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HOUSE BILL 1186

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State of Washington

55th Legislature

1997 Regular Session

By Representatives Hickel, Mitchell, Ballasiotes, Dickerson, Robertson, Blalock, Benson, Quall, Sheahan, Delvin, Lisk, Carrell, Cairnes, McDonald, Johnson and DeBolt

Read first time 01/16/97. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to criminal law; amending RCW 9A.76.050, 9A.76.070,  
2 9A.76.080, 9.94A.040, and 9.94A.310; adding a new section to chapter  
3 9A.36 RCW; creating a new section; repealing RCW 9A.76.060; and  
4 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 9A.36 RCW  
7 to read as follows:

8 (1) A person is guilty of failing to give reasonable assistance if:

9 (a) He or she knows that another person has suffered or is about to  
10 suffer substantial bodily harm and is in need of assistance;

11 (b) He or she could give reasonable assistance to the person in  
12 need without danger to himself or herself and without interference with  
13 an important duty owed to a third party;

14 (c) He or she fails to give reasonable assistance to the person in  
15 need; and

16 (d) Reasonable assistance is not being given by another to the  
17 person in need.

1 (2) Acts that satisfy the duty to give reasonable assistance  
2 include, but are not limited to, summoning emergency police, fire, or  
3 medical assistance.

4 (3) Except as provided in RCW 9A.76.050, a violation of subsection  
5 (1) of this section is a misdemeanor.

6 (4) A person who gives reasonable assistance as required by  
7 subsection (1) of this section is immune from civil liability on the  
8 same basis as is a person who provides emergency care or transportation  
9 under RCW 4.24.300.

10 **Sec. 2.** RCW 9A.76.050 and 1982 1st ex.s. c 47 s 20 are each  
11 amended to read as follows:

12 As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person  
13 "renders criminal assistance" if, with intent to prevent, hinder, or  
14 delay the apprehension or prosecution of another person who he or she  
15 knows has committed a crime or juvenile offense or is being sought by  
16 law enforcement officials for the commission of a crime or juvenile  
17 offense or has escaped from a detention facility, he or she:

18 (1) Harbors or conceals such person; or

19 (2) Warns such person of impending discovery or apprehension; or

20 (3) Provides such person with money, transportation, disguise, or  
21 other means of avoiding discovery or apprehension; or

22 (4) Prevents or obstructs, by use of force, deception, or threat,  
23 anyone from performing an act that might aid in the discovery or  
24 apprehension of such person; or

25 (5) Conceals, alters, or destroys any physical evidence that might  
26 aid in the discovery or apprehension of such person; or

27 (6) Provides such person with a weapon; or

28 (7) Violates section 1 of this act by failing to give reasonable  
29 assistance to a victim of such person's crime or juvenile offense.

30 **Sec. 3.** RCW 9A.76.070 and 1982 1st ex.s. c 47 s 21 are each  
31 amended to read as follows:

32 (1) A person is guilty of rendering criminal assistance in the  
33 first degree if he or she renders criminal assistance to a person who  
34 has committed or is being sought for murder in the first degree or any  
35 class A felony or equivalent juvenile offense.

36 (2) Rendering criminal assistance in the first degree is((+)

1       ~~(a) A gross misdemeanor if it is established by a preponderance of~~  
2 ~~the evidence that the actor is a relative as defined in RCW 9A.76.060;~~  
3       ~~(b)) a class C felony ((in all other cases)).~~

4       **Sec. 4.** RCW 9A.76.080 and 1982 1st ex.s. c 47 s 22 are each  
5 amended to read as follows:

6       (1) A person is guilty of rendering criminal assistance in the  
7 second degree if he or she renders criminal assistance to a person who  
8 has committed or is being sought for a class B or class C felony or an  
9 equivalent juvenile offense or to someone being sought for violation of  
10 parole, probation, or community supervision.

11       (2) Rendering criminal assistance in the second degree is(~~+~~

12       ~~(a) A misdemeanor if it is established by a preponderance of the~~  
13 ~~evidence that the actor is a relative as defined in RCW 9A.76.060;~~  
14       ~~(b)) a gross misdemeanor ((in all other cases)).~~

15       **Sec. 5.** RCW 9.94A.040 and 1996 c 232 s 1 are each amended to read  
16 as follows:

17       (1) A sentencing guidelines commission is established as an agency  
18 of state government.

19       (2) The legislature finds that the commission, having accomplished  
20 its original statutory directive to implement this chapter, and having  
21 expertise in sentencing practice and policies, shall:

22       (a) Evaluate state sentencing policy, to include whether the  
23 sentencing ranges and standards are consistent with and further:

24       (i) The purposes of this chapter as defined in RCW 9.94A.010; and

25       (ii) The intent of the legislature to emphasize confinement for the  
26 violent offender and alternatives to confinement for the nonviolent  
27 offender.

28       The commission shall provide the governor and the legislature with  
29 its evaluation and recommendations under this subsection not later than  
30 December 1, 1996, and every two years thereafter;

31       (b) Recommend to the legislature revisions or modifications to the  
32 standard sentence ranges, state sentencing policy, prosecuting  
33 standards, and other standards. If implementation of the revisions or  
34 modifications would result in exceeding the capacity of correctional  
35 facilities, then the commission shall accompany its recommendation with  
36 an additional list of standard sentence ranges which are consistent  
37 with correction capacity;

1 (c) Study the existing criminal code and from time to time make  
2 recommendations to the legislature for modification;

3 (d)(i) Serve as a clearinghouse and information center for the  
4 collection, preparation, analysis, and dissemination of information on  
5 state and local adult and juvenile sentencing practices; (ii) develop  
6 and maintain a computerized adult and juvenile sentencing information  
7 system by individual superior court judge consisting of offender,  
8 offense, history, and sentence information entered from judgment and  
9 sentence forms for all adult felons; and (iii) conduct ongoing research  
10 regarding adult and juvenile sentencing guidelines, use of total  
11 confinement and alternatives to total confinement, plea bargaining, and  
12 other matters relating to the improvement of the adult criminal justice  
13 system and the juvenile justice system;

14 (e) Assume the powers and duties of the juvenile disposition  
15 standards commission after June 30, 1996;

16 (f) Evaluate the effectiveness of existing disposition standards  
17 and related statutes in implementing policies set forth in RCW  
18 13.40.010 generally, specifically review the guidelines relating to the  
19 confinement of minor and first offenders as well as the use of  
20 diversion, and review the application of current and proposed juvenile  
21 sentencing standards and guidelines for potential adverse impacts on  
22 the sentencing outcomes of racial and ethnic minority youth;

23 (g) Solicit the comments and suggestions of the juvenile justice  
24 community concerning disposition standards, and make recommendations to  
25 the legislature regarding revisions or modifications of the standards  
26 in accordance with RCW 9.94A.045. The evaluations shall be submitted  
27 to the legislature on December 1 of each odd-numbered year. The  
28 department of social and health services shall provide the commission  
29 with available data concerning the implementation of the disposition  
30 standards and related statutes and their effect on the performance of  
31 the department's responsibilities relating to juvenile offenders, and  
32 with recommendations for modification of the disposition standards.  
33 The office of the administrator for the courts shall provide the  
34 commission with available data on diversion and dispositions of  
35 juvenile offenders under chapter 13.40 RCW; and

36 (h) Not later than December 1, 1997, and at least every two years  
37 thereafter, based on available information, report to the governor and  
38 the legislature on:

39 (i) Racial disproportionality in juvenile and adult sentencing;

1 (ii) The capacity of state and local juvenile and adult facilities  
2 and resources; and

3 (iii) Recidivism information on adult and juvenile offenders.

4 (3) Each of the commission's recommended standard sentence ranges  
5 shall include one or more of the following: Total confinement, partial  
6 confinement, community supervision, community service, and a fine.

7 (4) The standard sentence ranges of total and partial confinement  
8 under this chapter are subject to the following limitations:

9 (a) If the maximum term in the range is one year or less, the  
10 minimum term in the range shall be no less than one-third of the  
11 maximum term in the range, except that if the maximum term in the range  
12 is ninety days or less, the minimum term may be less than one-third of  
13 the maximum;

14 (b) If the maximum term in the range is greater than one year, the  
15 minimum term in the range shall be no less than seventy-five percent of  
16 the maximum term in the range, except that for second degree murder in  
17 seriousness category XIII under RCW 9.94A.310, the minimum term in the  
18 range shall be no less than fifty percent of the maximum term in the  
19 range; and

20 (c) The maximum term of confinement in a range may not exceed the  
21 statutory maximum for the crime as provided in RCW 9A.20.021.

22 (5) The commission shall exercise its duties under this section in  
23 conformity with chapter 34.05 RCW.

24 **Sec. 6.** RCW 9.94A.310 and 1996 c 205 s 5 are each amended to read  
25 as follows:

26 (1) TABLE 1

27 Sentencing Grid

28 SERIOUSNESS

29 SCORE

OFFENDER SCORE

30 9 or  
31 0 1 2 3 4 5 6 7 8 more

32  
33 XV Life Sentence without Parole/Death Penalty

34  
35 XIV 23y4m 24y4m 25y4m 26y4m 27y4m 28y4m 30y4m 32y10m 36y 40y  
36 240- 250- 261- 271- 281- 291- 312- 338- 370- 411-

1		320	333	347	361	374	388	416	450	493	548
2											
3	XIII	<del>((12y 13y 14y 15y 16y 17y 19y 21y 25y 29y))</del>									
4		<u>15y1m 15y11m 16y10m 17y8m 18y7m 19y5m 21y1m 23y1m 26y1m 29y6m</u>									
5		123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
6		<del>((164 178 192 205 219 233 260 288 342 397))</del>									
7		<u>239</u>	<u>249</u>	<u>260</u>	<u>270</u>	<u>280</u>	<u>290</u>	<u>311</u>	<u>337</u>	<u>369</u>	<u>410</u>
8											
9	XII	9y	9y11m	10y9m	11y8m	12y6m	13y5m	15y9m	17y3m	20y3m	23y3m
10		93-	102-	111-	120-	129-	138-	162-	178-	209-	240-
11		123	136	147	160	171	184	216	236	277	318
12											
13	XI	7y6m	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y5m	17y11m	20y5m
14		78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
15		102	114	125	136	147	158	194	211	245	280
16											
17	X	5y	5y6m	6y	6y6m	7y	7y6m	9y6m	10y6m	12y6m	14y6m
18		51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
19		68	75	82	89	96	102	130	144	171	198
20											
21	IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
22		31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
23		41	48	54	61	68	75	102	116	144	171
24											
25	VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
26		21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
27		27	34	41	48	54	61	89	102	116	144
28											
29	VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
30		15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
31		20	27	34	41	48	54	75	89	102	116
32											
33	VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
34		12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
35		14	20	27	34	41	48	61	75	89	102
36											
37	V	9m	13m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
38		6-	12+-	13-	15-	22-	33-	41-	51-	62-	72-
39		12	14	17	20	29	43	54	68	82	96

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

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

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

28 (3) The following additional times shall be added to the  
29 presumptive sentence for felony crimes committed after July 23, 1995,  
30 if the offender or an accomplice was armed with a firearm as defined in  
31 RCW 9.41.010 and the offender is being sentenced for one of the crimes  
32 listed in this subsection as eligible for any firearm enhancements  
33 based on the classification of the completed felony crime. If the  
34 offender or an accomplice was armed with a firearm as defined in RCW  
35 9.41.010 and the offender is being sentenced for an anticipatory  
36 offense under chapter 9A.28 RCW to commit one of the crimes listed in  
37 this subsection as eligible for any firearm enhancements, the following  
38 additional times shall be added to the presumptive sentence determined

1 under subsection (2) of this section based on the felony crime of  
2 conviction as classified under RCW 9A.28.020:

3 (a) Five years for any felony defined under any law as a class A  
4 felony or with a maximum sentence of at least twenty years, or both,  
5 and not covered under (f) of this subsection.

6 (b) Three years for any felony defined under any law as a class B  
7 felony or with a maximum sentence of ten years, or both, and not  
8 covered under (f) of this subsection.

9 (c) Eighteen months for any felony defined under any law as a  
10 class C felony or with a maximum sentence of five years, or both, and  
11 not covered under (f) of this subsection.

12 (d) If the offender is being sentenced for any firearm  
13 enhancements under (a), (b), and/or (c) of this subsection and the  
14 offender has previously been sentenced for any deadly weapon  
15 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
16 subsection or subsection (4) (a), (b), and/or (c) of this section, or  
17 both, any and all firearm enhancements under this subsection shall be  
18 twice the amount of the enhancement listed.

19 (e) Notwithstanding any other provision of law, any and all  
20 firearm enhancements under this section are mandatory, shall be served  
21 in total confinement, and shall not run concurrently with any other  
22 sentencing provisions.

23 (f) The firearm enhancements in this section shall apply to all  
24 felony crimes except the following: Possession of a machine gun,  
25 possessing a stolen firearm, reckless endangerment in the first degree,  
26 theft of a firearm, unlawful possession of a firearm in the first and  
27 second degree, and use of a machine gun in a felony.

28 (g) If the presumptive sentence under this section exceeds the  
29 statutory maximum for the offense, the statutory maximum sentence shall  
30 be the presumptive sentence unless the offender is a persistent  
31 offender as defined in RCW 9.94A.030.

32 (4) The following additional times shall be added to the  
33 presumptive sentence for felony crimes committed after July 23, 1995,  
34 if the offender or an accomplice was armed with a deadly weapon as  
35 defined in this chapter other than a firearm as defined in RCW 9.41.010  
36 and the offender is being sentenced for one of the crimes listed in  
37 this subsection as eligible for any deadly weapon enhancements based on  
38 the classification of the completed felony crime. If the offender or  
39 an accomplice was armed with a deadly weapon other than a firearm as

1 defined in RCW 9.41.010 and the offender is being sentenced for an  
2 anticipatory offense under chapter 9A.28 RCW to commit one of the  
3 crimes listed in this subsection as eligible for any deadly weapon  
4 enhancements, the following additional times shall be added to the  
5 presumptive sentence determined under subsection (2) of this section  
6 based on the felony crime of conviction as classified under RCW  
7 9A.28.020:

8 (a) Two years for any felony defined under any law as a class A  
9 felony or with a maximum sentence of at least twenty years, or both,  
10 and not covered under (f) of this subsection.

11 (b) One year for any felony defined under any law as a class B  
12 felony or with a maximum sentence of ten years, or both, and not  
13 covered under (f) of this subsection.

14 (c) Six months for any felony defined under any law as a class C  
15 felony or with a maximum sentence of five years, or both, and not  
16 covered under (f) of this subsection.

17 (d) If the offender is being sentenced under (a), (b), and/or (c)  
18 of this subsection for any deadly weapon enhancements and the offender  
19 has previously been sentenced for any deadly weapon enhancements after  
20 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
21 subsection (3) (a), (b), and/or (c) of this section, or both, any and  
22 all deadly weapon enhancements under this subsection shall be twice the  
23 amount of the enhancement listed.

24 (e) Notwithstanding any other provision of law, any and all deadly  
25 weapon enhancements under this section are mandatory, shall be served  
26 in total confinement, and shall not run concurrently with any other  
27 sentencing provisions.

28 (f) The deadly weapon enhancements in this section shall apply to  
29 all felony crimes except the following: Possession of a machine gun,  
30 possessing a stolen firearm, reckless endangerment in the first degree,  
31 theft of a firearm, unlawful possession of a firearm in the first and  
32 second degree, and use of a machine gun in a felony.

33 (g) If the presumptive sentence under this section exceeds the  
34 statutory maximum for the offense, the statutory maximum sentence shall  
35 be the presumptive sentence unless the offender is a persistent  
36 offender as defined in RCW 9.94A.030.

37 (5) The following additional times shall be added to the  
38 presumptive sentence if the offender or an accomplice committed the  
39 offense while in a county jail or state correctional facility as that

1 term is defined in this chapter and the offender is being sentenced for  
2 one of the crimes listed in this subsection. If the offender or an  
3 accomplice committed one of the crimes listed in this subsection while  
4 in a county jail or state correctional facility as that term is defined  
5 in this chapter, and the offender is being sentenced for an  
6 anticipatory offense under chapter 9A.28 RCW to commit one of the  
7 crimes listed in this subsection, the following additional times shall  
8 be added to the presumptive sentence determined under subsection (2) of  
9 this section:

10 (a) Eighteen months for offenses committed under RCW  
11 69.50.401(a)(1) (i) or (ii) or 69.50.410;

12 (b) Fifteen months for offenses committed under RCW  
13 69.50.401(a)(1) (iii), (iv), and (v);

14 (c) Twelve months for offenses committed under RCW 69.50.401(d).

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

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

21 NEW SECTION. **Sec. 7.** RCW 9A.76.060 and 1975 1st ex.s. c 260 s  
22 9A.76.060 are each repealed.

23 NEW SECTION. **Sec. 8.** This act shall be known as the Joey Levick  
24 act.

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