

**SUBSTITUTE HOUSE BILL 1070**

**State of Washington**

**53rd Legislature**

**1993 Regular Session**

**By** House Committee on Corrections (originally sponsored by Representatives Ludwig, Mastin, Orr, Chandler, Basich, R. Johnson, Foreman, Grant, Kremen, Lisk, Edmondson, Riley, Chappell, Campbell, Scott, Wineberry, Van Luven, Talcott, Rayburn, Padden, Dyer, Sheahan, Ballasiotes, Flemming, Long, Springer, Holm, Brumsickle, Horn, Forner, Miller, R. Meyers, Lemmon, Schoesler, Morton, Johanson, Tate, Vance, Thomas, Karahalios, Mielke, Wood, Cooke, Roland and Silver)

Read first time 03/01/93.

1 AN ACT Relating to sentencing persons for crimes committed while  
2 armed with a firearm; amending RCW 9.94A.310 and 9.94A.370; and  
3 prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read  
6 as follows:

7 (1) TABLE 1

8 Sentencing Grid

9 SERIOUSNESS

10 SCORE

OFFENDER SCORE

11											9 or
12	0	1	2	3	4	5	6	7	8		more

13 \_\_\_\_\_

14 XV Life Sentence without Parole/Death Penalty

15 \_\_\_\_\_

1	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
2		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
3		320	333	347	361	374	388	416	450	493	548
4											
5	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
6		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
7		164	178	192	205	219	233	260	288	342	397
8											
9	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
10		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
11		123	136	147	160	171	184	216	236	277	318
12											
13	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
14		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
15		102	114	125	136	147	158	194	211	245	280
16											
17	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
18		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
19		68	75	82	89	96	102	130	144	171	198
20											
21	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
22		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
23		41	48	54	61	68	75	102	116	144	171
24											
25	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
26		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
27		27	34	41	48	54	61	89	102	116	144
28											
29	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
30		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
31		20	27	34	41	48	54	75	89	102	116
32											
33	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
34		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
35		14	20	27	34	41	48	61	75	89	102
36											
37	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
38		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
39		12	14	17	20	29	43	54	68	82	96

1											
2	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
3		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
4		9	12	14	17	20	29	43	57	70	84
5											
6	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
7		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
8		3	8	12	12	16	22	29	43	57	68
9											
10	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
11		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
12		Days	6	9	12	14	18	22	29	43	57
13											
14	I			3m	4m	5m	8m	13m	16m	20m	2y2m
15		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
16		Days	Days	5	6	8	12	14	18	22	29
17											

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

22 (2) For persons convicted of the anticipatory offenses of criminal  
23 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
24 presumptive sentence is determined by locating the sentencing grid  
25 sentence range defined by the appropriate offender score and the  
26 seriousness level of the completed crime, and multiplying the range by  
27 75 percent.

28 (3) The following additional times shall be added to the  
29 presumptive sentence if the offender or an accomplice was armed with a  
30 deadly weapon as defined in this chapter and the offender is being  
31 sentenced for one of the crimes listed in this subsection. If the  
32 offender or an accomplice was armed with a deadly weapon and the  
33 offender is being sentenced for an anticipatory offense under chapter  
34 9A.28 RCW to commit one of the crimes listed in this subsection, the  
35 following times shall be added to the presumptive range determined  
36 under subsection (2) of this section:

37 (a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.-  
38 200), or Kidnapping 1 (RCW 9A.40.020), but if the offense was committed

1 with a firearm, the 24-month time period may be increased up to 36  
2 months;

3 (b) 18 months for Burglary 1 (RCW 9A.52.020), but if the offense  
4 was committed with a firearm, the 18-month time period may be increased  
5 up to 30 months;

6 (c) 12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault  
7 of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110), Kidnapping 2  
8 (RCW 9A.40.030), Burglary 2 of a building other than a dwelling (RCW  
9 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug  
10 offense, but if the offense was committed with a firearm, the 12-month  
11 time period may be increased up to 18 months.

12 (4) If the offender committed an offense listed in subsection  
13 (3)(a) through (c) of this section while the offender or an accomplice  
14 was armed with a firearm, and the offender had a prior conviction for  
15 an offense committed with a firearm, then the following times may be  
16 added to the presumptive range determined under subsection (2) of this  
17 section:

18 (a) For a second conviction for an offense committed while armed  
19 with a firearm, up to 60 months;

20 (b) For a third or subsequent conviction for an offense committed  
21 while armed with a firearm, up to 84 months.

22 (5) If an offender or an accomplice was armed with a firearm and  
23 fired upon a law enforcement officer while resisting arrest under RCW  
24 9A.76.040, up to 60 months may be added to the presumptive sentence.

25 (6) The following additional times shall be added to the  
26 presumptive sentence if the offender or an accomplice committed the  
27 offense while in a county jail or state correctional facility as that  
28 term is defined in this chapter and the offender is being sentenced for  
29 one of the crimes listed in this subsection. If the offender or an  
30 accomplice committed one of the crimes listed in this subsection while  
31 in a county jail or state correctional facility as that term is defined  
32 in this chapter, and the offender is being sentenced for an anticipa-  
33 tory offense under chapter 9A.28 RCW to commit one of the crimes listed  
34 in this subsection, the following times shall be added to the  
35 presumptive sentence range determined under subsection (2) of this  
36 section:

37 (a) Eighteen months for offenses committed under RCW 69.50.401(a)-  
38 (1)(i) or 69.50.410;

1 (b) Fifteen months for offenses committed under RCW  
2 69.50.401(a)(1)(ii), (iii), and (iv);

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

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

7 ~~((+5))~~ (7) An additional twenty-four months shall be added to the  
8 presumptive sentence for any ranked offense involving a violation of  
9 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

10 **Sec. 2.** RCW 9.94A.370 and 1989 c 124 s 2 are each amended to read  
11 as follows:

12 (1) The intersection of the column defined by the offender score  
13 and the row defined by the offense seriousness score determines the  
14 presumptive sentencing range (see RCW 9.94A.310, (Table 1)). The  
15 additional time for deadly weapon findings or for ~~((these offenses))~~  
16 other circumstances enumerated in RCW 9.94A.310~~((+4) that were~~  
17 ~~committed in a state correctional facility or county jail))~~ (3) through  
18 (7) shall be added to the entire presumptive sentence range. The court  
19 may impose any sentence within the range that it deems appropriate.  
20 All presumptive sentence ranges are expressed in terms of total  
21 confinement.

22 (2) In determining any sentence, the trial court may rely on no  
23 more information than is admitted by the plea agreement, or admitted,  
24 acknowledged, or proved in a trial or at the time of sentencing.  
25 Acknowledgement includes not objecting to information stated in the  
26 presentence reports. Where the defendant disputes material facts, the  
27 court must either not consider the fact or grant an evidentiary hearing  
28 on the point. The facts shall be deemed proved at the hearing by a  
29 preponderance of the evidence. Facts that establish the elements of a  
30 more serious crime or additional crimes may not be used to go outside  
31 the presumptive sentence range except upon stipulation or when  
32 specifically provided for in RCW 9.94A.390(2) (c), (d), and (e).

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