
SUBSTITUTE SENATE BILL 5021

State of Washington

63rd Legislature

2013 Regular Session

By Senate Law & Justice (originally sponsored by Senators Padden and Carrell)

READ FIRST TIME 01/22/13.

1 AN ACT Relating to changing the crime of riot to the crime of
2 criminal mischief; amending RCW 9A.84.010 and 13.40.0357; prescribing
3 penalties; and providing an effective date.

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

5 **Sec. 1.** RCW 9A.84.010 and 2003 c 53 s 91 are each amended to read
6 as follows:

7 (1) A person is guilty of the crime of (~~riot~~) criminal mischief
8 if, acting with three or more other persons, he or she knowingly and
9 unlawfully uses or threatens to use force, or in any way participates
10 in the use of such force, against any other person or against property.

11 (2)(a) Except as provided in (b) of this subsection, the crime of
12 (~~riot~~) criminal mischief is a gross misdemeanor.

13 (b) The crime of (~~riot~~) criminal mischief is a class C felony if
14 the actor is armed with a deadly weapon.

15 **Sec. 2.** RCW 13.40.0357 and 2012 c 177 s 4 are each amended to read
16 as follows:

17

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
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Arson and Malicious Mischief

9	A	Arson 1 (9A.48.020)	B+
10	B	Arson 2 (9A.48.030)	C
11	C	Reckless Burning 1 (9A.48.040)	D
12	D	Reckless Burning 2 (9A.48.050)	E
13	B	Malicious Mischief 1 (9A.48.070)	C
14	C	Malicious Mischief 2 (9A.48.080)	D
15	D	Malicious Mischief 3 (9A.48.090)	E
16			
17	E	Tampering with Fire Alarm Apparatus	
18		(9.40.100)	E
19	E	Tampering with Fire Alarm Apparatus with	
20		Intent to Commit Arson (9.40.105)	E
21	A	Possession of Incendiary Device (9.40.120)	B+

Assault and Other Crimes Involving

Physical Harm

24	A	Assault 1 (9A.36.011)	B+
25	B+	Assault 2 (9A.36.021)	C+
26	C+	Assault 3 (9A.36.031)	D+
27	D+	Assault 4 (9A.36.041)	E
28	B+	Drive-By Shooting (9A.36.045)	C+
29	D+	Reckless Endangerment (9A.36.050)	E
30	C+	Promoting Suicide Attempt (9A.36.060)	D+
31	D+	Coercion (9A.36.070)	E
32	C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

34	B+	Burglary 1 (9A.52.020)	C+
35	B	Residential Burglary (9A.52.025)	C

1	B	Burglary 2 (9A.52.030)	C
2	D	Burglary Tools (Possession of) (9A.52.060)	E
3	D	Criminal Trespass 1 (9A.52.070)	E
4	E	Criminal Trespass 2 (9A.52.080)	E
5	C	Mineral Trespass (78.44.330)	C
6	C	Vehicle Prowling 1 (9A.52.095)	D
7	D	Vehicle Prowling 2 (9A.52.100)	E
8		Drugs	
9	E	Possession/Consumption of Alcohol	
10		(66.44.270)	E
11	C	Illegally Obtaining Legend Drug	
12		(69.41.020)	D
13	C+	Sale, Delivery, Possession of Legend Drug	
14		with Intent to Sell (69.41.030(2)(a))	D+
15	E	Possession of Legend Drug	
16		(69.41.030(2)(b))	E
17	B+	Violation of Uniform Controlled Substances	
18		Act - Narcotic, Methamphetamine, or	
19		Flunitrazepam Sale (69.50.401(2) (a) or	
20		(b))	B+
21	C	Violation of Uniform Controlled Substances	
22		Act - Nonnarcotic Sale (69.50.401(2)(c))	C
23	E	Possession of Marihuana <40 grams	
24		(69.50.4014)	E
25	C	Fraudulently Obtaining Controlled	
26		Substance (69.50.403)	C
27	C+	Sale of Controlled Substance for Profit	
28		(69.50.410)	C+
29	E	Unlawful Inhalation (9.47A.020)	E
30	B	Violation of Uniform Controlled Substances	
31		Act - Narcotic, Methamphetamine, or	
32		Flunitrazepam Counterfeit Substances	
33		(69.50.4011(2) (a) or (b))	B
34	C	Violation of Uniform Controlled Substances	
35		Act - Nonnarcotic Counterfeit Substances	
36		(69.50.4011(2) (c), (d), or (e))	C

1	C	Violation of Uniform Controlled Substances	
2		Act - Possession of a Controlled Substance	
3		(69.50.4013)	C
4	C	Violation of Uniform Controlled Substances	
5		Act - Possession of a Controlled Substance	
6		(69.50.4012)	C
7		Firearms and Weapons	
8	B	Theft of Firearm (9A.56.300)	C
9	B	Possession of Stolen Firearm (9A.56.310)	C
10	E	Carrying Loaded Pistol Without Permit	
11		(9.41.050)	E
12	C	Possession of Firearms by Minor (<18)	
13		(9.41.040(2)(a)(iii))	C
14	D+	Possession of Dangerous Weapon	
15		(9.41.250)	E
16	D	Intimidating Another Person by use of	
17		Weapon (9.41.270)	E
18		Homicide	
19	A+	Murder 1 (9A.32.030)	A
20	A+	Murder 2 (9A.32.050)	B+
21	B+	Manslaughter 1 (9A.32.060)	C+
22	C+	Manslaughter 2 (9A.32.070)	D+
23	B+	Vehicular Homicide (46.61.520)	C+
24		Kidnapping	
25	A	Kidnap 1 (9A.40.020)	B+
26	B+	Kidnap 2 (9A.40.030)	C+
27	C+	Unlawful Imprisonment (9A.40.040)	D+
28		Obstructing Governmental Operation	
29	D	Obstructing a Law Enforcement Officer	
30		(9A.76.020)	E
31	E	Resisting Arrest (9A.76.040)	E
32	B	Introducing Contraband 1 (9A.76.140)	C
33	C	Introducing Contraband 2 (9A.76.150)	D
34	E	Introducing Contraband 3 (9A.76.160)	E
35	B+	Intimidating a Public Servant (9A.76.180)	C+
36	B+	Intimidating a Witness (9A.72.110)	C+

1		Public Disturbance	
2	C+	((Riot)) <u>Criminal Mischief</u> with Weapon	
3		(9A.84.010(2)(b))	D+
4	D+	((Riot)) <u>Criminal Mischief</u> Without	
5		Weapon (9A.84.010(2)(a))	E
6	E	Failure to Disperse (9A.84.020)	E
7	E	Disorderly Conduct (9A.84.030)	E
8		Sex Crimes	
9	A	Rape 1 (9A.44.040)	B+
10	A-	Rape 2 (9A.44.050)	B+
11	C+	Rape 3 (9A.44.060)	D+
12	A-	Rape of a Child 1 (9A.44.073)	B+
13	B+	Rape of a Child 2 (9A.44.076)	C+
14	B	Incest 1 (9A.64.020(1))	C
15	C	Incest 2 (9A.64.020(2))	D
16	D+	Indecent Exposure (Victim <14)	
17		(9A.88.010)	E
18	E	Indecent Exposure (Victim 14 or over)	
19		(9A.88.010)	E
20	B+	Promoting Prostitution 1 (9A.88.070)	C+
21	C+	Promoting Prostitution 2 (9A.88.080)	D+
22	E	O & A (Prostitution) (9A.88.030)	E
23	B+	Indecent Liberties (9A.44.100)	C+
24	A-	Child Molestation 1 (9A.44.083)	B+
25	B	Child Molestation 2 (9A.44.086)	C+
26	C	Failure to Register as a Sex Offender (
27		9A.44.132)	D
28		Theft, Robbery, Extortion, and Forgery	
29	B	Theft 1 (9A.56.030)	C
30	C	Theft 2 (9A.56.040)	D
31	D	Theft 3 (9A.56.050)	E
32	B	Theft of Livestock 1 and 2 (9A.56.080 and	
33		9A.56.083)	C
34	C	Forgery (9A.60.020)	D
35	A	Robbery 1 (9A.56.200)	B+
36	B+	Robbery 2 (9A.56.210)	C+
37	B+	Extortion 1 (9A.56.120)	C+

1	C+	Extortion 2 (9A.56.130)	D+
2	C	Identity Theft 1 (9.35.020(2))	D
3	D	Identity Theft 2 (9.35.020(3))	E
4	D	Improperly Obtaining Financial Information	
5		(9.35.010)	E
6	B	Possession of a Stolen Vehicle (9A.56.068)	C
7	B	Possession of Stolen Property 1	
8		(9A.56.150)	C
9	C	Possession of Stolen Property 2	
10		(9A.56.160)	D
11	D	Possession of Stolen Property 3	
12		(9A.56.170)	E
13	B	Taking Motor Vehicle Without Permission	
14		1 (9A.56.070)	C
15	C	Taking Motor Vehicle Without Permission	
16		2 (9A.56.075)	D
17	B	Theft of a Motor Vehicle (9A.56.065)	C
18		Motor Vehicle Related Crimes	
19	E	Driving Without a License (46.20.005)	E
20	B+	Hit and Run - Death (46.52.020(4)(a))	C+
21	C	Hit and Run - Injury (46.52.020(4)(b))	D
22	D	Hit and Run-Attended (46.52.020(5))	E
23	E	Hit and Run-Unattended (46.52.010)	E
24	C	Vehicular Assault (46.61.522)	D
25	C	Attempting to Elude Pursuing Police	
26		Vehicle (46.61.024)	D
27	E	Reckless Driving (46.61.500)	E
28	D	Driving While Under the Influence	
29		(46.61.502 and 46.61.504)	E
30	B+	Felony Driving While Under the Influence	
31		(46.61.502(6))	B
32	B+	Felony Physical Control of a Vehicle While	
33		Under the Influence (46.61.504(6))	B
34		Other	
35	B	Animal Cruelty 1 (16.52.205)	C
36	B	Bomb Threat (9.61.160)	C

1	C	Escape 1 ¹ (9A.76.110)	C
2	C	Escape 2 ¹ (9A.76.120)	C
3	D	Escape 3 (9A.76.130)	E
4	E	Obscene, Harassing, Etc., Phone Calls	
5		(9.61.230)	E
6	A	Other Offense Equivalent to an Adult Class	
7		A Felony	B+
8	B	Other Offense Equivalent to an Adult Class	
9		B Felony	C
10	C	Other Offense Equivalent to an Adult Class	
11		C Felony	D
12	D	Other Offense Equivalent to an Adult Gross	
13		Misdemeanor	E
14	E	Other Offense Equivalent to an Adult	
15		Misdemeanor	E
16	V	Violation of Order of Restitution,	
17		Community Supervision, or Confinement	
18		(13.40.200) ²	V

19 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
20 and the standard range is established as follows:

21 1st escape or attempted escape during 12-month period - 4 weeks
22 confinement

23 2nd escape or attempted escape during 12-month period - 8 weeks
24 confinement

25 3rd and subsequent escape or attempted escape during 12-month
26 period - 12 weeks confinement

27 ²If the court finds that a respondent has violated terms of an order,
28 it may impose a penalty of up to 30 days of confinement.

29 **JUVENILE SENTENCING STANDARDS**

30 This schedule must be used for juvenile offenders. The court may
31 select sentencing option A, B, C, D, or RCW 13.40.167.

32 **OPTION A**
33 **JUVENILE OFFENDER SENTENCING GRID**
34 **STANDARD RANGE**

1	A+	180 weeks to age 21 for all category A+ offenses					
2	A	103-129 weeks for all category A offenses					
3	A-	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks	103-129 weeks	
4		Except 30-40 weeks					
5		for 15 to 17 year olds					
6	CURRENT	B+	15-36 weeks	15-36 weeks	52-65 weeks	80-100 weeks	103-129 weeks
7	OFFENSE	B	LS	LS	15-36 weeks	15-36 weeks	52-65 weeks
8	CATEGORY	C+	LS	LS	LS	15-36 weeks	15-36 weeks
9		C	LS	LS	LS	LS	15-36 weeks
10		D+	LS	LS	LS	LS	LS
11		D	LS	LS	LS	LS	LS
12		E	LS	LS	LS	LS	LS
13							
14	PRIOR		0	1	2	3	4 or more
15	ADJUDICATIONS						

16 NOTE: References in the grid to days or weeks mean periods of
17 confinement. "LS" means "local sanctions" as defined in RCW 13.40.020.

18 (1) The vertical axis of the grid is the current offense category.
19 The current offense category is determined by the offense of
20 adjudication.

21 (2) The horizontal axis of the grid is the number of prior
22 adjudications included in the juvenile's criminal history. Each prior
23 felony adjudication shall count as one point. Each prior violation,
24 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
25 point. Fractional points shall be rounded down.

26 (3) The standard range disposition for each offense is determined
27 by the intersection of the column defined by the prior adjudications
28 and the row defined by the current offense category.

29 (4) RCW 13.40.180 applies if the offender is being sentenced for
30 more than one offense.

31 (5) A current offense that is a violation is equivalent to an
32 offense category of E. However, a disposition for a violation shall
33 not include confinement.

34 **OR**
35 **OPTION B**
36 **SUSPENDED DISPOSITION ALTERNATIVE**

1 (1) If the offender is subject to a standard range disposition
2 involving confinement by the department, the court may impose the
3 standard range and suspend the disposition on condition that the
4 offender comply with one or more local sanctions and any educational or
5 treatment requirement. The treatment programs provided to the offender
6 must be either research-based best practice programs as identified by
7 the Washington state institute for public policy or the joint
8 legislative audit and review committee, or for chemical dependency
9 treatment programs or services, they must be evidence-based or
10 research-based best practice programs. For the purposes of this
11 subsection:

12 (a) "Evidence-based" means a program or practice that has had
13 multiple site random controlled trials across heterogeneous populations
14 demonstrating that the program or practice is effective for the
15 population; and

16 (b) "Research-based" means a program or practice that has some
17 research demonstrating effectiveness, but that does not yet meet the
18 standard of evidence-based practices.

19 (2) If the offender fails to comply with the suspended disposition,
20 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
21 the suspended disposition and order the disposition's execution.

22 (3) An offender is ineligible for the suspended disposition option
23 under this section if the offender is:

24 (a) Adjudicated of an A+ offense;

25 (b) Fourteen years of age or older and is adjudicated of one or
26 more of the following offenses:

27 (i) A class A offense, or an attempt, conspiracy, or solicitation
28 to commit a class A offense;

29 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

30 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
31 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW
32 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential
33 burglary (RCW 9A.52.025), burglary in the second degree (RCW
34 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW
35 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a
36 witness (RCW 9A.72.110), violation of the uniform controlled substances
37 act (RCW 69.50.401 (2)(a) and (b)), or manslaughter 2 (RCW 9A.32.070),

1 when the offense includes infliction of bodily harm upon another or
2 when during the commission or immediate withdrawal from the offense the
3 respondent was armed with a deadly weapon;

4 (c) Ordered to serve a disposition for a firearm violation under
5 RCW 13.40.193; or

6 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

7 OR

8 OPTION C

9 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

10 If the juvenile offender is subject to a standard range disposition
11 of local sanctions or 15 to 36 weeks of confinement and has not
12 committed an A- or B+ offense, the court may impose a disposition under
13 RCW 13.40.160(4) and 13.40.165.

14 OR

15 OPTION D

16 MANIFEST INJUSTICE

17 If the court determines that a disposition under option A, B, or C
18 would effectuate a manifest injustice, the court shall impose a
19 disposition outside the standard range under RCW 13.40.160(2).

20 NEW SECTION. **Sec. 3.** This act takes effect January 1, 2014.

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