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HOUSE BILL 2231

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State of Washington

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By Representatives Leavitt, Ryu, and Reeves

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1 AN ACT Relating to enhanced penalties for felony offenses  
2 committed at a postsecondary institution that involve an attempt by  
3 the defendant to conceal their identity; amending RCW 9.94A.533;  
4 adding a new section to chapter 9.94A RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A  
7 RCW to read as follows:

8 (1) The prosecuting attorney may file a special allegation of  
9 attempting to conceal identity in every felony criminal case, when  
10 sufficient admissible evidence exists, to show that the defendant:

11 (a) Committed the offense, in whole or in part, on the premises  
12 of a postsecondary institution; and

13 (b) Wore a mask, hood, or other article of clothing or device  
14 that covered, hid, or concealed any portion of the defendant's face,  
15 with the intent to prevent identification during the commission of  
16 the offense or in immediate flight therefrom.

17 (2) In a criminal case in which there has been a special  
18 allegation, the state shall prove beyond a reasonable doubt that the  
19 accused committed the offense under the circumstances described in  
20 subsection (1) of this section. The court shall make a finding of  
21 fact of whether or not the circumstances described in subsection (1)

1 of this section occurred, or if a jury trial is had, the jury shall,  
2 if it finds the defendant guilty, also find a special verdict as to  
3 whether or not the circumstances described in subsection (1) of this  
4 section occurred.

5 (3) For the purposes of this section, "postsecondary institution"  
6 means any public or private institution of higher education, public  
7 or private vocational school, degree-granting institution as defined  
8 in RCW 28B.85.010, or school as defined in RCW 18.16.020, located in  
9 the state.

10 **Sec. 2.** RCW 9.94A.533 and 2024 c 301 s 28 are each amended to  
11 read as follows:

12 (1) The provisions of this section apply to the standard sentence  
13 ranges determined by RCW 9.94A.510 or 9.94A.517.

14 (2) For persons convicted of the anticipatory offenses of  
15 criminal attempt, solicitation, or conspiracy under chapter 9A.28  
16 RCW, the standard sentence range is determined by locating the  
17 sentencing grid sentence range defined by the appropriate offender  
18 score and the seriousness level of the completed crime, and  
19 multiplying the range by (~~seventy-five~~) 75 percent.

20 (3) The following additional times shall be added to the standard  
21 sentence range for felony crimes committed after July 23, 1995, if  
22 the offender or an accomplice was armed with a firearm as defined in  
23 RCW 9.41.010 and the offender is being sentenced for one of the  
24 crimes listed in this subsection as eligible for any firearm  
25 enhancements based on the classification of the completed felony  
26 crime. If the offender is being sentenced for more than one offense,  
27 the firearm enhancement or enhancements must be added to the total  
28 period of confinement for all offenses, regardless of which  
29 underlying offense is subject to a firearm enhancement. If the  
30 offender or an accomplice was armed with a firearm as defined in RCW  
31 9.41.010 and the offender is being sentenced for an anticipatory  
32 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
33 this subsection as eligible for any firearm enhancements, the  
34 following additional times shall be added to the standard sentence  
35 range determined under subsection (2) of this section based on the  
36 felony crime of conviction as classified under RCW 9A.28.020:

37 (a) Five years for any felony defined under any law as a class A  
38 felony or with a statutory maximum sentence of at least (~~twenty~~) 20  
39 years, or both, and not covered under (f) of this subsection;

1 (b) Three years for any felony defined under any law as a class B  
2 felony or with a statutory maximum sentence of (~~ten~~) 10 years, or  
3 both, and not covered under (f) of this subsection;

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

7 (d) If the offender is being sentenced for any firearm  
8 enhancements under (a), (b), and/or (c) of this subsection and the  
9 offender has previously been sentenced for any deadly weapon  
10 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
11 subsection or subsection (4)(a), (b), and/or (c) of this section, or  
12 both, all firearm enhancements under this subsection shall be twice  
13 the amount of the enhancement listed;

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

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

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

24 (f) The firearm enhancements in this section shall apply to all  
25 felony crimes except the following: Possession of a machine gun or  
26 bump-fire stock, possessing a stolen firearm, drive-by shooting,  
27 theft of a firearm, unlawful possession of a firearm in the first and  
28 second degree, and use of a machine gun or bump-fire stock in a  
29 felony;

30 (g) If the standard sentence range under this section exceeds the  
31 statutory maximum sentence for the offense, the statutory maximum  
32 sentence shall be the presumptive sentence unless the offender is a  
33 persistent offender. If the addition of a firearm enhancement  
34 increases the sentence so that it would exceed the statutory maximum  
35 for the offense, the portion of the sentence representing the  
36 enhancement may not be reduced.

37 (4) The following additional times shall be added to the standard  
38 sentence range for felony crimes committed after July 23, 1995, if  
39 the offender or an accomplice was armed with a deadly weapon other  
40 than a firearm as defined in RCW 9.41.010 and the offender is being

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

15 (a) Two years for any felony defined under any law as a class A  
16 felony or with a statutory maximum sentence of at least (~~twenty~~) 20  
17 years, or both, and not covered under (f) of this subsection;

18 (b) One year for any felony defined under any law as a class B  
19 felony or with a statutory maximum sentence of (~~ten~~) 10 years, or  
20 both, and not covered under (f) of this subsection;

21 (c) Six months for any felony defined under any law as a class C  
22 felony or with a statutory maximum sentence of five years, or both,  
23 and not covered under (f) of this subsection;

24 (d) If the offender is being sentenced under (a), (b), and/or (c)  
25 of this subsection for any deadly weapon enhancements and the  
26 offender has previously been sentenced for any deadly weapon  
27 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
28 subsection or subsection (3)(a), (b), and/or (c) of this section, or  
29 both, all deadly weapon enhancements under this subsection shall be  
30 twice the amount of the enhancement listed;

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

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

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

1 (f) The deadly weapon enhancements in this section shall apply to  
2 all felony crimes except the following: Possession of a machine gun  
3 or bump-fire stock, possessing a stolen firearm, drive-by shooting,  
4 theft of a firearm, unlawful possession of a firearm in the first and  
5 second degree, and use of a machine gun or bump-fire stock in a  
6 felony;

7 (g) If the standard sentence range under this section exceeds the  
8 statutory maximum sentence for the offense, the statutory maximum  
9 sentence shall be the presumptive sentence unless the offender is a  
10 persistent offender. If the addition of a deadly weapon enhancement  
11 increases the sentence so that it would exceed the statutory maximum  
12 for the offense, the portion of the sentence representing the  
13 enhancement may not be reduced.

14 (5) The following additional times shall be added to the standard  
15 sentence range if the offender or an accomplice committed the offense  
16 while in a county jail or state correctional facility and the  
17 offender is being sentenced for one of the crimes listed in this  
18 subsection. If the offender or an accomplice committed one of the  
19 crimes listed in this subsection while in a county jail or state  
20 correctional facility, and the offender is being sentenced for an  
21 anticipatory offense under chapter 9A.28 RCW to commit one of the  
22 crimes listed in this subsection, the following additional times  
23 shall be added to the standard sentence range determined under  
24 subsection (2) of this section:

25 (a) Eighteen months for offenses committed under RCW 69.50.401(2)

26 (a) or (b) or 69.50.410;

27 (b) Fifteen months for offenses committed under RCW 69.50.401(2)

28 (c), (d), or (e);

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

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

33 (6) An additional (~~twenty-four~~) 24 months shall be added to the  
34 standard sentence range for any ranked offense involving a violation  
35 of chapter 69.50 RCW if the offense was also a violation of RCW  
36 69.50.435 or 9.94A.827. All enhancements under this subsection shall  
37 run consecutively to all other sentencing provisions, for all  
38 offenses sentenced under this chapter.

39 (7) An additional two years shall be added to the standard  
40 sentence range for vehicular homicide committed while under the

1 influence of intoxicating liquor or any drug as defined by RCW  
2 46.61.502 for each prior offense as defined in RCW 46.61.5055.

3 Notwithstanding any other provision of law, all impaired driving  
4 enhancements under this subsection are mandatory, shall be served in  
5 total confinement, and shall run consecutively to all other  
6 sentencing provisions, including other impaired driving enhancements,  
7 for all offenses sentenced under this chapter.

8 An offender serving a sentence under this subsection may be  
9 granted an extraordinary medical placement when authorized under RCW  
10 9.94A.728(1)(c).

11 (8)(a) The following additional times shall be added to the  
12 standard sentence range for felony crimes committed on or after July  
13 1, 2006, if the offense was committed with sexual motivation, as that  
14 term is defined in RCW 9.94A.030. If the offender is being sentenced  
15 for more than one offense, the sexual motivation enhancement must be  
16 added to the total period of total confinement for all offenses,  
17 regardless of which underlying offense is subject to a sexual  
18 motivation enhancement. If the offender committed the offense with  
19 sexual motivation and the offender is being sentenced for an  
20 anticipatory offense under chapter 9A.28 RCW, the following  
21 additional times shall be added to the standard sentence range  
22 determined under subsection (2) of this section based on the felony  
23 crime of conviction as classified under RCW 9A.28.020:

24 (i) Two years for any felony defined under the law as a class A  
25 felony or with a statutory maximum sentence of at least (~~twenty~~) 20  
26 years, or both;

27 (ii) Eighteen months for any felony defined under any law as a  
28 class B felony or with a statutory maximum sentence of (~~ten~~) 10  
29 years, or both;

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

32 (iv) If the offender is being sentenced for any sexual motivation  
33 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
34 the offender has previously been sentenced for any sexual motivation  
35 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
36 (iii) of this subsection, all sexual motivation enhancements under  
37 this subsection shall be twice the amount of the enhancement listed;

38 (b) Notwithstanding any other provision of law, all sexual  
39 motivation enhancements under this subsection are mandatory, shall be  
40 served in total confinement, and shall run consecutively to all other

1 sentencing provisions, including other sexual motivation  
2 enhancements, for all offenses sentenced under this chapter. However,  
3 whether or not a mandatory minimum term has expired, an offender  
4 serving a sentence under this subsection may be:

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

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

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

10 (d) If the standard sentence range under this subsection exceeds  
11 the statutory maximum sentence for the offense, the statutory maximum  
12 sentence shall be the presumptive sentence unless the offender is a  
13 persistent offender. If the addition of a sexual motivation  
14 enhancement increases the sentence so that it would exceed the  
15 statutory maximum for the offense, the portion of the sentence  
16 representing the enhancement may not be reduced;

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

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

23 (9) An additional one-year enhancement shall be added to the  
24 standard sentence range for the felony crimes of RCW 9A.44.073,  
25 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
26 or after July 22, 2007, if the offender engaged, agreed, or offered  
27 to engage the victim in the sexual conduct in return for a fee. If  
28 the offender is being sentenced for more than one offense, the  
29 one-year enhancement must be added to the total period of total  
30 confinement for all offenses, regardless of which underlying offense  
31 is subject to the enhancement. If the offender is being sentenced for  
32 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
33 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
34 offender attempted, solicited another, or conspired to engage, agree,  
35 or offer to engage the victim in the sexual conduct in return for a  
36 fee, an additional one-year enhancement shall be added to the  
37 standard sentence range determined under subsection (2) of this  
38 section. For purposes of this subsection, "sexual conduct" means  
39 sexual intercourse or sexual contact, both as defined in chapter  
40 9A.44 RCW.

1           (10) (a) For a person age (~~eighteen~~) 18 or older convicted of  
2 any criminal street gang-related felony offense for which the person  
3 compensated, threatened, or solicited a minor in order to involve the  
4 minor in the commission of the felony offense, the standard sentence  
5 range is determined by locating the sentencing grid sentence range  
6 defined by the appropriate offender score and the seriousness level  
7 of the completed crime, and multiplying the range by (~~one hundred~~  
8 ~~twenty-five~~) 125 percent. If the standard sentence range under this  
9 subsection exceeds the statutory maximum sentence for the offense,  
10 the statutory maximum sentence is the presumptive sentence unless the  
11 offender is a persistent offender.

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

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

19           (11) An additional (~~twelve~~) 12 months and one day shall be  
20 added to the standard sentence range for a conviction of attempting  
21 to elude a police vehicle as defined by RCW 46.61.024, if the  
22 conviction included a finding by special allegation of endangering  
23 one or more persons under RCW 9.94A.834.

24           (12) An additional (~~twelve~~) 12 months shall be added to the  
25 standard sentence range for an offense that is also a violation of  
26 RCW 9.94A.831.

27           (13) An additional (~~twelve~~) 12 months shall be added to the  
28 standard sentence range for vehicular homicide committed while under  
29 the influence of intoxicating liquor or any drug as defined by RCW  
30 46.61.520 or for vehicular assault committed while under the  
31 influence of intoxicating liquor or any drug as defined by RCW  
32 46.61.522, or for any felony driving under the influence (RCW  
33 46.61.502(6)) or felony physical control under the influence (RCW  
34 46.61.504(6)) for each child passenger under the age of (~~sixteen~~)  
35 16 who is an occupant in the defendant's vehicle. These enhancements  
36 shall be mandatory, shall be served in total confinement, and shall  
37 run consecutively to all other sentencing provisions, including other  
38 minor child enhancements, for all offenses sentenced under this  
39 chapter. If the addition of a minor child enhancement increases the  
40 sentence so that it would exceed the statutory maximum for the

1 offense, the portion of the sentence representing the enhancement  
2 shall be mandatory, shall be served in total confinement, and shall  
3 run consecutively to all other sentencing provisions.

4 (14) An additional (~~twelve~~) 12 months shall be added to the  
5 standard sentence range for an offense that is also a violation of  
6 RCW 9.94A.832.

7 (15) An additional 12 months may, at the discretion of the court,  
8 be added to the standard sentence range for an offense that is also a  
9 violation of RCW 9.94A.828.

10 (16)(a) Except as provided in (b) of this subsection, an  
11 additional 12 months shall be added to the standard sentence range  
12 for an offense if the conviction included a finding by special  
13 allegation of attempting to conceal identity under section 1 of this  
14 act.

15 (b) The court may impose an additional fine not to exceed \$5,000  
16 in addition to, or in lieu of, the 12-month enhancement described in  
17 (a) of this subsection.

18 (17) Regardless of any provisions in this section, if a person is  
19 being sentenced in adult court for a crime committed under age  
20 (~~eighteen~~) 18, the court has full discretion to depart from  
21 mandatory sentencing enhancements and to take the particular  
22 circumstances surrounding the defendant's youth into account.

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