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HOUSE BILL 2702

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State of Washington

52nd Legislature

1992 Regular Session

By Representatives R. Johnson, Belcher, Paris, Schmidt, Anderson, Roland, Bray, Jacobsen, Spanel, Scott, Leonard, Sheldon, Wynne, Lisk, Ebersole, Brough, Basich, R. King, Valle, Zellinsky, Kremen, Hochstatter, Wineberry, Winsley, Van Luven, Forner, P. Johnson, Bowman, Pruitt, Fraser, Tate, Ogden, J. Kohl, McLean, Wood and Rasmussen

Read first time 01/24/92. Referred to Committee on Judiciary.

1 AN ACT Relating to harassment; amending RCW 9.94A.030, 9A.46.020,  
2 9A.46.030, and 9A.46.060; reenacting and amending RCW 9.94A.030; adding  
3 new sections to chapter 9A.46 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 9.94A.030 and 1991 c 348 s 4, 1991 c 290 s 3, and 1991  
6 c 181 s 1 are each reenacted and amended to read as follows:

7 Unless the context clearly requires otherwise, the definitions in  
8 this section apply throughout this chapter.

9 (1) "Collect," or any derivative thereof, "collect and remit," or  
10 "collect and deliver," when used with reference to the department of  
11 corrections, means that the department is responsible for monitoring  
12 and enforcing the offender's sentence with regard to the legal  
13 financial obligation, receiving payment thereof from the offender, and,

1 consistent with current law, delivering daily the entire payment to the  
2 superior court clerk without depositing it in a departmental account.

3 (2) "Commission" means the sentencing guidelines commission.

4 (3) "Community corrections officer" means an employee of the  
5 department who is responsible for carrying out specific duties in  
6 supervision of sentenced offenders and monitoring of sentence  
7 conditions.

8 (4) "Community custody" means that portion of an inmate's sentence  
9 of confinement in lieu of earned early release time served in the  
10 community subject to controls placed on the inmate's movement and  
11 activities by the department of corrections.

12 (5) "Community placement" means that period during which the  
13 offender is subject to the conditions of community custody and/or  
14 postrelease supervision, which begins either upon completion of the  
15 term of confinement (postrelease supervision) or at such time as the  
16 offender is transferred to community custody in lieu of earned early  
17 release. Community placement may consist of entirely community  
18 custody, entirely postrelease supervision, or a combination of the two.

19 (6) "Community service" means compulsory service, without  
20 compensation, performed for the benefit of the community by the  
21 offender.

22 (7) "Community supervision" means a period of time during which a  
23 convicted offender is subject to crime-related prohibitions and other  
24 sentence conditions imposed by a court pursuant to this chapter or RCW  
25 46.61.524. For first-time offenders, the supervision may include  
26 crime-related prohibitions and other conditions imposed pursuant to RCW  
27 9.94A.120(5). For purposes of the interstate compact for out-of-state  
28 supervision of parolees and probationers, RCW 9.95.270, community  
29 supervision is the functional equivalent of probation and should be  
30 considered the same as probation by other states.

1 (8) "Confinement" means total or partial confinement as defined in  
2 this section.

3 (9) "Conviction" means an adjudication of guilt pursuant to Titles  
4 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and  
5 acceptance of a plea of guilty.

6 (10) "Court-ordered legal financial obligation" means a sum of  
7 money that is ordered by a superior court of the state of Washington  
8 for legal financial obligations which may include restitution to the  
9 victim, statutorily imposed crime victims' compensation fees as  
10 assessed pursuant to RCW 7.68.035, court costs, county or interlocal  
11 drug funds, court-appointed attorneys' fees, and costs of defense,  
12 fines, and any other financial obligation that is assessed to the  
13 offender as a result of a felony conviction.

14 (11) "Crime-related prohibition" means an order of a court  
15 prohibiting conduct that directly relates to the circumstances of the  
16 crime for which the offender has been convicted, and shall not be  
17 construed to mean orders directing an offender affirmatively to  
18 participate in rehabilitative programs or to otherwise perform  
19 affirmative conduct.

20 (12)(a) "Criminal history" means the list of a defendant's prior  
21 convictions, whether in this state, in federal court, or elsewhere.  
22 The history shall include, where known, for each conviction (i) whether  
23 the defendant has been placed on probation and the length and terms  
24 thereof; and (ii) whether the defendant has been incarcerated and the  
25 length of incarceration.

26 (b) "Criminal history" shall always include juvenile convictions  
27 for sex offenses and shall also include a defendant's other prior  
28 convictions in juvenile court if: (i) The conviction was for an  
29 offense which is a felony or a serious traffic offense and is criminal  
30 history as defined in RCW 13.40.020(6)(a); (ii) the defendant was

1 fifteen years of age or older at the time the offense was committed;  
2 and (iii) with respect to prior juvenile class B and C felonies or  
3 serious traffic offenses, the defendant was less than twenty-three  
4 years of age at the time the offense for which he or she is being  
5 sentenced was committed.

6 (13) "Department" means the department of corrections.

7 (14) "Determinate sentence" means a sentence that states with  
8 exactitude the number of actual years, months, or days of total  
9 confinement, of partial confinement, of community supervision, the  
10 number of actual hours or days of community service work, or dollars or  
11 terms of a legal financial obligation. The fact that an offender  
12 through "earned early release" can reduce the actual period of  
13 confinement shall not affect the classification of the sentence as a  
14 determinate sentence.

15 (15) "Disposable earnings" means that part of the earnings of an  
16 individual remaining after the deduction from those earnings of any  
17 amount required by law to be withheld. For the purposes of this  
18 definition, "earnings" means compensation paid or payable for personal  
19 services, whether denominated as wages, salary, commission, bonuses, or  
20 otherwise, and, notwithstanding any other provision of law making the  
21 payments exempt from garnishment, attachment, or other process to  
22 satisfy a court-ordered legal financial obligation, specifically  
23 includes periodic payments pursuant to pension or retirement programs,  
24 or insurance policies of any type, but does not include payments made  
25 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,  
26 or Title 74 RCW.

27 (16) "Drug offense" means:

28 (a) Any felony violation of chapter 69.50 RCW except possession of  
29 a controlled substance (RCW 69.50.401(d)) or forged prescription for a  
30 controlled substance (RCW 69.50.403);

1 (b) Any offense defined as a felony under federal law that relates  
2 to the possession, manufacture, distribution, or transportation of a  
3 controlled substance; or

4 (c) Any out-of-state conviction for an offense that under the laws  
5 of this state would be a felony classified as a drug offense under (a)  
6 of this subsection.

7 (17) "Escape" means:

8 (a) Escape in the first degree (RCW 9A.76.110), escape in the  
9 second degree (RCW 9A.76.120), willful failure to return from furlough  
10 (RCW 72.66.060), willful failure to return from work release (RCW  
11 72.65.070), or willful failure to comply with any limitations on the  
12 inmate's movements while in community custody (RCW 72.09.310); or

13 (b) Any federal or out-of-state conviction for an offense that  
14 under the laws of this state would be a felony classified as an escape  
15 under (a) of this subsection.

16 (18) "Felony traffic offense" means:

17 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW  
18 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-  
19 and-run injury-accident (RCW 46.52.020(4)); or

20 (b) Any federal or out-of-state conviction for an offense that  
21 under the laws of this state would be a felony classified as a felony  
22 traffic offense under (a) of this subsection.

23 (19) "Fines" means the requirement that the offender pay a specific  
24 sum of money over a specific period of time to the court.

25 (20)(a) "First-time offender" means any person who is convicted of  
26 a felony (i) not classified as a violent offense or a sex offense under  
27 this chapter, or (ii) that is not the manufacture, delivery, or  
28 possession with intent to manufacture or deliver a controlled substance  
29 classified in schedule I or II that is a narcotic drug or the selling  
30 for profit [of] any controlled substance or counterfeit substance

1 classified in schedule I, RCW 69.50.204, except leaves and flowering  
2 tops of marihuana, and except as provided in (b) of this subsection,  
3 who previously has never been convicted of a felony in this state,  
4 federal court, or another state, and who has never participated in a  
5 program of deferred prosecution for a felony offense.

6 (b) For purposes of (a) of this subsection, a juvenile adjudication  
7 for an offense committed before the age of fifteen years is not a  
8 previous felony conviction except for adjudications of sex offenses.

9 (21) "Nonviolent offense" means an offense which is not a violent  
10 offense.

11 (22) "Offender" means a person who has committed a felony  
12 established by state law and is eighteen years of age or older or is  
13 less than eighteen years of age but whose case has been transferred by  
14 the appropriate juvenile court to a criminal court pursuant to RCW  
15 13.40.110. Throughout this chapter, the terms "offender" and  
16 "defendant" are used interchangeably.

17 (23) "Partial confinement" means confinement for no more than one  
18 year in a facility or institution operated or utilized under contract  
19 by the state or any other unit of government, or, if home detention or  
20 work crew has been ordered by the court, in an approved residence, for  
21 a substantial portion of each day with the balance of the day spent in  
22 the community. Partial confinement includes work release, home  
23 detention, work crew, and a combination of work crew and home detention  
24 as defined in this section.

25 (24) "Postrelease supervision" is that portion of an offender's  
26 community placement that is not community custody.

27 (25) "Restitution" means the requirement that the offender pay a  
28 specific sum of money over a specific period of time to the court as  
29 payment of damages. The sum may include both public and private costs.  
30 The imposition of a restitution order does not preclude civil redress.

1 (26) "Serious traffic offense" means:

2 (a) Driving while under the influence of intoxicating liquor or any  
3 drug (RCW 46.61.502), actual physical control while under the influence  
4 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving  
5 (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5));  
6 or

7 (b) Any federal, out-of-state, county, or municipal conviction for  
8 an offense that under the laws of this state would be classified as a  
9 serious traffic offense under (a) of this subsection.

10 (27) "Serious violent offense" is a subcategory of violent offense  
11 and means:

12 (a) Murder in the first degree, homicide by abuse, murder in the  
13 second degree, assault in the first degree, kidnapping in the first  
14 degree, or rape in the first degree, or an attempt, criminal  
15 solicitation, or criminal conspiracy to commit one of these felonies;  
16 or

17 (b) Any federal or out-of-state conviction for an offense that  
18 under the laws of this state would be a felony classified as a serious  
19 violent offense under (a) of this subsection.

20 (28) "Sentence range" means the sentencing court's discretionary  
21 range in imposing a nonappealable sentence.

22 (29) "Sex offense" means:

23 (a) A felony that is a violation of chapter 9A.44 RCW or RCW  
24 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal  
25 attempt, criminal solicitation, or criminal conspiracy to commit such  
26 crimes;

27 (b) A felony with a finding of sexual motivation under RCW  
28 9.94A.127; or

1 (c) Any federal or out-of-state conviction for an offense that  
2 under the laws of this state would be a felony classified as a sex  
3 offense under (a) of this subsection.

4 (30) "Sexual motivation" means that one of the purposes for which  
5 the defendant committed the crime was for the purpose of his or her  
6 sexual gratification.

7 (31) "Total confinement" means confinement inside the physical  
8 boundaries of a facility or institution operated or utilized under  
9 contract by the state or any other unit of government for twenty-four  
10 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

11 (32) "Victim" means any person who has sustained emotional,  
12 psychological, physical, or financial injury to person or property as  
13 a direct result of the crime charged.

14 (33) "Violent offense" means:

15 (a) Any of the following felonies, as now existing or hereafter  
16 amended: Any felony defined under any law as a class A felony or an  
17 attempt to commit a class A felony, criminal solicitation of or  
18 criminal conspiracy to commit a class A felony, manslaughter in the  
19 first degree, manslaughter in the second degree, indecent liberties if  
20 committed by forcible compulsion, kidnapping in the second degree,  
21 arson in the second degree, assault in the second degree, extortion in  
22 the first degree, robbery in the second degree, vehicular assault, and  
23 vehicular homicide, when proximately caused by the driving of any  
24 vehicle by any person while under the influence of intoxicating liquor  
25 or any drug as defined by RCW 46.61.502, or by the operation of any  
26 vehicle in a reckless manner;

27 (b) Any conviction for a felony offense in effect at any time prior  
28 to July 1, 1976, that is comparable to a felony classified as a violent  
29 offense in (a) of this subsection; and

1 (c) Any federal or out-of-state conviction for an offense that  
2 under the laws of this state would be a felony classified as a violent  
3 offense under (a) or (b) of this subsection.

4 (34) "Work crew" means a program of partial confinement consisting  
5 of civic improvement tasks for the benefit of the community of not less  
6 than thirty-five hours per week that complies with RCW 9.94A.135. The  
7 civic improvement tasks shall be performed on public property or on  
8 private property owned or operated by nonprofit entities, except that,  
9 for emergency purposes only, work crews may perform snow removal on any  
10 private property. The civic improvement tasks shall have minimal  
11 negative impact on existing private industries or the labor force in  
12 the county where the service or labor is performed. The civic  
13 improvement tasks shall not affect employment opportunities for people  
14 with developmental disabilities contracted through sheltered workshops  
15 as defined in RCW 82.04.385. Only those offenders sentenced to a  
16 facility operated or utilized under contract by a county are eligible  
17 to participate on a work crew. Offenders sentenced for a sex offense  
18 as defined in subsection (29) of this section are not eligible for the  
19 work crew program.

20 (35) "Work release" means a program of partial confinement  
21 available to offenders who are employed or engaged as a student in a  
22 regular course of study at school. Participation in work release shall  
23 be conditioned upon the offender attending work or school at regularly  
24 defined hours and abiding by the rules of the work release facility.

25 (36) "Home detention" means a program of partial confinement  
26 available to offenders wherein the offender is confined in a private  
27 residence subject to electronic surveillance. Home detention may not  
28 be imposed for offenders convicted of a violent offense, any sex  
29 offense, any drug offense, reckless burning in the first or second  
30 degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third

1 degree as defined in RCW 9A.36.031, unlawful imprisonment as defined in  
2 RCW 9A.40.040, or harassment as defined in section 7 of this act,  
3 section 8 of this act, and RCW 9A.46.020. Home detention may be  
4 imposed for offenders convicted of possession of a controlled substance  
5 (RCW 69.50.401(d)) or forged prescription for a controlled substance  
6 (RCW 69.50.403) if the offender fulfills the participation conditions  
7 set forth in this subsection and is monitored for drug use by treatment  
8 alternatives to street crime (TASC) or a comparable court or agency-  
9 referred program.

10 (a) Home detention may be imposed for offenders convicted of  
11 burglary in the second degree as defined in RCW 9A.52.030 or  
12 residential burglary conditioned upon the offender: (i) Successfully  
13 completing twenty-one days in a work release program, (ii) having no  
14 convictions for burglary in the second degree or residential burglary  
15 during the preceding two years and not more than two prior convictions  
16 for burglary or residential burglary, (iii) having no convictions for  
17 a violent felony offense during the preceding two years and not more  
18 than two prior convictions for a violent felony offense, (iv) having no  
19 prior charges of escape, and (v) fulfilling the other conditions of the  
20 home detention program.

21 (b) Participation in a home detention program shall be conditioned  
22 upon: (i) The offender obtaining or maintaining current employment or  
23 attending a regular course of school study at regularly defined hours,  
24 or the offender performing parental duties to offspring or minors  
25 normally in the custody of the offender, (ii) abiding by the rules of  
26 the home detention program, and (iii) compliance with court-ordered  
27 legal financial obligations. The home detention program may also be  
28 made available to offenders whose charges and convictions do not  
29 otherwise disqualify them if medical or health-related conditions,  
30 concerns or treatment would be better addressed under the home



1 Explosive devices prohibited (RCW 70.74.180)  
2 Indecent Liberties (with forcible compulsion) (RCW  
3 9A.44.100(1)(a))  
4 Endangering life and property by explosives with threat to  
5 human being (RCW 70.74.270)  
6 Over 18 and deliver narcotic from Schedule III, IV, or V or  
7 a nonnarcotic from Schedule I-V to someone under 18 and  
8 3 years junior (RCW 69.50.406)  
9 Controlled Substance Homicide (RCW 69.50.415)  
10 Sexual Exploitation (RCW 9.68A.040)  
11 Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))  
12 VIII Arson 1 (RCW 9A.48.020)  
13 Promoting Prostitution 1 (RCW 9A.88.070)  
14 Selling for profit (controlled or counterfeit) any  
15 controlled substance (RCW 69.50.410)  
16 Manufacture, deliver, or possess with intent to deliver  
17 heroin or cocaine (RCW 69.50.401(a)(1)(i))  
18 Manufacture, deliver, or possess with intent to deliver  
19 methamphetamine (RCW 69.50.401(a)(1)(ii))  
20 Vehicular Homicide, by being under the influence of  
21 intoxicating liquor or any drug or by the operation of  
22 any vehicle in a reckless manner (RCW 46.61.520)  
23 VII Burglary 1 (RCW 9A.52.020)  
24 Vehicular Homicide, by disregard for the safety of others  
25 (RCW 46.61.520)  
26 Introducing Contraband 1 (RCW 9A.76.140)  
27 Indecent Liberties (without forcible compulsion) (RCW  
28 9A.44.100(1) (b) and (c))  
29 Child Molestation 2 (RCW 9A.44.086)

1 Dealing in depictions of minor engaged in sexually explicit  
2 conduct (RCW 9.68A.050)  
3 Sending, bringing into state depictions of minor engaged in  
4 sexually explicit conduct (RCW 9.68A.060)  
5 Involving a minor in drug dealing (RCW 69.50.401(f))  
6 VI Bribery (RCW 9A.68.010)  
7 Manslaughter 2 (RCW 9A.32.070)  
8 Rape of a Child 3 (RCW 9A.44.079)  
9 Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)  
10 Damaging building, etc., by explosion with no threat to  
11 human being (RCW 70.74.280(2))  
12 Endangering life and property by explosives with no threat  
13 to human being (RCW 70.74.270)  
14 Incest 1 (RCW 9A.64.020(1))  
15 Manufacture, deliver, or possess with intent to deliver  
16 narcotics from Schedule I or II (except heroin or  
17 cocaine) (RCW 69.50.401(a)(1)(i))  
18 Intimidating a Judge (RCW 9A.72.160)  
19 Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))  
20 V Criminal Mistreatment 1 (RCW 9A.42.020)  
21 Rape 3 (RCW 9A.44.060)  
22 Sexual Misconduct with a Minor 1 (RCW 9A.44.093)  
23 Child Molestation 3 (RCW 9A.44.089)  
24 Kidnapping 2 (RCW 9A.40.030)  
25 Extortion 1 (RCW 9A.56.120)  
26 Incest 2 (RCW 9A.64.020(2))  
27 Harassment 1 (RCW 9A.46.--- (section 7 of this act))  
28 Perjury 1 (RCW 9A.72.020)  
29 Extortionate Extension of Credit (RCW 9A.82.020)

1 Advancing money or property for extortionate extension of  
2 credit (RCW 9A.82.030)  
3 Extortionate Means to Collect Extensions of Credit (RCW  
4 9A.82.040)  
5 Rendering Criminal Assistance 1 (RCW 9A.76.070)  
6 Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))  
7 Delivery of imitation controlled substance by person  
8 eighteen or over to person under eighteen (RCW  
9 69.52.030(2))  
10 IV Residential Burglary (RCW 9A.52.025)  
11 Theft of Livestock 1 (RCW 9A.56.080)  
12 Robbery 2 (RCW 9A.56.210)  
13 Assault 2 (RCW 9A.36.021)  
14 Harassment 2 (RCW 9A.46.--- (section 8 of this act))  
15 Escape 1 (RCW 9A.76.110)  
16 Arson 2 (RCW 9A.48.030)  
17 Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090,  
18 9A.72.100)  
19 Malicious Harassment (RCW 9A.36.080)  
20 Threats to Bomb (RCW 9.61.160)  
21 Willful Failure to Return from Furlough (RCW 72.66.060)  
22 Hit and Run -- Injury Accident (RCW 46.52.020(4))  
23 Vehicular Assault (RCW 46.61.522)  
24 Manufacture, deliver, or possess with intent to deliver  
25 narcotics from Schedule III, IV, or V or nonnarcotics  
26 from Schedule I-V (except marijuana or  
27 methamphetamines) (RCW 69.50.401(a)(1)(ii) through  
28 (iv))  
29 Influencing Outcome of Sporting Event (RCW 9A.82.070)

1 Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1)  
2 and (2))  
3 Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))  
4 III Criminal mistreatment 2 (RCW 9A.42.030)  
5 Extortion 2 (RCW 9A.56.130)  
6 Unlawful Imprisonment (RCW 9A.40.040)  
7 Assault 3 (RCW 9A.36.031)  
8 Custodial Assault (RCW 9A.36.100)  
9 Unlawful possession of firearm or pistol by felon (RCW  
10 9.41.040)  
11 Harassment 3 (RCW 9A.46.020)  
12 Promoting Prostitution 2 (RCW 9A.88.080)  
13 Willful Failure to Return from Work Release (RCW 72.65.070)  
14 Burglary 2 (RCW 9A.52.030)  
15 Introducing Contraband 2 (RCW 9A.76.150)  
16 Communication with a Minor for Immoral Purposes (RCW  
17 9.68A.090)  
18 Patronizing a Juvenile Prostitute (RCW 9.68A.100)  
19 Escape 2 (RCW 9A.76.120)  
20 Perjury 2 (RCW 9A.72.030)  
21 Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))  
22 Intimidating a Public Servant (RCW 9A.76.180)  
23 Tampering with a Witness (RCW 9A.72.120)  
24 Manufacture, deliver, or possess with intent to deliver  
25 marijuana (RCW 69.50.401(a)(1)(ii))  
26 Delivery of a material in lieu of a controlled substance  
27 (RCW 69.50.401(c))  
28 Manufacture, distribute, or possess with intent to  
29 distribute an imitation controlled substance (RCW  
30 69.52.030(1))

1 Recklessly Trafficking in Stolen Property (RCW  
2 9A.82.050(1))  
3 Theft of livestock 2 (RCW 9A.56.080)  
4 Securities Act violation (RCW 21.20.400)  
5 II Malicious Mischief 1(RCW 9A.48.070)  
6 Possession of Stolen Property 1 (RCW 9A.56.150)  
7 Theft 1 (RCW 9A.56.030)  
8 Possession of controlled substance that is either heroin or  
9 narcotics from Schedule I or II (RCW 69.50.401(d))  
10 Possession of phencyclidine (PCP) (RCW 69.50.401(d))  
11 Create, deliver, or possess a counterfeit controlled  
12 substance (RCW 69.50.401(b))  
13 Computer Trespass 1 (RCW 9A.52.110)  
14 Reckless Endangerment 1 (RCW 9A.36.045)  
15 I Theft 2 (RCW 9A.56.040)  
16 Possession of Stolen Property 2 (RCW 9A.56.160)  
17 Forgery (RCW 9A.60.020)  
18 Taking Motor Vehicle Without Permission (RCW 9A.56.070)  
19 Vehicle Prowl 1 (RCW 9A.52.095)  
20 Attempting to Elude a Pursuing Police Vehicle (RCW  
21 46.61.024)  
22 Malicious Mischief 2 (RCW 9A.48.080)  
23 Reckless Burning 1 (RCW 9A.48.040)  
24 Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)  
25 Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))  
26 False Verification for Welfare (RCW 74.08.055)  
27 Forged Prescription (RCW 69.41.020)  
28 Forged Prescription for a Controlled Substance (RCW  
29 69.50.403)

1 Possess Controlled Substance that is a Narcotic from  
2 Schedule III, IV, or V or Non-narcotic from Schedule I-  
3 V (except phencyclidine) (RCW 69.50.401(d))

4 **Sec. 3.** RCW 9A.46.020 and 1985 c 288 s 2 are each amended to read  
5 as follows:

6 (1) A person is guilty of harassment in the third degree if, under  
7 circumstances not amounting to harassment in the first or second  
8 degree:

9 (a) Without lawful authority, the person knowingly threatens:

10 (i) To cause bodily injury in the future to the person threatened  
11 or to any other person; or

12 (ii) To cause physical damage to the property of a person other  
13 than the actor; or

14 (iii) To subject the person threatened or any other person to  
15 physical confinement or restraint; or

16 (iv) Maliciously to do any other act which is intended to  
17 substantially harm the person threatened or another with respect to his  
18 or her physical or mental health or safety; and

19 (b) The person by words or conduct places the person threatened in  
20 reasonable fear that the threat will be carried out.

21 (2) (~~A person who harasses another is guilty of~~) Harassment in  
22 the third degree is a gross misdemeanor punishable under chapter 9A.20  
23 RCW, unless:

24 (a) The person has previously been convicted in this or any other  
25 state of any crime of harassment, as defined in RCW 9A.46.060, of the  
26 same victim or members of the victim's family or household or any  
27 person specifically named in a no-contact or no-harassment order(~~(7)~~);  
28 or

1        (b) The person harasses another who is specifically named in a  
2 one-year civil antiharassment protective order under RCW 10.14.080 in  
3 effect at the time of the harassment. In ((which)) either case the  
4 person is guilty of a class C felony punishable under chapter 9A.20  
5 RCW.

6        (3) A third or subsequent violation of harassment in the third  
7 degree shall be punishable as a class B felony.

8        (4) The penalties provided in this section for harassment in the  
9 third degree do not preclude the victim from seeking any other remedy  
10 otherwise available under law.

11        **Sec. 4.** RCW 9A.46.030 and 1985 c 288 s 3 are each amended to read  
12 as follows:

13        Any harassment offense committed as set forth in section 7 of this  
14 act, section 8 of this act, and RCW 9A.46.020 may be deemed to have  
15 been committed where the conduct occurred or at the place from which  
16 the threat or threats were made or at the place where the threats were  
17 received.

18        **Sec. 5.** RCW 9A.46.060 and 1988 c 145 s 15 are each amended to read  
19 as follows:

20        As used in this chapter, "harassment" may include but is not  
21 limited to any of the following crimes:

22        (1) Harassment in the first degree (section 7 of this act);

23        (2) Harassment in the second degree (section 8 of this act);

24        (3) Harassment in the third degree (RCW 9A.46.020);

25        ((+2)) (4) Malicious harassment (RCW 9A.36.080);

26        ((+3)) (5) Telephone harassment (RCW 9.61.230);

27        ((+4)) (6) Assault in the first degree (RCW 9A.36.011);

28        ((+5)) (7) Assault in the second degree (RCW 9A.36.021);

1       (~~((6))~~ ~~Simple assault [Assault in the fourth degree]~~) (8) Assault  
2 in the fourth degree (RCW 9A.36.041);  
3       (~~((7))~~) (9) Reckless endangerment (~~(in the second degree)~~) in the  
4 second degree (RCW 9A.36.050);  
5       (~~((8))~~) (10) Extortion in the first degree (RCW 9A.56.120);  
6       (~~((9))~~) (11) Extortion in the second degree (RCW 9A.56.130);  
7       (~~((10))~~) (12) Coercion (RCW 9A.36.070);  
8       (~~((11))~~) (13) Burglary in the first degree (RCW 9A.52.020);  
9       (~~((12))~~) (14) Burglary in the second degree (RCW 9A.52.030);  
10       (~~((13))~~) (15) Criminal trespass in the first degree (RCW  
11 9A.52.070);  
12       (~~((14))~~) (16) Criminal trespass in the second degree (RCW  
13 9A.52.080);  
14       (~~((15))~~) (17) Malicious mischief in the first degree (RCW  
15 9A.48.070);  
16       (~~((16))~~) (18) Malicious mischief in the second degree (RCW  
17 9A.48.080);  
18       (~~((17))~~) (19) Malicious mischief in the third degree (RCW  
19 9A.48.090);  
20       (~~((18))~~) (20) Kidnapping in the first degree (RCW 9A.40.020);  
21       (~~((19))~~) (21) Kidnapping in the second degree (RCW 9A.40.030);  
22       (~~((20))~~) (22) Unlawful imprisonment (RCW 9A.40.040);  
23       (~~((21))~~) (23) Rape in the first degree (RCW 9A.44.040);  
24       (~~((22))~~) (24) Rape in the second degree (RCW 9A.44.050);  
25       (~~((23))~~) (25) Rape in the third degree (RCW 9A.44.060);  
26       (~~((24))~~) (26) Indecent liberties (RCW 9A.44.100);  
27       (~~((25))~~) (27) Rape of a child in the first degree (RCW 9A.44.073);  
28       (~~((26))~~) (28) Rape of a child in the second degree (RCW 9A.44.076);  
29       (~~((27))~~) (29) Rape of a child in the third degree (RCW 9A.44.079);

1       (~~(28)~~) (30) Child molestation in the first degree (RCW  
2 9A.44.083);  
3       (~~(29)~~) (31) Child molestation in the second degree (RCW  
4 9A.44.086); and  
5       (~~(30)~~) (32) Child molestation in the third degree (RCW  
6 9A.44.089).

7       NEW SECTION. **Sec. 6.** A new section is added to chapter 9A.46 RCW  
8 to read as follows:

9       (1) "Bodily injury" means physical pain or injury, illness, or an  
10 impairment of physical condition.

11       (2) "Great bodily harm" means bodily injury that creates a high  
12 probability of death, or which causes permanent disfigurement or a  
13 permanent or protracted loss or impairment of the function of any  
14 bodily part or organ.

15       (3) "Substantial bodily harm" means bodily injury which involves a  
16 temporary but substantial loss or impairment of the function of any  
17 bodily part or organ, or causes a fracture of any bodily part.

18       (4) "Stalk" means to knowingly and willfully follow a pattern of  
19 conduct over a period of time, however short, which is directed at a  
20 specific person and evinces a continuity of purpose and intent to place  
21 that person in reasonable fear of great bodily harm or death to their  
22 self or another person.

23       NEW SECTION. **Sec. 7.** A new section is added to chapter 9A.46 RCW  
24 to read as follows:

25       (1) A person is guilty of harassment in the first degree if the  
26 person:

1 (a) Without lawful authority, stalks another person with a firearm  
2 or any deadly weapon or means likely to produce great bodily harm or  
3 death; or

4 (b) Without lawful authority, knowingly, maliciously, and  
5 repeatedly threatens, with a firearm or any deadly weapon, to cause  
6 great bodily harm or death in the future to the person threatened or  
7 another person; and

8 (c) By words or conduct, places the stalked or threatened person in  
9 reasonable fear of great bodily harm or death to their self or another  
10 person.

11 (2) Harassment in the first degree is a class B felony punishable  
12 under chapter 9A.20 RCW.

13 (3) The penalties provided in this section for harassment in the  
14 first degree do not preclude the victim from seeking any other remedy  
15 otherwise available under law.

16 NEW SECTION. **Sec. 8.** A new section is added to chapter 9A.46 RCW  
17 to read as follows:

18 (1) A person is guilty of harassment in the second degree if, under  
19 circumstances not amounting to harassment in the first degree, the  
20 person:

21 (a) Without lawful authority, stalks another person; or

22 (b) Without lawful authority, knowingly, maliciously, and  
23 repeatedly threatens to cause substantial bodily harm in the future to  
24 the person threatened or another person; and

25 (c) By words or conduct, places the stalked or threatened person in  
26 reasonable fear of substantial bodily harm to their self or another  
27 person.

28 (2) Harassment in the second degree is a class C felony punishable  
29 under chapter 9A.20 RCW, unless:

1 (a) The person has previously been convicted in this or any other  
2 state of any crime of harassment, as defined in RCW 9A.46.060, of the  
3 same victim or members of the victim's family or household or any  
4 person specifically named in a no-contact or no-harassment order; or

5 (b) The actor harasses another who is specifically named in a one-  
6 year civil antiharassment protective order under RCW 10.14.080 in  
7 effect at the time of the harassment. In either case, the person is  
8 guilty of a class B felony punishable under chapter 9A.20 RCW.

9 (3) A third or subsequent violation of harassment in the second  
10 degree shall be punishable as a class B felony.

11 (4) The penalties provided in this section for harassment in the  
12 second degree do not preclude the victim from seeking any other remedy  
13 otherwise available under law.