

SENATE BILL 6599

State of Washington 53rd Legislature 1994 Regular Session

By Senators Roach, West, Amondson, Schow, McCaslin, Hochstatter, Cantu, Oke, L. Smith, Morton and Anderson

Read first time 02/07/94. Referred to Committee on Law & Justice.

1 AN ACT Relating to increasing penalties for armed crimes; amending
2 RCW 9.94A.310, 9A.36.045, 9A.36.050, 9A.56.040, 9A.56.160, and
3 9.94A.150; reenacting and amending RCW 9.94A.320 and 9.41.040; adding
4 a new section to chapter 9.94A RCW; adding a new section to chapter
5 9A.36 RCW; adding new sections to chapter 9A.56 RCW; creating a new
6 section; and prescribing penalties.

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

8 Sec. 1. RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read
9 as follows:

10 (1) TABLE 1

11 Sentencing Grid

12 SERIOUSNESS	13 OFFENDER SCORE									
14 SCORE	0	1	2	3	4	5	6	7	8	9 or more
15										
16	17 XV Life Sentence without Parole/Death Penalty									

1											
2	XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
3		240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
4		320	333	347	361	374	388	416	450	493	548
5											
6	XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
7		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
8		164	178	192	205	219	233	260	288	342	397
9											
10	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
11		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
12		123	136	147	160	171	184	216	236	277	318
13											
14	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
15		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
16		102	114	125	136	147	158	194	211	245	280
17											
18	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
19		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
20		68	75	82	89	96	102	130	144	171	198
21											
22	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
23		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
24		41	48	54	61	68	75	102	116	144	171
25											
26	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
27		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
28		27	34	41	48	54	61	89	102	116	144
29											
30	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
31		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
32		20	27	34	41	48	54	75	89	102	116
33											
34	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
35		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
36		14	20	27	34	41	48	61	75	89	102
37											

1	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
2		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
3		12	14	17	20	29	43	54	68	82	96
4	<hr/>										
5	IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
6		3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
7		9	12	14	17	20	29	43	57	70	84
8	<hr/>										
9	III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
10		1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
11		3	8	12	12	16	22	29	43	57	68
12	<hr/>										
13	II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
14		0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
15		Days	6	9	12	14	18	22	29	43	57
16	<hr/>										
17	I		3m	4m	5m	8m	13m	16m	20m	2y2m	
18		0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
19		Days	Days	5	6	8	12	14	18	22	29
20	<hr/>										

21 NOTE: Numbers in the first horizontal row of each seriousness category
22 represent sentencing midpoints in years(y) and months(m). Numbers in
23 the second and third rows represent presumptive sentencing ranges in
24 months, or in days if so designated. 12+ equals one year and one day.

25 (2) For persons convicted of the anticipatory offenses of criminal
26 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
27 presumptive sentence is determined by locating the sentencing grid
28 sentence range defined by the appropriate offender score and the
29 seriousness level of the completed crime, and multiplying the range by
30 75 percent.

31 (3) The following additional times shall be added to the
32 presumptive sentence range for felony crimes committed after the
33 effective date of this section if the offender or an accomplice was
34 armed with a firearm as defined in RCW 9.41.010 and the offender is
35 being sentenced for one of the crimes listed in this subsection. If
36 the offender or an accomplice was armed with a firearm as defined in
37 RCW 9.41.010 and the offender is being sentenced for an anticipatory
38 offense under chapter 9A.28 RCW to commit one of the crimes listed in

1 this subsection, the following additional times shall be added to the
2 presumptive range determined under subsection (2) of this section:

3 (a) Five years for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW
4 9A.56.200), Kidnapping 1 (RCW 9A.40.020), Burglary 1 (RCW 9A.52.020),
5 or any other felony defined under any law as a class A felony and not
6 covered under (e) of this subsection.

7 (b) Three years for Assault 2 (RCW 9A.36.021), Escape 1 (RCW
8 9A.76.110), Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building
9 other than a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW
10 9A.56.080), any felony drug offense or any class B felony under RCW
11 9A.20.021(1)(b) not specifically listed in this subsection and not
12 covered under (e) of this subsection.

13 (c) Eighteen months for any other class C felony under RCW
14 9A.20.021(1)(c) and not covered under (b) or (e) of this subsection.

15 (d) If the offender is being sentenced under (a), (b), and/or (c)
16 of this subsection and the offender has already been previously
17 sentenced after the effective date of this section under (a), (b),
18 and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of
19 this section, the presumptive sentences under this subsection are
20 automatically doubled.

21 (e) Any and all crimes which by definition required the
22 possession, theft, display, use, or discharge of a firearm are excluded
23 from this subsection.

24 (4) The following additional times shall be added to the
25 presumptive sentence range for felony crimes committed after the
26 effective date of this section if the offender or an accomplice was
27 armed with a deadly weapon as defined in this chapter other than a
28 firearm as defined in RCW 9.41.010 and the offender is being sentenced
29 for one of the crimes listed in this subsection. If the offender or an
30 accomplice was armed with a deadly weapon other than a firearm as
31 defined in RCW 9.41.010 and the offender is being sentenced for an
32 anticipatory offense under chapter 9A.28 RCW to commit one of the
33 crimes listed in this subsection, the following additional times shall
34 be added to the presumptive sentence range determined under subsection
35 (2) of this section:

36 (a) (~~(24 months)~~) Two years for Rape 1 (RCW 9A.44.040), Robbery 1
37 (RCW 9A.56.200), (~~(or)~~) Kidnapping 1 (RCW 9A.40.020), Burglary 1 (RCW
38 9A.52.020), or any other felony defined under any law as a class A
39 felony and not covered under (e) of this subsection;

1 (b) ~~((18 months for Burglary 1 (RCW 9A.52.020))~~) One year for
2 Assault 2 (RCW 9A.36.021), Escape 1 (RCW 9A.76.110), Kidnapping 2 (RCW
3 9A.40.030), Burglary 2 of a building other than a dwelling (RCW
4 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), any felony drug
5 offense, or any class B felony as defined in RCW 9A.20.021(1)(b) not
6 specifically listed in this subsection and not covered under (e) of
7 this subsection;

8 (c) ~~((12 months for Assault 2 (RCW 9A.36.020 or 9A.36.021),~~
9 ~~Assault of a Child 2 (RCW 9A.36.130), Escape 1 (RCW 9A.76.110),~~
10 ~~Kidnapping 2 (RCW 9A.40.030), Burglary 2 of a building other than a~~
11 ~~dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or~~
12 ~~any drug offense)) Six months for any other class C felony as defined
13 in RCW 9A.20.021(1)(c) and not covered under (b) or (e) of this
14 subsection.~~

15 (d) If the offender is being sentenced under (a), (b), and/or (c)
16 of this subsection and the offender has already been previously
17 sentenced after the effective date of this section under (a), (b),
18 and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of
19 this section the presumptive sentences under this subsection are
20 automatically doubled.

21 (e) Any and all crimes which by definition require the possession,
22 theft, display, or use of any deadly weapon other than a firearm as
23 defined in RCW 9.41.010 are excluded from this subsection.

24 ~~((4))~~ (5) The following additional times shall be added to the
25 presumptive sentence range if the offender or an accomplice committed
26 the offense while in a county jail or state correctional facility as
27 that term is defined in this chapter and the offender is being
28 sentenced for one of the crimes listed in this subsection. If the
29 offender or an accomplice committed one of the crimes listed in this
30 subsection while in a county jail or state correctional facility as
31 that term is defined in this chapter, and the offender is being
32 sentenced for an anticipatory offense under chapter 9A.28 RCW to commit
33 one of the crimes listed in this subsection, the following additional
34 times shall be added to the presumptive sentence range determined under
35 subsection (2) of this section:

36 (a) Eighteen months for offenses committed under RCW
37 69.50.401(a)(1)(i) or 69.50.410;

38 (b) Fifteen months for offenses committed under RCW
39 69.50.401(a)(1)(ii), (iii), and (iv);

1 (c) Twelve months for offenses committed under RCW 69.50.401(d).
2 For the purposes of this subsection, all of the real property of
3 a state correctional facility or county jail shall be deemed to be part
4 of that facility or county jail.

5 (~~(+5)~~) (6) An additional twenty-four months shall be added to the
6 presumptive sentence for any ranked offense involving a violation of
7 chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

8 **Sec. 2.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are
9 each reenacted and amended to read as follows:

10 TABLE 2

11 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

12	XV	Aggravated Murder 1 (RCW 10.95.020)
13	XIV	Murder 1 (RCW 9A.32.030)
14		Homicide by abuse (RCW 9A.32.055)
15	XIII	Murder 2 (RCW 9A.32.050)
16	XII	Assault 1 (RCW 9A.36.011)
17		Assault of a Child 1 (RCW 9A.36.120)
18	XI	Rape 1 (RCW 9A.44.040)
19		Rape of a Child 1 (RCW 9A.44.073)
20	X	Kidnapping 1 (RCW 9A.40.020)
21		Rape 2 (RCW 9A.44.050)
22		Rape of a Child 2 (RCW 9A.44.076)
23		Child Molestation 1 (RCW 9A.44.083)
24		Damaging building, etc., by explosion with
25		threat to human being (RCW
26		70.74.280(1))
27		Over 18 and deliver heroin or narcotic from
28		Schedule I or II to someone under 18
29		(RCW 69.50.406)
30		Leading Organized Crime (RCW
31		9A.82.060(1)(a))

1 IX Assault of a Child 2 (RCW 9A.36.130)
2 Robbery 1 (RCW 9A.56.200)
3 Manslaughter 1 (RCW 9A.32.060)
4 Explosive devices prohibited (RCW 70.74.180)
5 Indecent Liberties (with forcible
6 compulsion) (RCW 9A.44.100(1)(a))
7 Endangering life and property by explosives
8 with threat to human being (RCW
9 70.74.270)
10 Over 18 and deliver narcotic from Schedule
11 III, IV, or V or a nonnarcotic from
12 Schedule I-V to someone under 18 and 3
13 years junior (RCW 69.50.406)
14 Controlled Substance Homicide (RCW
15 69.50.415)
16 Sexual Exploitation (RCW 9.68A.040)
17 Inciting Criminal Profiteering (RCW
18 9A.82.060(1)(b))
19 VIII Arson 1 (RCW 9A.48.020)
20 Promoting Prostitution 1 (RCW 9A.88.070)
21 Selling for profit (controlled or
22 counterfeit) any controlled substance
23 (RCW 69.50.410)
24 Manufacture, deliver, or possess with intent
25 to deliver heroin or cocaine (RCW
26 69.50.401(a)(1)(i))
27 Manufacture, deliver, or possess with intent
28 to deliver methamphetamine (RCW
29 69.50.401(a)(1)(ii))
30 Vehicular Homicide, by being under the
31 influence of intoxicating liquor or any
32 drug or by the operation of any vehicle
33 in a reckless manner (RCW 46.61.520)
34 VII Burglary 1 (RCW 9A.52.020)
35 Vehicular Homicide, by disregard for the
36 safety of others (RCW 46.61.520)
37 Introducing Contraband 1 (RCW 9A.76.140)

1 Indecent Liberties (without forcible
2 compulsion) (RCW 9A.44.100(1) (b) and
3 (c))
4 Child Molestation 2 (RCW 9A.44.086)
5 Dealing in depictions of minor engaged in
6 sexually explicit conduct (RCW
7 9.68A.050)
8 Sending, bringing into state depictions of
9 minor engaged in sexually explicit
10 conduct (RCW 9.68A.060)
11 Involving a minor in drug dealing (RCW
12 69.50.401(f))

13 VI Bribery (RCW 9A.68.010)
14 Manslaughter 2 (RCW 9A.32.070)
15 Rape of a Child 3 (RCW 9A.44.079)
16 Intimidating a Juror/Witness (RCW 9A.72.110,
17 9A.72.130)
18 Damaging building, etc., by explosion with
19 no threat to human being (RCW
20 70.74.280(2))
21 Endangering life and property by explosives
22 with no threat to human being (RCW
23 70.74.270)
24 Incest 1 (RCW 9A.64.020(1))
25 Manufacture, deliver, or possess with intent
26 to deliver narcotics from Schedule I or
27 II (except heroin or cocaine) (RCW
28 69.50.401(a)(1)(i))
29 Intimidating a Judge (RCW 9A.72.160)
30 Bail Jumping with Murder 1 (RCW
31 9A.76.170(2)(a))

32 V Criminal Mistreatment 1 (RCW 9A.42.020)
33 Reckless Endangerment 1 (RCW 9A.36.045)
34 Rape 3 (RCW 9A.44.060)
35 Sexual Misconduct with a Minor 1 (RCW
36 9A.44.093)
37 Child Molestation 3 (RCW 9A.44.089)
38 Kidnapping 2 (RCW 9A.40.030)

1 Extortion 1 (RCW 9A.56.120)
2 Incest 2 (RCW 9A.64.020(2))
3 Perjury 1 (RCW 9A.72.020)
4 Extortionate Extension of Credit (RCW
5 9A.82.020)
6 Advancing money or property for extortionate
7 extension of credit (RCW 9A.82.030)
8 Extortionate Means to Collect Extensions of
9 Credit (RCW 9A.82.040)
10 Rendering Criminal Assistance 1 (RCW
11 9A.76.070)
12 Bail Jumping with class A Felony (RCW
13 9A.76.170(2)(b))
14 Delivery of imitation controlled substance
15 by person eighteen or over to person
16 under eighteen (RCW 69.52.030(2))

17 IV Residential Burglary (RCW 9A.52.025)
18 Theft of Livestock 1 (RCW 9A.56.080)
19 Robbery 2 (RCW 9A.56.210)
20 Assault 2 (RCW 9A.36.021)
21 Escape 1 (RCW 9A.76.110)
22 Arson 2 (RCW 9A.48.030)
23 Bribing a Witness/Bribe Received by Witness
24 (RCW 9A.72.090, 9A.72.100)
25 Malicious Harassment (RCW 9A.36.080)
26 Threats to Bomb (RCW 9.61.160)
27 Willful Failure to Return from Furlough (RCW
28 72.66.060)
29 Hit and Run « Injury Accident (RCW
30 46.52.020(4))
31 Vehicular Assault (RCW 46.61.522)
32 Manufacture, deliver, or possess with intent
33 to deliver narcotics from Schedule III,
34 IV, or V or nonnarcotics from Schedule
35 I-V (except marijuana or
36 methamphetamines) (RCW
37 69.50.401(a)(1)(ii) through (iv))
38 Influencing Outcome of Sporting Event (RCW
39 9A.82.070)

1 Use of Proceeds of Criminal Profiteering
2 (RCW 9A.82.080 (1) and (2))
3 Knowingly Trafficking in Stolen Property
4 (RCW 9A.82.050(2))
5 Possession of Stolen Firearm 1 (RCW 9A.56.--
6 (section 10 of this act))
7 Reckless Endangerment 2 (RCW 9A.36.-- (section 5 of this
8 act))
9 Theft of Firearm 1 (RCW 9A.56.-- (section 7
10 of this act))
11 Unlawful Possession of Firearm by Felon (RCW
12 9.41.040)

13 III Criminal mistreatment 2 (RCW 9A.42.030)
14 Extortion 2 (RCW 9A.56.130)
15 Unlawful Imprisonment (RCW 9A.40.040)
16 Assault 3 (RCW 9A.36.031)
17 Assault of a Child 3 (RCW 9A.36.140)
18 Custodial Assault (RCW 9A.36.100)
19 (~~Unlawful possession of firearm or pistol by felon (RCW~~
20 ~~9.41.040))~~)
21 Harassment (RCW 9A.46.020)
22 Promoting Prostitution 2 (RCW 9A.88.080)
23 Willful Failure to Return from Work Release
24 (RCW 72.65.070)
25 Burglary 2 (RCW 9A.52.030)
26 Introducing Contraband 2 (RCW 9A.76.150)
27 Communication with a Minor for Immoral
28 Purposes (RCW 9.68A.090)
29 Patronizing a Juvenile Prostitute (RCW
30 9.68A.100)
31 Escape 2 (RCW 9A.76.120)
32 Perjury 2 (RCW 9A.72.030)
33 Bail Jumping with class B or C Felony (RCW
34 9A.76.170(2)(c))
35 Intimidating a Public Servant (RCW
36 9A.76.180)
37 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with intent
2 to deliver marijuana (RCW
3 69.50.401(a)(1)(ii))
4 Delivery of a material in lieu of a
5 controlled substance (RCW 69.50.401(c))
6 Manufacture, distribute, or possess with
7 intent to distribute an imitation
8 controlled substance (RCW 69.52.030(1))
9 Recklessly Trafficking in Stolen Property
10 (RCW 9A.82.050(1))
11 Theft of livestock 2 (RCW 9A.56.080)
12 Securities Act violation (RCW 21.20.400)
13 Possession of Stolen Firearm 2 (RCW 9A.56.--
14 (section 11 of this act))
15 Theft of Firearm 2 (RCW 9A.56.-- (section 8
16 of this act))

17 II Malicious Mischief 1 (RCW 9A.48.070)
18 Possession of Stolen Property 1 (RCW
19 9A.56.150)
20 Theft 1 (RCW 9A.56.030)
21 Possession of controlled substance that is
22 either heroin or narcotics from
23 Schedule I or II (RCW 69.50.401(d))
24 Possession of phencyclidine (PCP) (RCW
25 69.50.401(d))
26 Create, deliver, or possess a counterfeit
27 controlled substance (RCW 69.50.401(b))
28 Computer Trespass 1 (RCW 9A.52.110)
29 (~~Reckless Endangerment 1 (RCW 9A.36.045)~~)
30 Escape from Community Custody (RCW
31 72.09.310)

32 I Theft 2 (RCW 9A.56.040)
33 Possession of Stolen Property 2 (RCW
34 9A.56.160)
35 Forgery (RCW 9A.60.020)
36 Taking Motor Vehicle Without Permission (RCW
37 9A.56.070)
38 Vehicle Prowl 1 (RCW 9A.52.095)

1 Attempting to Elude a Pursuing Police
2 Vehicle (RCW 46.61.024)
3 Malicious Mischief 2 (RCW 9A.48.080)
4 Reckless Burning 1 (RCW 9A.48.040)
5 Unlawful Issuance of Checks or Drafts (RCW
6 9A.56.060)
7 Unlawful Use of Food Stamps (RCW 9.91.140
8 (2) and (3))
9 False Verification for Welfare (RCW
10 74.08.055)
11 Forged Prescription (RCW 69.41.020)
12 Forged Prescription for a Controlled
13 Substance (RCW 69.50.403)
14 Possess Controlled Substance that is a
15 Narcotic from Schedule III, IV, or V or
16 Non-narcotic from Schedule I-V (except
17 phencyclidine) (RCW 69.50.401(d))

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 9.94A RCW
19 to read as follows:

20 (1) Prosecutors shall enforce the deadly weapon special verdict
21 under RCW 9.94A.125 for any and all eligible offenders if the deadly
22 weapon is a firearm as defined in RCW 9.41.010 unless the offender is
23 considered a first-time offender or evidentiary problems dictate
24 otherwise. Prosecutors shall enforce the deadly weapon special verdict
25 under RCW 9.94A.125 for any and all eligible offenders who display,
26 threaten, or use any deadly weapon other than a firearm as defined in
27 RCW 9.41.010 on anyone other than an accomplice or for any and all
28 eligible offenders who have one or more active prior convictions for a
29 violent or most serious offense on his or her offender score as defined
30 in RCW 9.94A.360 unless evidentiary problems dictate otherwise or
31 unless the offender is a first-time offender.

32 (2) Prosecutors shall enforce the firearm enhancements under RCW
33 9.94A.310(3) for any and all eligible offenders unless the offender is
34 considered a first-time offender or evidentiary problems dictate
35 otherwise. Prosecutors shall enforce the deadly weapon enhancements
36 under RCW 9.94A.310(4) for any and all eligible offenders who display,
37 threaten, or use any deadly weapon other than a firearm as defined in

1 RCW 9.41.010 on anyone other than an accomplice or for any and all
2 offenders who have one or more active prior convictions for a violent
3 or most serious offense on his or her offender score as defined in RCW
4 9.94A.360 unless evidentiary problems dictate otherwise or unless the
5 offender is a first-time offender.

6 (3) Plea agreements involving a reduction in the recommended
7 sentence in exchange for a plea of guilty shall not include decreasing
8 the deadly weapon enhancements under RCW 9.94A.310 (3) or (4) by more
9 than one-half the stated sentence unless the offender is a first-time
10 offender or evidentiary problems dictate otherwise.

11 (4) Prosecutors shall charge any and all eligible offenders for
12 felonies of reckless endangerment in the first or second degree,
13 possession of a stolen firearm in the first or second degree, theft of
14 a firearm in the first or second degree, or unlawful possession of a
15 firearm by a felon unless the offender is considered a first-time
16 offender or evidentiary problems dictate otherwise.

17 (5) All plea agreements involving offenders with any deadly weapon
18 special verdict under RCW 9.94A.125 or deadly weapon enhancements under
19 RCW 9.94A.310 (3) or (4) shall be made a public record.

20 **Sec. 4.** RCW 9A.36.045 and 1989 c 271 s 109 are each amended to
21 read as follows:

22 (1) A person is guilty of reckless endangerment in the first
23 degree when he or she recklessly discharges a firearm in a manner which
24 creates a substantial risk of death or serious physical injury to
25 another person and the discharge is either from a motor vehicle or from
26 the immediate area of a motor vehicle that was used to transport the
27 shooter or the firearm to the scene of the discharge.

28 (2) A person who unlawfully discharges a firearm from a moving
29 motor vehicle may be inferred to have engaged in reckless conduct,
30 unless the discharge is shown by evidence satisfactory to the trier of
31 fact to have been made without such recklessness.

32 (3) Reckless endangerment in the first degree is a class ((E)) B
33 felony.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 9A.36 RCW
35 to read as follows:

36 (1) A person is guilty of reckless endangerment in the second
37 degree when he or she recklessly discharges a firearm or uses any other

1 deadly weapon as defined in RCW 9.94A.125 in conduct not amounting to
2 reckless endangerment in the first degree but which creates a
3 substantial risk of death or serious physical injury to another person.

4 (2) Reckless endangerment in the second degree is a class C
5 felony.

6 **Sec. 6.** RCW 9A.36.050 and 1989 c 271 s 110 are each amended to
7 read as follows:

8 (1) A person is guilty of reckless endangerment in the (~~second~~)
9 third degree when he or she recklessly engages in conduct not amounting
10 to reckless endangerment in the first or second degree but which
11 creates a substantial risk of death or serious physical injury to
12 another person.

13 (2) Reckless endangerment in the (~~second~~) third degree is a
14 gross misdemeanor.

15 NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.56 RCW
16 to read as follows:

17 (1) A person is guilty of theft of a firearm in the first degree
18 if he or she commits theft of:

19 (a) A firearm or firearms in excess of one thousand dollars in
20 value; or

21 (b) A total of three or more firearms; or

22 (c) A firearm or firearms of any value taken from the person of
23 another.

24 (2) The definition of theft and the defense allowed against the
25 prosecution of theft under RCW 9A.56.020 shall apply to the theft of a
26 firearm in the first degree.

27 (3) Theft of a firearm in the first degree is a class B felony.

28 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.56 RCW
29 to read as follows:

30 (1) A person is guilty of theft of a firearm in the second degree
31 if he or she commits theft of any firearm or firearms which does not
32 amount to theft of a firearm in the first degree.

33 (2) The definition of theft and the defense allowed against the
34 prosecution of theft under RCW 9A.56.020 shall apply to the theft of a
35 firearm in the second degree.

36 (3) Theft of a firearm in the second degree is a class C felony.

1 **Sec. 9.** RCW 9A.56.040 and 1987 c 140 s 2 are each amended to read
2 as follows:

3 (1) A person is guilty of theft in the second degree if he or she
4 commits theft of:

5 (a) Property or services which exceed(s) two hundred and fifty
6 dollars in value, but does not exceed one thousand five hundred dollars
7 in value; or

8 (b) A public record, writing, or instrument kept, filed, or
9 deposited according to law with or in the keeping of any public office
10 or public servant; or

11 (c) An access device; or

12 (d) A motor vehicle, of a value less than one thousand five
13 hundred dollars(~~(; or~~

14 ~~(e) A firearm, of a value less than one thousand five hundred~~
15 ~~dollars)).~~

16 (2) Theft in the second degree is a class C felony.

17 NEW SECTION. **Sec. 10.** A new section is added to chapter 9A.56
18 RCW to read as follows:

19 (1) A person is guilty of possessing a stolen firearm in the first
20 degree if he or she possesses a stolen firearm or firearms which:

21 (a) Exceed one thousand dollars in value; or

22 (b) Total three or more firearms.

23 (2) The definition of possessing stolen property and the defense
24 allowed against the prosecution of possessing stolen property under RCW
25 9A.56.020 shall apply to possessing a stolen firearm in the first
26 degree.

27 (3) Possessing a stolen firearm in the first degree is a class B
28 felony.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 9A.56
30 RCW to read as follows:

31 (1) A person is guilty of possessing a stolen firearm in the
32 second degree if he or she possesses a stolen firearm or firearms not
33 amounting to possessing a stolen firearm in the first degree.

34 (2) The definition of possessing stolen property and the defense
35 allowed against the prosecution of possessing stolen property under RCW
36 9A.56.020 shall apply to possessing a stolen firearm in the second
37 degree.

1 (3) Possessing a stolen firearm in the second degree is a class C
2 felony.

3 **Sec. 12.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to
4 read as follows:

5 (1) A person is guilty of possessing stolen property in the second
6 degree if:

7 (a) He or she possesses stolen property which exceeds two hundred
8 fifty dollars in value but does not exceed one thousand five hundred
9 dollars in value; or

10 (b) He or she possesses a stolen public record, writing or
11 instrument kept, filed, or deposited according to law; or

12 (c) He or she possesses a stolen access device; or

13 (d) He or she possesses a stolen motor vehicle of a value less
14 than one thousand five hundred dollars(~~(+or~~

15 ~~(e) He possesses a stolen firearm~~)).

16 (2) Possessing stolen property in the second degree is a class C
17 felony.

18 **Sec. 13.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are
19 each reenacted and amended to read as follows:

20 (1) A person is guilty of the crime of unlawful possession of a
21 (~~short~~) firearm (~~or pistol~~), if, having previously been convicted
22 or, as a juvenile, adjudicated in this state or elsewhere of a crime of
23 violence or of a felony in which a firearm was used or displayed, the
24 person owns or has in his or her possession any (~~short~~) firearm (~~or~~
25 ~~pistol~~)).

26 (2) Unlawful possession of a (~~short~~) firearm (~~or pistol~~) shall
27 be punished as a class C felony under chapter 9A.20 RCW.

28 (3) As used in this section, a person has been "convicted or
29 adjudicated" at such time as a plea of guilty has been accepted or a
30 verdict of guilty has been filed, notwithstanding the pendency of any
31 future proceedings including but not limited to sentencing or
32 disposition, post-trial or post-factfinding motions, and appeals. A
33 person shall not be precluded from possession if the conviction or
34 adjudication has been the subject of a pardon, annulment, certificate
35 of rehabilitation, or other equivalent procedure based on a finding of
36 the rehabilitation of the person convicted or adjudicated or the

1 conviction or disposition has been the subject of a pardon, annulment,
2 or other equivalent procedure based on a finding of innocence.

3 (4) Except as provided in subsection (5) of this section, a person
4 is guilty of the crime of unlawful possession of a (~~short~~) firearm
5 (~~or pistol~~) if, after having been convicted or adjudicated of any
6 felony violation of the uniform controlled substances act, chapter
7 69.50 RCW, or equivalent statutes of another jurisdiction, the person
8 owns or has in his or her possession or under his or her control any
9 (~~short~~) firearm (~~or pistol~~).

10 (5) Notwithstanding subsection (1) of this section, a person
11 convicted of an offense other than murder, manslaughter, robbery, rape,
12 indecent liberties, arson, assault, kidnapping, extortion, burglary, or
13 violations with respect to controlled substances under RCW 69.50.401(a)
14 and 69.50.410, who received a probationary sentence under RCW 9.95.200,
15 and who received a dismissal of the charge under RCW 9.95.240, shall
16 not be precluded from ownership, possession, or control of a firearm as
17 a result of the conviction.

18 (6)(a) A person who has been committed by court order for
19 treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW,
20 or equivalent statutes of another jurisdiction, may not possess, in any
21 manner, a firearm as defined in RCW 9.41.010.

22 (b) At the time of commitment, the court shall specifically state
23 to the person under (a) of this subsection and give the person notice
24 in writing that the person is barred from possession of firearms.

25 (c) The secretary of social and health services shall develop
26 appropriate rules to create an approval process under this subsection.
27 The rules must provide for the immediate restoration of the right to
28 possess a firearm upon a showing in a court of competent jurisdiction
29 that a person no longer is required to participate in an inpatient or
30 outpatient treatment program, and is no longer required to take
31 medication to treat any condition related to the commitment. Unlawful
32 possession of a firearm under this subsection shall be punished as a
33 class C felony under chapter 9A.20 RCW.

34 **Sec. 14.** RCW 9.94A.150 and 1992 c 145 s 8 are each amended to
35 read as follows:

36 No person serving a sentence imposed pursuant to this chapter and
37 committed to the custody of the department shall leave the confines of

1 the correctional facility or be released prior to the expiration of the
2 sentence except as follows:

3 (1) Except as otherwise provided for in subsection (2) of this
4 section, the term of the sentence of an offender committed to a
5 correctional facility operated by the department, may be reduced by
6 earned early release time in accordance with procedures that shall be
7 developed and promulgated by the correctional agency having
8 jurisdiction in which the offender is confined. The earned early
9 release time shall be for good behavior and good performance, as
10 determined by the correctional agency having jurisdiction. The
11 correctional agency shall not credit the offender with earned early
12 release credits in advance of the offender actually earning the
13 credits. Any program established pursuant to this section shall allow
14 an offender to earn early release credits for presentence
15 incarceration. If an offender is transferred from a county jail to the
16 department of corrections, the county jail facility shall certify to
17 the department the amount of time spent in custody at the facility and
18 the amount of earned early release time. In the case of an offender
19 convicted of a serious violent offense or a sex offense that is a class
20 A felony committed on or after July 1, 1990, the aggregate earned early
21 release time may not exceed fifteen percent of the sentence. An
22 offender who has been convicted of a felony committed after the
23 effective date of this section that involves any deadly weapon
24 enhancements under RCW 9.94A.310 (3) and/or (4) shall not receive any
25 good time credits or earned early release time for that portion of his
26 or her sentence that results from any deadly weapon enhancements. In
27 no other case shall the aggregate earned early release time exceed one-
28 third of the total sentence;

29 (2) A person convicted of a sex offense or an offense categorized
30 as a serious violent offense, assault in the second degree, assault of
31 a child in the second degree, any crime against a person where it is
32 determined in accordance with RCW 9.94A.125 that the defendant or an
33 accomplice was armed with a deadly weapon at the time of commission, or
34 any felony offense under chapter 69.50 or 69.52 RCW may become
35 eligible, in accordance with a program developed by the department, for
36 transfer to community custody status in lieu of earned early release
37 time pursuant to subsection (1) of this section;

38 (3) An offender may leave a correctional facility pursuant to an
39 authorized furlough or leave of absence. In addition, offenders may

1 leave a correctional facility when in the custody of a corrections
2 officer or officers;

3 (4) The governor, upon recommendation from the clemency and
4 pardons board, may grant an extraordinary release for reasons of
5 serious health problems, senility, advanced age, extraordinary
6 meritorious acts, or other extraordinary circumstances;

7 (5) No more than the final six months of the sentence may be
8 served in partial confinement designed to aid the offender in finding
9 work and reestablishing him or herself in the community;

10 (6) The governor may pardon any offender;

11 (7) The department of corrections may release an offender from
12 confinement any time within ten days before a release date calculated
13 under this section; and

14 (8) An offender may leave a correctional facility prior to
15 completion of his sentence if the sentence has been reduced as provided
16 in RCW 9.94A.160.

17 NEW SECTION. **Sec. 15.** This act shall be known and may be cited
18 as the hard time for armed crime act.

19 NEW SECTION. **Sec. 16.** If any provision of this act or its
20 application to any person or circumstance is held invalid, the
21 remainder of the act or the application of the provision to other
22 persons or circumstances is not affected.

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