
HOUSE BILL 1060

State of Washington

63rd Legislature

2013 Regular Session

By Representative Goodman

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1 AN ACT Relating to scoring an offense a class C felony equivalent
2 if the offense was a felony under the relevant out-of-state statute
3 when there is no clearly comparable offense under Washington law;
4 amending RCW 9.94A.525; and prescribing penalties.

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

6 **Sec. 1.** RCW 9.94A.525 and 2011 c 166 s 3 are each amended to read
7 as follows:

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

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

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

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

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

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

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

20 (e) If the present conviction is felony driving while under the
21 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
22 felony physical control of a vehicle while under the influence of
23 intoxicating liquor or any drug (RCW 46.61.504(6)), prior convictions
24 of felony driving while under the influence of intoxicating liquor or
25 any drug, felony physical control of a vehicle while under the
26 influence of intoxicating liquor or any drug, and serious traffic
27 offenses shall be included in the offender score if: (i) The prior
28 convictions were committed within five years since the last date of
29 release from confinement (including full-time residential treatment) or
30 entry of judgment and sentence; or (ii) the prior convictions would be
31 considered "prior offenses within ten years" as defined in RCW
32 46.61.5055.

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

1 (g) This subsection applies to both adult and juvenile prior
2 convictions.

3 (3) Out-of-state convictions for offenses shall be classified
4 according to the comparable offense definitions and sentences provided
5 by Washington law. If there is no clearly comparable offense under
6 Washington law, the offense shall be scored as a class C felony
7 equivalent if it was a felony under the relevant out-of-state statute.
8 Federal convictions for offenses shall be classified according to the
9 comparable offense definitions and sentences provided by Washington
10 law. If there is no clearly comparable offense under Washington law or
11 the offense is one that is usually considered subject to exclusive
12 federal jurisdiction, the offense shall be scored as a class C felony
13 equivalent if it was a felony under the relevant federal statute.

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

17 (5)(a) In the case of multiple prior convictions, for the purpose
18 of computing the offender score, count all convictions separately,
19 except:

20 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to
21 encompass the same criminal conduct, shall be counted as one offense,
22 the offense that yields the highest offender score. The current
23 sentencing court shall determine with respect to other prior adult
24 offenses for which sentences were served concurrently or prior juvenile
25 offenses for which sentences were served consecutively, whether those
26 offenses shall be counted as one offense or as separate offenses using
27 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and
28 if the court finds that they shall be counted as one offense, then the
29 offense that yields the highest offender score shall be used. The
30 current sentencing court may presume that such other prior offenses
31 were not the same criminal conduct from sentences imposed on separate
32 dates, or in separate counties or jurisdictions, or in separate
33 complaints, indictments, or informations;

34 (ii) In the case of multiple prior convictions for offenses
35 committed before July 1, 1986, for the purpose of computing the
36 offender score, count all adult convictions served concurrently as one
37 offense, and count all juvenile convictions entered on the same date as

1 one offense. Use the conviction for the offense that yields the
2 highest offender score.

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

9 (6) If the present conviction is one of the anticipatory offenses
10 of criminal attempt, solicitation, or conspiracy, count each prior
11 conviction as if the present conviction were for a completed offense.
12 When these convictions are used as criminal history, score them the
13 same as a completed crime.

14 (7) If the present conviction is for a nonviolent offense and not
15 covered by subsection (11), (12), or (13) of this section, count one
16 point for each adult prior felony conviction and one point for each
17 juvenile prior violent felony conviction and 1/2 point for each
18 juvenile prior nonviolent felony conviction.

19 (8) If the present conviction is for a violent offense and not
20 covered in subsection (9), (10), (11), (12), or (13) of this section,
21 count two points for each prior adult and juvenile violent felony
22 conviction, one point for each prior adult nonviolent felony
23 conviction, and 1/2 point for each prior juvenile nonviolent felony
24 conviction.

25 (9) If the present conviction is for a serious violent offense,
26 count three points for prior adult and juvenile convictions for crimes
27 in this category, two points for each prior adult and juvenile violent
28 conviction (not already counted), one point for each prior adult
29 nonviolent felony conviction, and 1/2 point for each prior juvenile
30 nonviolent felony conviction.

31 (10) If the present conviction is for Burglary 1, count prior
32 convictions as in subsection (8) of this section; however count two
33 points for each prior adult Burglary 2 or residential burglary
34 conviction, and one point for each prior juvenile Burglary 2 or
35 residential burglary conviction.

36 (11) If the present conviction is for a felony traffic offense
37 count two points for each adult or juvenile prior conviction for
38 Vehicular Homicide or Vehicular Assault; for each felony offense count

1 one point for each adult and 1/2 point for each juvenile prior
2 conviction; for each serious traffic offense, other than those used for
3 an enhancement pursuant to RCW 46.61.520(2), count one point for each
4 adult and 1/2 point for each juvenile prior conviction; count one point
5 for each adult and 1/2 point for each juvenile prior conviction for
6 operation of a vessel while under the influence of intoxicating liquor
7 or any drug.

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

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

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

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

36 (16) If the present conviction is for Burglary 2 or residential
37 burglary, count priors as in subsection (7) of this section; however,
38 count two points for each adult and juvenile prior Burglary 1

1 conviction, two points for each adult prior Burglary 2 or residential
2 burglary conviction, and one point for each juvenile prior Burglary 2
3 or residential burglary conviction.

4 (17) If the present conviction is for a sex offense, count priors
5 as in subsections (7) through (11) and (13) through (16) of this
6 section; however count three points for each adult and juvenile prior
7 sex offense conviction.

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

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

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

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

34 (a) Count two points for each adult prior conviction where domestic
35 violence as defined in RCW 9.94A.030 was plead and proven after August
36 1, 2011, for the following offenses: A violation of a no-contact order
37 that is a felony offense, a violation of a protection order that is a
38 felony offense, a felony domestic violence harassment offense, a felony

1 domestic violence stalking offense, a domestic violence Burglary 1
2 offense, a domestic violence Kidnapping 1 offense, a domestic violence
3 Kidnapping 2 offense, a domestic violence unlawful imprisonment
4 offense, a domestic violence Robbery 1 offense, a domestic violence
5 Robbery 2 offense, a domestic violence Assault 1 offense, a domestic
6 violence Assault 2 offense, a domestic violence Assault 3 offense, a
7 domestic violence Arson 1 offense, or a domestic violence Arson 2
8 offense;

9 (b) Count one point for each second and subsequent juvenile
10 conviction where domestic violence as defined in RCW 9.94A.030 was
11 plead and proven after August 1, 2011, for the offenses listed in (a)
12 of this subsection; and

13 (c) Count one point for each adult prior conviction for a
14 repetitive domestic violence offense as defined in RCW 9.94A.030, where
15 domestic violence as defined in RCW 9.94A.030, was plead and proven
16 after August 1, 2011.

17 (22) The fact that a prior conviction was not included in an
18 offender's offender score or criminal history at a previous sentencing
19 shall have no bearing on whether it is included in the criminal history
20 or offender score for the current offense. Prior convictions that were
21 not counted in the offender score or included in criminal history under
22 repealed or previous versions of the sentencing reform act shall be
23 included in criminal history and shall count in the offender score if
24 the current version of the sentencing reform act requires including or
25 counting those convictions. Prior convictions that were not included
26 in criminal history or in the offender score shall be included upon any
27 resentencing to ensure imposition of an accurate sentence.

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