

CERTIFICATION OF ENROLLMENT

SENATE BILL 5938

Chapter 365, Laws of 1997

55th Legislature
1997 Regular Session

SENTENCING--MANSLAUGHTER, MURDER IN THE SECOND DEGREE REVISIONS

EFFECTIVE DATE: 7/27/97

Passed by the Senate March 17, 1997
YEAS 45 NAYS 3

IRV NEWHOUSE

President of the Senate

Passed by the House April 18, 1997
YEAS 96 NAYS 1

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved May 14, 1997

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5938** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

May 14, 1997 - 2:28 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SENATE BILL 5938

Passed Legislature - 1997 Regular Session

State of Washington 55th Legislature 1997 Regular Session

By Senators Roach, Long, Zarelli, Haugen, Benton, Finkbeiner, Oke, Swecker, Anderson, Stevens, Winsley, Strannigan and Schow

Read first time 02/20/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to sentencing; amending RCW 9.94A.040, 9.94A.310,
2 9A.32.060, and 9A.32.070; reenacting and amending RCW 9.94A.030 and
3 9.94A.320; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.030 and 1996 c 289 s 1 and 1996 c 275 s 5 are
6 each reenacted and amended to read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Collect," or any derivative thereof, "collect and remit," or
10 "collect and deliver," when used with reference to the department of
11 corrections, means that the department is responsible for monitoring
12 and enforcing the offender's sentence with regard to the legal
13 financial obligation, receiving payment thereof from the offender, and,
14 consistent with current law, delivering daily the entire payment to the
15 superior court clerk without depositing it in a departmental account.

16 (2) "Commission" means the sentencing guidelines commission.

17 (3) "Community corrections officer" means an employee of the
18 department who is responsible for carrying out specific duties in

1 supervision of sentenced offenders and monitoring of sentence
2 conditions.

3 (4) "Community custody" means that portion of an inmate's sentence
4 of confinement in lieu of earned early release time or imposed pursuant
5 to RCW 9.94A.120 (6), (8), or (10) served in the community subject to
6 controls placed on the inmate's movement and activities by the
7 department of corrections.

8 (5) "Community placement" means that period during which the
9 offender is subject to the conditions of community custody and/or
10 postrelease supervision, which begins either upon completion of the
11 term of confinement (postrelease supervision) or at such time as the
12 offender is transferred to community custody in lieu of earned early
13 release. Community placement may consist of entirely community
14 custody, entirely postrelease supervision, or a combination of the two.

15 (6) "Community service" means compulsory service, without
16 compensation, performed for the benefit of the community by the
17 offender.

18 (7) "Community supervision" means a period of time during which a
19 convicted offender is subject to crime-related prohibitions and other
20 sentence conditions imposed by a court pursuant to this chapter or RCW
21 16.52.200(6) or 46.61.524. For first-time offenders, the supervision
22 may include crime-related prohibitions and other conditions imposed
23 pursuant to RCW 9.94A.120(5). For purposes of the interstate compact
24 for out-of-state supervision of parolees and probationers, RCW
25 9.95.270, community supervision is the functional equivalent of
26 probation and should be considered the same as probation by other
27 states.

28 (8) "Confinement" means total or partial confinement as defined in
29 this section.

30 (9) "Conviction" means an adjudication of guilt pursuant to Titles
31 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
32 acceptance of a plea of guilty.

33 (10) "Court-ordered legal financial obligation" means a sum of
34 money that is ordered by a superior court of the state of Washington
35 for legal financial obligations which may include restitution to the
36 victim, statutorily imposed crime victims' compensation fees as
37 assessed pursuant to RCW 7.68.035, court costs, county or interlocal
38 drug funds, court-appointed attorneys' fees, and costs of defense,
39 fines, and any other financial obligation that is assessed to the

1 offender as a result of a felony conviction. Upon conviction for
2 vehicular assault while under the influence of intoxicating liquor or
3 any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the
4 influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a),
5 legal financial obligations may also include payment to a public agency
6 of the expense of an emergency response to the incident resulting in
7 the conviction, subject to the provisions in RCW 38.52.430.

8 (11) "Crime-related prohibition" means an order of a court
9 prohibiting conduct that directly relates to the circumstances of the
10 crime for which the offender has been convicted, and shall not be
11 construed to mean orders directing an offender affirmatively to
12 participate in rehabilitative programs or to otherwise perform
13 affirmative conduct.

14 (12)(a) "Criminal history" means the list of a defendant's prior
15 convictions, whether in this state, in federal court, or elsewhere.
16 The history shall include, where known, for each conviction (i) whether
17 the defendant has been placed on probation and the length and terms
18 thereof; and (ii) whether the defendant has been incarcerated and the
19 length of incarceration.

20 (b) "Criminal history" shall always include juvenile convictions
21 for sex offenses and serious violent offenses and shall also include a
22 defendant's other prior convictions in juvenile court if: (i) The
23 conviction was for an offense which is a felony or a serious traffic
24 offense and is criminal history as defined in RCW 13.40.020(9); (ii)
25 the defendant was fifteen years of age or older at the time the offense
26 was committed; and (iii) with respect to prior juvenile class B and C
27 felonies or serious traffic offenses, the defendant was less than
28 twenty-three years of age at the time the offense for which he or she
29 is being sentenced was committed.

30 (13) "Day fine" means a fine imposed by the sentencing judge that
31 equals the difference between the offender's net daily income and the
32 reasonable obligations that the offender has for the support of the
33 offender and any dependents.

34 (14) "Day reporting" means a program of enhanced supervision
35 designed to monitor the defendant's daily activities and compliance
36 with sentence conditions, and in which the defendant is required to
37 report daily to a specific location designated by the department or the
38 sentencing judge.

39 (15) "Department" means the department of corrections.

1 (16) "Determinate sentence" means a sentence that states with
2 exactitude the number of actual years, months, or days of total
3 confinement, of partial confinement, of community supervision, the
4 number of actual hours or days of community service work, or dollars or
5 terms of a legal financial obligation. The fact that an offender
6 through "earned early release" can reduce the actual period of
7 confinement shall not affect the classification of the sentence as a
8 determinate sentence.

9 (17) "Disposable earnings" means that part of the earnings of an
10 individual remaining after the deduction from those earnings of any
11 amount required by law to be withheld. For the purposes of this
12 definition, "earnings" means compensation paid or payable for personal
13 services, whether denominated as wages, salary, commission, bonuses, or
14 otherwise, and, notwithstanding any other provision of law making the
15 payments exempt from garnishment, attachment, or other process to
16 satisfy a court-ordered legal financial obligation, specifically
17 includes periodic payments pursuant to pension or retirement programs,
18 or insurance policies of any type, but does not include payments made
19 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
20 or Title 74 RCW.

21 (18) "Drug offense" means:

22 (a) Any felony violation of chapter 69.50 RCW except possession of
23 a controlled substance (RCW 69.50.401(d)) or forged prescription for a
24 controlled substance (RCW 69.50.403);

25 (b) Any offense defined as a felony under federal law that relates
26 to the possession, manufacture, distribution, or transportation of a
27 controlled substance; or

28 (c) Any out-of-state conviction for an offense that under the laws
29 of this state would be a felony classified as a drug offense under (a)
30 of this subsection.

31 (19) "Escape" means:

32 (a) Escape in the first degree (RCW 9A.76.110), escape in the
33 second degree (RCW 9A.76.120), willful failure to return from furlough
34 (RCW 72.66.060), willful failure to return from work release (RCW
35 72.65.070), or willful failure to be available for supervision by the
36 department while in community custody (RCW 72.09.310); or

37 (b) Any federal or out-of-state conviction for an offense that
38 under the laws of this state would be a felony classified as an escape
39 under (a) of this subsection.

1 (20) "Felony traffic offense" means:

2 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
3 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
4 and-run injury-accident (RCW 46.52.020(4)); or

5 (b) Any federal or out-of-state conviction for an offense that
6 under the laws of this state would be a felony classified as a felony
7 traffic offense under (a) of this subsection.

8 (21) "Fines" means the requirement that the offender pay a specific
9 sum of money over a specific period of time to the court.

10 (22)(a) "First-time offender" means any person who is convicted of
11 a felony (i) not classified as a violent offense or a sex offense under
12 this chapter, or (ii) that is not the manufacture, delivery, or
13 possession with intent to manufacture or deliver a controlled substance
14 classified in schedule I or II that is a narcotic drug, nor the
15 manufacture, delivery, or possession with intent to deliver
16 methamphetamine, its salts, isomers, and salts of its isomers as
17 defined in RCW 69.50.206(d)(2), nor the selling for profit of any
18 controlled substance or counterfeit substance classified in schedule I,
19 RCW 69.50.204, except leaves and flowering tops of marijuana, and
20 except as provided in (b) of this subsection, who previously has never
21 been convicted of a felony in this state, federal court, or another
22 state, and who has never participated in a program of deferred
23 prosecution for a felony offense.

24 (b) For purposes of (a) of this subsection, a juvenile adjudication
25 for an offense committed before the age of fifteen years is not a
26 previous felony conviction except for adjudications of sex offenses and
27 serious violent offenses.

28 (23) "Most serious offense" means any of the following felonies or
29 a felony attempt to commit any of the following felonies, as now
30 existing or hereafter amended:

31 (a) Any felony defined under any law as a class A felony or
32 criminal solicitation of or criminal conspiracy to commit a class A
33 felony;

34 (b) Assault in the second degree;

35 (c) Assault of a child in the second degree;

36 (d) Child molestation in the second degree;

37 (e) Controlled substance homicide;

38 (f) Extortion in the first degree;

39 (g) Incest when committed against a child under age fourteen;

1 (h) Indecent liberties;
2 (i) Kidnapping in the second degree;
3 (j) Leading organized crime;
4 (k) Manslaughter in the first degree;
5 (l) Manslaughter in the second degree;
6 (m) Promoting prostitution in the first degree;
7 (n) Rape in the third degree;
8 (o) Robbery in the second degree;
9 (p) Sexual exploitation;
10 (q) Vehicular assault;
11 (r) Vehicular homicide, when proximately caused by the driving of
12 any vehicle by any person while under the influence of intoxicating
13 liquor or any drug as defined by RCW 46.61.502, or by the operation of
14 any vehicle in a reckless manner;
15 (s) Any other class B felony offense with a finding of sexual
16 motivation, as "sexual motivation" is defined under this section;
17 (t) Any other felony with a deadly weapon verdict under RCW
18 9.94A.125;
19 (u) Any felony offense in effect at any time prior to December 2,
20 1993, that is comparable to a most serious offense under this
21 subsection, or any federal or out-of-state conviction for an offense
22 that under the laws of this state would be a felony classified as a
23 most serious offense under this subsection.
24 (24) "Nonviolent offense" means an offense which is not a violent
25 offense.
26 (25) "Offender" means a person who has committed a felony
27 established by state law and is eighteen years of age or older or is
28 less than eighteen years of age but whose case has been transferred by
29 the appropriate juvenile court to a criminal court pursuant to RCW
30 13.40.110. Throughout this chapter, the terms "offender" and
31 "defendant" are used interchangeably.
32 (26) "Partial confinement" means confinement for no more than one
33 year in a facility or institution operated or utilized under contract
34 by the state or any other unit of government, or, if home detention or
35 work crew has been ordered by the court, in an approved residence, for
36 a substantial portion of each day with the balance of the day spent in
37 the community. Partial confinement includes work release, home
38 detention, work crew, and a combination of work crew and home detention
39 as defined in this section.

1 (27) "Persistent offender" is an offender who:

2 (a)(i) Has been convicted in this state of any felony considered a
3 most serious offense; and

4 (ii) Has, before the commission of the offense under (a) of this
5 subsection, been convicted as an offender on at least two separate
6 occasions, whether in this state or elsewhere, of felonies that under
7 the laws of this state would be considered most serious offenses and
8 would be included in the offender score under RCW 9.94A.360; provided
9 that of the two or more previous convictions, at least one conviction
10 must have occurred before the commission of any of the other most
11 serious offenses for which the offender was previously convicted; or

12 (b)(i) Has been convicted of (A) rape in the first degree, rape in
13 the second degree, or indecent liberties by forcible compulsion; (B)
14 murder in the first degree, murder in the second degree, kidnapping in
15 the first degree, kidnapping in the second degree, assault in the first
16 degree, assault in the second degree, or burglary in the first degree,
17 with a finding of sexual motivation; or (C) an attempt to commit any
18 crime listed in this subsection (27)(b)(i); and

19 (ii) Has, before the commission of the offense under (b)(i) of this
20 subsection, been convicted as an offender on at least one occasion,
21 whether in this state or elsewhere, of an offense listed in (b)(i) of
22 this subsection.

23 (28) "Postrelease supervision" is that portion of an offender's
24 community placement that is not community custody.

25 (29) "Restitution" means the requirement that the offender pay a
26 specific sum of money over a specific period of time to the court as
27 payment of damages. The sum may include both public and private costs.
28 The imposition of a restitution order does not preclude civil redress.

29 (30) "Serious traffic offense" means:

30 (a) Driving while under the influence of intoxicating liquor or any
31 drug (RCW 46.61.502), actual physical control while under the influence
32 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving
33 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));
34 or

35 (b) Any federal, out-of-state, county, or municipal conviction for
36 an offense that under the laws of this state would be classified as a
37 serious traffic offense under (a) of this subsection.

38 (31) "Serious violent offense" is a subcategory of violent offense
39 and means:

1 (a) Murder in the first degree, homicide by abuse, murder in the
2 second degree, manslaughter in the first degree, assault in the first
3 degree, kidnapping in the first degree, or rape in the first degree,
4 assault of a child in the first degree, or an attempt, criminal
5 solicitation, or criminal conspiracy to commit one of these felonies;
6 or

7 (b) Any federal or out-of-state conviction for an offense that
8 under the laws of this state would be a felony classified as a serious
9 violent offense under (a) of this subsection.

10 (32) "Sentence range" means the sentencing court's discretionary
11 range in imposing a nonappealable sentence.

12 (33) "Sex offense" means:

13 (a) A felony that is a violation of chapter 9A.44 RCW or RCW
14 9A.64.020 or 9.68A.090 or a felony that is, under chapter 9A.28 RCW, a
15 criminal attempt, criminal solicitation, or criminal conspiracy to
16 commit such crimes;

17 (b) A felony with a finding of sexual motivation under RCW
18 9.94A.127 or 13.40.135; or

19 (c) Any federal or out-of-state conviction for an offense that
20 under the laws of this state would be a felony classified as a sex
21 offense under (a) of this subsection.

22 (34) "Sexual motivation" means that one of the purposes for which
23 the defendant committed the crime was for the purpose of his or her
24 sexual gratification.

25 (35) "Total confinement" means confinement inside the physical
26 boundaries of a facility or institution operated or utilized under
27 contract by the state or any other unit of government for twenty-four
28 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

29 (36) "Transition training" means written and verbal instructions
30 and assistance provided by the department to the offender during the
31 two weeks prior to the offender's successful completion of the work
32 ethic camp program. The transition training shall include instructions
33 in the offender's requirements and obligations during the offender's
34 period of community custody.

35 (37) "Victim" means any person who has sustained emotional,
36 psychological, physical, or financial injury to person or property as
37 a direct result of the crime charged.

38 (38) "Violent offense" means:

1 (a) Any of the following felonies, as now existing or hereafter
2 amended: Any felony defined under any law as a class A felony or an
3 attempt to commit a class A felony, criminal solicitation of or
4 criminal conspiracy to commit a class A felony, manslaughter in the
5 first degree, manslaughter in the second degree, indecent liberties if
6 committed by forcible compulsion, kidnapping in the second degree,
7 arson in the second degree, assault in the second degree, assault of a
8 child in the second degree, extortion in the first degree, robbery in
9 the second degree, vehicular assault, and vehicular homicide, when
10 proximately caused by the driving of any vehicle by any person while
11 under the influence of intoxicating liquor or any drug as defined by
12 RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

13 (b) Any conviction for a felony offense in effect at any time prior
14 to July 1, 1976, that is comparable to a felony classified as a violent
15 offense in (a) of this subsection; and

16 (c) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as a violent
18 offense under (a) or (b) of this subsection.

19 (39) "Work crew" means a program of partial confinement consisting
20 of civic improvement tasks for the benefit of the community of not less
21 than thirty-five hours per week that complies with RCW 9.94A.135. The
22 civic improvement tasks shall have minimal negative impact on existing
23 private industries or the labor force in the county where the service
24 or labor is performed. The civic improvement tasks shall not affect
25 employment opportunities for people with developmental disabilities
26 contracted through sheltered workshops as defined in RCW 82.04.385.
27 Only those offenders sentenced to a facility operated or utilized under
28 contract by a county or the state are eligible to participate on a work
29 crew. Offenders sentenced for a sex offense as defined in subsection
30 (33) of this section are not eligible for the work crew program.

31 (40) "Work ethic camp" means an alternative incarceration program
32 designed to reduce recidivism and lower the cost of corrections by
33 requiring offenders to complete a comprehensive array of real-world job
34 and vocational experiences, character-building work ethics training,
35 life management skills development, substance abuse rehabilitation,
36 counseling, literacy training, and basic adult education.

37 (41) "Work release" means a program of partial confinement
38 available to offenders who are employed or engaged as a student in a
39 regular course of study at school. Participation in work release shall

1 be conditioned upon the offender attending work or school at regularly
2 defined hours and abiding by the rules of the work release facility.

3 (42) "Home detention" means a program of partial confinement
4 available to offenders wherein the offender is confined in a private
5 residence subject to electronic surveillance.

6 **Sec. 2.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read
7 as follows:

8 (1) A sentencing guidelines commission is established as an agency
9 of state government.

10 (2) The legislature finds that the commission, having accomplished
11 its original statutory directive to implement this chapter, and having
12 expertise in sentencing practice and policies, shall:

13 (a) Evaluate state sentencing policy, to include whether the
14 sentencing ranges and standards are consistent with and further:

15 (i) The purposes of this chapter as defined in RCW 9.94A.010; and

16 (ii) The intent of the legislature to emphasize confinement for the
17 violent offender and alternatives to confinement for the nonviolent
18 offender.

19 The commission shall provide the governor and the legislature with
20 its evaluation and recommendations under this subsection not later than
21 December 1, 1996, and every two years thereafter;

22 (b) Recommend to the legislature revisions or modifications to the
23 standard sentence ranges, state sentencing policy, prosecuting
24 standards, and other standards. If implementation of the revisions or
25 modifications would result in exceeding the capacity of correctional
26 facilities, then the commission shall accompany its recommendation with
27 an additional list of standard sentence ranges which are consistent
28 with correction capacity;

29 (c) Study the existing criminal code and from time to time make
30 recommendations to the legislature for modification;

31 (d)(i) Serve as a clearinghouse and information center for the
32 collection, preparation, analysis, and dissemination of information on
33 state and local adult and juvenile sentencing practices; (ii) develop
34 and maintain a computerized adult and juvenile sentencing information
35 system by individual superior court judge consisting of offender,
36 offense, history, and sentence information entered from judgment and
37 sentence forms for all adult felons; and (iii) conduct ongoing research
38 regarding adult and juvenile sentencing guidelines, use of total

1 confinement and alternatives to total confinement, plea bargaining, and
2 other matters relating to the improvement of the adult criminal justice
3 system and the juvenile justice system;

4 (e) Assume the powers and duties of the juvenile disposition
5 standards commission after June 30, 1996;

6 (f) Evaluate the effectiveness of existing disposition standards
7 and related statutes in implementing policies set forth in RCW
8 13.40.010 generally, specifically review the guidelines relating to the
9 confinement of minor and first offenders as well as the use of
10 diversion, and review the application of current and proposed juvenile
11 sentencing standards and guidelines for potential adverse impacts on
12 the sentencing outcomes of racial and ethnic minority youth;

13 (g) Solicit the comments and suggestions of the juvenile justice
14 community concerning disposition standards, and make recommendations to
15 the legislature regarding revisions or modifications of the standards
16 in accordance with RCW 9.94A.045. The evaluations shall be submitted
17 to the legislature on December 1 of each odd-numbered year. The
18 department of social and health services shall provide the commission
19 with available data concerning the implementation of the disposition
20 standards and related statutes and their effect on the performance of
21 the department's responsibilities relating to juvenile offenders, and
22 with recommendations for modification of the disposition standards.
23 The office of the administrator for the courts shall provide the
24 commission with available data on diversion and dispositions of
25 juvenile offenders under chapter 13.40 RCW; and

26 (h) Not later than December 1, 1997, and at least every two years
27 thereafter, based on available information, report to the governor and
28 the legislature on:

29 (i) Racial disproportionality in juvenile and adult sentencing;

30 (ii) The capacity of state and local juvenile and adult facilities
31 and resources; and

32 (iii) Recidivism information on adult and juvenile offenders.

33 (3) Each of the commission's recommended standard sentence ranges
34 shall include one or more of the following: Total confinement, partial
35 confinement, community supervision, community service, and a fine.

36 (4) The standard sentence ranges of total and partial confinement
37 under this chapter are subject to the following limitations:

38 (a) If the maximum term in the range is one year or less, the
39 minimum term in the range shall be no less than one-third of the

1 maximum term in the range, except that if the maximum term in the range
2 is ninety days or less, the minimum term may be less than one-third of
3 the maximum;

4 (b) If the maximum term in the range is greater than one year, the
5 minimum term in the range shall be no less than seventy-five percent of
6 the maximum term in the range, except that for murder in the second
7 degree in seriousness category XIII under RCW 9.94A.310, the minimum
8 term in the range shall be no less than fifty percent of the maximum
9 term in the range; and

10 (c) The maximum term of confinement in a range may not exceed the
11 statutory maximum for the crime as provided in RCW 9A.20.021.

12 (5) The commission shall exercise its duties under this section in
13 conformity with chapter 34.05 RCW.

14 **Sec. 3.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read
15 as follows:

16 (1) TABLE 1
17 Sentencing Grid

| 18 SERIOUSNESS | 19 OFFENDER SCORE | | | | | | | | | |
|----------------|--|--------------|--------------|-------------|---------------|--------------|--------------|--------------|--------------|-------------|
| | 20 SCORE | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 21 XV | Life Sentence without Parole/Death Penalty | | | | | | | | | |
| 22 | | | | | | | | | | |
| 23 XIV | 23y4m | 24y4m | 25y4m | 26y4m | 27y4m | 28y4m | 30y4m | 32y10m | 36y | 40y |
| 24 | 240- | 250- | 261- | 271- | 281- | 291- | 312- | 338- | 370- | 411- |
| 25 | 320 | 333 | 347 | 361 | 374 | 388 | 416 | 450 | 493 | 548 |
| 26 | | | | | | | | | | |
| 27 | | | | | | | | | | |
| 28 | | | | | | | | | | |
| 29 | XIII(12y 13y 14y 15y 16y 17y 19y 21y 25y 29y) | | | | | | | | | |
| 30 | 123- 134- 144- 154- 165- 175- 195- 216- 257- 298- | | | | | | | | | |
| 31 | 164- 178- 192- 205- 219- 233- 260- 288- 342- 397) | | | | | | | | | |
| 32 | <u>14y4m</u> | <u>15y4m</u> | <u>16y2m</u> | <u>17y</u> | <u>17y11m</u> | <u>18y9m</u> | <u>20y5m</u> | <u>22y2m</u> | <u>25y7m</u> | <u>29y</u> |
| 33 | <u>123-</u> | <u>134-</u> | <u>144-</u> | <u>154-</u> | <u>165-</u> | <u>175-</u> | <u>195-</u> | <u>216-</u> | <u>257-</u> | <u>298-</u> |
| 34 | <u>220</u> | <u>234</u> | <u>244</u> | <u>254</u> | <u>265</u> | <u>275</u> | <u>295</u> | <u>316</u> | <u>357</u> | <u>397</u> |
| 35 | | | | | | | | | | |

| | | | | | | | | | | | |
|----|------|------|-------|-------|-------|-------|-------|-------|-------|--------|-------|
| 1 | XII | 9y | 9y11m | 10y9m | 11y8m | 12y6m | 13y5m | 15y9m | 17y3m | 20y3m | 23y3m |
| 2 | | 93- | 102- | 111- | 120- | 129- | 138- | 162- | 178- | 209- | 240- |
| 3 | | 123 | 136 | 147 | 160 | 171 | 184 | 216 | 236 | 277 | 318 |
| 4 | | | | | | | | | | | |
| 5 | XI | 7y6m | 8y4m | 9y2m | 9y11m | 10y9m | 11y7m | 14y2m | 15y5m | 17y11m | 20y5m |
| 6 | | 78- | 86- | 95- | 102- | 111- | 120- | 146- | 159- | 185- | 210- |
| 7 | | 102 | 114 | 125 | 136 | 147 | 158 | 194 | 211 | 245 | 280 |
| 8 | | | | | | | | | | | |
| 9 | X | 5y | 5y6m | 6y | 6y6m | 7y | 7y6m | 9y6m | 10y6m | 12y6m | 14y6m |
| 10 | | 51- | 57- | 62- | 67- | 72- | 77- | 98- | 108- | 129- | 149- |
| 11 | | 68 | 75 | 82 | 89 | 96 | 102 | 130 | 144 | 171 | 198 |
| 12 | | | | | | | | | | | |
| 13 | IX | 3y | 3y6m | 4y | 4y6m | 5y | 5y6m | 7y6m | 8y6m | 10y6m | 12y6m |
| 14 | | 31- | 36- | 41- | 46- | 51- | 57- | 77- | 87- | 108- | 129- |
| 15 | | 41 | 48 | 54 | 61 | 68 | 75 | 102 | 116 | 144 | 171 |
| 16 | | | | | | | | | | | |
| 17 | VIII | 2y | 2y6m | 3y | 3y6m | 4y | 4y6m | 6y6m | 7y6m | 8y6m | 10y6m |
| 18 | | 21- | 26- | 31- | 36- | 41- | 46- | 67- | 77- | 87- | 108- |
| 19 | | 27 | 34 | 41 | 48 | 54 | 61 | 89 | 102 | 116 | 144 |
| 20 | | | | | | | | | | | |
| 21 | VII | 18m | 2y | 2y6m | 3y | 3y6m | 4y | 5y6m | 6y6m | 7y6m | 8y6m |
| 22 | | 15- | 21- | 26- | 31- | 36- | 41- | 57- | 67- | 77- | 87- |
| 23 | | 20 | 27 | 34 | 41 | 48 | 54 | 75 | 89 | 102 | 116 |
| 24 | | | | | | | | | | | |
| 25 | VI | 13m | 18m | 2y | 2y6m | 3y | 3y6m | 4y6m | 5y6m | 6y6m | 7y6m |
| 26 | | 12+- | 15- | 21- | 26- | 31- | 36- | 46- | 57- | 67- | 77- |
| 27 | | 14 | 20 | 27 | 34 | 41 | 48 | 61 | 75 | 89 | 102 |
| 28 | | | | | | | | | | | |
| 29 | V | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y | 5y | 6y | 7y |
| 30 | | 6- | 12+- | 13- | 15- | 22- | 33- | 41- | 51- | 62- | 72- |
| 31 | | 12 | 14 | 17 | 20 | 29 | 43 | 54 | 68 | 82 | 96 |
| 32 | | | | | | | | | | | |
| 33 | IV | 6m | 9m | 13m | 15m | 18m | 2y2m | 3y2m | 4y2m | 5y2m | 6y2m |
| 34 | | 3- | 6- | 12+- | 13- | 15- | 22- | 33- | 43- | 53- | 63- |
| 35 | | 9 | 12 | 14 | 17 | 20 | 29 | 43 | 57 | 70 | 84 |
| 36 | | | | | | | | | | | |
| 37 | III | 2m | 5m | 8m | 11m | 14m | 20m | 2y2m | 3y2m | 4y2m | 5y |
| 38 | | 1- | 3- | 4- | 9- | 12+- | 17- | 22- | 33- | 43- | 51- |
| 39 | | 3 | 8 | 12 | 12 | 16 | 22 | 29 | 43 | 57 | 68 |

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|----|------|----|----|----|------|-----|-----|------|------|------|
| II | | 4m | 6m | 8m | 13m | 16m | 20m | 2y2m | 3y2m | 4y2m |
| | 0-90 | 2- | 3- | 4- | 12+- | 14- | 17- | 22- | 33- | 43- |
| | Days | 6 | 9 | 12 | 14 | 18 | 22 | 29 | 43 | 57 |

| | | | | | | | | | | |
|---|------|------|----|----|----|----|------|-----|-----|------|
| I | | | 3m | 4m | 5m | 8m | 13m | 16m | 20m | 2y2m |
| | 0-60 | 0-90 | 2- | 2- | 3- | 4- | 12+- | 14- | 17- | 22- |
| | Days | Days | 5 | 6 | 8 | 12 | 14 | 18 | 22 | 29 |

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

14 (2) For persons convicted of the anticipatory offenses of criminal
15 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
16 presumptive sentence is determined by locating the sentencing grid
17 sentence range defined by the appropriate offender score and the
18 seriousness level of the completed crime, and multiplying the range by
19 75 percent.

20 (3) The following additional times shall be added to the
21 presumptive sentence for felony crimes committed after July 23, 1995,
22 if the offender or an accomplice was armed with a firearm as defined in
23 RCW 9.41.010 and the offender is being sentenced for one of the crimes
24 listed in this subsection as eligible for any firearm enhancements
25 based on the classification of the completed felony crime. If the
26 offender or an accomplice was armed with a firearm as defined in RCW
27 9.41.010 and the offender is being sentenced for an anticipatory
28 offense under chapter 9A.28 RCW to commit one of the crimes listed in
29 this subsection as eligible for any firearm enhancements, the following
30 additional times shall be added to the presumptive sentence determined
31 under subsection (2) of this section based on the felony crime of
32 conviction as classified under RCW 9A.28.020:

33 (a) Five years for any felony defined under any law as a class A
34 felony or with a maximum sentence of at least twenty years, or both,
35 and not covered under (f) of this subsection.

36 (b) Three years for any felony defined under any law as a class B
37 felony or with a maximum sentence of ten years, or both, and not
38 covered under (f) of this subsection.

1 (c) Eighteen months for any felony defined under any law as a
2 class C felony or with a maximum sentence of five years, or both, and
3 not covered under (f) of this subsection.

4 (d) If the offender is being sentenced for any firearm
5 enhancements under (a), (b), and/or (c) of this subsection and the
6 offender has previously been sentenced for any deadly weapon
7 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
8 subsection or subsection (4) (a), (b), and/or (c) of this section, or
9 both, any and all firearm enhancements under this subsection shall be
10 twice the amount of the enhancement listed.

11 (e) Notwithstanding any other provision of law, any and all
12 firearm enhancements under this section are mandatory, shall be served
13 in total confinement, and shall not run concurrently with any other
14 sentencing provisions.

15 (f) The firearm enhancements in this section shall apply to all
16 felony crimes except the following: Possession of a machine gun,
17 possessing a stolen firearm, reckless endangerment in the first degree,
18 theft of a firearm, unlawful possession of a firearm in the first and
19 second degree, and use of a machine gun in a felony.

20 (g) If the presumptive sentence under this section exceeds the
21 statutory maximum for the offense, the statutory maximum sentence shall
22 be the presumptive sentence unless the offender is a persistent
23 offender as defined in RCW 9.94A.030.

24 (4) The following additional times shall be added to the
25 presumptive sentence for felony crimes committed after July 23, 1995,
26 if the offender or an accomplice was armed with a deadly weapon as
27 defined in this chapter other than a firearm as defined in RCW 9.41.010
28 and the offender is being sentenced for one of the crimes listed in
29 this subsection as eligible for any deadly weapon enhancements based on
30 the classification of the completed felony crime. If the offender or
31 an accomplice was armed with a deadly weapon other than a firearm as
32 defined in RCW 9.41.010 and the offender is being sentenced for an
33 anticipatory offense under chapter 9A.28 RCW to commit one of the
34 crimes listed in this subsection as eligible for any deadly weapon
35 enhancements, the following additional times shall be added to the
36 presumptive sentence determined under subsection (2) of this section
37 based on the felony crime of conviction as classified under RCW
38 9A.28.020:

1 (a) Two years for any felony defined under any law as a class A
2 felony or with a maximum sentence of at least twenty years, or both,
3 and not covered under (f) of this subsection.

4 (b) One year for any felony defined under any law as a class B
5 felony or with a maximum sentence of ten years, or both, and not
6 covered under (f) of this subsection.

7 (c) Six months for any felony defined under any law as a class C
8 felony or with a maximum sentence of five years, or both, and not
9 covered under (f) of this subsection.

10 (d) If the offender is being sentenced under (a), (b), and/or (c)
11 of this subsection for any deadly weapon enhancements and the offender
12 has previously been sentenced for any deadly weapon enhancements after
13 July 23, 1995, under (a), (b), and/or (c) of this subsection or
14 subsection (3) (a), (b), and/or (c) of this section, or both, any and
15 all deadly weapon enhancements under this subsection shall be twice the
16 amount of the enhancement listed.

17 (e) Notwithstanding any other provision of law, any and all deadly
18 weapon enhancements under this section are mandatory, shall be served
19 in total confinement, and shall not run concurrently with any other
20 sentencing provisions.

21 (f) The deadly weapon enhancements in this section shall apply to
22 all felony crimes except the following: Possession of a machine gun,
23 possessing a stolen firearm, reckless endangerment in the first degree,
24 theft of a firearm, unlawful possession of a firearm in the first and
25 second degree, and use of a machine gun in a felony.

26 (g) If the presumptive sentence under this section exceeds the
27 statutory maximum for the offense, the statutory maximum sentence shall
28 be the presumptive sentence unless the offender is a persistent
29 offender as defined in RCW 9.94A.030.

30 (5) The following additional times shall be added to the
31 presumptive sentence if the offender or an accomplice committed the
32 offense while in a county jail or state correctional facility as that
33 term is defined in this chapter and the offender is being sentenced for
34 one of the crimes listed in this subsection. If the offender or an
35 accomplice committed one of the crimes listed in this subsection while
36 in a county jail or state correctional facility as that term is defined
37 in this chapter, and the offender is being sentenced for an
38 anticipatory offense under chapter 9A.28 RCW to commit one of the
39 crimes listed in this subsection, the following additional times shall

1 be added to the presumptive sentence determined under subsection (2) of
2 this section:

3 (a) Eighteen months for offenses committed under RCW
4 69.50.401(a)(1) (i) or (ii) or 69.50.410;

5 (b) Fifteen months for offenses committed under RCW
6 69.50.401(a)(1) (iii), (iv), and (v);

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

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

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

14 **Sec. 4.** RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and
15 1996 c 36 s 2 are each reenacted and amended to read as follows:

16 TABLE 2

17 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

| | | |
|----|------|--|
| 18 | XV | Aggravated Murder 1 (RCW 10.95.020) |
| 19 | XIV | Murder 1 (RCW 9A.32.030) |
| 20 | | Homicide by abuse (RCW 9A.32.055) |
| 21 | XIII | Murder 2 (RCW 9A.32.050) |
| 22 | XII | Assault 1 (RCW 9A.36.011) |
| 23 | | Assault of a Child 1 (RCW 9A.36.120) |
| 24 | XI | Rape 1 (RCW 9A.44.040) |
| 25 | | Rape of a Child 1 (RCW 9A.44.073) |
| 26 | | <u>Manslaughter 1 (RCW 9A.32.060)</u> |
| 27 | X | Kidnapping 1 (RCW 9A.40.020) |
| 28 | | Rape 2 (RCW 9A.44.050) |
| 29 | | Rape of a Child 2 (RCW 9A.44.076) |
| 30 | | Child Molestation 1 (RCW 9A.44.083) |
| 31 | | Damaging building, etc., by explosion with |
| 32 | | threat to human being (RCW 70.74.280(1)) |

1 Over 18 and deliver heroin or narcotic from
2 Schedule I or II to someone under 18
3 (RCW 69.50.406)
4 Leading Organized Crime (RCW 9A.82.060(1)(a))
5 IX Assault of a Child 2 (RCW 9A.36.130)
6 Robbery 1 (RCW 9A.56.200)
7 (~~Manslaughter 1 (RCW 9A.32.060)~~)
8 Explosive devices prohibited (RCW 70.74.180)
9 Indecent Liberties (with forcible compulsion)
10 (RCW 9A.44.100(1)(a))
11 Endangering life and property by explosives
12 with threat to human being (RCW
13 70.74.270)
14 Over 18 and deliver narcotic from Schedule
15 III, IV, or V or a nonnarcotic from
16 Schedule I-V to someone under 18 and 3
17 years junior (RCW 69.50.406)
18 Controlled Substance Homicide (RCW 69.50.415)
19 Sexual Exploitation (RCW 9.68A.040)
20 Inciting Criminal Profiteering (RCW
21 9A.82.060(1)(b))
22 Vehicular Homicide, by being under the
23 influence of intoxicating liquor or any
24 drug (RCW 46.61.520)
25 VIII Arson 1 (RCW 9A.48.020)
26 Promoting Prostitution 1 (RCW 9A.88.070)
27 Selling for profit (controlled or
28 counterfeit) any controlled substance
29 (RCW 69.50.410)
30 Manufacture, deliver, or possess with intent
31 to deliver heroin or cocaine (RCW
32 69.50.401(a)(1)(i))
33 Manufacture, deliver, or possess with intent
34 to deliver methamphetamine (RCW
35 69.50.401(a)(1)(ii))
36 Possession of ephedrine or pseudoephedrine
37 with intent to manufacture
38 methamphetamine (RCW 69.50.440)

1 Vehicular Homicide, by the operation of any
2 vehicle in a reckless manner (RCW
3 46.61.520)
4 Manslaughter 2 (RCW 9A.32.070)

5 VII Burglary 1 (RCW 9A.52.020)
6 Vehicular Homicide, by disregard for the
7 safety of others (RCW 46.61.520)
8 Introducing Contraband 1 (RCW 9A.76.140)
9 Indecent Liberties (without forcible
10 compulsion) (RCW 9A.44.100(1) (b) and
11 (c))
12 Child Molestation 2 (RCW 9A.44.086)
13 Dealing in depictions of minor engaged in
14 sexually explicit conduct (RCW
15 9.68A.050)
16 Sending, bringing into state depictions of
17 minor engaged in sexually explicit
18 conduct (RCW 9.68A.060)
19 Involving a minor in drug dealing (RCW
20 69.50.401(f))
21 Reckless Endangerment 1 (RCW 9A.36.045)
22 Unlawful Possession of a Firearm in the first
23 degree (RCW 9.41.040(1)(a))

24 VI Bribery (RCW 9A.68.010)
25 (~~Manslaughter 2 (RCW 9A.32.070)~~)
26 Rape of a Child 3 (RCW 9A.44.079)
27 Intimidating a Juror/Witness (RCW 9A.72.110,
28 9A.72.130)
29 Damaging building, etc., by explosion with no
30 threat to human being (RCW 70.74.280(2))
31 Endangering life and property by explosives
32 with no threat to human being (RCW
33 70.74.270)
34 Incest 1 (RCW 9A.64.020(1))
35 Manufacture, deliver, or possess with intent
36 to deliver narcotics from Schedule I or
37 II (except heroin or cocaine) (RCW
38 69.50.401(a)(1)(i))

1 Intimidating a Judge (RCW 9A.72.160)
2 Bail Jumping with Murder 1 (RCW
3 9A.76.170(2)(a))
4 Theft of a Firearm (RCW 9A.56.300)

5 V Persistent prison misbehavior (RCW 9.94.070)
6 Criminal Mistreatment 1 (RCW 9A.42.020)
7 Abandonment of dependent person 1 (RCW
8 9A.42.060)
9 Rape 3 (RCW 9A.44.060)
10 Sexual Misconduct with a Minor 1 (RCW
11 9A.44.093)
12 Child Molestation 3 (RCW 9A.44.089)
13 Kidnapping 2 (RCW 9A.40.030)
14 Extortion 1 (RCW 9A.56.120)
15 Incest 2 (RCW 9A.64.020(2))
16 Perjury 1 (RCW 9A.72.020)
17 Extortionate Extension of Credit (RCW
18 9A.82.020)
19 Advancing money or property for extortionate
20 extension of credit (RCW 9A.82.030)
21 Extortionate Means to Collect Extensions of
22 Credit (RCW 9A.82.040)
23 Rendering Criminal Assistance 1 (RCW
24 9A.76.070)
25 Bail Jumping with class A Felony (RCW
26 9A.76.170(2)(b))
27 Sexually Violating Human Remains (RCW
28 9A.44.105)
29 Delivery of imitation controlled substance by
30 person eighteen or over to person under
31 eighteen (RCW 69.52.030(2))
32 Possession of a Stolen Firearm (RCW
33 9A.56.310)

34 IV Residential Burglary (RCW 9A.52.025)
35 Theft of Livestock 1 (RCW 9A.56.080)
36 Robbery 2 (RCW 9A.56.210)
37 Assault 2 (RCW 9A.36.021)
38 Escape 1 (RCW 9A.76.110)

1 Arson 2 (RCW 9A.48.030)
2 Commercial Bribery (RCW 9A.68.060)
3 Bribing a Witness/Bribe Received by Witness
4 (RCW 9A.72.090, 9A.72.100)
5 Malicious Harassment (RCW 9A.36.080)
6 Threats to Bomb (RCW 9.61.160)
7 Willful Failure to Return from Furlough (RCW
8 72.66.060)
9 Hit and Run -- Injury Accident (RCW
10 46.52.020(4))
11 Hit and Run with Vessel -- Injury Accident
12 (RCW 88.12.155(3))
13 Vehicular Assault (RCW 46.61.522)
14 Manufacture, deliver, or possess with intent
15 to deliver narcotics from Schedule III,
16 IV, or V or nonnarcotics from Schedule
17 I-V (except marijuana or
18 methamphetamines) (RCW 69.50.401(a)(1)
19 (iii) through (v))
20 Influencing Outcome of Sporting Event (RCW
21 9A.82.070)
22 Use of Proceeds of Criminal Profiteering (RCW
23 9A.82.080 (1) and (2))
24 Knowingly Trafficking in Stolen Property (RCW
25 9A.82.050(2))
26 III Criminal Mistreatment 2 (RCW 9A.42.030)
27 Abandonment of dependent person 2 (RCW
28 9A.42.070)
29 Extortion 2 (RCW 9A.56.130)
30 Unlawful Imprisonment (RCW 9A.40.040)
31 Assault 3 (RCW 9A.36.031)
32 Assault of a Child 3 (RCW 9A.36.140)
33 Custodial Assault (RCW 9A.36.100)
34 Unlawful possession of firearm in the second
35 degree (RCW 9.41.040(1)(b))
36 Harassment (RCW 9A.46.020)
37 Promoting Prostitution 2 (RCW 9A.88.080)
38 Willful Failure to Return from Work Release
39 (RCW 72.65.070)

1 Burglary 2 (RCW 9A.52.030)
2 Introducing Contraband 2 (RCW 9A.76.150)
3 Communication with a Minor for Immoral
4 Purposes (RCW 9.68A.090)
5 Patronizing a Juvenile Prostitute (RCW
6 9.68A.100)
7 Escape 2 (RCW 9A.76.120)
8 Perjury 2 (RCW 9A.72.030)
9 Bail Jumping with class B or C Felony (RCW
10 9A.76.170(2)(c))
11 Intimidating a Public Servant (RCW 9A.76.180)
12 Tampering with a Witness (RCW 9A.72.120)
13 Manufacture, deliver, or possess with intent
14 to deliver marijuana (RCW
15 69.50.401(a)(1)(iii))
16 Delivery of a material in lieu of a
17 controlled substance (RCW 69.50.401(c))
18 Manufacture, distribute, or possess with
19 intent to distribute an imitation
20 controlled substance (RCW 69.52.030(1))
21 Recklessly Trafficking in Stolen Property
22 (RCW 9A.82.050(1))
23 Theft of livestock 2 (RCW 9A.56.080)
24 Securities Act violation (RCW 21.20.400)
25 II Unlawful Practice of Law (RCW 2.48.180)
26 Malicious Mischief 1 (RCW 9A.48.070)
27 Possession of Stolen Property 1 (RCW
28 9A.56.150)
29 Theft 1 (RCW 9A.56.030)
30 Trafficking in Insurance Claims (RCW
31 48.30A.015)
32 Unlicensed Practice of a Profession or
33 Business (RCW 18.130.190(7))
34 Health Care False Claims (RCW 48.80.030)
35 Possession of controlled substance that is
36 either heroin or narcotics from Schedule
37 I or II (RCW 69.50.401(d))
38 Possession of phencyclidine (PCP) (RCW
39 69.50.401(d))

1 Create, deliver, or possess a counterfeit
2 controlled substance (RCW 69.50.401(b))
3 Computer Trespass 1 (RCW 9A.52.110)
4 Escape from Community Custody (RCW 72.09.310)
5 I Theft 2 (RCW 9A.56.040)
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Forgery (RCW 9A.60.020)
9 Taking Motor Vehicle Without Permission (RCW
10 9A.56.070)
11 Vehicle Prowl 1 (RCW 9A.52.095)
12 Attempting to Elude a Pursuing Police Vehicle
13 (RCW 46.61.024)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Reckless Burning 1 (RCW 9A.48.040)
16 Unlawful Issuance of Checks or Drafts (RCW
17 9A.56.060)
18 Unlawful Use of Food Stamps (RCW 9.91.140 (2)
19 and (3))
20 False Verification for Welfare (RCW
21 74.08.055)
22 Forged Prescription (RCW 69.41.020)
23 Forged Prescription for a Controlled
24 Substance (RCW 69.50.403)
25 Possess Controlled Substance that is a
26 Narcotic from Schedule III, IV, or V or
27 Non-narcotic from Schedule I-V (except
28 phencyclidine) (RCW 69.50.401(d))

29 **Sec. 5.** RCW 9A.32.060 and 1975 1st ex.s. c 260 s 9A.32.060 are
30 each amended to read as follows:

31 (1) A person is guilty of manslaughter in the first degree when:
32 (a) He recklessly causes the death of another person; or
33 (b) He intentionally and unlawfully kills an unborn quick child by
34 inflicting any injury upon the mother of such child.
35 (2) Manslaughter in the first degree is a class ((B)) A felony.

36 **Sec. 6.** RCW 9A.32.070 and 1975 1st ex.s. c 260 s 9A.32.070 are
37 each amended to read as follows:

1 (1) A person is guilty of manslaughter in the second degree when,
2 with criminal negligence, he causes the death of another person.

3 (2) Manslaughter in the second degree is a class ((C)) B felony.

Passed the Senate March 17, 1997.

Passed the House April 18, 1997.

Approved by the Governor May 14, 1997.

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