

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1324

Chapter 415, Laws of 2023

68th Legislature
2023 Regular Session

CRIMINAL SENTENCING—OFFENDER SCORE—PRIOR JUVENILE OFFENSES

EFFECTIVE DATE: July 23, 2023

Passed by the House April 22, 2023
Yeas 50 Nays 48

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 11, 2023
Yeas 26 Nays 23

DENNY HECK

President of the Senate

Approved May 11, 2023 9:42 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1324** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 11, 2023

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1324

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington **68th Legislature** **2023 Regular Session**

By Representatives Hackney, Senn, Simmons, Reed, Lekanoff, Doglio, Pollet, and Macri

Read first time 01/16/23. Referred to Committee on Community Safety, Justice, & Reentry.

1 AN ACT Relating to the scoring of prior juvenile offenses in
2 sentencing range calculations; amending RCW 9.94A.525; and creating a
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature intends to:

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

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

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

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

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

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

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

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

7 (1) (a) A prior conviction is a conviction which exists before the
8 date of sentencing for the offense for which the offender score is
9 being computed. Convictions entered or sentenced on the same date as
10 the conviction for which the offender score is being computed shall
11 be deemed "other current offenses" within the meaning of RCW
12 9.94A.589.

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

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

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

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

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

1 (e) If the present conviction is felony driving while under the
2 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
3 felony physical control of a vehicle while under the influence of
4 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
5 crimes for the offense as defined by RCW 46.61.5055(14) shall be
6 included in the offender score, and prior convictions for felony
7 driving while under the influence of intoxicating liquor or any drug
8 (RCW 46.61.502(6)) or felony physical control of a vehicle while
9 under the influence of intoxicating liquor or any drug (RCW
10 46.61.504(6)) shall always be included in the offender score. All
11 other convictions of the defendant shall be scored according to this
12 section.

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

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

21 (3) Out-of-state convictions for offenses shall be classified
22 according to the comparable offense definitions and sentences
23 provided by Washington law. Federal convictions for offenses shall be
24 classified according to the comparable offense definitions and
25 sentences provided by Washington law. Neither out-of-state or federal
26 convictions which would have been presumptively adjudicated in
27 juvenile court under Washington law may be included in the offender
28 score unless they are comparable to murder in the first or second
29 degree or a class A felony sex offense. If there is no clearly
30 comparable offense under Washington law or the offense is one that is
31 usually considered subject to exclusive federal jurisdiction, the
32 offense shall be scored as a class C felony equivalent if it was a
33 felony under the relevant federal statute.

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

37 (5) (a) In the case of multiple prior convictions, for the purpose
38 of computing the offender score, count all convictions separately,
39 except:

1 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a),
2 to encompass the same criminal conduct, shall be counted as one
3 offense, the offense that yields the highest offender score. The
4 current sentencing court shall determine with respect to other prior
5 adult offenses for which sentences were served concurrently or prior
6 juvenile offenses for which sentences were served consecutively,
7 whether those offenses shall be counted as one offense or as separate
8 offenses using the "same criminal conduct" analysis found in RCW
9 9.94A.589(1)(a), and if the court finds that they shall be counted as
10 one offense, then the offense that yields the highest offender score
11 shall be used. The current sentencing court may presume that such
12 other prior offenses were not the same criminal conduct from
13 sentences imposed on separate dates, or in separate counties or
14 jurisdictions, or in separate complaints, indictments, or
15 informations;

16 (ii) In the case of multiple prior convictions for offenses
17 committed before July 1, 1986, for the purpose of computing the
18 offender score, count all (~~adult~~) convictions or adjudications
19 served concurrently as one offense(~~, and count all juvenile~~
20 ~~convictions entered on the same date as one offense~~). Use the
21 conviction for the offense that yields the highest offender score.

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

28 (6) If the present conviction is one of the anticipatory offenses
29 of criminal attempt, solicitation, or conspiracy, count each prior
30 conviction as if the present conviction were for a completed offense.
31 When these convictions are used as criminal history, score them the
32 same as a completed crime.

33 (7) If the present conviction is for a nonviolent offense and not
34 covered by subsection (11), (12), or (13) of this section, count one
35 point for each adult prior felony conviction and one point for each
36 juvenile prior violent felony conviction (~~and 1/2 point for each~~
37 ~~juvenile prior nonviolent felony conviction~~) which is scorable under
38 subsection (1)(b) of this section.

39 (8) If the present conviction is for a violent offense and not
40 covered in subsection (9), (10), (11), (12), or (13) of this section,

1 count two points for each prior adult violent felony conviction and
2 juvenile violent felony conviction which is scorable under subsection
3 (1)(b) of this section, and one point for each prior adult nonviolent
4 felony conviction (~~(, and 1/2 point for each prior juvenile nonviolent~~
5 ~~felony conviction)~~).

6 (9) If the present conviction is for a serious violent offense,
7 count three points for prior adult convictions and juvenile
8 convictions which are scorable under subsection (1)(b) of this
9 section for crimes in this category, two points for each prior adult
10 and scorable juvenile violent conviction (not already counted), and
11 one point for each prior adult nonviolent felony conviction (~~(, and~~
12 ~~1/2 point for each prior juvenile nonviolent felony conviction)~~).

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

18 (11) If the present conviction is for a felony traffic offense
19 count two points for each (~~adult or juvenile~~) prior conviction for
20 Vehicular Homicide or Vehicular Assault; for each felony offense
21 count one point for each adult prior conviction and 1/2 point for
22 each juvenile prior conviction which is scorable under subsection
23 (1)(b) of this section; for each serious traffic offense, other than
24 those used for an enhancement pursuant to RCW 46.61.520(2), count one
25 point for each adult prior conviction and 1/2 point for each juvenile
26 prior conviction which is scorable under subsection (1)(b) of this
27 section; count one point for each adult (~~and 1/2 point for each~~
28 ~~juvenile~~) prior conviction for operation of a vessel while under the
29 influence of intoxicating liquor or any drug.

30 (12) If the present conviction is for homicide by watercraft or
31 assault by watercraft count two points for each adult (~~or juvenile~~)
32 prior conviction for homicide by watercraft or assault by watercraft;
33 for each felony offense count one point for each adult prior
34 conviction and 1/2 point for each juvenile prior conviction which
35 would be scorable under subsection (1)(b) of this section; count one
36 point for each adult (~~and 1/2 point for each juvenile~~) prior
37 conviction for driving under the influence of intoxicating liquor or
38 any drug, actual physical control of a motor vehicle while under the
39 influence of intoxicating liquor or any drug, or operation of a
40 vessel while under the influence of intoxicating liquor or any drug.

1 (13) If the present conviction is for manufacture of
2 methamphetamine count three points for each adult prior manufacture
3 of methamphetamine conviction (~~and two points for each juvenile~~
4 ~~manufacture of methamphetamine offense~~). If the present conviction
5 is for a drug offense and the offender has a criminal history that
6 includes a sex offense or serious violent offense, count three points
7 for each adult prior felony drug offense conviction (~~and two points~~
8 ~~for each juvenile drug offense~~). All other (~~adult and juvenile~~)
9 felonies are scored as in subsection (8) of this section if the
10 current drug offense is violent, or as in subsection (7) of this
11 section if the current drug offense is nonviolent.

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

16 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
17 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
18 and juvenile prior convictions which are scorable under subsection
19 (1)(b) of this section as 1/2 point.

20 (16) If the present conviction is for Burglary 2 or residential
21 burglary, count priors as in subsection (7) of this section; however,
22 count two points for each (~~adult and juvenile~~) prior Burglary 1
23 conviction, and two points for each (~~adult~~) prior Burglary 2 or
24 residential burglary conviction(~~, and one point for each juvenile~~
25 ~~prior Burglary 2 or residential burglary conviction~~).

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

31 (18) If the present conviction is for failure to register as a
32 sex offender under RCW 9A.44.130 or 9A.44.132, count priors as in
33 subsections (7) through (11) and (13) through (16) of this section;
34 however count three points for each adult prior sex offense
35 conviction and juvenile prior sex offense conviction which is
36 scorable under subsection (1)(b) of this section, excluding adult
37 prior convictions for failure to register as a sex offender under RCW
38 9A.44.130 or 9A.44.132, which shall count as one point.

39 (19) If the present conviction is for an offense committed while
40 the offender was under community custody, add one point. For purposes

1 of this subsection, community custody includes community placement or
2 postrelease supervision, as defined in chapter 9.94B RCW.

3 (20) If the present conviction is for Theft of a Motor Vehicle,
4 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
5 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
6 priors as in subsections (7) through (18) of this section; however
7 count one point for prior convictions of Vehicle Prowling 2, and
8 three points for each adult ((and juvenile)) prior Theft 1 (of a
9 motor vehicle), Theft 2 (of a motor vehicle), Possession of Stolen
10 Property 1 (of a motor vehicle), Possession of Stolen Property 2 (of
11 a motor vehicle), Theft of a Motor Vehicle, Possession of a Stolen
12 Vehicle, Taking a Motor Vehicle Without Permission 1, or Taking a
13 Motor Vehicle Without Permission 2 conviction.

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

18 (a) Count two points for each adult prior conviction where
19 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
20 after August 1, 2011, for any of the following offenses: A felony
21 violation of a no-contact or protection order (RCW 7.105.450 or
22 former RCW 26.50.110), felony Harassment (RCW 9A.46.020(2)(b)),
23 felony Stalking (RCW 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020),
24 Kidnapping 1 (RCW 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful
25 imprisonment (RCW 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2
26 (RCW 9A.56.210), Assault 1 (RCW 9A.36.011), Assault 2 (RCW
27 9A.36.021), Assault 3 (RCW 9A.36.031), Arson 1 (RCW 9A.48.020), or
28 Arson 2 (RCW 9A.48.030);

29 (b) Count two points for each adult prior conviction where
30 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
31 after July 23, 2017, for any of the following offenses: Assault of a
32 child in the first degree, RCW 9A.36.120; Assault of a child in the
33 second degree, RCW 9A.36.130; Assault of a child in the third degree,
34 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
35 9A.42.020; or Criminal Mistreatment in the second degree, RCW
36 9A.42.030; and

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

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

5 (22) The fact that a prior conviction was not included in an
6 offender's offender score or criminal history at a previous
7 sentencing shall have no bearing on whether it is included in the
8 criminal history or offender score for the current offense. Prior
9 convictions that were not counted in the offender score or included
10 in criminal history under repealed or previous versions of the
11 sentencing reform act shall be included in criminal history and shall
12 count in the offender score if the current version of the sentencing
13 reform act requires including or counting those convictions. Prior
14 convictions that were not included in criminal history or in the
15 offender score shall be included upon any resentencing to ensure
16 imposition of an accurate sentence.

Passed by the House April 22, 2023.
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