 19.290.010.

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

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

25 (cc) The offense was intentionally committed because the  
26 defendant perceived the victim to be homeless, as defined in RCW  
27 9.94A.030.

28 (dd) The current offense involved a felony crime against persons,  
29 except for assault in the third degree pursuant to RCW  
30 9A.36.031(1)(k), that occurs in a courtroom, jury room, judge's  
31 chamber, or any waiting area or corridor immediately adjacent to a  
32 courtroom, jury room, or judge's chamber. This subsection shall apply  
33 only: (i) During the times when a courtroom, jury room, or judge's  
34 chamber is being used for judicial purposes during court proceedings;  
35 and (ii) if signage was posted in compliance with RCW 2.28.200 at the  
36 time of the offense.

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

1 (ff) The current offense involved the assault of a utility  
2 employee of any publicly or privately owned utility company or  
3 agency, who is at the time of the act engaged in official duties,  
4 including: (i) The maintenance or repair of utility poles, lines,  
5 conduits, pipes, or other infrastructure; or (ii) connecting,  
6 disconnecting, or recording utility meters.

7 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
8 this act, referencing this act by bill or chapter number, is not  
9 provided by June 30, 2024, in the omnibus appropriations act, this  
10 act is null and void.

--- END ---