

EHB 1324 - S COMM AMD

By Committee on Law & Justice

ADOPTED AS AMENDED 04/11/2023

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature intends to:

4 (1) Give real effect to the juvenile justice system's express
5 goals of rehabilitation and reintegration;

6 (2) Bring Washington in line with the majority of states, which
7 do not consider prior juvenile offenses in sentencing range
8 calculations for adults;

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

12 (4) Facilitate the provision of due process by granting the
13 procedural protections of a criminal proceeding in any adjudication
14 which may be used to determine the severity of a criminal sentence;
15 and

16 (5) Recognize how grave disproportionality within the juvenile
17 legal system may subsequently impact sentencing ranges in adult
18 court.

19 **Sec. 2.** RCW 9.94A.525 and 2021 c 215 s 100 are each amended to
20 read as follows:

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

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

25 (1) (a) A prior conviction is a conviction which exists before the
26 date of sentencing for the offense for which the offender score is
27 being computed. Convictions entered or sentenced on the same date as
28 the conviction for which the offender score is being computed shall
29 be deemed "other current offenses" within the meaning of RCW
30 9.94A.589.

1 (b) For the purposes of this section, adjudications of guilt
2 pursuant to Title 13 RCW which are not murder in the first or second
3 degree or class A felony sex offenses may not be included in the
4 offender score.

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

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

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

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

28 (e) If the present conviction is felony driving while under the
29 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
30 felony physical control of a vehicle while under the influence of
31 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
32 crimes for the offense as defined by RCW 46.61.5055(14) shall be
33 included in the offender score, and prior convictions for felony
34 driving while under the influence of intoxicating liquor or any drug
35 (RCW 46.61.502(6)) or felony physical control of a vehicle while
36 under the influence of intoxicating liquor or any drug (RCW
37 46.61.504(6)) shall always be included in the offender score. All
38 other convictions of the defendant shall be scored according to this
39 section.

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

7 (g) This subsection applies to both prior adult convictions and
8 prior juvenile ((~~prior convictions~~)) adjudications.

9 (3) Out-of-state convictions for offenses shall be classified
10 according to the comparable offense definitions and sentences
11 provided by Washington law. Federal convictions for offenses shall be
12 classified according to the comparable offense definitions and
13 sentences provided by Washington law. Neither out-of-state
14 adjudications or convictions for juvenile offenses which are not
15 murder in the first or second degree or class A felony sex offenses,
16 nor federal convictions for juvenile offenses which are not murder in
17 the first or second degree or class A felony sex offenses may be
18 included in the offender score. If there is no clearly comparable
19 offense under Washington law or the offense is one that is usually
20 considered subject to exclusive federal jurisdiction, the offense
21 shall be scored as a class C felony equivalent if it was a felony
22 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~~
34 ~~prior juvenile offenses for which sentences were served~~
35 ~~consecutively~~)), whether those offenses shall be counted as one
36 offense or as separate offenses using the "same criminal conduct"
37 analysis found in RCW 9.94A.589(1) (a), and if the court finds that
38 they shall be counted as one offense, then the offense that yields
39 the highest offender score shall be used. The current sentencing
40 court may presume that such other prior offenses were not the same

1 criminal conduct from sentences imposed on separate dates, or in
2 separate counties or jurisdictions, or in separate complaints,
3 indictments, or 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 or adjudications
7 served concurrently as one offense ~~(, and count all juvenile~~
8 ~~convictions entered on the same date as one offense)~~. Use the
9 conviction for the offense that yields 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~~
24 ~~each 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, and one point for each prior ~~((adult))~~ nonviolent felony
30 conviction ~~(, and 1/2 point for each prior juvenile nonviolent felony~~
31 ~~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), and one point
36 for each prior ~~((adult))~~ nonviolent felony conviction ~~(, and 1/2~~
37 ~~point for each prior juvenile nonviolent felony conviction))~~.

38 (10) If the present conviction is for Burglary 1, count prior
39 convictions as in subsection (8) of this section; however count two
40 points for each prior ~~((adult))~~ Burglary 2 or residential burglary

1 conviction(~~(, and one point for each prior juvenile Burglary 2 or~~
2 ~~residential burglary conviction)~~).

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

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

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

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

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

1 (16) If the present conviction is for Burglary 2 or residential
2 burglary, count priors as in subsection (7) of this section; however,
3 count two points for each (~~adult and juvenile~~) prior Burglary 1
4 conviction, and two points for each (~~adult~~) prior Burglary 2 or
5 residential burglary conviction(~~, and one point for each juvenile~~
6 ~~prior Burglary 2 or residential burglary conviction~~)).

7 (17) If the present conviction is for a sex offense, count priors
8 as in subsections (7) through (11) and (13) through (16) of this
9 section; however count three points for each adult prior sex offense
10 conviction and juvenile prior class A felony sex offense
11 (~~conviction~~) adjudication.

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

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

23 (20) If the present conviction is for Theft of a Motor Vehicle,
24 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
25 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
26 priors as in subsections (7) through (18) of this section; however
27 count one point for prior convictions of Vehicle Prowling 2, and
28 three points for each (~~adult and juvenile~~) prior Theft 1 (of a
29 motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen
30 Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of
31 a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen
32 Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a
33 Motor Vehicle Without Permission 2 conviction.

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

38 (a) Count two points for each (~~adult~~) prior conviction where
39 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
40 after August 1, 2011, for any of the following offenses: A felony

1 violation of a no-contact or protection order (RCW 7.105.450 or
2 former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),
3 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),
4 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful
5 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2
6 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW
7 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or
8 Arson 2 (RCW 9A.48.030);

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

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

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

25 (22) The fact that a prior conviction was not included in an
26 offender's offender score or criminal history at a previous
27 sentencing shall have no bearing on whether it is included in the
28 criminal history or offender score for the current offense. Prior
29 convictions that were not counted in the offender score or included
30 in criminal history under repealed or previous versions of the
31 sentencing reform act shall be included in criminal history and shall
32 count in the offender score if the current version of the sentencing
33 reform act requires including or counting those convictions. Prior
34 convictions that were not included in criminal history or in the
35 offender score shall be included upon any resentencing to ensure
36 imposition of an accurate sentence."

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1 On page 1, line 2 of the title, after "calculations;" strike the
2 remainder of the title and insert "amending RCW 9.94A.525; and
3 creating a new section."

EFFECT: (1) Requires juvenile adjudications for murder in the first and second degree and class A felony sex offenses to be included in offender score calculations to the same extent as under current law.

(2) Removes all retroactive application of the act.

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