
SENATE BILL 6004

State of Washington 60th Legislature 2007 Regular Session

By Senators Oemig, Kline and Hargrove

Read first time 02/13/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to exceptional sentences; and amending RCW
2 9.94A.537.

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

4 **Sec. 1.** RCW 9.94A.537 and 2005 c 68 s 4 are each amended to read
5 as follows:

6 (1) At any time prior to trial or entry of the guilty plea if
7 substantial rights of the defendant are not prejudiced, the state may
8 give notice that it is seeking a sentence above the standard sentencing
9 range. The notice shall state aggravating circumstances upon which the
10 requested sentence will be based.

11 (2) In any case where an exceptional sentence above the standard
12 range was imposed prior to April 15, 2005, and where a new trial or new
13 sentencing hearing is required, the superior court shall have the
14 authority to impanel a jury to consider any alleged aggravating
15 circumstances, relied upon by the superior court in imposing the
16 previous sentence, at either the new trial or, if no new trial is
17 necessary, at the new sentencing hearing.

18 (3) The facts supporting aggravating circumstances shall be proved
19 to a jury beyond a reasonable doubt. The jury's verdict on the

1 aggravating factor must be unanimous, and by special interrogatory. If
2 a jury is waived, proof shall be to the court beyond a reasonable
3 doubt, unless the defendant stipulates to the aggravating facts.

4 ~~((+3))~~ (4) Evidence regarding any facts supporting aggravating
5 circumstances under RCW 9.94A.535(3) (a) through (y) shall be presented
6 to the jury during the trial of the alleged crime, unless the jury has
7 been impaneled solely for resentencing, or unless the state alleges the
8 aggravating circumstances listed in RCW 9.94A.535(3) (e)(iv), (h)(i),
9 (o), or (t). If one of these aggravating circumstances is alleged, the
10 trial court may conduct a separate proceeding if the evidence
11 supporting the aggravating fact is not part of the res geste of the
12 charged crime, if the evidence is not otherwise admissible in trial of
13 the charged crime, and if the court finds that the probative value of
14 the evidence to the aggravated fact is substantially outweighed by its
15 prejudicial effect on the jury's ability to determine guilt or
16 innocence for the underlying crime.

17 ~~((+4))~~ (5) If the superior court conducts a separate proceeding to
18 determine the existence of aggravating circumstances listed in RCW
19 9.94A.535(3) (e)(iv), (h)(i), (o), or (t), the proceeding shall
20 immediately follow the trial on the underlying conviction, if possible.
21 If any person who served on the jury is unable to continue, the court
22 shall substitute an alternate juror.

23 ~~((+5))~~ (6) If the jury finds, unanimously and beyond a reasonable
24 doubt, one or more of the facts alleged by the state in support of an
25 aggravated sentence, the court may sentence the offender pursuant to
26 RCW 9.94A.535 to a term of confinement up to the maximum allowed under
27 RCW 9A.20.021 for the underlying conviction if it finds, considering
28 the purposes of this chapter, that the facts found are substantial and
29 compelling reasons justifying an exceptional sentence.

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