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HOUSE BILL 3218

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State of Washington                      59th Legislature                      2006 Regular Session

By Representatives Strow, Williams, O'Brien, Sells, Ahern and Green

Read first time 01/26/2006.      Referred to Committee on Criminal Justice & Corrections.

1            AN ACT Relating to imposing mandatory minimum sentences on  
2 homicide-related crimes; amending RCW 9.94A.540; reenacting and  
3 amending RCW 9.94A.515; and prescribing penalties.

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

5            **Sec. 1.** RCW 9.94A.540 and 2005 c 437 s 2 are each amended to read  
6 as follows:

7            (1) Except to the extent provided in subsection (3) of this  
8 section, the following minimum terms of total confinement are mandatory  
9 and shall not be varied or modified under RCW 9.94A.535:

10            (a) An offender convicted of the crime of murder in the first  
11 degree, murder in the second degree, manslaughter in the first degree,  
12 manslaughter in the second degree, homicide by abuse, vehicular  
13 homicide, or homicide by watercraft, shall be sentenced to a term of  
14 total confinement not less than twenty-five years.

15            (b) An offender convicted of the crime of assault in the first  
16 degree or assault of a child in the first degree where the offender  
17 used force or means likely to result in death or intended to kill the  
18 victim shall be sentenced to a term of total confinement not less than  
19 five years.

1 (c) An offender convicted of the crime of rape in the first degree  
2 shall be sentenced to a term of total confinement not less than five  
3 years.

4 (d) An offender convicted of the crime of sexually violent predator  
5 escape shall be sentenced to a minimum term of total confinement not  
6 less than sixty months.

7 (2) During such minimum terms of total confinement, no offender  
8 subject to the provisions of this section is eligible for community  
9 custody, earned release time, furlough, home detention, partial  
10 confinement, work crew, work release, or any other form of early  
11 release authorized under RCW 9.94A.728, or any other form of authorized  
12 leave of absence from the correctional facility while not in the direct  
13 custody of a corrections officer. The provisions of this subsection  
14 shall not apply: (a) In the case of an offender in need of emergency  
15 medical treatment; (b) for the purpose of commitment to an inpatient  
16 treatment facility in the case of an offender convicted of the crime of  
17 rape in the first degree; or (c) for an extraordinary medical placement  
18 when authorized under RCW 9.94A.728(4).

19 (3)(a) Subsection (1) of this section shall not be applied in  
20 sentencing of juveniles tried as adults pursuant to RCW  
21 13.04.030(1)(e)(i).

22 (b) This subsection (3) applies only to crimes committed on or  
23 after July 24, 2005.

24 **Sec. 2.** RCW 9.94A.515 and 2005 c 458 s 2 and 2005 c 183 s 9 are  
25 each reenacted and amended to read as follows:

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TABLE 2	
CRIMES INCLUDED WITHIN	
EACH SERIOUSNESS LEVEL	
XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) <u>Homicide by Watercraft (RCW</u> <u>79A.60.050(3))</u>
	Malicious explosion 1 (RCW 70.74.280(1))

1 Manslaughter 1 (RCW 9A.32.060)  
2 Manslaughter 2 (RCW 9A.32.070)  
3 Murder 1 (RCW 9A.32.030)  
4 Murder 2 (RCW 9A.32.050)  
5 Vehicular Homicide (RCW  
6 46.61.520(2))  
7 XIV (~~Murder 2 (RCW 9A.32.050))~~  
8 Trafficking 1 (RCW 9A.40.100(1))  
9 XIII Malicious explosion 2 (RCW  
10 70.74.280(2))  
11 Malicious placement of an explosive 1  
12 (RCW 70.74.270(1))  
13 XII Assault 1 (RCW 9A.36.011)  
14 Assault of a Child 1 (RCW 9A.36.120)  
15 Malicious placement of an imitation  
16 device 1 (RCW 70.74.272(1)(a))  
17 Rape 1 (RCW 9A.44.040)  
18 Rape of a Child 1 (RCW 9A.44.073)  
19 Trafficking 2 (RCW 9A.40.100(2))  
20 XI (~~Manslaughter 1 (RCW 9A.32.060))~~  
21 Rape 2 (RCW 9A.44.050)  
22 Rape of a Child 2 (RCW 9A.44.076)  
23 X Child Molestation 1 (RCW 9A.44.083)  
24 Indecent Liberties (with forcible  
25 compulsion) (RCW  
26 9A.44.100(1)(a))  
27 Kidnapping 1 (RCW 9A.40.020)  
28 Leading Organized Crime (RCW  
29 9A.82.060(1)(a))  
30 Malicious explosion 3 (RCW  
31 70.74.280(3))  
32 Sexually Violent Predator Escape  
33 (RCW 9A.76.115)  
34 IX Assault of a Child 2 (RCW 9A.36.130)  
35 Explosive devices prohibited (RCW  
36 70.74.180)

1 Hit and Run--Death (RCW  
2 46.52.020(4)(a))  
3 ~~((Homicide by Watercraft, by being  
4 under the influence of intoxicating  
5 liquor or any drug (RCW  
6 79A.60.050)))~~  
7 Inciting Criminal Profiteering (RCW  
8 9A.82.060(1)(b))  
9 Malicious placement of an explosive 2  
10 (RCW 70.74.270(2))  
11 Robbery 1 (RCW 9A.56.200)  
12 Sexual Exploitation (RCW 9.68A.040)  
13 Vehicular Homicide, by being under  
14 the influence of intoxicating liquor  
15 or any drug (RCW 46.61.520)  
16 VIII Arson 1 (RCW 9A.48.020)  
17 ~~((Homicide by Watercraft, by the  
18 operation of any vessel in a  
19 reckless manner (RCW  
20 79A.60.050))~~  
21 ~~Manslaughter 2 (RCW 9A.32.070)))~~  
22 Promoting Prostitution 1 (RCW  
23 9A.88.070)  
24 Theft of Ammonia (RCW 69.55.010)  
25 ~~((Vehicular Homicide, by the operation  
26 of any vehicle in a reckless manner  
27 (RCW 46.61.520)))~~  
28 VII Burglary 1 (RCW 9A.52.020)  
29 Child Molestation 2 (RCW 9A.44.086)  
30 Civil Disorder Training (RCW  
31 9A.48.120)  
32 Dealing in depictions of minor  
33 engaged in sexually explicit  
34 conduct (RCW 9.68A.050)  
35 Drive-by Shooting (RCW 9A.36.045)

1 ((Homicide by Watercraft, by disregard  
2 for the safety of others (RCW  
3 79A.60.050)))  
4 Indecent Liberties (without forcible  
5 compulsion) (RCW 9A.44.100(1)  
6 (b) and (c))  
7 Introducing Contraband 1 (RCW  
8 9A.76.140)  
9 Malicious placement of an explosive 3  
10 (RCW 70.74.270(3))  
11 Negligently Causing Death By Use of  
12 a Signal Preemption Device  
13 (RCW 46.37.675)  
14 Sending, bringing into state depictions  
15 of minor engaged in sexually  
16 explicit conduct (RCW  
17 9.68A.060)  
18 Unlawful Possession of a Firearm in  
19 the first degree (RCW  
20 9.41.040(1))  
21 Use of a Machine Gun in Commission  
22 of a Felony (RCW 9.41.225)  
23 ((~~Vehicular Homicide, by disregard for~~  
24 ~~the safety of others (RCW-~~  
25 ~~46.61.520)))  
26 VI Bail Jumping with Murder 1 (RCW  
27 9A.76.170(3)(a))  
28 Bribery (RCW 9A.68.010)  
29 Incest 1 (RCW 9A.64.020(1))  
30 Intimidating a Judge (RCW  
31 9A.72.160)  
32 Intimidating a Juror/Witness (RCW  
33 9A.72.110, 9A.72.130)  
34 Malicious placement of an imitation  
35 device 2 (RCW 70.74.272(1)(b))  
36 Rape of a Child 3 (RCW 9A.44.079)  
37 Theft of a Firearm (RCW 9A.56.300)~~

1 Unlawful Storage of Ammonia (RCW  
2 69.55.020)  
3 V Abandonment of dependent person 1  
4 (RCW 9A.42.060)  
5 Advancing money or property for  
6 extortionate extension of credit  
7 (RCW 9A.82.030)  
8 Bail Jumping with class A Felony  
9 (RCW 9A.76.170(3)(b))  
10 Child Molestation 3 (RCW 9A.44.089)  
11 Criminal Mistreatment 1 (RCW  
12 9A.42.020)  
13 Custodial Sexual Misconduct 1 (RCW  
14 9A.44.160)  
15 Domestic Violence Court Order  
16 Violation (RCW 10.99.040,  
17 10.99.050, 26.09.300, 26.10.220,  
18 26.26.138, 26.50.110, 26.52.070,  
19 or 74.34.145)  
20 Extortion 1 (RCW 9A.56.120)  
21 Extortionate Extension of Credit  
22 (RCW 9A.82.020)  
23 Extortionate Means to Collect  
24 Extensions of Credit (RCW  
25 9A.82.040)  
26 Incest 2 (RCW 9A.64.020(2))  
27 Kidnapping 2 (RCW 9A.40.030)  
28 Perjury 1 (RCW 9A.72.020)  
29 Persistent prison misbehavior (RCW  
30 9.94.070)  
31 Possession of a Stolen Firearm (RCW  
32 9A.56.310)  
33 Rape 3 (RCW 9A.44.060)  
34 Rendering Criminal Assistance 1  
35 (RCW 9A.76.070)  
36 Sexual Misconduct with a Minor 1  
37 (RCW 9A.44.093)

1 Sexually Violating Human Remains  
2 (RCW 9A.44.105)  
3 Stalking (RCW 9A.46.110)  
4 Taking Motor Vehicle Without  
5 Permission 1 (RCW 9A.56.070)  
6 IV Arson 2 (RCW 9A.48.030)  
7 Assault 2 (RCW 9A.36.021)  
8 Assault 3 (of a Peace Officer with a  
9 Projectile Stun Gun) (RCW  
10 9A.36.031(1)(h))  
11 Assault by Watercraft (RCW  
12 79A.60.060)  
13 Bribing a Witness/Bribe Received by  
14 Witness (RCW 9A.72.090,  
15 9A.72.100)  
16 Cheating 1 (RCW 9.46.1961)  
17 Commercial Bribery (RCW  
18 9A.68.060)  
19 Counterfeiting (RCW 9.16.035(4))  
20 Endangerment with a Controlled  
21 Substance (RCW 9A.42.100)  
22 Escape 1 (RCW 9A.76.110)  
23 Hit and Run--Injury (RCW  
24 46.52.020(4)(b))  
25 Hit and Run with Vessel--Injury  
26 Accident (RCW 79A.60.200(3))  
27 Identity Theft 1 (RCW 9.35.020(2))  
28 Indecent Exposure to Person Under  
29 Age Fourteen (subsequent sex  
30 offense) (RCW 9A.88.010)  
31 Influencing Outcome of Sporting  
32 Event (RCW 9A.82.070)  
33 Malicious Harassment (RCW  
34 9A.36.080)  
35 Residential Burglary (RCW  
36 9A.52.025)  
37 Robbery 2 (RCW 9A.56.210)

1 Theft of Livestock 1 (RCW 9A.56.080)  
2 Threats to Bomb (RCW 9.61.160)  
3 Trafficking in Stolen Property 1 (RCW  
4 9A.82.050)  
5 Unlawful factoring of a credit card or  
6 payment card transaction (RCW  
7 9A.56.290(4)(b))  
8 Unlawful transaction of health  
9 coverage as a health care service  
10 contractor (RCW 48.44.016(3))  
11 Unlawful transaction of health  
12 coverage as a health maintenance  
13 organization (RCW 48.46.033(3))  
14 Unlawful transaction of insurance  
15 business (RCW 48.15.023(3))  
16 Unlicensed practice as an insurance  
17 professional (RCW 48.17.063(3))  
18 Use of Proceeds of Criminal  
19 Profiteering (RCW 9A.82.080 (1)  
20 and (2))  
21 Vehicular Assault, by being under the  
22 influence of intoxicating liquor or  
23 any drug, or by the operation or  
24 driving of a vehicle in a reckless  
25 manner (RCW 46.61.522)  
26 Willful Failure to Return from  
27 Furlough (RCW 72.66.060)  
28 III Abandonment of dependent person 2  
29 (RCW 9A.42.070)  
30 Assault 3 (Except Assault 3 of a Peace  
31 Officer With a Projectile Stun  
32 Gun) (RCW 9A.36.031 except  
33 subsection (1)(h))  
34 Assault of a Child 3 (RCW 9A.36.140)  
35 Bail Jumping with class B or C Felony  
36 (RCW 9A.76.170(3)(c))  
37 Burglary 2 (RCW 9A.52.030)



1 Communication with a Minor for  
2 Immoral Purposes (RCW  
3 9.68A.090)  
4 Criminal Gang Intimidation (RCW  
5 9A.46.120)  
6 Criminal Mistreatment 2 (RCW  
7 9A.42.030)  
8 Custodial Assault (RCW 9A.36.100)  
9 Cyberstalking (subsequent conviction  
10 or threat of death) (RCW  
11 9.61.260(3))  
12 Escape 2 (RCW 9A.76.120)  
13 Extortion 2 (RCW 9A.56.130)  
14 Harassment (RCW 9A.46.020)  
15 Intimidating a Public Servant (RCW  
16 9A.76.180)  
17 Introducing Contraband 2 (RCW  
18 9A.76.150)  
19 Malicious Injury to Railroad Property  
20 (RCW 81.60.070)  
21 Negligently Causing Substantial Bodily  
22 Harm By Use of a Signal  
23 Preemption Device (RCW  
24 46.37.674)  
25 Patronizing a Juvenile Prostitute  
26 (RCW 9.68A.100)  
27 Perjury 2 (RCW 9A.72.030)  
28 Possession of Incendiary Device (RCW  
29 9.40.120)  
30 Possession of Machine Gun or Short-  
31 Barreled Shotgun or Rifle (RCW  
32 9.41.190)  
33 Promoting Prostitution 2 (RCW  
34 9A.88.080)  
35 Securities Act violation (RCW  
36 21.20.400)

1 Tampering with a Witness (RCW  
2 9A.72.120)  
3 Telephone Harassment (subsequent  
4 conviction or threat of death)  
5 (RCW 9.61.230(2))  
6 Theft of Livestock 2 (RCW 9A.56.083)  
7 Trafficking in Stolen Property 2 (RCW  
8 9A.82.055)  
9 Unlawful Imprisonment (RCW  
10 9A.40.040)  
11 Unlawful possession of firearm in the  
12 second degree (RCW 9.41.040(2))  
13 Vehicular Assault, by the operation or  
14 driving of a vehicle with disregard  
15 for the safety of others (RCW  
16 46.61.522)  
17 Willful Failure to Return from Work  
18 Release (RCW 72.65.070)  
19 II Computer Trespass 1 (RCW  
20 9A.52.110)  
21 Counterfeiting (RCW 9.16.035(3))  
22 Escape from Community Custody  
23 (RCW 72.09.310)  
24 Health Care False Claims (RCW  
25 48.80.030)  
26 Identity Theft 2 (RCW 9.35.020(3))  
27 Improperly Obtaining Financial  
28 Information (RCW 9.35.010)  
29 Malicious Mischief 1 (RCW  
30 9A.48.070)  
31 Possession of Stolen Property 1 (RCW  
32 9A.56.150)  
33 Theft 1 (RCW 9A.56.030)  
34 Theft of Rental, Leased, or Lease-  
35 purchased Property (valued at one  
36 thousand five hundred dollars or  
37 more) (RCW 9A.56.096(5)(a))

1 Trafficking in Insurance Claims (RCW  
2 48.30A.015)  
3 Unlawful factoring of a credit card or  
4 payment card transaction (RCW  
5 9A.56.290(4)(a))  
6 Unlawful Practice of Law (RCW  
7 2.48.180)  
8 Unlicensed Practice of a Profession or  
9 Business (RCW 18.130.190(7))  
10 I Attempting to Elude a Pursuing Police  
11 Vehicle (RCW 46.61.024)  
12 False Verification for Welfare (RCW  
13 74.08.055)  
14 Forgery (RCW 9A.60.020)  
15 Fraudulent Creation or Revocation of a  
16 Mental Health Advance Directive  
17 (RCW 9A.60.060)  
18 Malicious Mischief 2 (RCW  
19 9A.48.080)  
20 Mineral Trespass (RCW 78.44.330)  
21 Possession of Stolen Property 2 (RCW  
22 9A.56.160)  
23 Reckless Burning 1 (RCW 9A.48.040)  
24 Taking Motor Vehicle Without  
25 Permission 2 (RCW 9A.56.075)  
26 Theft 2 (RCW 9A.56.040)  
27 Theft of Rental, Leased, or Lease-  
28 purchased Property (valued at two  
29 hundred fifty dollars or more but  
30 less than one thousand five  
31 hundred dollars) (RCW  
32 9A.56.096(5)(b))  
33 Transaction of insurance business  
34 beyond the scope of licensure  
35 (RCW 48.17.063(4))  
36 Unlawful Issuance of Checks or Drafts  
37 (RCW 9A.56.060)

1 Unlawful Possession of Fictitious  
2 Identification (RCW 9A.56.320)  
3 Unlawful Possession of Instruments of  
4 Financial Fraud (RCW  
5 9A.56.320)  
6 Unlawful Possession of Payment  
7 Instruments (RCW 9A.56.320)  
8 Unlawful Possession of a Personal  
9 Identification Device (RCW  
10 9A.56.320)  
11 Unlawful Production of Payment  
12 Instruments (RCW 9A.56.320)  
13 Unlawful Trafficking in Food Stamps  
14 (RCW 9.91.142)  
15 Unlawful Use of Food Stamps (RCW  
16 9.91.144)  
17 Vehicle Prowl 1 (RCW 9A.52.095)

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