
HOUSE BILL 1724

State of Washington

61st Legislature

2009 Regular Session

By Representatives Hope, O'Brien, Kretz, Klippert, Smith, Ericks, Pearson, Rodne, Bailey, Campbell, Sells, Herrera, Kelley, Kristiansen, Warnick, Armstrong, Simpson, and Johnson

Read first time 01/28/09. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to increasing the punishment for assault of a child
2 in the first degree; amending RCW 9.94A.540 and 9.94A.703; reenacting
3 and amending RCW 9.94A.515; creating new sections; and providing an
4 effective date.

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

6 NEW SECTION. **Sec. 1.** This act may be known and cited as the Eryk
7 Woodruff public safety act of 2009.

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

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

13 (a) An offender convicted of the crime of murder in the first
14 degree shall be sentenced to a term of total confinement not less than
15 twenty years.

16 (b) An offender convicted of the crime of assault in the first
17 degree or assault of a child in the first degree where the offender

1 used force or means likely to result in death or intended to kill the
2 victim shall be sentenced to a term of total confinement not less than
3 ((five)) eight years.

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

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

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

22 (3)(a) Subsection (1) of this section shall not be applied in
23 sentencing of juveniles tried as adults pursuant to RCW
24 13.04.030(1)(e)(i).

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

27 **Sec. 3.** RCW 9.94A.703 and 2008 c 231 s 9 are each amended to read
28 as follows:

29 When a court sentences a person to a term of community custody, the
30 court shall impose conditions of community custody as provided in this
31 section.

32 (1) **Mandatory conditions.** As part of any term of community
33 custody, the court shall:

34 (a) Require the offender to inform the department of court-ordered
35 treatment upon request by the department;

36 (b) Require the offender to comply with any conditions imposed by
37 the department under RCW 9.94A.704;

1 (c) If the offender was sentenced under RCW (~~(9.94A.712)~~) 9.94A.507
2 for an offense listed in RCW (~~(9.94A.712)~~) 9.94A.507(1)(a), and the
3 victim of the offense was under eighteen years of age at the time of
4 the offense, prohibit the offender from residing in a community
5 protection zone;

6 (d) If the offender was sentenced under RCW 9A.36.120, prohibit the
7 offender from serving in any paid or volunteer capacity where he or she
8 has control or supervision of minors under the age of thirteen.

9 (2) **Waivable conditions.** Unless waived by the court, as part of
10 any term of community custody, the court shall order an offender to:

11 (a) Report to and be available for contact with the assigned
12 community corrections officer as directed;

13 (b) Work at department-approved education, employment, or community
14 restitution, or any combination thereof;

15 (c) Refrain from possessing or consuming controlled substances
16 except pursuant to lawfully issued prescriptions;

17 (d) Pay supervision fees as determined by the department; and

18 (e) Obtain prior approval of the department for the offender's
19 residence location and living arrangements.

20 (3) **Discretionary conditions.** As part of any term of community
21 custody, the court may order an offender to:

22 (a) Remain within, or outside of, a specified geographical
23 boundary;

24 (b) Refrain from direct or indirect contact with the victim of the
25 crime or a specified class of individuals;

26 (c) Participate in crime-related treatment or counseling services;

27 (d) Participate in rehabilitative programs or otherwise perform
28 affirmative conduct reasonably related to the circumstances of the
29 offense, the offender's risk of reoffending, or the safety of the
30 community;

31 (e) Refrain from consuming alcohol; or

32 (f) Comply with any crime-related prohibitions.

33 (4) **Special conditions.**

34 (a) In sentencing an offender convicted of a crime of domestic
35 violence, as defined in RCW 10.99.020, if the offender has a minor
36 child, or if the victim of the offense for which the offender was
37 convicted has a minor child, the court may order the offender to

1 participate in a domestic violence perpetrator program approved under
2 RCW 26.50.150.

3 (b)(i) In sentencing an offender convicted of an alcohol or drug-
4 related traffic offense, the court shall require the offender to
5 complete a diagnostic evaluation by an alcohol or drug dependency
6 agency approved by the department of social and health services or a
7 qualified probation department, defined under RCW 46.61.516, that has
8 been approved by the department of social and health services. If the
9 offense was pursuant to chapter 46.61 RCW, the report shall be
10 forwarded to the department of licensing. If the offender is found to
11 have an alcohol or drug problem that requires treatment, the offender
12 shall complete treatment in a program approved by the department of
13 social and health services under chapter 70.96A RCW. If the offender
14 is found not to have an alcohol or drug problem that requires
15 treatment, the offender shall complete a course in an information
16 school approved by the department of social and health services under
17 chapter 70.96A RCW. The offender shall pay all costs for any
18 evaluation, education, or treatment required by this section, unless
19 the offender is eligible for an existing program offered or approved by
20 the department of social and health services.

21 (ii) For purposes of this section, "alcohol or drug-related traffic
22 offense" means the following: Driving while under the influence as
23 defined by RCW 46.61.502, actual physical control while under the
24 influence as defined by RCW 46.61.504, vehicular homicide as defined by
25 RCW 46.61.520(1)(a), vehicular assault as defined by RCW
26 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050,
27 or assault by watercraft as defined by RCW 79A.60.060.

28 (iii) This subsection (4)(b) does not require the department of
29 social and health services to add new treatment or assessment
30 facilities nor affect its use of existing programs and facilities
31 authorized by law.

32 **Sec. 4.** RCW 9.94A.515 and 2008 c 108 s 23 and 2008 c 38 s 1 are
33 each reenacted and amended to read as follows:

34 TABLE2
35

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

- 1
2
3 XVI Aggravated Murder 1 (RCW
4 10.95.020)
5 XV Homicide by abuse (RCW 9A.32.055)
6 Malicious explosion 1 (RCW
7 70.74.280(1))
8 Murder 1 (RCW 9A.32.030)
9 XIV Assault of a Child 1 (RCW 9A.36.120)
10 Murder 2 (RCW 9A.32.050)
11 Trafficking 1 (RCW 9A.40.100(1))
12 XIII Malicious explosion 2 (RCW
13 70.74.280(2))
14 Malicious placement of an explosive 1
15 (RCW 70.74.270(1))
16 XII Assault 1 (RCW 9A.36.011)
17 ((Assault of a Child 1 (RCW
18 9A.36.120)))
19 Malicious placement of an imitation
20 device 1 (RCW 70.74.272(1)(a))
21 Rape 1 (RCW 9A.44.040)
22 Rape of a Child 1 (RCW 9A.44.073)
23 Trafficking 2 (RCW 9A.40.100(2))
24 XI Manslaughter 1 (RCW 9A.32.060)
25 Rape 2 (RCW 9A.44.050)
26 Rape of a Child 2 (RCW 9A.44.076)
27 X Child Molestation 1 (RCW 9A.44.083)
28 Criminal Mistreatment 1 (RCW
29 9A.42.020)
30 Indecent Liberties (with forcible
31 compulsion) (RCW
32 9A.44.100(1)(a))
33 Kidnapping 1 (RCW 9A.40.020)
34 Leading Organized Crime (RCW
35 9A.82.060(1)(a))
36 Malicious explosion 3 (RCW
37 70.74.280(3))

1 Sexually Violent Predator Escape
2 (RCW 9A.76.115)
3 IX Abandonment of Dependent Person 1
4 (RCW 9A.42.060)
5 Assault of a Child 2 (RCW 9A.36.130)
6 Explosive devices prohibited (RCW
7 70.74.180)
8 Hit and Run--Death (RCW
9 46.52.020(4)(a))
10 Homicide by Watercraft, by being
11 under the influence of intoxicating
12 liquor or any drug (RCW
13 79A.60.050)
14 Inciting Criminal Profiteering (RCW
15 9A.82.060(1)(b))
16 Malicious placement of an explosive 2
17 (RCW 70.74.270(2))
18 Robbery 1 (RCW 9A.56.200)
19 Sexual Exploitation (RCW 9.68A.040)
20 Vehicular Homicide, by being under
21 the influence of intoxicating liquor
22 or any drug (RCW 46.61.520)
23 VIII Arson 1 (RCW 9A.48.020)
24 Homicide by Watercraft, by the
25 operation of any vessel in a
26 reckless manner (RCW
27 79A.60.050)
28 Manslaughter 2 (RCW 9A.32.070)
29 Promoting Commercial Sexual Abuse
30 of a Minor (RCW 9.68A.101)
31 Promoting Prostitution 1 (RCW
32 9A.88.070)
33 Theft of Ammonia (RCW 69.55.010)
34 Vehicular Homicide, by the operation
35 of any vehicle in a reckless manner
36 (RCW 46.61.520)
37 VII Burglary 1 (RCW 9A.52.020)

1 Child Molestation 2 (RCW 9A.44.086)
2 Civil Disorder Training (RCW
3 9A.48.120)
4 Dealing in depictions of minor engaged
5 in sexually explicit conduct (RCW
6 9.68A.050)
7 Drive-by Shooting (RCW 9A.36.045)
8 Homicide by Watercraft, by disregard
9 for the safety of others (RCW
10 79A.60.050)
11 Indecent Liberties (without forcible
12 compulsion) (RCW 9A.44.100(1)
13 (b) and (c))
14 Introducing Contraband 1 (RCW
15 9A.76.140)
16 Malicious placement of an explosive 3
17 (RCW 70.74.270(3))
18 Negligently Causing Death By Use of a
19 Signal Preemption Device (RCW
20 46.37.675)
21 Sending, bringing into state depictions
22 of minor engaged in sexually
23 explicit conduct (RCW 9.68A.060)
24 Unlawful Possession of a Firearm in
25 the first degree (RCW 9.41.040(1))
26 Use of a Machine Gun in Commission
27 of a Felony (RCW 9.41.225)
28 Vehicular Homicide, by disregard for
29 the safety of others (RCW
30 46.61.520)
31 VI Bail Jumping with Murder 1 (RCW
32 9A.76.170(3)(a))
33 Bribery (RCW 9A.68.010)
34 Incest 1 (RCW 9A.64.020(1))
35 Intimidating a Judge (RCW 9A.72.160)
36 Intimidating a Juror/Witness (RCW
37 9A.72.110, 9A.72.130)

1 Malicious placement of an imitation
2 device 2 (RCW 70.74.272(1)(b))
3 Possession of Depictions of a Minor
4 Engaged in Sexually Explicit
5 Conduct (RCW 9.68A.070)
6 Rape of a Child 3 (RCW 9A.44.079)
7 Theft of a Firearm (RCW 9A.56.300)
8 Unlawful Storage of Ammonia (RCW
9 69.55.020)
10 V Abandonment of Dependent Person 2
11 (RCW 9A.42.070)
12 Advancing money or property for
13 extortionate extension of credit
14 (RCW 9A.82.030)
15 Bail Jumping with class A Felony
16 (RCW 9A.76.170(3)(b))
17 Child Molestation 3 (RCW 9A.44.089)
18 Criminal Mistreatment 2 (RCW
19 9A.42.030)
20 Custodial Sexual Misconduct 1 (RCW
21 9A.44.160)
22 Domestic Violence Court Order
23 Violation (RCW 10.99.040,
24 10.99.050, 26.09.300, 26.10.220,
25 26.26.138, 26.50.110, 26.52.070,
26 or 74.34.145)
27 Driving While Under the Influence
28 (RCW 46.61.502(6))
29 Extortion 1 (RCW 9A.56.120)
30 Extortionate Extension of Credit (RCW
31 9A.82.020)
32 Extortionate Means to Collect
33 Extensions of Credit (RCW
34 9A.82.040)
35 Incest 2 (RCW 9A.64.020(2))
36 Kidnapping 2 (RCW 9A.40.030)
37 Perjury 1 (RCW 9A.72.020)

1 Persistent prison misbehavior (RCW
2 9.94.070)
3 Physical Control of a Vehicle While
4 Under the Influence (RCW
5 46.61.504(6))
6 Possession of a Stolen Firearm (RCW
7 9A.56.310)
8 Rape 3 (RCW 9A.44.060)
9 Rendering Criminal Assistance 1
10 (RCW 9A.76.070)
11 Sexual Misconduct with a Minor 1
12 (RCW 9A.44.093)
13 Sexually Violating Human Remains
14 (RCW 9A.44.105)
15 Stalking (RCW 9A.46.110)
16 Taking Motor Vehicle Without
17 Permission 1 (RCW 9A.56.070)
18 IV Arson 2 (RCW 9A.48.030)
19 Assault 2 (RCW 9A.36.021)
20 Assault 3 (of a Peace Officer with a
21 Projectile Stun Gun) (RCW
22 9A.36.031(1)(h))
23 Assault by Watercraft (RCW
24 79A.60.060)
25 Bribing a Witness/Bribe Received by
26 Witness (RCW 9A.72.090,
27 9A.72.100)
28 Cheating 1 (RCW 9.46.1961)
29 Commercial Bribery (RCW 9A.68.060)
30 Counterfeiting (RCW 9.16.035(4))
31 Endangerment with a Controlled
32 Substance (RCW 9A.42.100)
33 Escape 1 (RCW 9A.76.110)
34 Hit and Run--Injury (RCW
35 46.52.020(4)(b))
36 Hit and Run with Vessel--Injury
37 Accident (RCW 79A.60.200(3))

1 Identity Theft 1 (RCW 9.35.020(2))
2 Indecent Exposure to Person Under
3 Age Fourteen (subsequent sex
4 offense) (RCW 9A.88.010)
5 Influencing Outcome of Sporting Event
6 (RCW 9A.82.070)
7 Malicious Harassment (RCW
8 9A.36.080)
9 Residential Burglary (RCW
10 9A.52.025)
11 Robbery 2 (RCW 9A.56.210)
12 Theft of Livestock 1 (RCW 9A.56.080)
13 Threats to Bomb (RCW 9.61.160)
14 Trafficking in Stolen Property 1 (RCW
15 9A.82.050)
16 Unlawful factoring of a credit card or
17 payment card transaction (RCW
18 9A.56.290(4)(b))
19 Unlawful transaction of health
20 coverage as a health care service
21 contractor (RCW 48.44.016(3))
22 Unlawful transaction of health
23 coverage as a health maintenance
24 organization (RCW 48.46.033(3))
25 Unlawful transaction of insurance
26 business (RCW 48.15.023(3))
27 Unlicensed practice as an insurance
28 professional (RCW
29 48.17.063(~~(3)~~)) (2))
30 Use of Proceeds of Criminal
31 Profiteering (RCW 9A.82.080 (1)
32 and (2))
33 Vehicular Assault, by being under the
34 influence of intoxicating liquor or
35 any drug, or by the operation or
36 driving of a vehicle in a reckless
37 manner (RCW 46.61.522)

1 Willful Failure to Return from
2 Furlough (RCW 72.66.060)
3 III Animal Cruelty 1 (Sexual Conduct or
4 Contact) (RCW 16.52.205(3))
5 Assault 3 (Except Assault 3 of a Peace
6 Officer With a Projectile Stun
7 Gun) (RCW 9A.36.031 except
8 subsection (1)(h))
9 Assault of a Child 3 (RCW 9A.36.140)
10 Bail Jumping with class B or C Felony
11 (RCW 9A.76.170(3)(c))
12 Burglary 2 (RCW 9A.52.030)
13 Commercial Sexual Abuse of a Minor
14 (RCW 9.68A.100)
15 Communication with a Minor for
16 Immoral Purposes (RCW
17 9.68A.090)
18 Criminal Gang Intimidation (RCW
19 9A.46.120)
20 Custodial Assault (RCW 9A.36.100)
21 Cyberstalking (subsequent conviction
22 or threat of death) (RCW
23 9.61.260(3))
24 Escape 2 (RCW 9A.76.120)
25 Extortion 2 (RCW 9A.56.130)
26 Harassment (RCW 9A.46.020)
27 Intimidating a Public Servant (RCW
28 9A.76.180)
29 Introducing Contraband 2 (RCW
30 9A.76.150)
31 Malicious Injury to Railroad Property
32 (RCW 81.60.070)
33 Mortgage Fraud (RCW 19.144.080)
34 Negligently Causing Substantial Bodily
35 Harm By Use of a Signal
36 Preemption Device (RCW
37 46.37.674)

1 Organized Retail Theft 1 (RCW
2 9A.56.350(2))
3 Perjury 2 (RCW 9A.72.030)
4 Possession of Incendiary Device (RCW
5 9.40.120)
6 Possession of Machine Gun or Short-
7 Barreled Shotgun or Rifle (RCW
8 9.41.190)
9 Promoting Prostitution 2 (RCW
10 9A.88.080)
11 Retail Theft with Extenuating
12 Circumstances 1 (RCW
13 9A.56.360(2))
14 Securities Act violation (RCW
15 21.20.400)
16 Tampering with a Witness (RCW
17 9A.72.120)
18 Telephone Harassment (subsequent
19 conviction or threat of death)
20 (RCW 9.61.230(2))
21 Theft of Livestock 2 (RCW 9A.56.083)
22 Theft with the Intent to Resell 1 (RCW
23 9A.56.340(2))
24 Trafficking in Stolen Property 2 (RCW
25 9A.82.055)
26 Unlawful Imprisonment (RCW
27 9A.40.040)
28 Unlawful possession of firearm in the
29 second degree (RCW 9.41.040(2))
30 Vehicular Assault, by the operation or
31 driving of a vehicle with disregard
32 for the safety of others (RCW
33 46.61.522)
34 Willful Failure to Return from Work
35 Release (RCW 72.65.070)
36 II Computer Trespass 1 (RCW
37 9A.52.110)

1 Counterfeiting (RCW 9.16.035(3))
2 Escape from Community Custody
3 (RCW 72.09.310)
4 Failure to Register as a Sex Offender
5 (second or subsequent offense)
6 (RCW 9A.44.130(11)(a))
7 Health Care False Claims (RCW
8 48.80.030)
9 Identity Theft 2 (RCW 9.35.020(3))
10 Improperly Obtaining Financial
11 Information (RCW 9.35.010)
12 Malicious Mischief 1 (RCW
13 9A.48.070)
14 Organized Retail Theft 2 (RCW
15 9A.56.350(3))
16 Possession of Stolen Property 1 (RCW
17 9A.56.150)
18 Possession of a Stolen Vehicle (RCW
19 9A.56.068)
20 Retail Theft with Extenuating
21 Circumstances 2 (RCW
22 9A.56.360(3))
23 Theft 1 (RCW 9A.56.030)
24 Theft of a Motor Vehicle (RCW
25 9A.56.065)
26 Theft of Rental, Leased, or Lease-
27 purchased Property (valued at one
28 thousand five hundred dollars or
29 more) (RCW 9A.56.096(5)(a))
30 Theft with the Intent to Resell 2 (RCW
31 9A.56.340(3))
32 Trafficking in Insurance Claims (RCW
33 48.30A.015)
34 Unlawful factoring of a credit card or
35 payment card transaction (RCW
36 9A.56.290(4)(a))

1 Unlawful Practice of Law (RCW
2 2.48.180)
3 Unlicensed Practice of a Profession or
4 Business (RCW 18.130.190(7))
5 Voyeurism (RCW 9A.44.115)
6 I Attempting to Elude a Pursuing Police
7 Vehicle (RCW 46.61.024)
8 False Verification for Welfare (RCW
9 74.08.055)
10 Forgery (RCW 9A.60.020)
11 Fraudulent Creation or Revocation of a
12 Mental Health Advance Directive
13 (RCW 9A.60.060)
14 Malicious Mischief 2 (RCW
15 9A.48.080)
16 Mineral Trespass (RCW 78.44.330)
17 Possession of Stolen Property 2 (RCW
18 9A.56.160)
19 Reckless Burning 1 (RCW 9A.48.040)
20 Taking Motor Vehicle Without
21 Permission 2 (RCW 9A.56.075)
22 Theft 2 (RCW 9A.56.040)
23 Theft of Rental, Leased, or Lease-
24 purchased Property (valued at two
25 hundred fifty dollars or more but
26 less than one thousand five
27 hundred dollars) (RCW
28 9A.56.096(5)(b))
29 Transaction of insurance business
30 beyond the scope of licensure
31 (RCW 48.17.063(~~(4)~~))
32 Unlawful Issuance of Checks or Drafts
33 (RCW 9A.56.060)
34 Unlawful Possession of Fictitious
35 Identification (RCW 9A.56.320)
36 Unlawful Possession of Instruments of
37 Financial Fraud (RCW 9A.56.320)

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

13 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this
14 act, referencing this act by bill or chapter number, is not provided by
15 June 30, 2009, in the omnibus appropriations act, this act is null and
16 void.

17 NEW SECTION. **Sec. 6.** This act takes effect August 1, 2009.

--- END ---