

---

SENATE BILL 6507

---

State of Washington

65th Legislature

2018 Regular Session

By Senators Rivers and Becker

1 AN ACT Relating to mandatory minimum sentences for the possession  
2 or use of a firearm during the commission of a felony; amending RCW  
3 9.94A.533 and 9.94A.540; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.533 and 2016 c 203 s 7 are each amended to  
6 read 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  
10 criminal attempt, solicitation, or conspiracy under chapter 9A.28  
11 RCW, the standard sentence range is determined by locating the  
12 sentencing grid sentence range defined by the appropriate offender  
13 score and the seriousness level of the completed crime, and  
14 multiplying the range by seventy-five percent.

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

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

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

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

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

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

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

34 (i) Granted an extraordinary medical placement when authorized  
35 under RCW 9.94A.728(1)(c); or

36 (ii) Released under the provisions of RCW 9.94A.730;

37 (f) The firearm enhancements in this section shall apply to all  
38 felony crimes except the following: Possession of a machine gun,  
39 possessing a stolen firearm, drive-by shooting, theft of a firearm,

1 ~~unlawful possession of a firearm in the first and second degree, and~~  
2 ~~use of a machine gun in a felony;~~

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

10 (4)) The following additional times shall be added to the  
11 standard sentence range for felony crimes committed after July 23,  
12 1995, if the offender or an accomplice was armed with a deadly weapon  
13 other than a firearm as defined in RCW 9.41.010 and the offender is  
14 being sentenced for one of the crimes listed in this subsection as  
15 eligible for any deadly weapon enhancements based on the  
16 classification of the completed felony crime. If the offender is  
17 being sentenced for more than one offense, the deadly weapon  
18 enhancement or enhancements must be added to the total period of  
19 confinement for all offenses, regardless of which underlying offense  
20 is subject to a deadly weapon enhancement. If the offender or an  
21 accomplice was armed with a deadly weapon other than a firearm as  
22 defined in RCW 9.41.010 and the offender is being sentenced for an  
23 anticipatory offense under chapter 9A.28 RCW to commit one of the  
24 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  
27 section based on the felony crime of conviction as classified under  
28 RCW 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,  
34 and 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,  
37 and not covered under (f) of this subsection;

38 (d) If the offender is being sentenced under (a), (b), and/or (c)  
39 of this subsection for any deadly weapon enhancements and the  
40 offender has previously been sentenced for any deadly weapon

1 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
2 subsection (~~(or subsection (3)(a), (b), and/or (c) of this section)~~),  
3 or both, all deadly weapon enhancements under this subsection shall  
4 be twice the amount of the enhancement listed;

5 (e) Notwithstanding any other provision of law, all deadly weapon  
6 enhancements under this section are mandatory, shall be served in  
7 total confinement, and shall run consecutively to all other  
8 sentencing provisions, including other firearm or deadly weapon  
9 enhancements, for all offenses sentenced under this chapter. However,  
10 whether or not a mandatory minimum term has expired, an offender  
11 serving a sentence under this subsection may be:

12 (i) Granted an extraordinary medical placement when authorized  
13 under RCW 9.94A.728(1)(c); or

14 (ii) Released under the provisions of RCW 9.94A.730;

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

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

27 (~~(+5)~~) (4) The following additional times shall be added to the  
28 standard sentence range if the offender or an accomplice committed  
29 the offense while in a county jail or state correctional facility and  
30 the offender is being sentenced for one of the crimes listed in this  
31 subsection. If the offender or an accomplice committed one of the  
32 crimes listed in this subsection while in a county jail or state  
33 correctional facility, and the offender is being sentenced for an  
34 anticipatory offense under chapter 9A.28 RCW to commit one of the  
35 crimes listed in this subsection, the following additional times  
36 shall be added to the standard sentence range determined under  
37 subsection (2) of this section:

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

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

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

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

7 (~~(+6)~~) (5) An additional twenty-four months shall be added to  
8 the standard sentence range for any ranked offense involving a  
9 violation of chapter 69.50 RCW if the offense was also a violation of  
10 RCW 69.50.435 or 9.94A.827. All enhancements under this subsection  
11 shall run consecutively to all other sentencing provisions, for all  
12 offenses sentenced under this chapter.

13 (~~(+7)~~) (6) An additional two years shall be added to the  
14 standard sentence range for vehicular homicide committed while under  
15 the influence of intoxicating liquor or any drug as defined by RCW  
16 46.61.502 for each prior offense as defined in RCW 46.61.5055.

17 Notwithstanding any other provision of law, all impaired driving  
18 enhancements under this subsection are mandatory, shall be served in  
19 total confinement, and shall run consecutively to all other  
20 sentencing provisions, including other impaired driving enhancements,  
21 for all offenses sentenced under this chapter.

22 An offender serving a sentence under this subsection may be  
23 granted an extraordinary medical placement when authorized under RCW  
24 9.94A.728(1)(c).

25 (~~(+8)~~) (7)(a) The following additional times shall be added to  
26 the standard sentence range for felony crimes committed on or after  
27 July 1, 2006, if the offense was committed with sexual motivation, as  
28 that term is defined in RCW 9.94A.030. If the offender is being  
29 sentenced for more than one offense, the sexual motivation  
30 enhancement must be added to the total period of total confinement  
31 for all offenses, regardless of which underlying offense is subject  
32 to a sexual motivation enhancement. If the offender committed the  
33 offense with sexual motivation and the offender is being sentenced  
34 for an anticipatory offense under chapter 9A.28 RCW, the following  
35 additional times shall be added to the standard sentence range  
36 determined under subsection (2) of this section based on the felony  
37 crime of conviction as classified under RCW 9A.28.020:

38 (i) Two years for any felony defined under the law as a class A  
39 felony or with a statutory maximum sentence of at least twenty years,  
40 or both;

1 (ii) Eighteen months for any felony defined under any law as a  
2 class B felony or with a statutory maximum sentence of ten years, or  
3 both;

4 (iii) One year for any felony defined under any law as a class C  
5 felony or with a statutory maximum sentence of five years, or both;

6 (iv) If the offender is being sentenced for any sexual motivation  
7 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
8 the offender has previously been sentenced for any sexual motivation  
9 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
10 (iii) of this subsection, all sexual motivation enhancements under  
11 this subsection shall be twice the amount of the enhancement listed;

12 (b) Notwithstanding any other provision of law, all sexual  
13 motivation enhancements under this subsection are mandatory, shall be  
14 served in total confinement, and shall run consecutively to all other  
15 sentencing provisions, including other sexual motivation  
16 enhancements, for all offenses sentenced under this chapter. However,  
17 whether or not a mandatory minimum term has expired, an offender  
18 serving a sentence under this subsection may be:

19 (i) Granted an extraordinary medical placement when authorized  
20 under RCW 9.94A.728(1)(c); or

21 (ii) Released under the provisions of RCW 9.94A.730;

22 (c) The sexual motivation enhancements in this subsection apply  
23 to all felony crimes;

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

31 (e) The portion of the total confinement sentence which the  
32 offender must serve under this subsection shall be calculated before  
33 any earned early release time is credited to the offender;

34 (f) Nothing in this subsection prevents a sentencing court from  
35 imposing a sentence outside the standard sentence range pursuant to  
36 RCW 9.94A.535.

37 ~~((+9))~~ (8) An additional one-year enhancement shall be added to  
38 the standard sentence range for the felony crimes of RCW 9A.44.073,  
39 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
40 or after July 22, 2007, if the offender engaged, agreed, or offered

1 to engage the victim in the sexual conduct in return for a fee. If  
2 the offender is being sentenced for more than one offense, the  
3 one-year enhancement must be added to the total period of total  
4 confinement for all offenses, regardless of which underlying offense  
5 is subject to the enhancement. If the offender is being sentenced for  
6 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
7 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
8 offender attempted, solicited another, or conspired to engage, agree,  
9 or offer to engage the victim in the sexual conduct in return for a  
10 fee, an additional one-year enhancement shall be added to the  
11 standard sentence range determined under subsection (2) of this  
12 section. For purposes of this subsection, "sexual conduct" means  
13 sexual intercourse or sexual contact, both as defined in chapter  
14 9A.44 RCW.

15 ~~((+10))~~ (9)(a) For a person age eighteen or older convicted of  
16 any criminal street gang-related felony offense for which the person  
17 compensated, threatened, or solicited a minor in order to involve the  
18 minor in the commission of the felony offense, the standard sentence  
19 range is determined by locating the sentencing grid sentence range  
20 defined by the appropriate offender score and the seriousness level  
21 of the completed crime, and multiplying the range by one hundred  
22 twenty-five percent. If the standard sentence range under this  
23 subsection exceeds the statutory maximum sentence for the offense,  
24 the statutory maximum sentence is the presumptive sentence unless the  
25 offender is a persistent offender.

26 (b) This subsection does not apply to any criminal street gang-  
27 related felony offense for which involving a minor in the commission  
28 of the felony offense is an element of the offense.

29 (c) The increased penalty specified in (a) of this subsection is  
30 unavailable in the event that the prosecution gives notice that it  
31 will seek an exceptional sentence based on an aggravating factor  
32 under RCW 9.94A.535.

33 ~~((+11))~~ (10) An additional twelve months and one day shall be  
34 added to the standard sentence range for a conviction of attempting  
35 to elude a police vehicle as defined by RCW 46.61.024, if the  
36 conviction included a finding by special allegation of endangering  
37 one or more persons under RCW 9.94A.834.

38 ~~((+12))~~ (11) An additional twelve months shall be added to the  
39 standard sentence range for an offense that is also a violation of  
40 RCW 9.94A.831.

1       (~~(13)~~) (12) An additional twelve months shall be added to the  
2 standard sentence range for vehicular homicide committed while under  
3 the influence of intoxicating liquor or any drug as defined by RCW  
4 46.61.520 or for vehicular assault committed while under the  
5 influence of intoxicating liquor or any drug as defined by RCW  
6 46.61.522, or for any felony driving under the influence (RCW  
7 46.61.502(6)) or felony physical control under the influence (RCW  
8 46.61.504(6)) for each child passenger under the age of sixteen who  
9 is an occupant in the defendant's vehicle. These enhancements shall  
10 be mandatory, shall be served in total confinement, and shall run  
11 consecutively to all other sentencing provisions. If the addition of  
12 a minor child enhancement increases the sentence so that it would  
13 exceed the statutory maximum for the offense, the portion of the  
14 sentence representing the enhancement may not be reduced.

15       (~~(14)~~) (13) An additional twelve months shall be added to the  
16 standard sentence range for an offense that is also a violation of  
17 RCW 9.94A.832.

18       **Sec. 2.** RCW 9.94A.540 and 2014 c 130 s 2 are each amended to  
19 read as follows:

20       (1) Except to the extent provided in subsection (~~(3)~~) (4) of  
21 this section, the following minimum terms of total confinement are  
22 mandatory and shall not be varied or modified under RCW 9.94A.535:

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

26       (b) An offender convicted of the crime of assault in the first  
27 degree or assault of a child in the first degree where the offender  
28 used force or means likely to result in death or intended to kill the  
29 victim shall be sentenced to a term of total confinement not less  
30 than five years.

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

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

37       (e) An offender convicted of the crime of aggravated first degree  
38 murder for a murder that was committed prior to the offender's



1 eighteenth birthday shall be sentenced to a term of total confinement  
2 not less than twenty-five years.

3 (2) An offender convicted of a felony or an attempt to commit a  
4 felony after the effective date of this section shall be sentenced to  
5 the following minimum terms of total confinement if the offender was  
6 armed with a firearm as defined in RCW 9.41.010, regardless of  
7 whether the use of a weapon is an element of the felony:

8 (a) Ten years if the offender possessed a firearm during the  
9 commission of the felony;

10 (b) Twenty years if the offender discharged the firearm resulting  
11 in injury to a person during the commission of the felony; or

12 (c) Life if the offender discharged the firearm resulting in  
13 death to a person during the commission of the felony and the  
14 offender was over the age of eighteen at the time the felony was  
15 committed.

16 (3) During such minimum terms of total confinement, no offender  
17 subject to the provisions of this section is eligible for community  
18 custody, earned release time, furlough, home detention, partial  
19 confinement, work crew, work release, or any other form of early  
20 release authorized under RCW 9.94A.728, or any other form of  
21 authorized leave of absence from the correctional facility while not  
22 in the direct custody of a corrections officer. The provisions of  
23 this subsection shall not apply: (a) In the case of an offender in  
24 need of emergency medical treatment; (b) for the purpose of  
25 commitment to an inpatient treatment facility in the case of an  
26 offender convicted of the crime of rape in the first degree; or (c)  
27 for an extraordinary medical placement when authorized under RCW  
28 9.94A.728(~~(+3)~~) (1)(c).

29 (~~(+3)~~) (4)(a) Subsection (1)(a) through (d) of this section  
30 shall not be applied in sentencing of juveniles tried as adults  
31 pursuant to RCW 13.04.030(1)(e)(i).

32 (b) This subsection (~~(+3)~~) (4) applies only to crimes committed  
33 on or after July 24, 2005.

--- END ---