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**SUBSTITUTE HOUSE BILL 1591**

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**State of Washington                      65th Legislature                      2017 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Klippert and Hayes)

1            AN ACT Relating to increasing the punishment for vehicular  
2 assault; amending RCW 9.94A.525; and prescribing penalties.

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

4            **Sec. 1.** RCW 9.94A.525 and 2013 2nd sp.s. c 35 s 8 are each  
5 amended to read as follows:

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

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

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

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

18           (b) Class B prior felony convictions other than sex offenses  
19 shall not be included in the offender score, if since the last date  
20 of release from confinement (including full-time residential  
21 treatment) pursuant to a felony conviction, if any, or entry of

1 judgment and sentence, the offender had spent ten consecutive years  
2 in the community without committing any crime that subsequently  
3 results in a conviction.

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

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

18 (e) If the present conviction is felony driving while under the  
19 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or  
20 felony physical control of a vehicle while under the influence of  
21 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate  
22 crimes for the offense as defined by RCW 46.61.5055(14) shall be  
23 included in the offender score, and prior convictions for felony  
24 driving while under the influence of intoxicating liquor or any drug  
25 (RCW 46.61.502(6)) or felony physical control of a vehicle while  
26 under the influence of intoxicating liquor or any drug (RCW  
27 46.61.504(6)) shall always be included in the offender score. All  
28 other convictions of the defendant shall be scored according to this  
29 section.

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

36 (g) This subsection applies to both adult and juvenile prior  
37 convictions.

38 (3) Out-of-state convictions for offenses shall be classified  
39 according to the comparable offense definitions and sentences  
40 provided by Washington law. Federal convictions for offenses shall be

1 classified according to the comparable offense definitions and  
2 sentences provided by Washington law. If there is no clearly  
3 comparable offense under Washington law or the offense is one that is  
4 usually considered subject to exclusive federal jurisdiction, the  
5 offense shall be scored as a class C felony equivalent if it was a  
6 felony under the relevant federal statute.

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

10 (5)(a) In the case of multiple prior convictions, for the purpose  
11 of computing the offender score, count all convictions separately,  
12 except:

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

28 (ii) In the case of multiple prior convictions for offenses  
29 committed before July 1, 1986, for the purpose of computing the  
30 offender score, count all adult convictions served concurrently as  
31 one offense, and count all juvenile convictions entered on the same  
32 date as one offense. Use the conviction for the offense that yields  
33 the highest offender score.

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

1 (6) If the present conviction is one of the anticipatory offenses  
2 of criminal attempt, solicitation, or conspiracy, count each prior  
3 conviction as if the present conviction were for a completed offense.  
4 When these convictions are used as criminal history, score them the  
5 same as a completed crime.

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

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

17 (9) If the present conviction is for a serious violent offense,  
18 count three points for prior adult and juvenile convictions for  
19 crimes in this category, two points for each prior adult and juvenile  
20 violent conviction (not already counted), one point for each prior  
21 adult nonviolent felony conviction, and 1/2 point for each prior  
22 juvenile nonviolent felony conviction.

23 (10) If the present conviction is for Burglary 1, count prior  
24 convictions as in subsection (8) of this section; however count two  
25 points for each prior adult Burglary 2 or residential burglary  
26 conviction, and one point for each prior juvenile Burglary 2 or  
27 residential burglary conviction.

28 (11)(a) Except as provided in (b) of this subsection, if the  
29 present conviction is for a felony traffic offense count two points  
30 for each adult or juvenile prior conviction for Vehicular Homicide or  
31 Vehicular Assault; for each felony offense count one point for each  
32 adult and 1/2 point for each juvenile prior conviction; for each  
33 serious traffic offense, other than those used for an enhancement  
34 pursuant to RCW 46.61.520(2), count one point for each adult and 1/2  
35 point for each juvenile prior conviction; count one point for each  
36 adult and 1/2 point for each juvenile prior conviction for operation  
37 of a vessel while under the influence of intoxicating liquor or any  
38 drug.

39 (b) If the present conviction is for Vehicular Assault while  
40 driving under the influence of intoxicating liquor or any drug under

1 RCW 46.61.522(1)(b), count three points for each adult or juvenile  
2 prior conviction for Vehicular Homicide or Vehicular Assault, count  
3 one point for each adult and 1/2 point for each juvenile prior  
4 conviction of a felony offense, count one point for each adult and  
5 1/2 point for each juvenile prior conviction of a serious traffic  
6 offense, and count one point for each adult and 1/2 point for each  
7 juvenile prior conviction for operation of a vessel while under the  
8 influence of intoxicating liquor or any drug.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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