
SUBSTITUTE HOUSE BILL 1896

State of Washington

66th Legislature

2019 Regular Session

By House Public Safety (originally sponsored by Representatives Morgan, Jinkins, Ormsby, Tharinger, Davis, Appleton, Fitzgibbon, Robinson, and Frame)

READ FIRST TIME 02/22/19.

1 AN ACT Relating to promoting fair and proportional sentencing by
2 modifying scoring provisions in the sentencing reform act; amending
3 RCW 9.94A.525; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to restrict when
6 juvenile adjudications will be calculated in adult offender scores
7 for the purposes of:

8 (1) Giving real effect to the juvenile justice system's express
9 goals of rehabilitation and reintegration;

10 (2) Recognizing the expansive body of scientific research on
11 brain development, which shows that adolescent's perception,
12 judgment, and decision making differs significantly from that of
13 adults; and

14 (3) Guaranteeing due process by granting the procedural
15 protections of a criminal proceeding in any adjudication which may be
16 used to determine the severity of a criminal sentence.

17 **Sec. 2.** RCW 9.94A.525 and 2017 c 272 s 3 are each amended to
18 read as follows:

19 The offender score is measured on the horizontal axis of the
20 sentencing grid. The offender score rules are as follows:

1 The offender score is the sum of points accrued under this
2 section rounded down to the nearest whole number.

3 (1) A prior conviction is a conviction which exists before the
4 date of sentencing for the offense for which the offender score is
5 being computed. Convictions entered or sentenced on the same date as
6 the conviction for which the offender score is being computed shall
7 be deemed "other current offenses" within the meaning of RCW
8 9.94A.589.

9 (2)(a) Class A and sex prior felony convictions shall always be
10 included in the offender score.

11 (b) Class B prior felony convictions other than sex offenses
12 shall not be included in the offender score, if since the last date
13 of release from confinement (including full-time residential
14 treatment) pursuant to a felony conviction, if any, or entry of
15 judgment and sentence, the offender had spent ten consecutive years
16 in the community without committing any crime that subsequently
17 results in a conviction.

18 (c) Except as provided in (e) of this subsection, class C prior
19 felony convictions other than sex offenses shall not be included in
20 the offender score if, since the last date of release from
21 confinement (including full-time residential treatment) pursuant to a
22 felony conviction, if any, or entry of judgment and sentence, the
23 offender had spent five consecutive years in the community without
24 committing any crime that subsequently results in a conviction.

25 (d) Except as provided in (e) of this subsection, serious traffic
26 convictions shall not be included in the offender score if, since the
27 last date of release from confinement (including full-time
28 residential treatment) pursuant to a conviction, if any, or entry of
29 judgment and sentence, the offender spent five years in the community
30 without committing any crime that subsequently results in a
31 conviction.

32 (e) If the present conviction is felony driving while under the
33 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
34 felony physical control of a vehicle while under the influence of
35 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
36 crimes for the offense as defined by RCW 46.61.5055(14) shall be
37 included in the offender score, and prior convictions for felony
38 driving while under the influence of intoxicating liquor or any drug
39 (RCW 46.61.502(6)) or felony physical control of a vehicle while
40 under the influence of intoxicating liquor or any drug (RCW

1 46.61.504(6)) shall always be included in the offender score. All
2 other convictions of the defendant shall be scored according to this
3 section.

4 (f) Prior convictions for a repetitive domestic violence offense,
5 as defined in RCW 9.94A.030, shall not be included in the offender
6 score if, since the last date of release from confinement or entry of
7 judgment and sentence, the offender had spent ten consecutive years
8 in the community without committing any crime that subsequently
9 results in a conviction.

10 (g) This subsection (2) applies to both adult and juvenile prior
11 convictions. In addition to the other restrictions in this subsection
12 (2), a prior juvenile conviction is included in the offender score
13 only when specified in this section.

14 (3) Out-of-state convictions for offenses shall be classified
15 according to the comparable offense definitions and sentences
16 provided by Washington law. Federal convictions for offenses shall be
17 classified according to the comparable offense definitions and
18 sentences provided by Washington law. If there is no clearly
19 comparable offense under Washington law or the offense is one that is
20 usually considered subject to exclusive federal jurisdiction, the
21 offense shall be scored as a class C felony equivalent if it was a
22 felony under the relevant federal statute.

23 (4) Score prior convictions for felony anticipatory offenses
24 (attempts, criminal solicitations, and criminal conspiracies) the
25 same as if they were convictions for completed offenses.

26 (5) (a) In the case of multiple prior convictions, for the purpose
27 of computing the offender score, count all convictions separately,
28 except:

29 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),
30 to encompass the same criminal conduct, shall be counted as one
31 offense, the offense that yields the highest offender score. The
32 current sentencing court shall determine with respect to other prior
33 adult offenses for which sentences were served concurrently or prior
34 juvenile offenses for which sentences were served consecutively,
35 whether those offenses shall be counted as one offense or as separate
36 offenses using the "same criminal conduct" analysis found in RCW
37 9.94A.589(1) (a), and if the court finds that they shall be counted as
38 one offense, then the offense that yields the highest offender score
39 shall be used. The current sentencing court may presume that such
40 other prior offenses were not the same criminal conduct from

1 sentences imposed on separate dates, or in separate counties or
2 jurisdictions, or in separate complaints, indictments, or
3 informations;

4 (ii) In the case of multiple prior convictions for offenses
5 committed before July 1, 1986, for the purpose of computing the
6 offender score, count all adult convictions served concurrently as
7 one offense, and count all juvenile convictions entered on the same
8 date as one offense. Use the conviction for the offense that yields
9 the highest offender score.

10 (b) As used in this subsection (5), "served concurrently" means
11 that: (i) The latter sentence was imposed with specific reference to
12 the former; (ii) the concurrent relationship of the sentences was
13 judicially imposed; and (iii) the concurrent timing of the sentences
14 was not the result of a probation or parole revocation on the former
15 offense.

16 (6) If the present conviction is one of the anticipatory offenses
17 of criminal attempt, solicitation, or conspiracy, count each prior
18 conviction as if the present conviction were for a completed offense.
19 When these convictions are used as criminal history, score them the
20 same as a completed crime.

21 (7) If the present conviction is for a nonviolent offense and not
22 covered by subsection (11), (12), or (13) of this section, count one
23 point for each adult prior felony conviction (~~and one point for each~~
24 ~~juvenile prior violent felony conviction and 1/2 point for each~~
25 ~~juvenile prior nonviolent felony conviction~~)).

26 (8) If the present conviction is for a violent offense and not
27 covered in subsection (9), (10), (11), (12), or (13) of this section,
28 count two points for each prior adult (~~and juvenile~~) violent felony
29 conviction, one point for each prior adult nonviolent felony
30 conviction, and ((~~1/2~~)) one point for each prior juvenile
31 (~~nonviolent~~) violent felony conviction.

32 (9) If the present conviction is for a serious violent offense,
33 count three points for prior adult (~~and juvenile~~) convictions for
34 crimes in this category, two points for each prior adult (~~and~~
35 ~~juvenile~~) violent conviction (not already counted), one point for
36 each prior adult nonviolent felony conviction, ((~~and 1/2~~)) one point
37 for each prior juvenile (~~nonviolent~~) felony conviction in this
38 category, and one point for each prior juvenile violent felony
39 conviction (not already counted).

1 (10) If the present conviction is for Burglary 1, count prior
2 convictions as in subsection (8) of this section; however count two
3 points for each prior adult Burglary 2 or residential burglary
4 conviction(~~(, and one point for each prior juvenile Burglary 2 or~~
5 ~~residential burglary conviction)~~).

6 (11) If the present conviction is for a felony traffic offense
7 count two points for each adult (~~(or juvenile)~~) prior conviction for
8 Vehicular Homicide or Vehicular Assault and count one point for each
9 juvenile prior conviction for Vehicular Homicide and Vehicular
10 Assault; for each felony offense count one point for each adult and
11 1/2 point for each juvenile prior conviction; for each serious
12 traffic offense, other than those used for an enhancement pursuant to
13 RCW 46.61.520(2), count one point for each adult and 1/2 point for
14 each juvenile prior conviction; count one point for each adult and
15 1/2 point for each juvenile prior conviction for operation of a
16 vessel while under the influence of intoxicating liquor or any drug.

17 (12) If the present conviction is for homicide by watercraft or
18 assault by watercraft count two points for each adult (~~(or juvenile)~~)
19 prior conviction for homicide by watercraft or assault by watercraft
20 and count one point for each juvenile prior conviction for homicide
21 by watercraft or assault by watercraft; for each felony offense count
22 one point for each adult and 1/2 point for each juvenile prior
23 conviction; count one point for each adult and 1/2 point for each
24 juvenile prior conviction for driving under the influence of
25 intoxicating liquor or any drug, actual physical control of a motor
26 vehicle while under the influence of intoxicating liquor or any drug,
27 or operation of a vessel while under the influence of intoxicating
28 liquor or any drug.

29 (13) If the present conviction is for manufacture of
30 methamphetamine count three points for each adult prior manufacture
31 of methamphetamine conviction (~~(and two points for each juvenile~~
32 ~~manufacture of methamphetamine offense)~~). If the present conviction
33 is for a drug offense and the offender has a criminal history that
34 includes a sex offense or serious violent offense, count three points
35 for each adult prior felony drug offense conviction (~~(and two points~~
36 ~~for each juvenile drug offense)~~). All other adult and juvenile
37 felonies are scored as in subsection (8) of this section if the
38 current drug offense is violent, or as in subsection (7) of this
39 section if the current drug offense is nonviolent.

1 (14) If the present conviction is for Escape from Community
2 Custody, RCW 72.09.310, count only prior escape convictions in the
3 offender score. Count adult prior escape convictions as one point
4 (~~and juvenile prior escape convictions as 1/2 point~~).

5 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
6 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
7 (~~and juvenile prior convictions as 1/2 point~~).

8 (16) If the present conviction is for Burglary 2 or residential
9 burglary, count priors as in subsection (7) of this section; however,
10 count two points for each adult (~~and juvenile~~) prior Burglary 1
11 conviction, two points for each adult prior Burglary 2 or residential
12 burglary conviction (~~, and one point for each juvenile prior Burglary
13 2 or residential burglary conviction~~).

14 (17) If the present conviction is for a sex offense, count priors
15 as in subsections (7) through (11) and (13) through (16) of this
16 section; however count three points for each adult (~~and juvenile~~)
17 prior sex offense conviction and count one point for each juvenile
18 prior felony sex offense conviction.

19 (18) If the present conviction is for failure to register as a
20 sex offender under RCW (~~9A.44.130 or~~) 9A.44.132, count priors as in
21 subsections (7) through (11) and (13) through (16) of this section;
22 however count three points for each adult (~~and juvenile~~) prior sex
23 offense conviction, excluding prior convictions for failure to
24 register as a sex offender under RCW (~~9A.44.130 or~~) 9A.44.132,
25 which shall count as one point.

26 (19) If the present conviction is for an offense committed while
27 the offender was under community custody, add one point. For purposes
28 of this subsection, community custody includes community placement or
29 postrelease supervision, as defined in chapter 9.94B RCW.

30 (20) If the present conviction is for Theft of a Motor Vehicle,
31 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
32 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
33 priors as in subsections (7) through (18) of this section; however
34 count one point for prior adult convictions of Vehicle Prowling 2,
35 and three points for each adult (~~and juvenile~~) prior Theft 1 (of a
36 motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen
37 Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of
38 a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen
39 Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a
40 Motor Vehicle Without Permission 2 conviction.

1 (21) If the present conviction is for a felony domestic violence
2 offense where domestic violence as defined in RCW 9.94A.030 was
3 pleaded and proven, count priors as in subsections (7) through (20)
4 of this section; however, count points as follows:

5 (a) Count two points for each adult prior conviction where
6 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
7 after August 1, 2011, for any of the following offenses: A felony
8 violation of a no-contact or protection order RCW 26.50.110, felony
9 Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW
10 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW
11 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW
12 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210),
13 Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW
14 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

15 (b) Count two points for each adult prior conviction where
16 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
17 after July 23, 2017, for any of the following offenses: Assault of a
18 child in the first degree, RCW 9A.36.120; Assault of a child in the
19 second degree, RCW 9A.36.130; Assault of a child in the third degree,
20 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
21 9A.42.020; or Criminal Mistreatment in the second degree, RCW
22 9A.42.030; and

23 ~~(c) ((Count one point for each second and subsequent juvenile
24 conviction where domestic violence as defined in RCW 9.94A.030 was
25 pleaded and proven after August 1, 2011, for the offenses listed in
26 (a) of this subsection; and~~

27 ~~(d))~~ Count one point for each adult prior conviction for a
28 repetitive domestic violence offense as defined in RCW 9.94A.030,
29 where domestic violence as defined in RCW 9.94A.030, was pleaded and
30 proven after August 1, 2011.

31 (22) The fact that a prior conviction was not included in an
32 offender's offender score or criminal history at a previous
33 sentencing shall have no bearing on whether it is included in the
34 criminal history or offender score for the current offense. Prior
35 convictions that were not counted in the offender score or included
36 in criminal history under repealed or previous versions of the
37 sentencing reform act shall be included in criminal history and shall
38 count in the offender score if the current version of the sentencing
39 reform act requires including or counting those convictions. Prior
40 convictions that were not included in criminal history or in the

1 offender score shall be included upon any resentencing to ensure
2 imposition of an accurate sentence.

--- **END** ---