
SUBSTITUTE HOUSE BILL 2281

State of Washington **64th Legislature** **2016 Regular Session**
By House Public Safety (originally sponsored by Representative Klippert)

1 AN ACT Relating to increasing the punishment for vehicular
2 homicide; amending RCW 46.61.520 and 9.94A.533; and prescribing
3 penalties.

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

5 **Sec. 1.** RCW 46.61.520 and 1998 c 211 s 2 are each amended to
6 read as follows:

7 (1) When the death of any person ensues within three years as a
8 proximate result of injury proximately caused by the driving of any
9 vehicle by any person, the driver is guilty of vehicular homicide if
10 the driver was operating a motor vehicle:

11 (a) While under the influence of intoxicating liquor or any drug,
12 as defined by RCW 46.61.502; or

13 (b) In a reckless manner; or

14 (c) With disregard for the safety of others.

15 (2) Vehicular homicide is a class A felony punishable under
16 chapter 9A.20 RCW, except that, for a conviction under subsection
17 (1)(a) of this section, an additional: (a) Two years shall be added
18 to the sentence for each prior offense as defined in RCW 46.61.5055;
19 and (b) ten years shall be added to the sentence for each prior
20 vehicular homicide conviction pursuant to subsection (1)(a) of this
21 section or an out-of-state conviction that would have been a

1 conviction of subsection (1)(a) of this section if committed in this
2 state.

3 **Sec. 2.** RCW 9.94A.533 and 2015 c 134 s 2 are each amended to
4 read as follows:

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

7 (2) For persons convicted of the anticipatory offenses of
8 criminal attempt, solicitation, or conspiracy under chapter 9A.28
9 RCW, the standard sentence range is determined by locating the
10 sentencing grid sentence range defined by the appropriate offender
11 score and the seriousness level of the completed crime, and
12 multiplying the range by seventy-five percent.

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

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

33 (b) Three years for any felony defined under any law as a class B
34 felony or with a statutory maximum sentence of ten years, or both,
35 and not covered under (f) of this subsection;

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

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

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

15 (i) Granted an extraordinary medical placement when authorized
16 under RCW 9.94A.728(~~(+3)~~) (1)(c); or

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

18 (f) The firearm enhancements in this section shall apply to all
19 felony crimes except the following: Possession of a machine gun,
20 possessing a stolen firearm, drive-by shooting, theft of a firearm,
21 unlawful possession of a firearm in the first and second degree, and
22 use of a machine gun in a felony;

23 (g) If the standard sentence range under this section exceeds the
24 statutory maximum sentence for the offense, the statutory maximum
25 sentence shall be the presumptive sentence unless the offender is a
26 persistent offender. If the addition of a firearm enhancement
27 increases the sentence so that it would exceed the statutory maximum
28 for the offense, the portion of the sentence representing the
29 enhancement may not be reduced.

30 (4) The following additional times shall be added to the standard
31 sentence range for felony crimes committed after July 23, 1995, if
32 the offender or an accomplice was armed with a deadly weapon other
33 than a firearm as defined in RCW 9.41.010 and the offender is being
34 sentenced for one of the crimes listed in this subsection as eligible
35 for any deadly weapon enhancements based on the classification of the
36 completed felony crime. If the offender is being sentenced for more
37 than one offense, the deadly weapon enhancement or enhancements must
38 be added to the total period of confinement for all offenses,
39 regardless of which underlying offense is subject to a deadly weapon
40 enhancement. If the offender or an accomplice was armed with a deadly

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

8 (a) Two years for any felony defined under any law as a class A
9 felony or with a statutory maximum sentence of at least twenty years,
10 or both, 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 statutory maximum sentence of ten years, or both,
13 and not 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 statutory maximum sentence of five years, or both,
16 and not 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
19 offender has previously been sentenced for any deadly weapon
20 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
21 subsection or subsection (3)(a), (b), and/or (c) of this section, or
22 both, all deadly weapon enhancements under this subsection shall be
23 twice the amount of the enhancement listed;

24 (e) Notwithstanding any other provision of law, all deadly weapon
25 enhancements under this section are mandatory, shall be served in
26 total confinement, and shall run consecutively to all other
27 sentencing provisions, including other firearm or deadly weapon
28 enhancements, for all offenses sentenced under this chapter. However,
29 whether or not a mandatory minimum term has expired, an offender
30 serving a sentence under this subsection may be:

31 (i) Granted an extraordinary medical placement when authorized
32 under RCW 9.94A.728(~~(+3)~~) (1)(c); or

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

34 (f) The deadly weapon enhancements in this section shall apply to
35 all felony crimes except the following: Possession of a machine gun,
36 possessing a stolen firearm, drive-by shooting, theft of a firearm,
37 unlawful possession of a firearm in the first and second degree, and
38 use of a machine gun in a felony;

39 (g) If the standard sentence range under this section exceeds the
40 statutory maximum sentence for the offense, the statutory maximum

1 sentence shall be the presumptive sentence unless the offender is a
2 persistent offender. If the addition of a deadly weapon enhancement
3 increases the sentence so that it would exceed the statutory maximum
4 for the offense, the portion of the sentence representing the
5 enhancement may not be reduced.

6 (5) The following additional times shall be added to the standard
7 sentence range if the offender or an accomplice committed the offense
8 while in a county jail or state correctional facility and the
9 offender is being sentenced for one of the crimes listed in this
10 subsection. If the offender or an accomplice committed one of the
11 crimes listed in this subsection while in a county jail or state
12 correctional facility, and the offender is being sentenced for an
13 anticipatory offense under chapter 9A.28 RCW to commit one of the
14 crimes listed in this subsection, the following additional times
15 shall be added to the standard sentence range determined under
16 subsection (2) of this section:

17 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
18 (a) or (b) or 69.50.410;

19 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
20 (c), (d), or (e);

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

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

25 (6) An additional twenty-four months shall be added to the
26 standard sentence range for any ranked offense involving a violation
27 of chapter 69.50 RCW if the offense was also a violation of RCW
28 69.50.435 or 9.94A.827. All enhancements under this subsection shall
29 run consecutively to all other sentencing provisions, for all
30 offenses sentenced under this chapter.

31 (7) An additional:

32 (a) Two years shall be added to the standard sentence range for
33 vehicular homicide committed while under the influence of
34 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
35 prior offense as defined in RCW 46.61.5055; and

36 (b) Ten years shall be added to the standard sentence range for
37 vehicular homicide committed while under the influence of
38 intoxicating liquor or any drug as defined in RCW 46.61.502 for each
39 prior vehicular homicide conviction pursuant to RCW 46.61.520(1)(a)

1 or an out-of-state conviction that would have been a conviction of
2 RCW 46.61.520(1)(a) if committed in this state.

3 Notwithstanding any other provision of law, all impaired driving
4 enhancements under this subsection shall be mandatory, shall be
5 served in 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 (8)(a) The following additional times shall be added to the
9 standard sentence range for felony crimes committed on or after July
10 1, 2006, if the offense was committed with sexual motivation, as that
11 term is defined in RCW 9.94A.030. If the offender is being sentenced
12 for more than one offense, the sexual motivation enhancement must be
13 added to the total period of total confinement for all offenses,
14 regardless of which underlying offense is subject to a sexual
15 motivation enhancement. If the offender committed the offense with
16 sexual motivation and the offender is being sentenced for an
17 anticipatory offense under chapter 9A.28 RCW, the following
18 additional times shall be added to the standard sentence range
19 determined under subsection (2) of this section based on the felony
20 crime of conviction as classified under RCW 9A.28.020:

21 (i) Two years for any felony defined under the law as a class A
22 felony or with a statutory maximum sentence of at least twenty years,
23 or both;

24 (ii) Eighteen months for any felony defined under any law as a
25 class B felony or with a statutory maximum sentence of ten years, or
26 both;

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

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

35 (b) Notwithstanding any other provision of law, all sexual
36 motivation enhancements under this subsection are mandatory, shall be
37 served in total confinement, and shall run consecutively to all other
38 sentencing provisions, including other sexual motivation
39 enhancements, for all offenses sentenced under this chapter. However,

1 whether or not a mandatory minimum term has expired, an offender
2 serving a sentence under this subsection may be:

3 (i) Granted an extraordinary medical placement when authorized
4 under RCW 9.94A.728(~~(+3)~~) (1)(c); or

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

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

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

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

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

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

39 (10)(a) For a person age eighteen or older convicted of any
40 criminal street gang-related felony offense for which the person

1 compensated, threatened, or solicited a minor in order to involve the
2 minor in the commission of the felony offense, the standard sentence
3 range is determined by locating the sentencing grid sentence range
4 defined by the appropriate offender score and the seriousness level
5 of the completed crime, and multiplying the range by one hundred
6 twenty-five percent. If the standard sentence range under this
7 subsection exceeds the statutory maximum sentence for the offense,
8 the statutory maximum sentence is the presumptive sentence unless the
9 offender is a persistent offender.

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

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

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

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

25 (13) An additional twelve months shall be added to the standard
26 sentence range for vehicular homicide committed while under the
27 influence of intoxicating liquor or any drug as defined by RCW
28 46.61.520 or for vehicular assault committed while under the
29 influence of intoxicating liquor or any drug as defined by RCW
30 46.61.522, or for any felony driving under the influence (RCW
31 46.61.502(6)) or felony physical control under the influence (RCW
32 46.61.504(6)) for each child passenger under the age of sixteen who
33 is an occupant in the defendant's vehicle. These enhancements shall
34 be mandatory, shall be served in total confinement, and shall run
35 consecutively to all other sentencing provisions. If the addition of
36 a minor child enhancement increases the sentence so that it would
37 exceed the statutory maximum for the offense, the portion of the
38 sentence representing the enhancement may not be reduced.

1 (14) An additional twelve months shall be added to the standard
2 sentence range for an offense that is also a violation of RCW
3 9.94A.832.

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