
HOUSE BILL 2400

State of Washington

58th Legislature

2004 Regular Session

By Representatives McMahan, Carrell, Mielke, Talcott, Crouse, Bush, Ahern, Newhouse, G. Simpson, Woods and Orcutt

Read first time 01/13/2004. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to sentence enhancement for sex crimes against
2 minors; amending RCW 9.94A.533 and 9.94A.533; providing an effective
3 date; providing an expiration date; and declaring an emergency.

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

5 **Sec. 1.** RCW 9.94A.533 and 2002 c 290 s 11 are each amended to read
6 as follows:

7 (1) The provisions of this section apply to the standard sentence
8 ranges determined by RCW 9.94A.510 or 9.94A.517.

9 (2) For persons convicted of the anticipatory offenses of criminal
10 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
11 standard sentence range is determined by locating the sentencing grid
12 sentence range defined by the appropriate offender score and the
13 seriousness level of the completed crime, and multiplying the range by
14 seventy-five percent.

15 (3) The following additional times shall be added to the standard
16 sentence range for felony crimes committed after July 23, 1995, if the
17 offender or an accomplice was armed with a firearm as defined in RCW
18 9.41.010 and the offender is being sentenced for one of the crimes
19 listed in this subsection as eligible for any firearm enhancements

1 based on the classification of the completed felony crime. If the
2 offender is being sentenced for more than one offense, the firearm
3 enhancement or enhancements must be added to the total period of
4 confinement for all offenses, regardless of which underlying offense is
5 subject to a firearm enhancement. If the offender or an accomplice was
6 armed with a firearm as defined in RCW 9.41.010 and the offender is
7 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
8 commit one of the crimes listed in this subsection as eligible for any
9 firearm enhancements, the following additional times shall be added to
10 the standard sentence range determined under subsection (2) of this
11 section based on the felony crime of conviction as classified under RCW
12 9A.28.020:

13 (a) Five years for any felony defined under any law as a class A
14 felony or with a statutory maximum sentence of at least twenty years,
15 or both, and not covered under (f) of this subsection;

16 (b) Three years for any felony defined under any law as a class B
17 felony or with a statutory maximum sentence of ten years, or both, and
18 not covered under (f) of this subsection;

19 (c) Eighteen months for any felony defined under any law as a class
20 C felony or with a statutory maximum sentence of five years, or both,
21 and not covered under (f) of this subsection;

22 (d) If the offender is being sentenced for any firearm enhancements
23 under (a), (b), and/or (c) of this subsection and the offender has
24 previously been sentenced for any deadly weapon enhancements after July
25 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
26 (4)(a), (b), and/or (c) of this section, or both, all firearm
27 enhancements under this subsection shall be twice the amount of the
28 enhancement listed;

29 (e) Notwithstanding any other provision of law, all firearm
30 enhancements under this section are mandatory, shall be served in total
31 confinement, and shall run consecutively to all other sentencing
32 provisions, including other firearm or deadly weapon enhancements, for
33 all offenses sentenced under this chapter. However, whether or not a
34 mandatory minimum term has expired, an offender serving a sentence
35 under this subsection may be granted an extraordinary medical placement
36 when authorized under RCW 9.94A.728(4);

37 (f) The firearm enhancements in this section shall apply to all
38 felony crimes except the following: Possession of a machine gun,

1 possessing a stolen firearm, drive-by shooting, theft of a firearm,
2 unlawful possession of a firearm in the first and second degree, and
3 use of a machine gun in a felony;

4 (g) If the standard sentence range under this section exceeds the
5 statutory maximum sentence for the offense, the statutory maximum
6 sentence shall be the presumptive sentence unless the offender is a
7 persistent offender. If the addition of a firearm enhancement
8 increases the sentence so that it would exceed the statutory maximum
9 for the offense, the portion of the sentence representing the
10 enhancement may not be reduced.

11 (4) The following additional times shall be added to the standard
12 sentence range for felony crimes committed after July 23, 1995, if the
13 offender or an accomplice was armed with a deadly weapon other than a
14 firearm as defined in RCW 9.41.010 and the offender is being sentenced
15 for one of the crimes listed in this subsection as eligible for any
16 deadly weapon enhancements based on the classification of the completed
17 felony crime. If the offender is being sentenced for more than one
18 offense, the deadly weapon enhancement or enhancements must be added to
19 the total period of confinement for all offenses, regardless of which
20 underlying offense is subject to a deadly weapon enhancement. If the
21 offender or an accomplice was armed with a deadly weapon other than a
22 firearm as defined in RCW 9.41.010 and the offender is being sentenced
23 for an anticipatory offense under chapter 9A.28 RCW to commit one of
24 the crimes listed in this subsection as eligible for any deadly weapon
25 enhancements, the following additional times shall be added to the
26 standard sentence range determined under subsection (2) of this section
27 based on the felony crime of conviction as classified under RCW
28 9A.28.020:

29 (a) Two years for any felony defined under any law as a class A
30 felony or with a statutory maximum sentence of at least twenty years,
31 or both, and not covered under (f) of this subsection;

32 (b) One year for any felony defined under any law as a class B
33 felony or with a statutory maximum sentence of ten years, or both, and
34 not covered under (f) of this subsection;

35 (c) Six months for any felony defined under any law as a class C
36 felony or with a statutory maximum sentence of five years, or both, and
37 not covered under (f) of this subsection;

1 (d) If the offender is being sentenced under (a), (b), and/or (c)
2 of this subsection for any deadly weapon enhancements and the offender
3 has previously been sentenced for any deadly weapon enhancements after
4 July 23, 1995, under (a), (b), and/or (c) of this subsection or
5 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
6 weapon enhancements under this subsection shall be twice the amount of
7 the enhancement listed;

8 (e) Notwithstanding any other provision of law, all deadly weapon
9 enhancements under this section are mandatory, shall be served in total
10 confinement, and shall run consecutively to all other sentencing
11 provisions, including other firearm or deadly weapon enhancements, for
12 all offenses sentenced under this chapter. However, whether or not a
13 mandatory minimum term has expired, an offender serving a sentence
14 under this subsection may be granted an extraordinary medical placement
15 when authorized under RCW 9.94A.728(4);

16 (f) The deadly weapon enhancements in this section shall apply to
17 all felony crimes except the following: Possession of a machine gun,
18 possessing a stolen firearm, drive-by shooting, theft of a firearm,
19 unlawful possession of a firearm in the first and second degree, and
20 use of a machine gun in a felony;

21 (g) If the standard sentence range under this section exceeds the
22 statutory maximum sentence for the offense, the statutory maximum
23 sentence shall be the presumptive sentence unless the offender is a
24 persistent offender. If the addition of a deadly weapon enhancement
25 increases the sentence so that it would exceed the statutory maximum
26 for the offense, the portion of the sentence representing the
27 enhancement may not be reduced.

28 (5) The following additional times shall be added to the standard
29 sentence range if the offender or an accomplice committed the offense
30 while in a county jail or state correctional facility and the offender
31 is being sentenced for one of the crimes listed in this subsection. If
32 the offender or an accomplice committed one of the crimes listed in
33 this subsection while in a county jail or state correctional facility,
34 and the offender is being sentenced for an anticipatory offense under
35 chapter 9A.28 RCW to commit one of the crimes listed in this
36 subsection, the following additional times shall be added to the
37 standard sentence range determined under subsection (2) of this
38 section:

1 (a) Eighteen months for offenses committed under RCW
2 69.50.401(a)(1) (i) or (ii) or 69.50.410;

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

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

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

9 (6) An additional twenty-four months shall be added to the standard
10 sentence range for any ranked offense involving a violation of chapter
11 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
12 9.94A.605.

13 (7) An additional two years shall be added to the standard sentence
14 range for vehicular homicide committed while under the influence of
15 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
16 prior offense as defined in RCW 46.61.5055.

17 (8) An additional ten years shall be added to the standard sentence
18 range for a violation of RCW 9A.44.073, 9A.44.076, or 9A.44.083.
19 Notwithstanding any other provision of law, all enhancements under this
20 subsection (8) are mandatory, shall be served in total confinement, and
21 shall run consecutively to all other sentencing provisions for all
22 offenses sentenced under this chapter.

23 (9) An additional five years shall be added to the standard
24 sentence range for a violation of RCW 9A.44.086. Notwithstanding any
25 other provision of law, all enhancements under this subsection (9) are
26 mandatory, shall be served in total confinement, and shall run
27 consecutively to all other sentencing provisions for all offenses
28 sentenced under this chapter.

29 (10) An additional three years shall be added to the standard
30 sentence range for a violation of RCW 9A.44.079, 9A.44.089, or
31 9A.44.093. Notwithstanding any other provision of law, all
32 enhancements under this subsection (10) are mandatory, shall be served
33 in total confinement, and shall run consecutively to all other
34 sentencing provisions for all offenses sentenced under this chapter.

35 (11) The minimum mandatory sentence for a violation of RCW
36 9A.44.096 is one year. Notwithstanding any other provision of law, all
37 enhancements under this subsection (11) are mandatory, shall be served

1 in total confinement, and shall run consecutively to all other
2 sentencing provisions for all offenses sentenced under this chapter.

3 **Sec. 2.** RCW 9.94A.533 and 2003 c 53 s 58 are each amended to read
4 as follows:

5 (1) The provisions of this section apply to the standard sentence
6 ranges determined by RCW 9.94A.510 or 9.94A.517.

7 (2) For persons convicted of the anticipatory offenses of criminal
8 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
9 standard sentence range is determined by locating the sentencing grid
10 sentence range defined by the appropriate offender score and the
11 seriousness level of the completed crime, and multiplying the range by
12 seventy-five percent.

13 (3) The following additional times shall be added to the standard
14 sentence range for felony crimes committed after July 23, 1995, if the
15 offender or an accomplice was armed with a firearm as defined in RCW
16 9.41.010 and the offender is being sentenced for one of the crimes
17 listed in this subsection as eligible for any firearm enhancements
18 based on the classification of the completed felony crime. If the
19 offender is being sentenced for more than one offense, the firearm
20 enhancement or enhancements must be added to the total period of
21 confinement for all offenses, regardless of which underlying offense is
22 subject to a firearm enhancement. If the offender or an accomplice was
23 armed with a firearm as defined in RCW 9.41.010 and the offender is
24 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
25 commit one of the crimes listed in this subsection as eligible for any
26 firearm enhancements, the following additional times shall be added to
27 the standard sentence range determined under subsection (2) of this
28 section based on the felony crime of conviction as classified under RCW
29 9A.28.020:

30 (a) Five years for any felony defined under any law as a class A
31 felony or with a statutory maximum sentence of at least twenty years,
32 or both, and not covered under (f) of this subsection;

33 (b) Three years for any felony defined under any law as a class B
34 felony or with a statutory maximum sentence of ten years, or both, and
35 not covered under (f) of this subsection;

36 (c) Eighteen months for any felony defined under any law as a class

1 C felony or with a statutory maximum sentence of five years, or both,
2 and not covered under (f) of this subsection;

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

10 (e) Notwithstanding any other provision of law, all firearm
11 enhancements under this section are mandatory, shall be served in total
12 confinement, and shall run consecutively to all other sentencing
13 provisions, including other firearm or deadly weapon enhancements, for
14 all offenses sentenced under this chapter. However, whether or not a
15 mandatory minimum term has expired, an offender serving a sentence
16 under this subsection may be granted an extraordinary medical placement
17 when authorized under RCW 9.94A.728(4);

18 (f) The firearm enhancements in this section shall apply to all
19 felony crimes except the following: Possession of a machine gun,
20 possessing a stolen firearm, drive-by shooting, theft of a firearm,
21 unlawful possession of a firearm in the first and second degree, and
22 use of a machine gun in a felony;

23 (g) If the standard sentence range under this section exceeds the
24 statutory maximum sentence for the offense, the statutory maximum
25 sentence shall be the presumptive sentence unless the offender is a
26 persistent offender. If the addition of a firearm enhancement
27 increases the sentence so that it would exceed the statutory maximum
28 for the offense, the portion of the sentence representing the
29 enhancement may not be reduced.

30 (4) The following additional times shall be added to the standard
31 sentence range for felony crimes committed after July 23, 1995, if the
32 offender or an accomplice was armed with a deadly weapon other than a
33 firearm as defined in RCW 9.41.010 and the offender is being sentenced
34 for one of the crimes listed in this subsection as eligible for any
35 deadly weapon enhancements based on the classification of the completed
36 felony crime. If the offender is being sentenced for more than one
37 offense, the deadly weapon enhancement or enhancements must be added to
38 the total period of confinement for all offenses, regardless of which

1 underlying offense is subject to a deadly weapon enhancement. If the
2 offender or an accomplice was armed with a deadly weapon other than a
3 firearm as defined in RCW 9.41.010 and the offender is being sentenced
4 for an anticipatory offense under chapter 9A.28 RCW to commit one of
5 the crimes listed in this subsection as eligible for any deadly weapon
6 enhancements, the following additional times shall be added to the
7 standard sentence range determined under subsection (2) of this section
8 based on the felony crime of conviction as classified under RCW
9 9A.28.020:

10 (a) Two years for any felony defined under any law as a class A
11 felony or with a statutory maximum sentence of at least twenty years,
12 or both, and not covered under (f) of this subsection;

13 (b) One year for any felony defined under any law as a class B
14 felony or with a statutory maximum sentence of ten years, or both, and
15 not covered under (f) of this subsection;

16 (c) Six months for any felony defined under any law as a class C
17 felony or with a statutory maximum sentence of five years, or both, and
18 not covered under (f) of this subsection;

19 (d) If the offender is being sentenced under (a), (b), and/or (c)
20 of this subsection for any deadly weapon enhancements and the offender
21 has previously been sentenced for any deadly weapon enhancements after
22 July 23, 1995, under (a), (b), and/or (c) of this subsection or
23 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly
24 weapon enhancements under this subsection shall be twice the amount of
25 the enhancement listed;

26 (e) Notwithstanding any other provision of law, all deadly weapon
27 enhancements under this section are mandatory, shall be served in total
28 confinement, and shall run consecutively to all other sentencing
29 provisions, including other firearm or deadly weapon enhancements, for
30 all offenses sentenced under this chapter. However, whether or not a
31 mandatory minimum term has expired, an offender serving a sentence
32 under this subsection may be granted an extraordinary medical placement
33 when authorized under RCW 9.94A.728(4);

34 (f) The deadly weapon enhancements in this section shall apply to
35 all felony crimes except the following: Possession of a machine gun,
36 possessing a stolen firearm, drive-by shooting, theft of a firearm,
37 unlawful possession of a firearm in the first and second degree, and
38 use of a machine gun in a felony;

1 (g) If the standard sentence range under this section exceeds the
2 statutory maximum sentence for the offense, the statutory maximum
3 sentence shall be the presumptive sentence unless the offender is a
4 persistent offender. If the addition of a deadly weapon enhancement
5 increases the sentence so that it would exceed the statutory maximum
6 for the offense, the portion of the sentence representing the
7 enhancement may not be reduced.

8 (5) The following additional times shall be added to the standard
9 sentence range if the offender or an accomplice committed the offense
10 while in a county jail or state correctional facility and the offender
11 is being sentenced for one of the crimes listed in this subsection. If
12 the offender or an accomplice committed one of the crimes listed in
13 this subsection while in a county jail or state correctional facility,
14 and the offender is being sentenced for an anticipatory offense under
15 chapter 9A.28 RCW to commit one of the crimes listed in this
16 subsection, the following additional times shall be added to the
17 standard sentence range determined under subsection (2) of this
18 section:

19 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
20 (a) or (b) or 69.50.410;

21 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
22 (c), (d), or (e);

23 (c) Twelve months for offenses committed under RCW 69.50.4013.

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

27 (6) An additional twenty-four months shall be added to the standard
28 sentence range for any ranked offense involving a violation of chapter
29 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
30 9.94A.605.

31 (7) An additional two years shall be added to the standard sentence
32 range for vehicular homicide committed while under the influence of
33 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
34 prior offense as defined in RCW 46.61.5055.

35 (8) An additional ten years shall be added to the standard sentence
36 range for a violation of RCW 9A.44.073, 9A.44.076, or 9A.44.083.
37 Notwithstanding any other provision of law, all enhancements under this

1 subsection (8) are mandatory, shall be served in total confinement, and
2 shall run consecutively to all other sentencing provisions for all
3 offenses sentenced under this chapter.

4 (9) An additional five years shall be added to the standard
5 sentence range for a violation of RCW 9A.44.086. Notwithstanding any
6 other provision of law, all enhancements under this subsection (9) are
7 mandatory, shall be served in total confinement, and shall run
8 consecutively to all other sentencing provisions for all offenses
9 sentenced under this chapter.

10 (10) An additional three years shall be added to the standard
11 sentence range for a violation of RCW 9A.44.079, 9A.44.089, or
12 9A.44.093. Notwithstanding any other provision of law, all
13 enhancements under this subsection (10) are mandatory, shall be served
14 in total confinement, and shall run consecutively to all other
15 sentencing provisions for all offenses sentenced under this chapter.

16 (11) The minimum mandatory sentence for a violation of RCW
17 9A.44.096 is one year. Notwithstanding any other provision of law, all
18 enhancements under this subsection (11) are mandatory, shall be served
19 in total confinement, and shall run consecutively to all other
20 sentencing provisions for all offenses sentenced under this chapter.

21 NEW SECTION. Sec. 3. Section 1 of this act expires July 1, 2004.

22 NEW SECTION. Sec. 4. Section 2 of this act takes effect July 1,
23 2004.

24 NEW SECTION. Sec. 5. This act is necessary for the immediate
25 preservation of the public peace, health, or safety, or support of the
26 state government and its existing public institutions, and takes effect
27 immediately.

--- END ---