

1 **2319-S2.E AMS ROAC S5903.1**

2 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94) - 499

3 By Senators Roach, Mcdonald, Hochstatte, Morton, Moyer, Amondson,  
4 L. Smith, Anderson, Nelson, Schow, McCaslin and Oke

5

6 On page 33, beginning on line 25 of the amendment, strike all of  
7 section 412

8 Renumber the remaining sections consecutively and correct internal  
9 references accordingly.

10 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)

11 By Senator

12

13 On page 56, beginning on line 3 of the amendment, strike all of  
14 sections 431 and 432

15 Renumber the remaining sections consecutively and correct internal  
16 references accordingly.

17 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)

18 By Senator

19

20 On page 113, beginning on line 15 of the amendment, strike all of  
21 section 464

22 Renumber the remaining sections consecutively and correct internal  
23 references accordingly.

24 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)

25 By Senator

26

27 On page 121, after line 18 of the amendment, insert the following:

1 "Sec. 471. RCW 9.94A.310 and 1992 c 145 s 9 are each amended to  
 2 read as follows:

3 (1)

TABLE 1

Sentencing Grid

SCORE	SERIOUSNESS									
	0	1	2	3	4	5	6	7	8	9 or more

XV	Life Sentence without Parole/Death Penalty									
----	--	--	--	--	--	--	--	--	--	--

XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548

XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397

XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
	93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
	123	136	147	160	171	184	216	236	277	318

XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280

X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198

IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171

1	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
2		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
3		27	34	41	48	54	61	89	102	116	144
4											
5	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
6		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
7		20	27	34	41	48	54	75	89	102	116
8											
9	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
10		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
11		14	20	27	34	41	48	61	75	89	102
12											
13	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
14		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
15		12	14	17	20	29	43	54	68	82	96
16											
17	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
18		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
19		9	12	14	17	20	29	43	57	70	84
20											
21	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
22		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
23		3	8	12	12	16	22	29	43	57	68
24											
25	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
26		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
27		Days	6	9	12	14	18	22	29	43	57
28											
29	I			3m	4m	5m	8m	13m	16m	20m	2y2m
30		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
31		Days	Days	5	6	8	12	14	18	22	29
32											

33 NOTE: Numbers in the first horizontal row of each seriousness category  
34 represent sentencing midpoints in years(y) and months(m). Numbers in  
35 the second and third rows represent presumptive sentencing ranges in  
36 months, or in days if so designated. 12+ equals one year and one day.

37 (2) For persons convicted of the anticipatory offenses of criminal  
38 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
39 presumptive sentence is determined by locating the sentencing grid

1 sentence range defined by the appropriate offender score and the  
2 seriousness level of the completed crime, and multiplying the range by  
3 75 percent.

4 (3) The following additional times shall be added to the  
5 presumptive sentence for felony crimes committed after the effective  
6 date of this section if the offender or an accomplice was armed with a  
7 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
8 for one of the crimes listed in this subsection as eligible for firearm  
9 enhancements. If the offender or an accomplice was armed with a  
10 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
11 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
12 the crimes listed in this subsection as eligible for firearm  
13 enhancements, the following additional times shall be added to the  
14 presumptive sentence determined under subsection (2) of this section:

15 (a) Five years for a felony defined under law as a class A felony  
16 and not covered under (f) of this subsection.

17 (b) Three years for a class B felony as defined in RCW  
18 9A.20.021(1)(b) and not covered under (f) of this subsection.

19 (c) Eighteen months for a class C felony as defined in RCW  
20 9A.20.021(1)(c) and not covered under (f) of this subsection.

21 (d) If the offender is being sentenced for firearm enhancements  
22 under (a), (b), or (c) of this subsection and the offender has already  
23 been previously sentenced for deadly weapon enhancements after the  
24 effective date of this section under (a) through (c) of this subsection  
25 or subsection (4) (a) through (c) of this section, all firearm  
26 enhancements under this subsection are automatically doubled.

27 (e) Notwithstanding any other provision of law, the firearm  
28 enhancements under this section shall not run concurrently with any  
29 other term or terms of imprisonment.

30 (f) All felony crimes which by definition require as the essential  
31 and only element of the crime the possession, theft, display, or use of  
32 a deadly weapon as defined in either RCW 9.41.010 or 9.94A.125, or  
33 both, are excluded from this subsection. These crimes include:  
34 Possessing a machine gun, possessing a stolen firearm, reckless  
35 endangerment in the first degree, setting a spring gun, theft of a  
36 firearm, unlawful possession of a firearm, and use of a machine gun in  
37 a felony. All other felony crimes including, but not limited to, rape  
38 in the first degree and robbery in the first degree shall not be

1 considered under this subsection because the deadly weapon is an  
2 alternative element of the crime.

3 (4) The following additional times shall be added to the  
4 presumptive sentence for felony crimes committed after the effective  
5 date of this section if the offender or an accomplice was armed with a  
6 deadly weapon as defined in this chapter other than a firearm as  
7 defined in RCW 9.41.010 and the offender is being sentenced for one of  
8 the crimes listed in this subsection as eligible for any deadly weapon  
9 enhancements. If the offender or an accomplice was armed with a deadly  
10 weapon other than a firearm as defined in RCW 9.41.010 and the offender  
11 is being sentenced for an anticipatory offense under chapter 9A.28 RCW  
12 to commit one of the crimes listed in this subsection as eligible for  
13 any deadly weapon enhancements, the following times shall be added to  
14 the presumptive ((range)) sentence determined under subsection (2) of  
15 this section:

16 (a) ((24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW  
17 9A.56.200), or Kidnapping 1 (RCW 9A.40.020)) Two years for a felony  
18 defined under law as a class A felony and not covered under (f) of this  
19 subsection.

20 (b) ((18 months for Burglary 1 (RCW 9A.52.020)) One year for any  
21 class B felony as defined in RCW 9A.20.021(1)(b) and not covered under  
22 (f) of this subsection.

23 (c) ((12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021),  
24 Assault of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110),  
25 Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a  
26 dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or  
27 any drug offense)) Six months for any class C felony as defined in RCW  
28 9A.20.021(1)(c) and not covered under (f) of this subsection.

29 (d) If the offender is being sentenced under (a) through (c) of  
30 this subsection for deadly weapon enhancements and the offender has  
31 already been previously sentenced for deadly weapon enhancements after  
32 the effective date of this section under (a) through (c) of this  
33 subsection or subsection (3) (a) through (c) of this section, all  
34 deadly weapon enhancements under this subsection are automatically  
35 doubled.

36 (e) Notwithstanding any other provision of law, the deadly weapon  
37 enhancements under this section shall not run concurrently with any  
38 other term or terms of imprisonment.

1        (f) All felony crimes which by definition require as the essential  
2 and only element of the crime the possession, theft, display, or use of  
3 any deadly weapon as defined in either RCW 9.41.010 or 9.94A.125 or  
4 both, are excluded from this subsection. These crimes include:  
5 Possessing a machine gun, possessing a stolen firearm, reckless  
6 endangerment in the first degree, setting a spring gun, theft of a  
7 firearm, unlawful possession of a firearm, and use of a machine gun in  
8 a felony. All other felony crimes including, but not limited to, rape  
9 in the first degree and robbery in the first degree shall not be  
10 considered under this subsection because the deadly weapon is an  
11 alternative element of the crime.

12        (~~(4)~~) (5) The following additional times shall be added to the  
13 presumptive sentence if the offender or an accomplice committed the  
14 offense while in a county jail or state correctional facility as that  
15 term is defined in this chapter and the offender is being sentenced for  
16 one of the crimes listed in this subsection. If the offender or an  
17 accomplice committed one of the crimes listed in this subsection while  
18 in a county jail or state correctional facility as that term is defined  
19 in this chapter, and the offender is being sentenced for an  
20 anticipatory offense under chapter 9A.28 RCW to commit one of the  
21 crimes listed in this subsection, the following additional times shall  
22 be added to the presumptive sentence (~~(range)~~) determined under  
23 subsection (2) of this section:

24        (a) Eighteen months for offenses committed under RCW  
25 69.50.401(a)(1)(i) or 69.50.410;

26        (b) Fifteen months for offenses committed under RCW  
27 69.50.401(a)(1)(ii), (iii), and (iv);

28        (c) Twelve months for offenses committed under RCW 69.50.401(d).

29        For the purposes of this subsection, all of the real property of  
30 a state correctional facility or county jail shall be deemed to be part  
31 of that facility or county jail.

32        (~~(5)~~) (6) An additional twenty-four months shall be added to the  
33 presumptive sentence for any ranked offense involving a violation of  
34 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

35        **Sec. 472.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are  
36 each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

1		
2		
3	XV	Aggravated Murder 1 (RCW 10.95.020)
4	XIV	Murder 1 (RCW 9A.32.030)
5		Homicide by abuse (RCW 9A.32.055)
6	XIII	Murder 2 (RCW 9A.32.050)
7	XII	Assault 1 (RCW 9A.36.011)
8		Assault of a Child 1 (RCW 9A.36.120)
9	XI	Rape 1 (RCW 9A.44.040)
10		Rape of a Child 1 (RCW 9A.44.073)
11	X	Kidnapping 1 (RCW 9A.40.020)
12		Rape 2 (RCW 9A.44.050)
13		Rape of a Child 2 (RCW 9A.44.076)
14		Child Molestation 1 (RCW 9A.44.083)
15		Damaging building, etc., by explosion with
16		threat to human being (RCW
17		70.74.280(1))
18		Over 18 and deliver heroin or narcotic from
19		Schedule I or II to someone under 18
20		(RCW 69.50.406)
21		Leading Organized Crime (RCW
22		9A.82.060(1)(a))
23	IX	Assault of a Child 2 (RCW 9A.36.130)
24		Robbery 1 (RCW 9A.56.200)
25		Manslaughter 1 (RCW 9A.32.060)
26		Explosive devices prohibited (RCW 70.74.180)
27		Indecent Liberties (with forcible
28		compulsion) (RCW 9A.44.100(1)(a))
29		Endangering life and property by explosives
30		with threat to human being (RCW
31		70.74.270)

1 Over 18 and deliver narcotic from Schedule  
2 III, IV, or V or a nonnarcotic from  
3 Schedule I-V to someone under 18 and 3  
4 years junior (RCW 69.50.406)  
5 Controlled Substance Homicide (RCW  
6 69.50.415)  
7 Sexual Exploitation (RCW 9.68A.040)  
8 Inciting Criminal Profiteering (RCW  
9 9A.82.060(1)(b))

10 VIII Arson 1 (RCW 9A.48.020)  
11 Promoting Prostitution 1 (RCW 9A.88.070)  
12 Selling for profit (controlled or  
13 counterfeit) any controlled substance  
14 (RCW 69.50.410)  
15 Manufacture, deliver, or possess with intent  
16 to deliver heroin or cocaine (RCW  
17 69.50.401(a)(1)(i))  
18 Manufacture, deliver, or possess with intent  
19 to deliver methamphetamine (RCW  
20 69.50.401(a)(1)(ii))  
21 Vehicular Homicide, by being under the  
22 influence of intoxicating liquor or any  
23 drug or by the operation of any vehicle  
24 in a reckless manner (RCW 46.61.520)

25 VII Burglary 1 (RCW 9A.52.020)  
26 Vehicular Homicide, by disregard for the  
27 safety of others (RCW 46.61.520)  
28 Introducing Contraband 1 (RCW 9A.76.140)  
29 Indecent Liberties (without forcible  
30 compulsion) (RCW 9A.44.100(1) (b) and  
31 (c))  
32 Child Molestation 2 (RCW 9A.44.086)  
33 Dealing in depictions of minor engaged in  
34 sexually explicit conduct (RCW  
35 9.68A.050)



1           Sending, bringing into state depictions of  
2           minor engaged in sexually explicit  
3           conduct (RCW 9.68A.060)  
4           Involving a minor in drug dealing (RCW  
5           69.50.401(f))  
6           Reckless Endangerment 1 (RCW 9A.36.045)  
7           Unlawful Possession of a Firearm by a Felon  
8           (RCW 9.41.040)  
  
9           VI        Bribery (RCW 9A.68.010)  
10           Manslaughter 2 (RCW 9A.32.070)  
11           Rape of a Child 3 (RCW 9A.44.079)  
12           Intimidating a Juror/Witness (RCW 9A.72.110,  
13           9A.72.130)  
14           Damaging building, etc., by explosion with  
15           no threat to human being (RCW  
16           70.74.280(2))  
17           Endangering life and property by explosives  
18           with no threat to human being (RCW  
19           70.74.270)  
20           Incest 1 (RCW 9A.64.020(1))  
21           Manufacture, deliver, or possess with intent  
22           to deliver narcotics from Schedule I or  
23           II (except heroin or cocaine) (RCW  
24           69.50.401(a)(1)(i))  
25           Intimidating a Judge (RCW 9A.72.160)  
26           Bail Jumping with Murder 1 (RCW  
27           9A.76.170(2)(a))  
28           Theft of a Firearm (section 479 of this act)  
  
29           V        Criminal Mistreatment 1 (RCW 9A.42.020)  
30           Rape 3 (RCW 9A.44.060)  
31           Sexual Misconduct with a Minor 1 (RCW  
32           9A.44.093)  
33           Child Molestation 3 (RCW 9A.44.089)  
34           Kidnapping 2 (RCW 9A.40.030)  
35           Extortion 1 (RCW 9A.56.120)  
36           Incest 2 (RCW 9A.64.020(2))  
37           Perjury 1 (RCW 9A.72.020)

1 Extortionate Extension of Credit (RCW  
2 9A.82.020)  
3 Advancing money or property for extortionate  
4 extension of credit (RCW 9A.82.030)  
5 Extortionate Means to Collect Extensions of  
6 Credit (RCW 9A.82.040)  
7 Rendering Criminal Assistance 1 (RCW  
8 9A.76.070)  
9 Bail Jumping with class A Felony (RCW  
10 9A.76.170(2)(b))  
11 Delivery of imitation controlled substance  
12 by person eighteen or over to person  
13 under eighteen (RCW 69.52.030(2))  
14 Possession of a Stolen Firearm (section 481  
15 of this act)

16 IV Residential Burglary (RCW 9A.52.025)  
17 Theft of Livestock 1 (RCW 9A.56.080)  
18 Robbery 2 (RCW 9A.56.210)  
19 Assault 2 (RCW 9A.36.021)  
20 Escape 1 (RCW 9A.76.110)  
21 Arson 2 (RCW 9A.48.030)  
22 Bribing a Witness/Bribe Received by Witness  
23 (RCW 9A.72.090, 9A.72.100)  
24 Malicious Harassment (RCW 9A.36.080)  
25 Threats to Bomb (RCW 9.61.160)  
26 Willful Failure to Return from Furlough (RCW  
27 72.66.060)  
28 Hit and Run « Injury Accident (RCW  
29 46.52.020(4))  
30 Vehicular Assault (RCW 46.61.522)  
31 Manufacture, deliver, or possess with intent  
32 to deliver narcotics from Schedule III,  
33 IV, or V or nonnarcotics from Schedule  
34 I-V (except marijuana or  
35 methamphetamines) (RCW  
36 69.50.401(a)(1)(ii) through (iv))  
37 Influencing Outcome of Sporting Event (RCW  
38 9A.82.070)

1 Use of Proceeds of Criminal Profiteering  
2 (RCW 9A.82.080 (1) and (2))  
3 Knowingly Trafficking in Stolen Property  
4 (RCW 9A.82.050(2))

5 III Criminal mistreatment 2 (RCW 9A.42.030)  
6 Extortion 2 (RCW 9A.56.130)  
7 Unlawful Imprisonment (RCW 9A.40.040)  
8 Assault 3 (RCW 9A.36.031)  
9 Assault of a Child 3 (RCW 9A.36.140)  
10 Custodial Assault (RCW 9A.36.100)  
11 (~~Unlawful possession of firearm or pistol by felon (RCW~~  
12 ~~9.41.040))~~)  
13 Harassment (RCW 9A.46.020)  
14 Promoting Prostitution 2 (RCW 9A.88.080)  
15 Willful Failure to Return from Work Release  
16 (RCW 72.65.070)  
17 Burglary 2 (RCW 9A.52.030)  
18 Introducing Contraband 2 (RCW 9A.76.150)  
19 Communication with a Minor for Immoral  
20 Purposes (RCW 9.68A.090)  
21 Patronizing a Juvenile Prostitute (RCW  
22 9.68A.100)  
23 Escape 2 (RCW 9A.76.120)  
24 Perjury 2 (RCW 9A.72.030)  
25 Bail Jumping with class B or C Felony (RCW  
26 9A.76.170(2)(c))  
27 Intimidating a Public Servant (RCW  
28 9A.76.180)  
29 Tampering with a Witness (RCW 9A.72.120)  
30 Manufacture, deliver, or possess with intent  
31 to deliver marijuana (RCW  
32 69.50.401(a)(1)(ii))  
33 Delivery of a material in lieu of a  
34 controlled substance (RCW 69.50.401(c))  
35 Manufacture, distribute, or possess with  
36 intent to distribute an imitation  
37 controlled substance (RCW 69.52.030(1))

1 Recklessly Trafficking in Stolen Property  
2 (RCW 9A.82.050(1))  
3 Theft of livestock 2 (RCW 9A.56.080)  
4 Securities Act violation (RCW 21.20.400)

5 II Malicious Mischief 1 (RCW 9A.48.070)  
6 Possession of Stolen Property 1 (RCW  
7 9A.56.150)  
8 Theft 1 (RCW 9A.56.030)  
9 Possession of controlled substance that is  
10 either heroin or narcotics from  
11 Schedule I or II (RCW 69.50.401(d))  
12 Possession of phencyclidine (PCP) (RCW  
13 69.50.401(d))  
14 Create, deliver, or possess a counterfeit  
15 controlled substance (RCW 69.50.401(b))  
16 Computer Trespass 1 (RCW 9A.52.110)  
17 (~~Reckless Endangerment 1 (RCW 9A.36.045)~~)  
18 Escape from Community Custody (RCW  
19 72.09.310)

20 I Theft 2 (RCW 9A.56.040)  
21 Possession of Stolen Property 2 (RCW  
22 9A.56.160)  
23 Forgery (RCW 9A.60.020)  
24 Taking Motor Vehicle Without Permission (RCW  
25 9A.56.070)  
26 Vehicle Prowl 1 (RCW 9A.52.095)  
27 Attempting to Elude a Pursuing Police  
28 Vehicle (RCW 46.61.024)  
29 Malicious Mischief 2 (RCW 9A.48.080)  
30 Reckless Burning 1 (RCW 9A.48.040)  
31 Unlawful Issuance of Checks or Drafts (RCW  
32 9A.56.060)  
33 Unlawful Use of Food Stamps (RCW 9.91.140  
34 (2) and (3))  
35 False Verification for Welfare (RCW  
36 74.08.055)  
37 Forged Prescription (RCW 69.41.020)

1 Forged Prescription for a Controlled  
2 Substance (RCW 69.50.403)  
3 Possess Controlled Substance that is a  
4 Narcotic from Schedule III, IV, or V or  
5 Non-narcotic from Schedule I-V (except  
6 phencyclidine) (RCW 69.50.401(d))

7 NEW SECTION. Sec. 473. Notwithstanding the current placement or  
8 listing of crimes in categories or classifications of prosecuting  
9 standards for deciding to prosecute under RCW 9.94A.440(2), all felony  
10 crimes involving a deadly weapon special verdict under RCW 9.94A.125,  
11 any deadly weapon enhancements under RCW 9.94A.310 (3) or (4), and all  
12 felony crimes as defined in either RCW 9.94A.310 (3)(f) or (4)(f), or  
13 both, which are excluded from the deadly weapon enhancements but by  
14 definition require as the essential and only element of the crime the  
15 possession, theft, display, or use of any deadly weapon as defined in  
16 either RCW 9.41.010 or 9.94A.125, or both, shall all be treated as  
17 crimes against a person and subject to the prosecuting standards for  
18 deciding to prosecute under RCW 9.94A.440(2) as crimes against persons.

19 NEW SECTION. Sec. 474. All recommended sentencing agreements or  
20 plea agreements and sentences for all felony crimes shall be made and  
21 retained as public records if the felony crime involves:

- 22 (1) A violent offense as defined in this chapter;  
23 (2) A most serious offense as defined in this chapter;  
24 (3) A felony with a deadly weapon special verdict under RCW  
25 9.94A.125;  
26 (4) A felony with deadly weapon enhancements under RCW 9.94A.310  
27 (3) or (4); or  
28 (5) Any felony crimes as defined in either RCW 9.94A.310 (3)(f) or  
29 (4)(f), or both, which are excluded from the deadly weapon enhancements  
30 but by definition require as the essential and only element of the  
31 crime the possession, theft, display, or use of any deadly weapon as  
32 defined in either RCW 9.41.010 or 9.94A.125, or both.

33 NEW SECTION. Sec. 475. (1) A current, newly created, or reworked  
34 judgment and sentence document for each felony sentencing shall record  
35 all recommended sentencing agreements or plea agreements and sentences

1 for all felony crimes kept as public records under section 474 of this  
2 act shall contain the clearly printed name and legal signature of the  
3 sentencing judge. The judgment and sentence document as defined in  
4 this section shall also provide additional space for the sentencing  
5 judge's reasons for going either above or below the sentence range for  
6 all felony crimes covered as public records under section 474 of this  
7 act. Both the sentencing judge and the prosecuting attorney's office  
8 shall each retain or receive a completed copy of each sentencing  
9 document as defined in this section for their own records.

10 (2) The sentencing guidelines commission shall be sent a completed  
11 copy of the judgment and sentence document upon conviction for each  
12 felony sentencing under subsection (1) of this section and shall  
13 compile a yearly and cumulative judicial record of each sentencing  
14 judge in regards to his or her sentencing practices for all felony  
15 crimes involving:

16 (a) A violent offense as defined in this chapter;

17 (b) A most serious offense as defined in this chapter;

18 (c) A felony with any deadly weapon special verdict under RCW  
19 9.94A.125;

20 (d) A felony with deadly weapon enhancements under RCW 9.94A.310  
21 (3) or (4); or

22 (e) A felony crime as defined in either RCW 9.94A.310 (3)(f) or  
23 (4)(f), or both, which are excluded from the deadly weapon  
24 enhancements but by definition require as the essential and only  
25 element of the crime the possession, theft, display, or use of any  
26 deadly weapon as defined in either RCW 9.41.010 or 9.94A.125, or both.

27 (3) Each individual judge's sentencing practices shall be compared  
28 to the standard or presumptive sentencing range for all felony crimes  
29 listed in subsection (2) of this section for the appropriate offender  
30 score as defined in RCW 9.94A.360. These comparative records shall be  
31 retained and made available to the public for review in a current,  
32 newly created, or reworked officially published document by the  
33 sentencing guidelines commission.

34 (4) All felony sentences which are either above or below the  
35 standard or presumptive sentence range in subsection (3) of this  
36 section shall also mark whether the prosecuting attorney in the case  
37 also recommended a similar sentence, if any, which was either above or  
38 below the presumptive range.

1 (5) All felony sentences with a portion of any applicable deadly  
2 weapon enhancements under RCW 9.94A.310 (3) or (4) deferred or  
3 suspended under RCW 9.94A.130 shall also have a recommended sentencing  
4 agreement or plea agreement under section 474 of this act between the  
5 prosecuting attorney and the defendant in exchange for a plea of guilty  
6 in order to be a valid sentence.

7 (6) If any completed judgment and sentence document as defined in  
8 subsection (1) of this section is not sent to the sentencing guidelines  
9 commission as required in subsection (2) of this section, the  
10 sentencing guidelines commission shall have the authority and shall  
11 undertake reasonable and necessary steps to assure that all past,  
12 current, and future sentencing documents as defined in subsection (1)  
13 of this section are received by the sentencing guidelines commission.

14 **Sec. 476.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to  
15 read as follows:

16 No person serving a sentence imposed pursuant to this chapter and  
17 committed to the custody of the department shall leave the confines of  
18 the correctional facility or be released prior to the expiration of the  
19 sentence except as follows:

20 (1) Except as otherwise provided for in subsection (2) of this  
21 section, the term of the sentence of an offender committed to a  
22 correctional facility operated by the department, may be reduced by  
23 earned early release time in accordance with procedures that shall be  
24 developed and promulgated by the correctional agency having  
25 jurisdiction in which the offender is confined. The earned early  
26 release time shall be for good behavior and good performance, as  
27 determined by the correctional agency having jurisdiction. The  
28 correctional agency shall not credit the offender with earned early  
29 release credits in advance of the offender actually earning the  
30 credits. Any program established pursuant to this section shall allow  
31 an offender to earn early release credits for presentence  
32 incarceration. If an offender is transferred from a county jail to the  
33 department of corrections, the county jail facility shall certify to  
34 the department the amount of time spent in custody at the facility and  
35 the amount of earned early release time. In the case of an offender  
36 who has been convicted of a felony committed after the effective date  
37 of this section that involves any deadly weapon enhancements under RCW  
38 9.94A.310 (3) or (4) shall not receive any good time credits or earned

1 early release time for that portion of his or her sentence that results  
2 from any deadly weapon enhancements. In the case of an offender  
3 convicted of a serious violent offense or a sex offense that is a class  
4 A felony committed on or after July 1, 1990, the aggregate earned early  
5 release time may not exceed fifteen percent of the sentence. In no  
6 other case shall the aggregate earned early release time exceed one-  
7 third of the total sentence;

8 (2) A person convicted of a sex offense or an offense categorized  
9 as a serious violent offense, assault in the second degree, assault of  
10 a child in the second degree, any crime against a person where it is  
11 determined in accordance with RCW 9.94A.125 that the defendant or an  
12 accomplice was armed with a deadly weapon at the time of commission, or  
13 any felony offense under chapter 69.50 or 69.52 RCW may become  
14 eligible, in accordance with a program developed by the department, for  
15 transfer to community custody status in lieu of earned early release  
16 time pursuant to subsection (1) of this section;

17 (3) An offender may leave a correctional facility pursuant to an  
18 authorized furlough or leave of absence. In addition, offenders may  
19 leave a correctional facility when in the custody of a corrections  
20 officer or officers;

21 (4) The governor, upon recommendation from the clemency and  
22 pardons board, may grant an extraordinary release for reasons of  
23 serious health problems, senility, advanced age, extraordinary  
24 meritorious acts, or other extraordinary circumstances;

25 (5) No more than the final six months of the sentence may be  
26 served in partial confinement designed to aid the offender in finding  
27 work and reestablishing him or herself in the community;

28 (6) The governor may pardon any offender;

29 (7) The department of corrections may release an offender from  
30 confinement any time within ten days before a release date calculated  
31 under this section; and

32 (8) An offender may leave a correctional facility prior to  
33 completion of his sentence if the sentence has been reduced as provided  
34 in RCW 9.94A.160.

35 **Sec. 477.** RCW 9A.36.045 and 1989 c 271 s 109 are each amended to  
36 read as follows:

37 (1) A person is guilty of reckless endangerment in the first  
38 degree when he or she recklessly discharges a firearm as defined in RCW



1 9.41.010 in a manner which creates a substantial risk of death or  
2 serious physical injury to another person and the discharge is either  
3 from a motor vehicle or from the immediate area of a motor vehicle that  
4 was used to transport the shooter or the firearm to the scene of the  
5 discharge.

6 (2) A person who unlawfully discharges a firearm from a moving  
7 motor vehicle may be inferred to have engaged in reckless conduct,  
8 unless the discharge is shown by evidence satisfactory to the trier of  
9 fact to have been made without such recklessness.

10 (3) Reckless endangerment in the first degree is a class C felony.

11 **Sec. 478.** RCW 9A.52.020 and 1975 1st ex.s. c 260 s 9A.52.020 are  
12 each amended to read as follows:

13 (1) A person is guilty of burglary in the first degree if, with  
14 intent to commit a crime against a person or property therein, he or  
15 she enters or remains unlawfully in a (~~(dwelling))~~ building and if, in  
16 entering or while in the (~~(dwelling))~~ building or in immediate flight  
17 therefrom, the actor or another participant in the crime (a) is armed  
18 with a deadly weapon, or (b) assaults any person therein.

19 (2) Burglary in the first degree is a class A felony.

20 NEW SECTION. **Sec. 479.** A new section is added to chapter 9A.56  
21 RCW to read as follows:

22 (1) A person is guilty of theft of a firearm if he or she commits  
23 theft of any firearm as defined in RCW 9.41.010.

24 (2) Each firearm, as defined in RCW 9.41.010, taken in the theft  
25 is a separate offense.

26 (3) The definition of theft and the defense allowed against the  
27 prosecution for theft under RCW 9A.56.020 shall apply to the crime of  
28 theft of a firearm.

29 (4) Theft of a firearm is a class B felony.

30 **Sec. 480.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to  
31 read as follows:

32 (1) A person is guilty of theft in the second degree if he or she  
33 commits theft of:

34 (a) Property or services which exceed(s) two hundred and fifty  
35 dollars in value, but does not exceed one thousand five hundred dollars  
36 in value; or

1 (b) A public record, writing, or instrument kept, filed, or  
2 deposited according to law with or in the keeping of any public office  
3 or public servant; or

4 (c) An access device; or

5 (d) A motor vehicle, of a value less than one thousand five  
6 hundred dollars(~~(; or~~

7 ~~(e) A firearm, of a value less than one thousand five hundred~~  
8 ~~dollars)).~~

9 (2) Theft in the second degree is a class C felony.

10 NEW SECTION. Sec. 481. A new section is added to chapter 9A.56  
11 RCW to read as follows:

12 (1) A person is guilty of possessing a stolen firearm if he or she  
13 possesses, carries, or is in control of a stolen firearm.

14 (2) Each stolen firearm is a separate offense.

15 (3) The definition of possessing stolen property and the defense  
16 allowed against the prosecution for possessing stolen property under  
17 RCW 9A.56.140 shall apply to the crime of possessing a stolen firearm.  
18 Firearm, as defined in this section, means any firearm as defined in  
19 RCW 9.41.010.

20 **Sec. 482.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to  
21 read as follows:

22 (1) A person is guilty of possessing stolen property in the second  
23 degree if:

24 (a) He or she possesses stolen property which exceeds two hundred  
25 fifty dollars in value but does not exceed one thousand five hundred  
26 dollars in value; or

27 (b) He or she possesses a stolen public record, writing or  
28 instrument kept, filed, or deposited according to law; or

29 (c) He or she possesses a stolen access device; or

30 (d) He or she possesses a stolen motor vehicle of a value less  
31 than one thousand five hundred dollars; (~~(or~~

32 ~~(e) He possesses a stolen firearm)).~~

33 (2) Possessing stolen property in the second degree is a class C  
34 felony.

35 **Sec. 483.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2  
36 are each reenacted and amended to read as follows:

1 (1) A person is guilty of the crime of unlawful possession of a  
2 ((short)) firearm ((or pistol)), if, having previously been convicted  
3 or, as a juvenile, adjudicated in this state or elsewhere of a crime of  
4 violence or of a felony in which a firearm was used or displayed, the  
5 person owns or has in his or her possession any ((short)) firearm ((or  
6 pistol)).

7 (2) Unlawful possession of a ((short)) firearm ((or pistol)) shall  
8 be punished as a class ((C)) B felony under chapter 9A.20 RCW.

9 (3) As used in this section, a person has been "convicted or  
10 adjudicated" at such time as a plea of guilty has been accepted or a  
11 verdict of guilty has been filed, notwithstanding the pendency of any  
12 future proceedings including but not limited to sentencing or  
13 disposition, post-trial or post-factfinding motions, and appeals. A  
14 person shall not be precluded from possession if the conviction or  
15 adjudication has been the subject of a pardon, annulment, certificate  
16 of rehabilitation, or other equivalent procedure based on a finding of  
17 the rehabilitation of the person convicted or adjudicated or the  
18 conviction or disposition has been the subject of a pardon, annulment,  
19 or other equivalent procedure based on a finding of innocence.

20 (4) Except as provided in subsection (5) of this section, a person  
21 is guilty of the crime of unlawful possession of a ((short)) firearm  
22 ((or pistol)) if, after having been convicted or adjudicated of any  
23 felony violation of the uniform controlled substances act, chapter  
24 69.50 RCW, or equivalent statutes of another jurisdiction, the person  
25 owns or has in his or her possession or under his or her control any  
26 ((short)) firearm ((or pistol)).

27 (5) Notwithstanding subsection (1) of this section, a person  
28 convicted of an offense other than murder, manslaughter, robbery, rape,  
29 indecent liberties, arson, assault, kidnapping, extortion, burglary, or  
30 violations with respect to controlled substances under RCW 69.50.401(a)  
31 and 69.50.410, who received a probationary sentence under RCW 9.95.200,  
32 and who received a dismissal of the charge under RCW 9.95.240, shall  
33 not be precluded from ownership, possession, or control of a firearm as  
34 a result of the conviction.

35 (6)(a) A person who has been committed by court order for  
36 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,  
37 or equivalent statutes of another jurisdiction, may not possess, in any  
38 manner, a firearm as defined in RCW 9.41.010.

1 (b) At the time of commitment, the court shall specifically state  
2 to the person under (a) of this subsection and give the person notice  
3 in writing that the person is barred from possession of firearms.

4 (c) The secretary of social and health services shall develop  
5 appropriate rules to create an approval process under this subsection.  
6 The rules must provide for the immediate restoration of the right to  
7 possess a firearm upon a showing in a court of competent jurisdiction  
8 that a person no longer is required to participate in an inpatient or  
9 outpatient treatment program, and is no longer required to take  
10 medication to treat any condition related to the commitment. Unlawful  
11 possession of a firearm under this subsection shall be punished as a  
12 class ((C)) B felony under chapter 9A.20 RCW.

13 (7) For the purposes of this section, firearm means any firearm or  
14 firearms as defined in RCW 9.41.010.

15 **Sec. 484.** RCW 10.95.020 and 1981 c 138 s 2 are each amended to  
16 read as follows:

17 A person is guilty of aggravated first degree murder if he or she  
18 commits first degree murder as defined by RCW 9A.32.030(1)(a), as now  
19 or hereafter amended, and one or more of the following aggravating  
20 circumstances exist:

21 (1) The victim was a law enforcement officer, corrections officer,  
22 or fire fighter who was performing his or her official duties at the  
23 time of the act resulting in death and the victim was known or  
24 reasonably should have been known by the person to be such at the time  
25 of the killing;

26 (2) At the time of the act resulting in the death, the person was  
27 serving a term of imprisonment, had escaped, or was on authorized or  
28 unauthorized leave in or from a state facility or program for the  
29 incarceration or treatment of persons adjudicated guilty of crimes;

30 (3) At the time of the act resulting in death, the person was in  
31 custody in a county or county-city jail as a consequence of having been  
32 adjudicated guilty of a felony;

33 (4) The person committed the murder pursuant to an agreement that  
34 he or she would receive money or any other thing of value for  
35 committing the murder;

36 (5) The person solicited another person to commit the murder and  
37 had paid or had agreed to pay money or any other thing of value for  
38 committing the murder;

1           (6) The person committed the murder to obtain, maintain, or  
2 advance his or her membership in an organization, association, or  
3 identifiable group;

4           (7) The murder was committed during the course of or as a result  
5 of a shooting where the discharge of the firearm, as defined in RCW  
6 9.41.010 is either from a motor vehicle or from the immediate area of  
7 a motor vehicle that was used to transport the shooter or the firearm  
8 to the scene of the discharge;

9           (8) The victim was:

10          (a) A judge; juror or former juror; prospective, current, or  
11 former witness in an adjudicative proceeding; prosecuting attorney;  
12 deputy prosecuting attorney; defense attorney; a member of the ((~~board~~  
13 ~~of prison terms and paroles~~)) indeterminate sentence review board; or  
14 a probation or parole officer; and

15          (b) The murder was related to the exercise of official duties  
16 performed or to be performed by the victim;

17          ((+7)) (9) The person committed the murder to conceal the  
18 commission of a crime or to protect or conceal the identity of any  
19 person committing a crime, including the attempt to avoid a mandatory  
20 life without parole sentence as a persistent offender;

21          ((+8)) (10) There was more than one victim and the murders were  
22 part of a common scheme or plan or the result of a single act of the  
23 person;

24          ((+9)) (11) The murder was committed in the course of, in  
25 furtherance of, or in immediate flight from one of the following  
26 crimes:

27           (a) Robbery in the first or second degree;

28           (b) Rape in the first or second degree;

29           (c) Burglary in the first or second degree or residential  
30 burglary;

31           (d) Kidnapping in the first degree; or

32           (e) Arson in the first degree;

33          ((+10)) (12) The victim was regularly employed or self-employed  
34 as a newsreporter and the murder was committed to obstruct or hinder  
35 the investigative, research, or reporting activities of the victim.

36          NEW SECTION.       **Sec. 485.**       All law enforcement agencies or  
37 personnel, criminal justice attorneys, sentencing judges, or state or  
38 local correctional facilities or personnel may, but are not required

1 to, give any and all offenders either written or oral notice, or both,  
2 of the sanctions imposed and criminal justice changes regarding armed  
3 offenders including but not limited to the subjects of:

4 (1) Felony crimes involving any deadly weapon special verdict  
5 under RCW 9.94A.125;

6 (2) All deadly weapon enhancements under RCW 9.94A.310 (3) or (4)  
7 as well as any federal firearm, ammunition, or other deadly weapon  
8 enhancements;

9 (3) All felony crimes requiring the possession, display, or use of  
10 any deadly weapon as defined in either RCW 9.41.010 or 9.94A.125, or  
11 both, as well as the many increased penalties for these crimes;

12 (4) New prosecuting standards established for filing charges for  
13 crimes involving any deadly weapons and new limitations placed on plea  
14 agreements;

15 (5) New and strict judicial conduct and court sentencing records  
16 regarding armed offenders; and

17 (6) Removal of good time for all deadly weapon enhancements.

18 NEW SECTION. Sec. 486. Sections 473 through 475 of this act are  
19 each added to chapter 9.94A RCW.

20 NEW SECTION. Sec. 487. This act shall be known and cited as the  
21 hard time for armed crime act.

22 NEW SECTION. Sec. 488. If any provision of this act or its  
23 application to any person or circumstance is held invalid, the  
24 remainder of the act or the application of the provision to other  
25 persons or circumstances is not affected."

26 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)  
27 By Senator

28

29 On page 159, line 24 of the title amendment, after "9.41.280,"  
30 strike "9A.56.040, 9A.56.160,"

31 On page 159, line 28 of the title amendment, after "77.12.720,"  
32 strike "9.94A.150,"

1           On page 159, line 28 of the title amendment, after "10.99.030,"  
2 insert "9.94A.310, 9.94A.150, 9A.36.045, 9A.52.020, 9A.56.040,  
3 9A.56.160, 10.95.020,"

4           On page 159, line 33 of the title amendment, after "RCW" strike  
5 "9.41.040,"

6           On page 159, line 34 of the title amendment, after "10.31.100,"  
7 insert "9.94A.320, 9.41.040,"

8 **E2SHB 2319** - S AMD TO S AMD (S-5375.4/94)  
9           By Senator

10

11           On page 160, line 5 of the title amendment, after "13.06 RCW;"  
12 insert "adding new sections to chapter 9A.56 RCW;"

--- END ---